

PENNSYLVANIA BULLETIN

Volume 28

Number 7

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Radiological Health

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

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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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Part II

This part contains the
Environmental Quality Board's
Radiological Health

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Part III

This part contains the
Environmental Quality Board's
Surface and Underground Coal Mining

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Part IV

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Department of Public Welfare's Child Residential
and Day Treatment Facilities

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Part V

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Department of Revenue's Cigarette Tax

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THE GOVERNOR PROCLAMATION

Constitutional Amendment—Article IV

Whereas, Joint Resolution No. 2 of Special Session No. 1 of 1995 proposed to amend Article IV, Section 9 of the Constitution of Pennsylvania, changing provisions relating to pardons, commutations and the Board of Pardons to read as follows:

“§ 9. Pardoning power; Board of Pardons.

(a) In all criminal cases except impeachment the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutation of sentences and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, and in the case of a sentence of death or life imprisonment, on the unanimous recommendation in writing of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be delivered to the Governor and a copy thereof shall be kept on file in the office of the Lieutenant Governor in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor who shall be chairman, the Attorney General and three members appointed by the Governor with the consent of a majority of the members elected to the Senate for terms of six years. The three members appointed by the Governor shall be residents of Pennsylvania. One shall be a crime victim; one a corrections expert; and the third a doctor of medicine, psychiatrist or psychologist. The board shall keep records of its actions, which shall at all times be open for public inspection;” and

Whereas, Joint Resolution No. 2 of Special Session No. 1 of 1995 was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, in the General Assembly next afterwards chosen, the aforesaid amendment to Article IV, Section 9 of the Constitution of Pennsylvania was proposed in Joint Resolution No. 2 of 1997, which was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, the aforesaid proposed amendment to Article IV, Section 9 of the Constitution of Pennsylvania was submitted for approval to the qualified electors of the Commonwealth of Pennsylvania pursuant to Article XI, Section 1 of the Constitution of Pennsylvania at an election held on November 4, 1997; and

Whereas, the Secretary of the Commonwealth, pursuant to law, has certified to me that the aforesaid proposed amendment to Article IV, Section 9 of the Constitution of Pennsylvania was approved by a majority of those voting thereon on the aforesaid day; and

Whereas, Section 903 of Title 1 of the Pennsylvania Consolidated Statutes requires the Governor, upon receiving the aforesaid certification of the Secretary of the Commonwealth, to issue his proclamation indicating whether or not the proposed amendment to Article IV, Section 9 of the Constitution of Pennsylvania has been adopted by a majority of the electors voting thereon.

Now Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, do hereby proclaim that the aforesaid amendment to Article IV, Section 9 of the Constitution of Pennsylvania was adopted by a majority of the electors voting thereon on November 4, 1997.

Given under my hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this second day of February in the year of our Lord one thousand nine hundred and ninety-eight, and of the Commonwealth the two hundred and twenty-second.

Governor

[Pa.B. Doc. No. 98-242. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROCLAMATION

Constitutional Amendment—Article VII

Whereas, Joint Resolution No. 2 of 1996 proposed to amend Article VII, Section 14 of the Constitution of Pennsylvania, relating to absentee voting, by changing provisions and adding a clause to read as follows:

“§ 14. Absentee voting.

(a) The Legislature shall, by general law, provide a manner in which, and the time and place at which, qualified electors who may, on the occurrence of any election, be absent from the municipality of their residence, because their duties, occupation or business require them to be elsewhere or who, on the occurrence of any election, are unable to attend at their proper polling places because of illness or physical disability or who will not attend a polling place because of the observance of a religious holiday or who cannot vote because of election day duties, in the case of a county employee, may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

(b) For purposes of this section, “municipality” means a city, borough, incorporated town, township or any similar general purpose unit of government which may be created by the General Assembly;” and

Whereas, Joint Resolution No. 2 of 1996 was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, in the General Assembly next afterwards chosen, the aforesaid amendment to Article VII, Section 14 of the Constitution of Pennsylvania was proposed in Joint Resolution No. 3 of 1997, which was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, the aforesaid proposed amendment to Article VII, Section 14 of the Constitution of Pennsylvania was submitted for approval to the qualified electors of the Commonwealth of Pennsylvania pursuant to Article XI, Section 1 of the Constitution of Pennsylvania at an election held on November 4, 1997; and

Whereas, the Secretary of the Commonwealth, pursuant to law, has certified to me that the aforesaid proposed amendment to Article VII, Section 14 of the Constitution of Pennsylvania was approved by a majority of those voting thereon on the aforesaid day; and

Whereas, Section 903 of Title 1 of the Pennsylvania Consolidated Statutes requires the Governor, upon receiving the aforesaid certification of the

Secretary of the Commonwealth, to issue his proclamation indicating whether or not the proposed amendment to Article VII, Section 14 of the Constitution of Pennsylvania has been adopted by a majority of the electors voting thereon.

Now Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, do hereby proclaim that the aforesaid amendment to Article VII, Section 14 of the Constitution of Pennsylvania was adopted by a majority of the electors voting thereon on November 4, 1997.

Given under my hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this second day of February in the year of our Lord one thousand nine hundred and ninety-eight, and of the Commonwealth the two hundred and twenty-second.

Governor

[Pa.B. Doc. No. 98-243. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROCLAMATION

Constitutional Amendment—Article VIII

Whereas, Joint Resolution No. 3 of 1996 proposed to amend Article VIII, Section 2(b) of the Constitution of Pennsylvania, relating to taxation, by adding a clause that reads as follows:

“§ 2. Exemptions and special provisions.

* * *

(b) The General Assembly may, by law:

* * *

(vi) Authorize local taxing authorities to exclude from taxation an amount based on the assessed value of homestead property. The exclusions authorized by this clause shall not exceed one-half of the median assessed value of all homestead property within a local taxing jurisdiction. A local taxing authority may not increase the millage rate of its tax on real property to pay for these exclusions;” and

Whereas, Joint Resolution No. 3 of 1996 was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, in the General Assembly next afterwards chosen, the aforesaid amendment to Article VIII, Section 2(b) of the Constitution of Pennsylvania was proposed in Joint Resolution No. 1 of 1997, which was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

Whereas, the aforesaid proposed amendment to Article VIII, Section 2(b) of the Constitution of Pennsylvania was submitted for approval to the qualified electors of the Commonwealth of Pennsylvania pursuant to Article XI, Section 1 of the Constitution of Pennsylvania at an election held on November 4, 1997; and

THE GOVERNOR

Whereas, the Secretary of the Commonwealth, pursuant to law, has certified to me that the aforesaid proposed amendment to Article VIII, Section 2(b) of the Constitution of Pennsylvania was approved by a majority of those voting thereon on the aforesaid day; and

Whereas, Section 903 of Title 1 of the Pennsylvania Consolidated Statutes requires the Governor, upon receiving the aforesaid certification of the Secretary of the Commonwealth, to issue his proclamation indicating whether or not the proposed amendment to Article VIII, Section 2(b) of the Constitution of Pennsylvania has been adopted by a majority of the electors voting thereon.

Now Therefore, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, do hereby proclaim that the aforesaid amendment to Article VIII, Section 2(b) of the Constitution of Pennsylvania was adopted by a majority of the electors voting thereon on November 4, 1997.

Given under my hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this second day of February in the year of our Lord one thousand nine hundred and ninety-eight, and of the Commonwealth the two hundred and twenty-second.

Governor

[Pa.B. Doc. No. 98-244. Filed for public inspection February 13, 1998, 9:00 a.m.]

THE COURTS

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CH. 113]

Amendment to the Rules of Procedure; Doc. No. 1 JD 94

Per Curiam

Order

And Now, this 28th day of January, 1998, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed amendment to Rule of Procedure No. 113, as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that *Bulletin*.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 113. Lodging of Transcripts.

When the Court or a party direct the court reporter to transcribe the notes of testimony taken at a hearing or trial, the Clerk, upon receiving the transcript, shall notify the parties that the transcript has been lodged with the Court. The parties shall have [**10**] **30** days from the date of notification to file objections to the transcript. The parties shall serve copies of objections upon the other party. The Court may conduct a hearing on the objections. If no objections or exceptions are filed, the transcript will be approved by the Court as of course.

[Pa.B. Doc. No. 98-245. Filed for public inspection February 13, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Rule of Civil Procedure No. 1301

Order

And Now, this 28th day of January, 1998, the Court hereby amends the following Bradford County Rule of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* one (1) certified copy to the Civil Procedural Rules Committee and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

JEFFREY A. SMITH,
President Judge

Bradford County Rule of Civil Procedure 1301.

1301. Cases for Submission

A. Compulsory arbitration of matters as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S.A. Section 101, *et seq.*, shall apply to all civil cases wherein the amount in controversy, exclusive of interest and costs, shall be [**sixteen thousand dollars (\$16,000.00)**] **twenty thousand dollars (\$20,000.00)** or less, including appeals from a civil judgment of a district justice, except those involving title to real estate or actions in equity. Such actions shall be submitted to and heard by a board of arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the court, on its own motion or on the motion of any party, may, based upon affidavits, depositions, stipulations of counsel or after hearing, determine that the amount actually in controversy does not exceed twenty thousand dollars (\$20,000.00) and enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators.

C. A civil action will be referred to arbitration by order of court when either party or its counsel files a praecipe with the prothonotary.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference. Such cases will, however, come under the caseload control of the court administrator.

1301.1 Agreement of Reference:

Cases, whether or not in litigation and regardless of the amount in controversy, may be heard by a board of arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by a writing signed by counsel for all sides and shall be filed with the prothonotary, who will forward a copy to the court administrator. Said agreement shall define the issues involved for determination by the board of arbitrators and may contain stipulations with respect to facts.

[Pa.B. Doc. No. 98-246. Filed for public inspection February 13, 1998, 9:00 a.m.]

FAYETTE COUNTY

Rule 1018.1: Notice to Defend; No. 131 of 1998 G.D.**Amended Order**

And Now, this 21st day of January, 1998, the following Fayette County Rule of Civil Procedure 1018.1 is hereby promulgated and adopted for the conduct of business in the Court of Common Pleas of Fayette County, Pennsylvania. This Rule shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall apply to actions pending on that date:

"The organization and agency to be named in the notices accompanying complaints and in the notice of praecipe for entry of default judgment filed in the Court of Common Pleas of Fayette County, shall be:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
P. O. Box 186
Harrisburg, PA 17108
Telephone: 1 (800) 692-7375."

The Prothonotary is directed to transmit copies of this Order in compliance with Pennsylvania Rule of Civil Procedure 239 forthwith.

By the Court

WILLIAM J. FRANKS,
President Judge

[Pa.B. Doc. No. 98-247. Filed for public inspection February 13, 1998, 9:00 a.m.]

FAYETTE COUNTY

Rule 1901: Actions Pursuant to the Protection from Abuse Act; Civil Division; No. 123 of 1998, G. D.**Order**

And Now, this 20th day of January, 1998, it is hereby Ordered that Fayette County Rule of Civil Procedure 1901 is hereby adopted as follows. This amendment shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

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

(1) File seven (7) certified copies of this Order and Amended Rule with the Administrative Office of Pennsylvania Courts.

(2) File two (2) certified copies of this order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

(5) Forward one (1) copy to the Fayette County Law Library.

(6) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM J. FRANKS,
President Judge

Rule 1901.1-1. Actions Pursuant to the Protection from Abuse Act.

Pursuant to the authority set forth in the Protection from Abuse Act of December 19, 1990, P.L. 1240, as amended, 23 Pa.C.S. Sec. 6101 et seq., the following practices, procedures, and rules are promulgated.

It is the purpose and policy of the Court of Common Pleas of Fayette County, Pennsylvania, to implement and effectuate the Protection From Abuse Act and its amendments to protect victims from abuse; to streamline and facilitate enforcement; to establish duties upon the Prothonotary, Sheriff, District Justices, Warden, Crime Victim/Witness Coordinator, and police departments; and to provide emergency relief.

Rule 1901.1-2. Commencement in Court.

(a) A petition for Protection From Abuse (PFA) shall be presented to the Court as a routine motion in accordance with Fayette County Rule 211 and assigned to the PFA Judge who will schedule a hearing on the petition.

(b) If the petition seeks temporary relief for protection from abuse and alleges immediate and present danger of abuse to the plaintiff and/or minor children, the same shall be presented directly to the PFA Judge on any business day from 8:30 a.m. through 4:00 p.m.; the PFA Judge will, at the earliest possible time consistent with his schedule, conduct an ex parte proceeding. Thereafter, the Court may enter such temporary order as it deems necessary to protect the plaintiff and/or minor children pending hearing on the petition.

(c) Assistance and advice to plaintiffs not represented by counsel.

(1) Petition forms and written information referring individuals to the local domestic violence program, Southwestern Pennsylvania Legal Aid Society, and Fayette County Bar Association Lawyer Referral Service shall be provided by the Prothonotary.

(2) Clerical assistance in the preparation and filing of the petition shall be provided by the Southwestern Pennsylvania Legal Aid Society.

Rule 1901.1-3. Emergency Relief by the Minor Judiciary.

(a) From the close of business at 4:30 p.m. each day to the resumption of business at 8:00 a.m. the next morning and from 4:30 p.m. of the last day of the business week to 8:00 a.m. of the first day of the next business week, a Petition for Protection from Abuse seeking ex parte emergency relief based upon an allegation of immediate and present danger of abuse to the plaintiff and/or minor children shall be filed with the District Justice in the district where the plaintiff lives or, when unavailable, with the court ordered Duty District Justice, who may grant relief in accordance with the Act.

(b) District Justice.

(1) The District Justice shall provide petition forms and assist in the preparation thereof.

(2) If, following an ex parte proceeding, the District Justice determines that emergency relief is warranted, he/she shall issue an emergency order.

(3) The District Justice shall certify the emergency order issued and the petition to the Court.

(4) The District Justice shall advise the plaintiff that the emergency order will expire at 4:30 p.m. on the next business day of Court.

(5) The District Justice shall advise the plaintiff that the plaintiff is responsible for obtaining the certified record from the District Justice and for filing the certified record with the Prothonotary on the next business day of Court.

(c) Prothonotary.

(1) The Prothonotary shall accept the certified record from the plaintiff for filing, without the payment of fees.

(2) The Prothonotary shall provide the plaintiff with a verified statement form which must be completed by the plaintiff setting forth the abuse by the defendant, if the abuse has not already been set forth in the Petition for Emergency Order.

(3) The Prothonotary shall provide the plaintiff with a copy of the petition, verified statement and emergency order and advise the plaintiff to present same to the PFA Judge for ex parte proceedings as provided for in 1901.1-2(b).

Rule 1901.1-4. Service of Petition and Order.

(a) The plaintiff shall ensure that the petition and order are promptly served upon the defendant and that the order is served upon the police department with appropriate jurisdiction to enforce the order.

(b) Where the plaintiff avers that service cannot be safely effectuated by an adult individual other than a law enforcement officer, the Sheriff of Fayette County shall serve the petition and order on the defendant. The Sheriff shall advise the Court that service has been effectuated as well as the cost therefor.

(c) Where the plaintiff avers that service of an emergency order cannot be safely effectuated by an adult individual other than a law enforcement officer, the District Justice issuing the order shall have the same served by a constable at the initial expense of the county. The constable shall file a return of service as well as the cost therefor.

Rule 1901.1-5. Arrest for Violation of Order.

(a) Upon arrest for violation of a PFA order or court approved consent agreement, the defendant shall be taken, without unnecessary delay, to the District Justice in the district where the alleged violation occurred, or if unavailable, to the court ordered Duty District Justice for preliminary arraignment and bail pursuant to the Pennsylvania Rules of Criminal Procedure.

At the preliminary arraignment the defendant shall be notified:

(1) that he is charged with indirect criminal contempt for violation of a PFA order or court approved consent order; and

(2) that he is entitled to be represented by counsel and, if unable to afford counsel and otherwise qualifies, a Public Defender will be appointed.

(b) Immediately following the preliminary arraignment, the District Justice shall provide the arresting officer and the defendant with written notice of the time and date for hearing on the charge. The written notice shall be signed by each.

(c) It shall be the duty of the arresting officer to notify the plaintiff of the time and date for hearing.

(d) The District Justice shall cause the following completed forms to be delivered to the Clerk of Courts prior to the scheduled hearing:

(1) criminal complaint;

(2) probable cause affidavit, if any;

(3) warrant of arrest, if any;

(4) certificate of bail, if required, and discharge of commitment; and

(5) receipts for notice of hearing.

(e) When the defendant has been arrested without a warrant for a PFA violation, a criminal complaint shall be filed against the defendant prior to the preliminary arraignment.

(f) Where the police officer has been unsuccessful in his attempts to locate the defendant, the officer shall file a criminal complaint and affidavit of probable cause with the District Justice where the alleged violation occurred, or if unavailable, with the court ordered Duty District Justice who shall issue a warrant of arrest for the defendant.

Rule 1901.1-6. Private Criminal Complaint for Violation of Order or Agreement.

(a) A private criminal complaint shall be filed with the District Justice in the district where the alleged abuse occurred, or if unavailable, with the court ordered Duty District Justice.

(b) The approval of the District Attorney is not required prior to the filing of a criminal complaint under this section.

(c) The procedure for filing a private criminal complaint for indirect criminal contempt for violation of a non-economic provision of an order or court approved consent agreement pursuant to Section 6113.1 of the Act is as follows:

Rule 1901.1-7. Out of County Orders.

(a) A PFA order issued by a District Justice or Court in another judicial district within the Commonwealth or PFA order issued by a comparable court in another state shall be enforced in the same manner as a PFA order entered by a Fayette County Court, provided however, that such order has been properly recorded in the Registry of the Pennsylvania State Police, or until a Pennsylvania State Police Registry has been established, has been properly registered with the Prothonotary of Fayette County.

(b) Until the Pennsylvania State Police Registry is established and fully operational, the Prothonotary shall maintain a Registry in which shall be entered certified copies of protection from abuse orders issued by a court in another judicial district within the Commonwealth or a comparable court in another state.

(1) A valid PFA order may be registered by the plaintiff by obtaining a certified copy of the order of the issuing court endorsed by the Prothonotary of that court and by presenting that certified order to the Prothonotary or Clerk of Fayette County for filing.

(2) Upon receiving a certified order for registration and upon completion of filing and registration, the Prothonotary shall provide the plaintiff with a copy bearing proof of registration, which copy shall then be filed by the plaintiff with the appropriate law enforcement agency.

(3) No costs shall be assessed for registration of an order.

(4) Registration of PFA orders shall not be required upon the establishment and operation of the Pennsylvania State Police Registry.

Rule 1901.1-8. Civil Contempt.

(a) A plaintiff may file a petition for civil contempt alleging that a defendant has violated any provision of an order or a court-approved consent agreement.

(b) A petition for civil contempt shall be presented to the court as a routine motion in accordance with Fayette County Rule 211 and assigned to the issuing judge who will schedule a hearing on the petition.

Rule 1901.1-9. Notification upon Release.

(a) The Warden of the Fayette County Prison shall use all reasonable means to notify the plaintiff sufficiently in advance of the release of the defendant from any incarceration imposed as a result of a finding of contempt.

(b) Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include terms and conditions imposed on any temporary release from custody. The plaintiff shall keep the Warden of the Fayette County Prison and Crime Victim/Witness Coordinator advised of contact information; failure to do so will constitute a waiver of any rights to notification under these provisions.

[Pa.B. Doc. No. 98-248. Filed for public inspection February 13, 1998, 9:00 a.m.]

GREENE COUNTY

Consolidated Rules of Court; Amendments to Rules of Procedure G2 and G211; C.A. No. 5 of 1992

Order

And Now, this 28th day of January, 1998, it is *Ordered* that Greene County, Pennsylvania, Local Rule G2: "Sessions of Court" is rescinded and Rule G211: "Argument Court," "subparagraph a" is amended as follows; to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

H. TERRY GRIMES,
President Judge

Rule G211: Argument Court.

a. Argument Court shall be held monthly for all divisions at a time and date set by the Court Administrator.

[Pa.B. Doc. No. 98-249. Filed for public inspection February 13, 1998, 9:00 a.m.]

POTTER COUNTY

No. 7 of 1998; Miscellaneous Division

Order

And Now, this 26th day of January 1998, the Court adopts the following Local Rules 100 A and 100 B, and direct that they will be processed in accordance with Pennsylvania Rule of Criminal Procedure No. 6. Both Rules will be effective 30 days after publication in the *Pennsylvania Bulletin*. In the meantime, however, the content of said Rules will be enforceable as a general Order of this Court.

By the Court

JOHN B. LEETE,
President Judge

Rule 100A. Approval of Search Warrant Applications by Attorney for the Commonwealth.

The District Attorney of Potter County, having filed a certification pursuant to Rule 2002-A of the Pennsylvania Rules of Criminal Procedure, search warrants requested by officers of the Coudersport Borough Police Department and the Galeton Borough Police Department shall not hereafter be issued by a judicial officer unless the search warrant has the approval of an attorney for the Commonwealth prior to filing.

Rule 100B. Approval of Police Complaints and Arrest Warrant Affidavits by that Attorney for the Commonwealth.

The District Attorney of Potter County having filed a Certificate pursuant to Pennsylvania Rule of Criminal Procedure 107, criminal complaints and arrest warrant affidavits by police officers of the Borough of Coudersport Police Department and the Borough of Galeton charging crimes of Criminal Homicide; Homicide by Motor Vehicles; Homicide by Motor Vehicle While Driving Under the Influence of Alcohol; Armed Robbery; Rape; Statutory Sexual Assault; Involuntary Deviate Sexual Intercourse; Sexual Assault; Aggravated Indecent Assault; Aggravated Assault; Felony Offenses Under the Controlled Substance Drug Devises & Cosmetic Act; or an Attempt Conspiracy or Solicitation to commit any of these crimes shall not hereafter by any judicial officer unless the complaint and affidavit has the approval of the attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 98-250. Filed for public inspection February 13, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 19—CORPORATIONS AND BUSINESS ASSOCIATIONS

DEPARTMENT OF STATE
[19 PA. CODE CH. 41]
Nonprofit Corporations

The Department of State (Department) amends § 41.4 (relating to stated purposes) by deleting subsection (d) to read as set forth in Annex A. This subsection is being deleted because it does not accurately reflect Commonwealth law.

The first part of subsection (d) provided that a nonprofit corporation may not conduct professional services. Section 5301(a) of the Nonprofit Corporation Law of 1988, 15 Pa.C.S. § 5301(a), provides, in part, however, that a corporation may be incorporated as a nonprofit corporation for any lawful purpose including, but not limited to, a "professional" purpose. Accordingly this part of the subsection is overbroad and contrary to statute.

The second part of the subsection provided that only a professional corporation may render professional services. Many licensing acts, however, specifically provide that a business corporation may provide professional services. See 63 P. S. § 34.13(c) (relating to architectural services); 63 P. S. § 153 (relating to engineering services); 63 P. S. § 479.8 (relating to funeral services); 63 P. S. § 244.6(i) (relating to optometry); 63 P. S. § 390-4 (relating to pharmacy services); 63 P. S. § 1202 (relating to the practice of psychology); and 63 P. S. § 455.513 (relating to providing real estate services). Accordingly, this part of the subsection is also overbroad and does not reflect the current state of the law.

Additionally, many other forms of business associations, in addition to professional corporations, are statutorily permitted to provide professional services. These different forms of business associations are set forth in 15 Pa.C.S. (relating to corporations and unincorporated associations) (act) and include: general partnerships under sections 8301—8363 of the act (relating to Uniform Partnership Act); limited partnerships under sections 8501—8594 of the act (relating to Uniform Limited Partnership Act); registered limited liability partnerships under sections 8201—8221 of the act (relating to registered limited liability partnerships); and limited liability companies under sections 8901—8998 of the act (relating to Limited Liability Company Law of 1994). These statutes each permit business associations to render professional services.

The official committee comment to section 8921 of the act (relating to powers and capacity) rendered by the Pennsylvania Bar Association's Title 15 Task Force Committee (Committee) also supports the deletion of § 41.4(d). The Committee concluded that there is no policy reason to differentiate between the various forms of organization authorized by the act for purposes of determining the appropriate form for the conduct of a profession. This condemnation of the regulation is echoed in a commentary to the regulation found in W. Zeiter, *Pennsylvania Associations Code and Related Materials*. (3rd Edition West Pub. Co. 1992), at p. A-66. Accordingly,

subject to a specific limitation in a particular licensing statute on the forms of organization that may be used in that profession, a profession is permitted to be conducted in any of the forms of organization authorized by the act.

Public notice of intention to amend the regulation under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted as authorized by section 204(3) of the CDL (45 P. S. § 1204(3)), because the Department finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary and under the circumstances impractical because this rulemaking is intended merely to amend a regulation for which there is no statutory basis. Specific statutory provisions of the act permit various business associations to render professional services, and for that reason, § 41.4(d) has never been given effect. The Corporation Bureau (Bureau) has been accepting filings of documents creating associations, other than professional corporations, which provide professional services. Therefore, filers have been given actual notice that the regulation has not been enforced. Accordingly, no substantive rights of any person will be directly affected by this rulemaking.

Compliance With Executive Order 1996-1

The Department reviewed this rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The Department's preliminary proposal to delete the regulation was endorsed by the Committee of the Corporation, Banking and Business Law Section of the Pennsylvania Bar Association at its meeting held on May 14, 1997. Additionally, various agencies of State government, including the Department of Health, the Department of Public Welfare and the Game Commission, have shared their concerns regarding the lack of statutory basis for the subsection. Because § 41.4(d) has no clear statutory basis, the deletion of subsection (d) addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

The general authority of the Department to amend this regulation is in section 506 of The Administrative Code of 1929 (71 P. S. § 186). Authority is also specifically granted under section 133 of the act (relating to powers of Department of State), which provides that the Department shall have the power and authority reasonably necessary to enable it to administer the act.

Fiscal Impact and Paperwork Requirements

The amendment will have no negative fiscal impact on the Commonwealth or its political subdivisions. The Department will realize a positive impact because it will no longer need to expend resources explaining to the public that § 41.4(d) has no statutory basis and does not accurately reflect the current state of the law. The public will realize a positive fiscal impact from not being confused by a regulation that has no statutory basis and does not reflect the current state of the law.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on November 26, 1997, the Department submitted a copy of the amendment with proposed rulemaking omitted to the Independent Regulatory Review

Commission (IRRC) and to the Chairpersons of the Senate Committee on State Government and House Committee on State Government. On the same date, the amendment was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506) and other laws.

Under section 5.1(d) of the Regulatory Review Act, the amendment was deemed approved by the Senate Committee and by the House Committee on December 16, 1997. Under section 5.1(e) of the Regulatory Review Act, the amendment was approved by IRRC on January 13, 1998.

Additional Information

Individuals who desire information regarding this amendment are invited to submit inquiries to John T. Henderson, Jr., Deputy Chief Counsel, Department of State, Room 302 North Office Building, Harrisburg, PA 17120, (717) 787-6802.

Findings

The Department finds that:

(1) Public notice of intention to amend the regulation as adopted by this order under the procedure specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL, because the Department has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL, are in this circumstance unnecessary. The regulation is overbroad, has no statutory basis and is contrary to other statutory provisions.

(2) Persons affected by this amendment have been or will be given actual notice of the Department's intention to amend the regulation under section 204(2) of the CDL.

(3) The adoption of the amendment in the manner provided in this order is necessary and appropriate for the administration by the Department of the act and related statutes.

Order

The Department, acting under its statutory authority, orders that:

(a) The regulations of the Department, 49 Pa. Code Chapter 41, are amended by amending § 41.4 to read as set forth in Annex A.

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

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

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

YVETTE KANE,
Secretary of the Commonwealth

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 588 (January 31, 1998).)

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

Annex A

TITLE 19. CORPORATIONS AND BUSINESS ASSOCIATIONS

PART I. DEPARTMENT OF STATE

Subpart B. CORPORATION BUREAU

ARTICLE II. DOMESTIC CORPORATION MATTERS

CHAPTER 41. NONPROFIT CORPORATIONS GENERALLY

Subchapter A. INCORPORATION

§ 41.4. Stated purposes.

(a) Section 5301 of the code (relating to purposes) provides that a nonprofit corporation may be incorporated for a lawful purpose including one or more of the following or similar purposes:

- (1) Athletic.
- (2) A lawful business purpose to be conducted on a not-for-profit basis.
- (3) Beneficial.
- (4) Benevolent.
- (5) Cemetery.
- (6) Charitable.
- (7) Civic.
- (8) Control of fire.
- (9) Cultural.
- (10) Educational.
- (11) Encouragement of agriculture or horticulture.
- (12) Fraternal.
- (13) Health.
- (14) Literary.
- (15) Missionary.
- (16) Musical.
- (17) Mutual improvement.
- (18) Patriotic.
- (19) Political.
- (20) Prevention of cruelty to persons or animals.
- (21) Professional, commercial, industrial, trade, service or business associations.
- (22) Promotion of the arts.
- (23) Protection of natural resources.
- (24) Religious.
- (25) Research.
- (26) Scientific.
- (27) Social.

(b) The stated purposes of a nonprofit corporation may not consist of solely a statement to the effect that its corporate purpose is to engage in all lawful business for which corporations may be incorporated under 15 Pa.C.S. Subpart A (relating to nonprofit corporations). Compare with 15 Pa.C.S. § 1301 (relating to purposes).

(c) Under section 5108 of the code (relating to limitation on incorporation), a corporation which might be incorporated under the code may not be incorporated under another statute. Accordingly, domestic corporations not-for-profit shall be incorporated under the code, except:

(1) Electric cooperative corporations, which are incorporated under Chapter 73 of the code (relating to the Electric Cooperative Law of 1990).

(2) Fraternal benefit societies, which continue to be incorporated under the Fraternal Benefit Society Code (40 P. S. §§ 1141-101—1141-1001).

[Pa.B. Doc. No. 98-251. Filed for public inspection February 13, 1998, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CH. 77]

[Correction]

Noncoal Mining

An error appeared in § 77.144(c)(1) (relating to transfer of permit) at 28 Pa.B. 619, 629 (January 31, 1998). The correct version of subsection (c)(1) appears in Annex A.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES CHAPTER 77. NONCOAL MINING

Subchapter C. PERMITS AND PERMIT APPLICATIONS

PERMIT REVIEWS, RENEWALS, REVISIONS AND TRANSFERS

§ 77.144. Transfer of permit.

* * * * *

(c) The Department may allow a permittee to transfer a permit to another operator if the successor operator:

(1) Meets the requirements of § 77.126(a)(6)—(9) (relating to criteria for permit approval or denial).

* * * * *

[Pa.B. Doc. No. 98-208. Filed for public inspection January 30, 1998, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 5, 37, 53, 55, 56, 65, 69 AND 71]

[L-00950112]

Wastewater Utilities

Executive Summary

On September 12, 1997, the Pennsylvania Public Utility Commission (Commission) adopted a final rulemaking to amend relevant sections of Title 52 regarding sewer

utilities and the provision of sewer service to reflect the current industry standard terminology.

The contact persons are Stanley E. Brown, Assistant Counsel, Law Bureau, (717) 783-3968 and Shirley M. Leming, Regulatory Coordinator, Law Bureau, (717) 772-4597.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 26 Pa.B. 2325 (May 18, 1996), and served on April 30, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

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

This final-form regulation was deemed approved by the House Committee on Consumer Affairs and was approved on October 28, 1997 by the Senate Committee on Consumer Protection and Professional Licensure, and was approved by IRRC on November 6, 1997, in accordance with section 5(c) of the Regulatory Review Act.

Public Meeting held
September 12, 1997

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

Final Rulemaking Order

By the Commission:

The Public Utility Code gives the Commission broad authority to regulate public utilities doing business within this Commonwealth. The Commission for many years has promulgated regulations to respond to changes in Legislation, technology and the economy in order to meet the essential needs of the public and the utilities it regulates.

The Commission adopted an order on April 27, 1995 to proceed with an advance notice of proposed rulemaking to review regulations identifying obsolete and excessive requirements for the purpose of amending or deleting these regulations. A notice was published in the *Pennsylvania Bulletin* on June 3, 1995, at 25 Pa.B. 2188. Comments were received from jurisdictional utilities, utility associations and the Office of Consumer Advocate. As a result of this action, a number of proposed amendments were adopted by the Commission.

Also, a direct result of the above actions is the amendments to relevant sections regarding sewer utilities and the provision of sewer service. The words "sewer" and "sewerage" shall be changed to "wastewater" as in wastewater service or wastewater facility. These amendments will update these industry terms in the *Pennsylvania Code* to current industry standard terminology.

The proposed amendments were published May 18, 1996 at 26 Pa.B. 2325 for a 30-day comment period. The only comments received were from IRRC supporting the Commission's efforts to update existing regulations. IRRC also pointed out that terms in other sections of 52 Pa.

Code should be included, as well, to wit: Chapter 55. Noncarrier Rates and Practices, Chapter 69. General Orders, Policy Statements and Guidelines on Fixed Utilities and Chapter 71. Financial Reports. The Commission agrees these sections should be included to bring the *Pennsylvania Code* current with industry standards using the term wastewater to read as set forth in Annex A.

Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code 7.1—7.4, the Commission amends the regulations to read as set forth in Annex A. *Therefore*,

It Is Ordered That:

1. A final rulemaking is amending, 52 Pa. Code Chapters 5, 37, 53, 55, 56, 65, 69 and 71, by amending §§ 5.14, 37.202, 53.52, 55.1, 56.2, 65.1, 71.1 and 71.3 and by amending statements of policy in §§ 69.361—69.363 and 69.711 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for preliminary review as to form and legality.

3. The Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.

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

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

6. The final rulemaking shall become effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

(Editor's Note: The amendment of §§ 55.1, 69.711 and 71.3 was not included in the proposal at 26 Pa.B. 2325 (May 18, 1996).)

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

Fiscal Note: Fiscal Note 57-168 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

SUBPART A. GENERAL PROVISIONS

CHAPTER 5. FORMAL PROCEEDINGS

§ 5.14. Applications requiring notice.

(a) An application to the Commission for authority under sections 1101, 1102, 2503 and 2505 of the act or as otherwise provided by the act, is subject to one or more of the following notice requirements as directed by the Secretary under § 1.51 (relating to instructions for service and notice):

(1) Publication in the *Pennsylvania Bulletin*.

(2) Publication in a newspaper of general circulation serving the geographical territory affected by the application.

(3) Actual notification to the parties affected by the application.

(4) Another form of actual or constructive notification as may be required by the Secretary.

(b) Except as set forth in §§ 3.361—3.363, 3.381, 3.501(f), as relating to the 60 day protest period, and §§ 57.71, 57.72 and 57.74—57.77 or as otherwise provided by the Secretary, application to the Commission for the following types of authority shall be published in the *Pennsylvania Bulletin* and, as directed by the Secretary, in a newspaper of general circulation serving the geographical territory affected by the application and shall be subject to a 15 day protest period.

(1) To initiate fixed utility service to the public, including the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Wastewater.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(2) To initiate, in a different nature or to a different territory than is currently authorized, fixed utility service to the public, including the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Wastewater.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(3) To abandon, in whole or in part, fixed utility service to the public, including to the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Wastewater.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(4) To initiate rail utility service to the public.

(5) To initiate, in a different nature or to a different territory than is currently authorized, rail utility service to the public.

(6) To abandon, in whole or in part, rail utility service to the public.

(7) To acquire or transfer tangible or intangible utility property through sale, merger, consolidation, lease or transfer of stock.

(8) To acquire 5% or more of the voting stock of another corporation.

(9) To secure exemption under section 619 of the Pennsylvania Municipalities Planning Code (53 P. S. § 10619).

(10) To construct, alter or abandon, in whole or in part, or to change the status of a rail utility agency station or team track.

CHAPTER 37. SAFETY CODE FOR TRANSPORTATION OF PROPERTY AND PASSENGERS

§ 37.202. Definitions.

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

* * * * *

Direct assistance—Transportation and other relief services provided by a motor carrier or its drivers incident to the immediate restoration of essential services—such as, electricity, medical care, wastewater, water, telecommunications and telecommunication transmissions—or essential supplies—such as, food and fuel. The term does not include transportation related to long term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

* * * * *

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

§ 53.52. Applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies.

* * * * *

(b) Whenever a public utility other than a canal, turnpike, tunnel, bridge or wharf company files a tariff, revision or supplement which will increase or decrease the bills to its customers, it shall submit in addition to the requirements of subsection (a), to the Commission, with the tariff, revision or supplement, statements showing the following:

* * * * *

(2) The operating income statement of the utility for a 12-month period, the end of which may not be more than 120 days prior to the filing. Water and wastewater utilities with annual revenues under \$100,000 and municipal corporations subject to Commission jurisdiction may provide operating income statements for a 12-month period, the end of which may not be more than 180 days prior to the filing.

* * * * *

CHAPTER 55. NONCARRIER RATES AND PRACTICES

Subchapter A. DISCONTINUATION OF SERVICE

§ 55.1. Definitions.

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

Emergency—An unforeseen combination of circumstances requiring temporary discontinuances of service in order to effect repairs or maintenance, or to eliminate an imminent threat to life, health, safety or property.

Personal contact—Personal contact means any of the following:

(i) Contacting the customer in person or by telephone.

(ii) Contacting in writing another person whom the customer has designated to receive a copy of any notice of disconnection, other than a member or employe of the Commission.

(iii) If the customer has not made a designation, contacting in writing a community interest group or other entity, including local police departments, which previously agreed to receive a copy of the notice of disconnection and to attempt to contact the customer.

(iv) If the customer has not made a designation and a community interest group or other entity has not previously agreed to receive a copy of the notice of disconnection, contacting in writing the Commission's Harrisburg office.

Public utility—Persons or corporations now or hereafter owning or operating in this Commonwealth, equipment or facilities for any of the following:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity or steam for the production of light, heat or power to or for the public for compensation.

(ii) Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

(iii) Transporting or conveying natural or artificial gas, crude oil, gasoline or petroleum products, materials for refrigeration, or oxygen or nitrogen or other fluid substance, by pipe line or conduit, for the public for compensation.

(iv) Wastewater collection, treatment or disposal for the public for compensation.

CHAPTER 56. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE

§ 56.2. Definitions.

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

* * * * *

Billing period—In the case of public utilities supplying gas, electric and steam heating service, the billing period shall conform to the definition of a billing month; in the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the utility. Ratepayers shall be permitted to receive bills monthly and shall be notified of their rights thereto.

* * * * *

Utility—A public utility or a municipality, subject to Commission jurisdiction, which provides electric, gas, steam heat, wastewater or water service.

CHAPTER 65. WATER SERVICE

§ 65.1. Definitions.

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

* * * * *

Nonessential uses of water—Nonessential uses of water include:

* * * * *

(viii) The use of water to flush a wastewater line or wastewater manhole.

* * * * *

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

PENNVEST LOAN OBLIGATIONS FOR WATER AND WASTEWATER COMPANIES—STATEMENT OF POLICY

§ 69.361. General.

PENNVEST loans were established to provide funding to water and wastewater companies for improvements of drinking water and wastewater treatment facilities in this Commonwealth. The Commission is required to establish expedited practices, procedures and policies to facilitate and accomplish repayment of the loan obligations. See section 14 of the PENNVEST Act (35 P.S. § 751.14). Companies with outstanding PENNVEST loans not currently reflected in rates and companies that will receive PENNVEST loans in the future are encouraged to establish under 66 Pa.C.S. § 1307(a) (relating to sliding scale of rates; adjustments) and subject to Commission approval, an automatic adjustment by means of a sliding scale of rates limited solely to the recovery of PENNVEST principal and interest obligations, instead of seeking recovery of these amounts under 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) base rate filing.

§ 69.362. Definitions.

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

DEP—The Department of Environmental Protection of the Commonwealth.

* * * * *

§ 69.363. Treatment of PENNVEST obligations.

(a) Water and wastewater companies with outstanding PENNVEST obligations that have not been reflected in rates or future PENNVEST obligations, may establish under 66 Pa.C.S. § 1307(a) (relating to sliding scale of rates; adjustments) an automatic adjustment by means of a sliding scale of rates or other method limited solely to recovery of the company's PENNVEST principal and interest obligations.

* * * * *

(d) Rate recovery under a 66 Pa.C.S. § 1307(a) PENNVEST automatic adjustment by means of a sliding scale of rates or other method may be approved only after the receipt of the following:

(i) DEP inspection.

* * * * *

SMALL NONVIABLE WATER AND WASTEWATER SYSTEMS—STATEMENT OF POLICY

§ 69.711. Acquisition incentives.

* * * * *

(b) *Acquisition incentives.* In its efforts to foster acquisition of suitable water and wastewater systems by viable utilities when the acquisitions are in the public interest, the Commission seeks to assist these acquisitions by permitting the use of a number of regulatory incentives. Accordingly, the Commission will consider the following acquisitions incentives:

* * * * *

CHAPTER 71. FINANCIAL REPORTS

§ 71.1. Statement of purpose.

This chapter establishes uniform and industry-wide financial reporting requirements designed to improve the Commission's ability to monitor on a regular basis the financial performance and earnings of the electric, gas, telephone, water and wastewater public utilities subject to Commission jurisdiction.

§ 71.3. Filing requirements.

(a) The following public utilities shall file a financial report for the 12-month period ending each March 31, June 30, September 30 and December 31:

(1) The major electric utilities (Philadelphia Electric Company, Pennsylvania Power and Light Company, Duquesne Light Company, West Penn Power Company, Pennsylvania Power Company, UGI Corporation—Luzerne Electric Division, Pennsylvania Electric Company and Metropolitan Edison Company).

(2) Local exchange telecommunications utilities with annual intraState gross revenues in excess of \$10 million.

(3) Gas distribution utilities having annual intraState gross revenues in excess of \$10 million.

(4) Water and wastewater utilities with annual intraState gross revenues in excess of \$10 million.

(b) The following public utilities shall file a financial report for the 12-month period ending each December 31:

(1) Electric utilities with annual intraState gross revenues in excess of \$1 million.

(2) Local exchange telecommunications utilities with annual intraState gross revenues in excess of \$1 million but which do not exceed \$10 million.

(3) Gas distribution utilities having annual intraState gross revenues in excess of \$1 million but which do not exceed \$10 million.

(4) Water and wastewater utilities with annual intraState gross revenues in excess of \$1 million but which do not exceed \$10 million.

(c) Annualization, normalization and ratemaking adjustments are required only with the financial report for the 12-month period ending December 31 of each year. These adjustments are not required for financial reports for the 12-month period ending March 31, June 30 and September 30.

(d) For the 12-month period ending each December 31, the actual per books amounts in the financial report shall reflect the public utility's independently audited results of operations.

[Pa.B. Doc. No. 98-252. Filed for public inspection February 13, 1998, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 65]

[L-950110]

Water Service

Executive Summary

The Pennsylvania Public Utility Commission (Commission) on July 31, 1997, adopted an order at its public

meeting to promulgate final-form regulations regarding obsolete and excessive regulations regarding water service. The amendments will update and amend two sections.

In § 65.8(d)(2) (relating to meters), the Commission removed the requirement that water utilities test those meters which have been removed from service when being replaced with new meters utilizing remote reading devices. Since granting a temporary waiver of the out-testing requirement, the Pennsylvania Chapter of the National Association of Water Companies (PA-NAWC) has filed monthly reports showing almost no complaints regarding the accuracy of the meters with remote reading devices. This eliminates the need to test meters being removed from service.

The Commission amended § 65.16 (relating to systems of accounts), by requiring water utilities to switch their books to the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts for Class A, B or C water utilities from the present system, which is antiquated and difficult for the lay person to interpret.

The contact persons are Susan D. Colwell, Assistant Counsel, Law Bureau (717) 783-3459, and Judith Koch Carlson, Fixed Utility Services, (717) 783-5392.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 26 Pa.B. 2211 (May 11, 1996), and served on April 30, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House on Committee Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

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

These final-form regulations were deemed approved by the House Committee on Consumer Affairs on October 30, 1997, and were approved on October 28, 1997, by the Senate Committee on Consumer Protection and Professional Licensure, and were approved by IRRC on November 6, 1997, in accordance with section 5(c) of the Regulatory Review Act.

Public Meeting held
July 31, 1997

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

Final-Form Rulemaking Order

By the Commission:

This rulemaking began with our Order entered May 23, 1995, when we issued an advance notice of proposed rulemaking to review and rescind all obsolete and excessive rules and regulations at Docket No. L-00950103. The advance notice was published on June 3, 1995 at 25 Pa.B. 2188, and a 60-day comment period was set.

After receiving comments from the Office of Consumer Advocate and internal input which reflected the need to update two sections contained in Chapter 65, we issued a Proposed Rulemaking Order at the above docket on

December 27, 1995, in which we set forth proposed changes for both sections. We proposed these changes to clarify, simplify and remove excessive and burdensome requirements from our water service regulations.

We proposed changes to two sections. In § 65.8(d)(2), we proposed to eliminate the necessity to test meters which have been removed from service when replaced by new meters utilizing remote reading devices. In § 65.16, we proposed changing to the NARUC Uniform System of Accounts for Water Utilities for greater consistency.

Comments on the proposals were filed by the PA-NAWC, the Office of Consumer Advocate and IRRC.

The idea for revision of § 65.8(d)(2) is not a new one. By petition docketed at P-00890380, ten jurisdictional water companies,¹ under the auspices of the PA-NAWC sought waiver of the provision as it applies to meters permanently removed from service and replaced by new meters utilizing remote reading devices. At that time, petitioners alleged that the cost of testing was \$101.15 for every \$1 refunded to ratepayers as a result of fast-meter overcharges. We were unwilling to grant a permanent waiver at that time, and instead granted a temporary waiver to develop a record of empirical data.

The NAWC has filed monthly reports since that time, and the numbers fully support the permanent change which we enacted here. Since 1990, records reveal 15 fast reads for 298,842 meters, or 0.005%. Monthly records submitted for the last 2 years reveal that none of the replaced meters resulted in a complaint regarding fast running meters. Clearly, this data supports removing the requirement that the meters being taken out of service for upgrade to remote capability be tested for accuracy.

The PA-NAWC supports the change in § 65.8(d)(2) since the result will be that far fewer meters will need to be out-tested, generating cost savings or operating efficiencies, or both. "PA-NAWC applauds the efforts of the Commission to streamline this regulation." Comments of PA-NAWC, p. 2. Further, "[T]he OCA concurs in the comments of PA-NAWC in that this appears to be a desirable change in the regulations." Comments of OCA, p. 1.

IRRC suggests that we take this approach one step further and amend the regulation to provide that only those meters that are removed and will be reused be tested for accuracy. We decline to take that step at this time. We believe that the high levels of reading efficiency and customer convenience of the new meters justifies the change we are making; however, we are continuing the express purpose of upgrading to remote-read units. Except where changed-out for the purpose of system upgrades to remote metering, older meters should be tested so that their results will be available for those customers who believe that their bills reflect a fast meter.

The changes to § 65.16 require that water utilities keep their books of account in conformity with the Uniform System of Accounts for Class A, B or C water utilities as prescribed by the NARUC. "PA-NAWC acknowledges the long-term benefits and improvements made available by this change but cautions that the Commission must consider the complexity of this change on those utilities and allow appropriate time for implementation of this requirement. These considerations must include impacts on year-to-year analysis, needed financial

information system conversions and impacts on corporate consolidations. As such, the PA-NAWC recommends that the Commission provide water utilities with significant flexibility in the time table within which this change must be implemented." PA-NAWC Comments, p.2. PA-NAWC recommends that the utilities be given until January 1, 2000 to effect the necessary changes in their accounting systems. The OCA does not object to this recommendation.

IRRC suggests that the implementation period be 3 years from the adoption of these amendments because small water companies with limited financial resources and experience may need more time to convert all of their accounts to this new system. Since the industry has indicated that the change-over can be accomplished by January 1, 2000, we have decided to set that date as the deadline. Although companies may make the necessary conversion prior to that date, all conversions must be completed by January 1, 2000.

In adopting these changes, we are eliminating a section to expedite the conversion to remote metering, and we are modifying another to eliminate an antiquated system of accounts and replace it with a modern one. This will result in a more useful format for annual reports as well. We thank the PA-NAWC and OCA for their helpful comments. We are confident that our duty to ensure the reasonableness and reliability of utility service is well-served by the changes which we adopt today.

Accordingly, under sections 501, 504, 505, 506, 1301 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, 1301 and 1501, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, we adopt those changes to read as set forth in Annex A as described in the body of this order. *Therefore,*

It Is Ordered that:

1. The Commission's regulations, 52 Pa. Code Chapter 65, are amended by amending §§ 65.8 and 65.16 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
4. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both houses of the General Assembly, and for formal review and approval by IRRC.
5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, effective upon publication.
6. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

JAMES J. MCNULTY,
Secretary

Fiscal Note: Fiscal Note 57-169 remains valid for the final adoption of the subject regulations.

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

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED UTILITIES

CHAPTER 65. WATER SERVICE

§ 65.8. Meters.

* * * * *

(d) *Installation and removal of meters.*

* * * * *

(2) *Removal of meters.* A water meter which is removed from service shall be tested within 30 days for accuracy to complete that meter's test history. When a meter is removed from service, it shall be properly sealed to secure registers and measuring devices until it can be properly tested for accuracy. Meters permanently removed from service and replaced by new meters utilizing remote reading devices are exempt from this provision.

* * * * *

§ 65.16. System of accounts.

(a) A public utility having annual operating revenue of \$750,000 or more (average of the last 3 consecutive years) shall keep its accounts in conformity with the most recent *Uniform System of Accounts for Class A Water Utilities* prescribed by the National Association of Regulatory Utility Commissioners (N.A.R.U.C.).

(b) A public utility having annual operating revenues of \$150,000 or more but less than \$750,000 (average of the last 3 consecutive years) shall keep its accounts in conformity with the *Uniform System of Accounts for Class B Water Utilities* prescribed by N.A.R.U.C.

(c) A public utility having annual operating revenues of less than \$150,000 (average of the last 3 consecutive years) shall keep its accounts in conformity with the most recent *Uniform System of Accounts for Class C Water Companies* prescribed by N.A.R.U.C.

(d) Public utilities subject to this section shall have until January 1, 2000, to convert to the most recent *Uniform System of Accounts for Class A, Class B or Class C Water Utilities* prescribed by N.A.R.U.C.

* * * * *

¹Bloomsburg Water Co., Dallas Water Co., Dauphin Consolidated Water Supply Co., Mechanicsburg Water Co., Pennsylvania- American Water Co., Pennsylvania Gas and Water Co., Philadelphia Suburban Water Co., Shavertown Water Co., Wrightsville Water Supply Co., and York Water Co.

[Pa.B. Doc. No. 98-253. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL HEARING BOARD

[25 PA. CODE CH. 1021]

Practice and Procedure

The Environmental Hearing Board (Board) proposes to revise Chapter 1021 by amending existing rules as well as adding new procedural rules to read as set forth in Annex A.

The proposed procedural rules have several objectives:

(1) To provide the regulated community and the Department of Environmental Protection (Department) and other potential litigants with more specific guidance on how to represent their interests before the Board.

(2) To improve the rules of practice and procedure before the Board.

I. *Statutory Authority for Proposed Revisions*

The Board has the authority under section 5 of the Environmental Hearing Board Act (35 P.S. § 7515) to adopt regulations pertaining to practice and procedure before the Board. These proposed revisions are based on the recommendations of the Board's Rules Committee, a nine member advisory committee created by section 5 of the Environmental Hearing Board Act (35 P.S. § 7515), to make recommendations to the Board on its rules of practice and procedure. For the recommendations to be promulgated as regulations, a majority of the Board members must approve the recommendations.

This summary provides a description of (1) the existing rules of practice and procedure when relevant to proposed revisions; (2) the Board's proposed revisions; and (3) how the proposal differs from the Board's Rules Committee's recommendations.

Some of the recommendations of the Board's Rules Committee were not in proper Legislative style and format, so they have been proposed to be modified, where necessary, to conform to those requirements. Similarly, none of the recommendations contained proper cross references to the General Rules of Administrative Practice and Procedure, 1 Pa. Code Chs. 31, 33 and 35, so references to those rules have been proposed to be added.

The proposed amendments regarding definitions (§ 1021.2), commencement, form and content of appeals (§ 1021.51), timeliness of appeal (§ 1021.52), intervention (§ 1021.62), dispositive motions (§ 1021.73), prehearing procedure (§ 1021.81), burden of proceeding and burden of proof (§ 1021.101), official notice of facts (§ 1021.109), termination of proceedings (§ 1021.120) and composition of the certified record on appeal to Commonwealth Court (§ 1021.161) in large part reflect the evolution and refinement of practice before the Board since the mid-1970's when the Board's rules of practice and procedure were first adopted.

1. *Definitions*

The Board's existing definitions include the terms "act," "action," "Board," "Costs Act," "Department," "dispositive motion," "hearing examiner," "intervenor," "party," "permittee," "person," "supersedeas" and "third party appeal." The changes to the definitions reflect the belief that the definitions should be clear and concise.

The proposed amendments include changes to "action," "intervenor," "party" and "third party appeal." The changes include eliminating the long list of examples of what is considered an "action" included in the old definition. The definition of "intervenor" should conform to the Board's rule on intervention. Thus, the definition was rewritten to pertain to a person who has been permitted to intervene by the Board as provided by the rule on intervention (Board Rule 1021.62). The definition for "party" was also simplified to include a list of who is considered a party such as an appellant, appellee, plaintiff, defendant, permittee or intervenor. "Third party appeal" has been revised to delete the list of examples of the recipient of action to only read that it is an appeal of an action by a person who is not the recipient of the action.

The proposed amendments differ from the recommendation of the Rules Committee with the incorporation of a short list of examples in the definition of "action." The incorporation makes the rule consistent with the other rules. The Board also changed "the" to "a" in the definition of "permittee."

2. *Commencement, form and content of an appeal*

The Board's existing rules provide for the service of a copy of the notice of appeal upon the office of the Department issuing the notice of the Departmental action, the Office of Chief Counsel of the Department or agency taking the appeal and the recipient of the granting of a permit, license, approval or certification within 10 days after the filing of a notice of appeal.

The proposed amendments require that service must be made on the same day as the filing of the notice of appeal.

The proposed amendments will prevent the delay of service upon these persons after the notice has been filed with the Board, thus streamlining the appeal process.

The proposed amendments differ from the recommendation of the Committee. The Board changed the language in subsection (d) concerning the attachment of the Department "notification" to the appeal. The Board believed that it is more accurate to state that a copy of the action should be attached to the appeal. Furthermore, the Board changed the language in subsection (f)(3) so it is consistent with the revised definitions.

3. *Timeliness of Appeal*

The existing rule on the time within which an appeal must be filed by a person who may be affected by an action of the Department, but was neither the applicant for a permit, license or other action by the Department or the target of a Department enforcement action, is ambiguous because the rule's use of the term "party appellant" is not sufficient to delineate the difference between this type of appellant and the person to whom the Department's action is issued or directed. The existing rule also contains provisions permitting the filing of a "skeletal appeal" which may later be supplemented either at the direction of the Board or at the discretion of the appellant to remedy technical difficulties with the form of the appeal or to add additional or more specific grounds for the appeal.

The proposed rule makes it clear that, unless otherwise provided by statute, a person who is neither the applicant for a permit, license or other action by the Department

nor the target of a Department enforcement action, may file a timely appeal within 30 days of the publication of the notice of the Department's action in the *Pennsylvania Bulletin*. In case there is no publication of the Department's action, a person who only learns of the Department's action at a later time may file a timely appeal if the appeal is filed within 30 days of actual knowledge of the Department's action.

The provisions permitting the filing of a "skeletal appeal" are deleted. The Procedural Rules Committee and the Board believe these provisions to be unnecessary in view of the provisions of § 1021.53 which now permit the filing of amendments to the appeal under certain conditions and time limitations. Those provisions should govern the right to make a substantive change to the appeal. In the event the appeal should fail to meet some formal requirement of § 1021.51, the appellant may remedy any such failure upon notice from the Board or as a result of a motion filed by an opposing party. Of course, failure to effect or provide proof of service on the Department would be a ground for dismissal of the appeal.

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board.

4. *Intervention*

The existing rule used the term "intervening party" in § 1021.62(f). The proposed change to the rule would replace that term with the new term of "intervenor" so the language in the rule is consistent with new definitions of "party" and "intervenor."

The proposed amendment is the same as the one approved by the Rules Committee and submitted to the Board.

5. *Dispositive motions*

The rule does not address whether or not a response or reply must be accompanied by supporting memorandum. In addition, the rule does not address whether supporting documents must be attached to the motion or be a part of the record in order for the Board to consider those documents in rendering its decision. Language was added to subsections (d) and (e) to allow the person filing a response or reply to submit an accompanying memorandum of law.

A new subsection (f) has been proposed to require that any affidavit or document which is not already part of the record, and is relied upon in support of the dispositive motion, response or reply, will be considered by the Board only if it is attached to the motion, response or reply. The Board has required this in a number of its decisions over the past several years, but some counsel continue to base their dispositive motions on documents that are attached only to their legal briefs or memoranda.

The reason for requiring that the documents be attached to the motion or response, rather than to the brief or legal memoranda is that the Board's rules on motions (§ 1021.70) require that the motion set forth in numbered paragraphs the facts in support of the motion and the relief requested and that the response to the motion set forth in correspondingly-numbered paragraphs all factual disputes and the reason the opposing party objects to the motion. Unless supporting documents are attached to the motion and response, or are otherwise a part of the record, the factual issues will not be narrowed by the motion and response.

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board.

6. *Prehearing procedure*

The existing rule does not provide for the exchange of expert reports and answers to all expert interrogatories and does not authorize the Board to direct the parties to meet prior to the hearing to stipulate to uncontested facts, the qualifications of experts and the admissibility of exhibits.

Under the rule proposed by the Procedural Rules Committee, the party with the burden of proof must serve its expert reports and answers to all interrogatories as to experts within 120 days of the date of the prehearing order. The opposing party has 30 days after receipt to exchange its expert reports and interrogatories. Dispositive motions shall be filed within 180 days of the date of the prehearing order. Under the existing rule, dispositive motions are to be filed within 30 days after the completion of discovery.

The Board believes that 180 days for the filing of dispositive motions is inappropriate in cases not requiring expert testimony. However, the members of the Procedural Rules Committee believe that dispositive motions should not be required in any case in less than 150 days after the appeal is filed. The Board is therefore proposing that if neither party proposes to call expert witnesses, dispositive motions shall be filed within 150 days after the filing of the appeal unless that time is extended by Board order.

The rule is also amended so that the Joint Proposed Case Management Order may propose alternate dates for the exchange of all expert reports and supplemental reports. The proposed rule also authorizes the Board to direct that the parties meet prior to the hearing to stipulate to uncontested facts, the qualifications of experts and the admissibility of exhibits. This is the Board's current practice.

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board with the exception of an amendment relating to the timing of dispositive motions in a case where no party intends to call an expert witness.

7. *Burden of proceeding and burden of proof*

The existing rule provides that the burden of proceeding and of proof is the same at common law in that the burden shall rest with the party asserting the affirmative of an issue. The rule sets forth the standard of the burden as by a preponderance of the evidence. If the opposing party is the party in possession of facts or has knowledge of the facts relevant to the issue, the Board may require the opposing party to assume the burden of proceeding.

In addition, the rule describes when the Department has the burden of proof and those instances when a party appealing an action of the Department shall have the burden of proof and proceeding. Subsection (d) of the rule also distributes the burden of proof when the Department issues an order requiring abatement of alleged environmental damage. Subsection (e) states that when the Department establishes that some degree of pollution exists or is threatened, the private party alleged to be responsible will be presumed to have possession, or the duty to have possession of facts relating to the quantum and nature of the damage.

Finally, the Board may take judicial notice that a given activity normally causes or creates a substantial possibility of environmental damage and the burden of rebutting the presumption is upon the party seeking to show otherwise.

The proposed rule incorporates changes in the language, additions and deletions. These changes include use of "burden of proceeding" for burden of "going forward," "recipient of a license" for "holder of a license." The additions place the burden of proof on the Department when the Department assesses or files a complaint for a civil penalty and when it issues an order or files a complaint for any other purpose. The additions also reflect the Department's revocation powers of not only a license or permit but an approval or certification. The proposed rule provides that the appellant shall have the burden of proof when the Department denies a license, permit, approval or certification. The same burden is imposed on a party who is not the recipient of the action or protests one or more aspects of its issuance or modification.

The proposed rule also includes deletions. It deletes the detailed language which imposed the burden of proof on the appellant when the Department issues an abatement order. The Board believes the Department, not the appellant, should have the burden of proof in these cases in view of the Department's ability to obtain the evidence through discovery.

The proposed rule differs from the one submitted to the Board from the Rules Committee. The Board changed the language in subsections (c)(2) and (3) to conform with new definitions.

8. *Official notice of facts*

The existing rule uses the term "participant" to describe the individual who requests the Board to take official notice.

The proposed rule replaces "participant" with "party" to insure consistency with the rules of practice and procedure and to conform with the new definitions of "party."

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board.

9. *Termination of proceedings*

Existing § 1021.120 provides for termination of a case as the result of a settlement agreement. In such a case, the terms of the settlement are to be submitted to the Board for approval, and a summary of those terms is published in the *Pennsylvania Bulletin*. A party aggrieved by the proposed settlement may appeal to the Board within 20 days of the publication of the public notice. The settlement is final upon approval of the Board. Under this rule, the Board has permitted the appeal to be terminated by the filing of a withdrawal of the appeal by the appellant even though the withdrawal may have been made as a result of a settlement agreement. Other provisions of the rule set forth the details for the public notice. The last paragraph provision of the rule states that a withdrawal of a proceeding prior to adjudication shall be with prejudice unless otherwise provided by the Board.

Most of the proposed rule is completely new. Subsection (a) of the proposed rule sets forth the three methods by which a proceeding may be terminated. As in current practice, the appeal may be terminated by filing a withdrawal of the appeal with the Board. The appeal also may be terminated either by a settlement agreement or by Board approval of a consent adjudication.

Subsection (b) of the proposed rule states that if a proceeding is withdrawn prior to adjudication, the withdrawal shall be with prejudice as to all matters which have preceded the action unless otherwise indicated by the Board. This provision is basically the same as in the existing rule.

Subsection (c) addresses termination by a settlement agreement. The form of the agreement may be a consent order, a consent assessment of civil penalties, a permit modification or any other basis for settling an action as permitted by law. In addition, if the settlement includes a Department action, which if taken independently is required by law to be published, the action will still be published.

If the settlement agreement provides for any appealable Department actions, those actions may be appealed to the Board by an aggrieved person not a party to the settlement in the manner provided by law. However, a party to the settlement may appeal only to the extent permitted by the terms of the agreement. After the parties have reached a settlement they may do one of three things. They may simply notify the Board the case has been settled and request that the docket be marked settled. Secondly, they may choose to notify the Board that the case has been settled, provide the Board with a copy of the settlement agreement for inclusion in the record of the case, and request that the docket be marked settled. Thirdly, they may notify the Board that the case has been settled, provide the Board with a copy of the settlement agreement for inclusion in the record, request that notice of settlement be published in the *Pennsylvania Bulletin* and request the case be marked as settled. Subsection (c) also incorporates the form and information which the parties must use if they want the notice published in the *Pennsylvania Bulletin*. Under these alternatives, the Board is not requested to approve the settlement.

Subsection (d) provides for Board approval of a consent adjudication. In those instances, all parties must submit the proposed consent adjudication for Board approval. The Board may refuse to approve a proposed consent adjudication if any of its provisions are contrary to law or constitute overreaching or bad faith by any party in the Board's discretion. Prior to the Board's approval, the Board will publish the consent adjudication's major substantive provisions as provided in the form noted in subsection (c). The notice shall also provide a comment period of at least 30 days for public comments. When comments from the public are received, the parties to the consent adjudication shall respond to them. The Board may in its discretion schedule a hearing prior to taking action on the consent adjudication. Any appeal from a consent adjudication shall be to Commonwealth Court and, if taken by an aggrieved person not a party to the appeal, shall be filed within 30 days of the date of the Board's action.

This third method for terminating an action by the Board's approval of a consent adjudication may be desired by some parties to assure the settlement ordinarily cannot be attacked successfully by nonparties after the Board has approved the consent adjudication.

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board.

10. *Composition of the certified record on appeal to Commonwealth Court*

This is a new rule which is meant to give exact guidelines for attorneys and pro se appellants regarding the composition of record if they appeal a Board decision to Commonwealth Court.

Unless the parties file a stipulation stating otherwise within 20 days of the filing of the petition for review, the Board shall certify the record according to Pa.R.A.P. No. 1951. The record shall consist of a list of docket entries and the notice of appeal, the Department action which is

the basis of the appeal (or the complaint if the proceeding was initiated by a complaint). In addition, if the appeal is based on a Board adjudication, the record shall also include: the Board's adjudication and order; the notes of testimony from the hearing; all exhibits admitted or offered in evidence; the parties' posthearing memoranda, including requested findings of fact and conclusions of law; any petition for reconsideration or to reopen the record; any answer, as well as any accompanying exhibits; and any other document which formed the basis of the Board's adjudication.

Subsection (d) of the proposed rule states that the record for appeals of a Board opinion and orders shall include the opinion and order, the motion or petition which was the subject of the Board's opinion and order, together with any responses, answers and replies and any accompanying exhibits. The record is also to include any petitions for reconsideration of the Board's opinion and order, any responses, answers and replies and any accompanying exhibits as well as any other document which formed the basis of the Board's opinion and order.

The proposed rule is the same as the one approved by the Rules Committee and submitted to the Board.

II. *Fiscal Impact of the Proposed Revisions*

The proposed rules should have little fiscal impact on the Commonwealth, political subdivisions and the private sector, as many of the proposed procedures reflect Board practice. The impact of the new procedures, such as the required exchange of expert reports are expected to expedite appeals before the Board.

III. *Paperwork Requirements for Proposed Revisions*

The proposed revisions would require the Board to modify certain of its standard orders.

IV. *Government Reviews of Proposed Revisions*

On February 4, 1998, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of the proposed revisions to the Independent Regulatory Review Commission (IRRC) and the Senate and House Standing Committees on Environmental Resources and Energy. The Board also provided IRRC and the Committees on Environmental Resources and Energy with copies of a Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. Copies of the Regulatory Analysis Form are available to the public upon request.

If IRRC has objections to any of the proposed revisions, it will notify the Board within 10 days of the close of the Committees' comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures for review, prior to final publication of the proposed revisions, by the Board, the General Assembly and the Governor of objections raised.

V. *Public Comment Regarding Proposed Revisions*

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed revisions to William T. Phillipy, IV, Secretary to the Environmental Hearing Board, 2nd Floor, Rachel Carson State Office Building, P.O. Box 8457, Harrisburg, PA 17105-8457, within 30 days of the date of this publication.

GEORGE J. MILLER,
Chairperson

Fiscal Note: 106-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART IX. ENVIRONMENTAL HEARING BOARD
CHAPTER 1021. PRACTICE AND PROCEDURES
Subchapter A. PRELIMINARY PROVISIONS
GENERAL

§ 1021.2. Definitions.

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

* * * * *

Action—An order, decree, decision, determination or ruling by the Department affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of a person, including, but not limited to, [**denials, modifications, suspensions and revocations of permits, licenses and registrations; orders to cease the operation of an establishment or facility; orders to correct conditions endangering waters of this Commonwealth; orders to construct sewers or treatment facilities; orders to abate air pollution; and appeals from complaints for the assessment of civil penalties**] a permit license, approval or certification.

* * * * *

Intervenor—A person [**intervening or petitioning to intervene as provided by § 1021.62 (relating to intervention) when admitted as a party to a proceeding**] who has been permitted to intervene by the Board, as provided by § 1021.62 (relating to intervention).

Party—[**A person with the right to institute or defend or otherwise appear and participate in proceedings before the Board. A party shall be an**] An appellant, appellee, plaintiff, defendant, **permittee** or intervenor.

Permittee—The recipient of [**the**] a permit, license, approval or certification in a third-party appeal.

* * * * *

Third party appeal—The appeal of an action by a person who is not the recipient of [**a permit, license, approval or certification**] **the action.**

* * * * *

Subchapter C. FORMAL PROCEEDINGS
APPEALS

§ 1021.51. Commencement, form and content.

* * * * *

(d) If the appellant has received written notification of an action of the Department, [**the notification**] a copy of the action shall be attached to the appeal.

* * * * *

(f) [**Within 10 days after**] **Concurrent with** the filing of a notice of appeal, the appellant shall serve a copy thereof on each of the following:

* * * * *

(3) [Where the appeal is from the granting of a permit, license, approval or certification, the recipient thereof] In a third party appeal, the recipient of the action.

(g) The service upon the recipient of [a permit, license, approval or certification] an action as required by this section, shall subject the recipient to the jurisdiction of the Board as a party [appellee].

* * * * *

§ 1021.52. Timeliness [and perfection] of appeal.

(a) Except as specifically provided in § 1021.53 (relating to amendments to appeal; nunc pro tunc appeals), jurisdiction of the Board will not attach to an appeal from an action of the Department unless the appeal is in writing and is filed with the Board [within 30 days after the party appellant has received written notice of the action or within 30 days after notice of the action has been published in the Pennsylvania Bulletin unless a different time is provided by statute, and is perfected in subsection (b).] in a timely manner, as follows, unless a different time is provided by statute:

(1) The person to whom the action of the Department is directed or issued shall file its appeal with the Board within 30 days after it has received written notice of the action.

(2) Any other person aggrieved by an action of the Department shall file its appeal with the Board within either of the following:

(i) Thirty days after the notice of the action has been published in the Pennsylvania Bulletin:

(ii) Thirty days after actual notice of the action, if there is no notice of the action published in the Pennsylvania Bulletin.

(b) [An appeal from the granting of a permit, license, approval or certification will not be deemed to be perfected until the recipient of the permit, license, approval or certification is served with a notice of appeal in accordance with § 1021.51 (relating to commencement, form and content).

(c) An appeal which is perfected under this section but does not otherwise comply with the form and content requirements of § 1021.51 will be docketed by the Board as a skeleton appeal. The appellant shall, upon request from the Board, file the required information or suffer dismissal of the appeal.

(d) Subsections a—c supersede] Subsection (a) supersedes 1 Pa.Code §§ 35.5—35.7 and 35.9—35.11 (relating to informal complaints; and formal complaints).

Comment: The language “person to whom the action of the Department is issued or directed” is intended to include, but not be limited to, the recipient of: an order, a permit or license issuance or denial, a civil penalty assessment, or certification. See Sections 4(a) and (c) of the act (35 P.S. § 7515).

INTERVENTION

§ 1021.62. Intervention.

* * * * *

(f) If the Board grants the petition, the order may specify the issues as to which intervention is allowed. An order granting intervention allows the [intervening party] intervenor to participate in the proceedings remaining at the time of the order granting intervention.

* * * * *

MOTIONS

§ 1021.73. Dispositive motions.

* * * * *

(b) Motions for summary judgment or partial summary judgment and responses shall conform to Pa.R.C.P. Nos. 1035.1—1035.5 (relating to motion for summary judgment) except for the provision of the 30-day period in which to file a response.

* * * * *

(d) A response to a dispositive motion [shall] may be filed within 25 days of the date of service of the motion, and may be accompanied by a supporting memorandum of law.

(e) A reply to a response to a dispositive motion may be filed within 20 days of the date of service of the response, and may be accompanied by a supporting memorandum of law.

(f) An affidavit or other document relied upon in support of a dispositive motion, response or reply, that is not already a part of the record, shall be attached to the motion, response or reply or it will not be considered by the Board in ruling thereon.

[(f)] (g) ***

Comment: Subsection (d) supersedes the filing of a response within 30 days as set forth in Pa. R.C.P. No. 1035.3(a).

PREHEARING CONFERENCES AND PREHEARING PROCEDURES

§ 1021.81. Prehearing procedure.

(a) Upon the filing of an appeal, the Board will issue a prehearing order providing that:

* * * * *

(2) The party with the burden of proof shall serve its expert reports and answers to all expert interrogatories within 120 days of the date of the prehearing order. The opposing party shall serve its expert reports and answers to expert interrogatories within 30 days after receipt of the expert reports and interrogatories from the party with the burden of proof.

[(2)] (3) Dispositive motions in a case requiring expert testimony shall be filed within [120] 180 days of the date of the prehearing order. If neither party plans to call an expert witness, dispositive motions shall be filed within 150 days after the filing of the appeal unless otherwise ordered by the Board.

[(3)] (4) ***

(b) A Joint Proposed Case Management Order shall, inter alia, propose alternate dates for the conclusion of discovery, the service of expert reports, supplemental reports, and the filing of dispositive motions. The Board may issue subsequent prehearing orders incorporating the alternate dates proposed by the parties or other dates the Board deems appropriate.

(c) After the Board resolves all dispositive motions, it will establish a hearing date for the remaining issues. **The Board may also direct that the parties meet prior to the hearing to stipulate to uncontested facts, the qualifications of experts and the admissibility of exhibits.**

* * * * *

BURDEN OF PROCEEDING AND BURDEN OF PROOF

§ 1021.101. Burden of proceeding and burden of proof.

(a) In proceedings before the Board, the burden of proceeding and the burden of proof shall be the same as at common law in that the burden shall normally rest with the party asserting the affirmative of an issue. It shall generally be the burden of the party asserting the affirmative of the issue to establish it by a preponderance of the evidence. In cases where a party has the burden of proof to establish the party's case by a preponderance of the evidence, the Board may nonetheless require the other party to assume the burden of **[going forward] proceeding** with the evidence in whole or in part if that party is in possession of facts or should have knowledge of facts relevant to the issue.

(b) The Department has the burden of proof in the following cases:

(1) When it **assesses or** files a complaint for a civil penalty.

(2) When it **files a complaint for any other purpose.**

[(2)] (3) When it **[has revoked]** revokes a license **[or],** permit **[for cause],** approval or certification.

[(3)] (4) When it **[orders a party to take affirmative action to abate air or water pollution; or any other condition or nuisance, except as otherwise provided in this chapter]** issues an order.

[(4)] When it seeks to engage in activities which are objected to as environmentally harmful.

(5) When it orders construction of sewage treatment facilities.]

(c) A party appealing an action of the Department shall have the burden of proof **[and burden of proceeding in the following cases unless otherwise ordered by the Board]** in the following cases:

(1) **[Refusal to grant, issue or reissue]** When the Department denies a license **[or],** permit, approval or certification.

(2) When a party who is not the **[applicant or holder of a license or permit from]** recipient of an action by the Department protests **[its issuance or continuation]** the action.

(3) When a party who is the recipient of an action protests one or more aspects of its issuance or modification.

[(3)] (4) ***

[(d)] When the Department issues an order requiring abatement of alleged environmental damage, the private party shall nonetheless bear the

burden of proof and the burden of proceeding when it appears that the Department has initially established that:

(1) Some degree of pollution or environmental damage is taking place, or is likely to take place, even if it is not established to the degree that a prima facie case is made that a statute or regulation is being violated.

(2) The party alleged to be responsible for the environmental damage is in possession of the facts relating to the environmental damage or should be in possession of them.

(e) When the criteria set forth by subsection (d) are shown, the party causing, or who will probably cause, the environmental damage will be presumed to have possession, or the duty to have possession, of facts relating to the quantum and nature of the damage.

(f) The Board may take judicial notice that a given activity normally causes or creates a substantial possibility of environmental damage, and the burden of rebutting the presumption is upon the party seeking to show otherwise.]

OFFICIAL NOTICE

§ 1021.109 Official notice of facts.

(a) **[The Board may take official notice of an official or public document not relating to the proceeding and of any matter subject to judicial notice.**

(b) Subsection (a) supplements 1 Pa. Code § 35.173 (relating to official notice of facts).]

The Board may take official notice of the following:

(1) Matters which may be judicially noticed by the Courts of the Commonwealth.

(2) Facts which are not in dispute.

(3) Record facts reflected in the official docket of the Board as referenced in § 1021.41(a) (relating to docket).

(b) A party shall, on timely request, be afforded an opportunity to show why the Board should not take official notice of items listed in subsection (a).

(c) A party requesting the taking of official notice after the conclusion of the hearing shall do so in accordance with § 1021.122 (relating to reopening of record prior to adjudication).

TERMINATION OF PROCEEDINGS

§ 1021.120. Termination of proceedings.

(a) **[In cases where a proceeding is sought to be terminated by the parties as a result of a settlement agreement, the terms of the settlement shall be submitted to the Board for approval and the major substantive provision thereof shall simultaneously be published in the *Pennsylvania Bulletin*. The settlement, unless the terms of the settlement itself provide otherwise, is effective immediately upon approval by the Board subject to reopening if an objection is filed as set forth in subsection (b), and upheld by the Board. An aggrieved party objecting to the proposed settlement may, within 20 days after publication, appeal to the Board under this section and request a hearing on its objections.**

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

RE: (Case and Docket Number)

The Commonwealth of Pennsylvania (Department of _____) and (party or parties) have agreed to a settlement of the above matter. The Commonwealth had ordered under date of _____, the (party or parties) to:

(Summarize order or appeal describing other action of the Commonwealth from which appeal was taken).

The parties have agreed to a settlement, the major provisions of which include:

(Summarize major substantive provisions of settlement agreement.)

Copies of the full agreement are in the hands of:

(Names, addresses of counsel and telephone numbers) and at the office of the Environmental Hearing Board, and may be reviewed by any interested party on request during normal business hours.

A person believing himself aggrieved by the above settlement has a right to appeal to the Environmental Hearing Board, 2nd Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, Pennsylvania 17105-8457.

Appeals shall be filed within 20 days of this publication.

The Environmental Hearing Board is empowered to approve this settlement which becomes final if no objection is timely made.

(c) The parties shall be responsible for the contents and publication of the notice.

(d) The cost of publication shall be borne by the party appealing the Department action, unless otherwise ordered by the Board.

(e) When a proceeding is withdrawn from the Board by a party prior to adjudication, withdrawal shall be with prejudice as to all matters which have preceded the action unless otherwise indicated by the Board.]

A proceeding before the Board may be terminated by:

- (1) Withdrawal of the appeal prior to adjudication.
- (2) Settlement agreement.
- (3) Consent adjudication.

(b) When a proceeding is withdrawn prior to adjudication, withdrawal shall be with prejudice as to all matters which have preceded the action unless otherwise indicated by the Board.

(c) When a proceeding is sought to be terminated by the parties as a result of a settlement agreement, the form of settlement agreement may be a consent order, a consent assessment of civil penalties, a permit modification, or any other basis for settling an action as permitted by law. If the settlement includes any action of the Department which would have to be published if taken independently of the settlement, that action shall be published by the Department as required by law. Appealable actions of the Department contained in the settlement may

be appealed to the Board by an aggrieved person not a party to the settlement in the manner provided by law. A party to the settlement may appeal only to the extent permitted by the terms of the agreement. After the parties have agreed upon a settlement they may do one of the following:

(1) Notify the Board that the case has been settled and request that the docket be marked settled.

(2) Notify the Board that the case has been settled, provide the Board with a copy of the settlement agreement for inclusion in the record of the case, and request that the docket be marked settled.

(3) Notify the Board that the case has been settled, provide the Board with a copy of the settlement agreement for inclusion in the record, request the notice of the settlement be published in the *Pennsylvania Bulletin* and request that the case be marked as settled.

The notice of publication shall be in substantially the following form:

RE: (Case and Docket Number)

The Commonwealth of Pennsylvania (Department of _____) and (parties) have agreed to a settlement of the above matter. The Commonwealth had ordered under date of _____, the party (party or parties) to:

(Summarize order or appeal describing other action of the Commonwealth from which appeal was taken).

The parties have agreed to a settlement, the major provisions of which include:

(Summarize major substantive provisions of settlement agreement.)

Copies of the full agreement are in the hands of:

(Names, addresses of counsel and telephone numbers) and at the office of the Environmental Hearing Board, and may be reviewed by any interested party on request during normal business hours.

(d) When a proceeding is sought to be terminated by the parties pursuant to a consent adjudication, all parties shall submit the proposed consent adjudication to the Board for approval. No proposed consent adjudication will be approved by the Board unless it contains the agreement of all parties to the action. The Board may refuse to approve a proposed consent adjudication if any of its provisions are contrary to law or constitute, in the discretion of the Board, overreaching or bad faith by any party. Prior to approval, the Board will publish the major substantive provisions of the consent adjudication in the manner indicated in subsection (c). In addition, the notice shall provide a comment period of at least 30 days for comments to be provided by the public. When comments are received from the public the parties to the consent adjudication shall respond to the comments. The Board may in its discretion schedule a hearing prior to taking action on the consent adjudication. An appeal from a consent adjudication shall lie to the Commonwealth Court, and shall, when taken by an aggrieved person not a party to the action, be taken within 30 days of the date of the Board's action.

CERTIFICATION OF RECORD

§ 1021.161. Composition of the certified record on appeal to Commonwealth Court.

(a) Unless the parties file a stipulation with the Board providing otherwise, within 20 days of the filing of the petition for review, the Board will certify the record in accordance with Pa.R.C.P. No. 1951 (relating to record below in proceedings on petition for review) and the record shall consist of:

- (1) A list of the docket entries.
- (2) The notice of appeal and the Department action appealed to the Board, or, if the proceedings before the Board were initiated with a complaint, the complaint.

(b) In addition to items in subsection (a), for appeals of Board adjudications, the record shall also include:

- (1) The Board's adjudication and order.
- (2) The notes of testimony from the hearing and all exhibits admitted into evidence.
- (3) The parties' posthearing memoranda, including requested findings of fact and conclusions of law.
- (4) Petitions for reconsideration or to reopen the record, answers and accompanying exhibits.

(5) Other documents which formed the basis of the Board's adjudication.

(c) In addition to items in subsection (a), for appeals of Board opinions and orders, the record shall also include:

- (1) The Board's opinion and order.
- (2) The motion or petition which was the subject of the Board's opinion and order, together with any responses, answers and replies, and any accompanying exhibits.
- (3) Petitions for reconsideration of the Board's opinion and order, responses, answers and replies, and accompanying exhibits.
- (4) Other documents which formed the basis of the Board's opinion and order.

[Pa.B. Doc. No. 98-254. Filed for public inspection February 13, 1998, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 16]

Licensure, Certification, Examination and Registration Fees

The State Board of Medicine (Board) proposes to amend § 16.13 (relating to licensure, certification, examination and registration fees) by raising the renewal fees to read as set forth in Annex A. The following indicates the change in fees for Board regulated practitioners:

<i>License Class</i>	<i>Current Fee</i>	<i>Proposed Fee</i>
Medical Doctor	\$80	\$125
Graduate Trainee	\$10	\$ 15

<i>License Class</i>	<i>Current Fee</i>	<i>Proposed Fee</i>
Midwife	\$25	\$ 40
Physician Assistant	\$25	\$ 40
Acupuncturist	\$25	\$ 40
Drugless Therapist	\$25	\$ 35

Since 1975, the Board's revenue and expenses have been reserved in a restricted receipts account in the General Fund for exclusive use of the Board in implementing its licensure and enforcement activities. See section 907(b) of the Health Care Services Malpractice Act (40 P. S. § 1301.907(b)). Additionally, the sole purpose of the fund is to provide for the operations of the Board. Further, the Board derives all of its revenue from licensees.

The increase is proposed to take effect for the next biennial renewal, due by December 31, 1998. From 1976 through 1980, the renewal fees for physicians was \$75. This fee was reduced to \$50 from 1980 to 1982, and was further reduced to \$25 from 1982 through 1990. During this period of time, the renewal fee was waived three times in 1982, 1984 and 1986. These reductions and waivers were taken to reduce the size of the Board's account balance at a time when revenues exceeded expenditures. The fee has been \$80 since 1990.

Section 6 of the Medical Practice Act of 1985 (act) (63 P. S. § 422.6) requires the Board to fix fees by regulation to meet expenditures over a 2-year period so that projected revenues would meet or exceed projected expenditures.

The beginning balance in the Board's restricted account for FY 1994-95 was \$1,265,234.53. Because FY 1994-95 was a biennial renewal year, revenues increased the beginning balance in the Board's restricted account for FY 1995-96 to \$2,859,334.71. The beginning balance was reduced to \$1,002,720.52 for FY 1996-97. FY 1996-97 was a biennial renewal year, thus, the balance in the restricted account rose to \$2,220,647.33 for the beginning of FY 1997-98. This figure, however, represents a \$638,687.38 decrease from the previous renewal cycle.

Projected expenditures will further reduce the account balance to \$431,432.14 by the end of FY 1997-98. If revenues are not increased for the renewal period FY 1998-99, the projected beginning balance for FY 1999-00 will be \$1,251,377.14. Because FY 1999-00 is a nonrenewal year, revenues will be significantly overtaken by expenditures, thus leaving a \$1,324,202.86 deficit by the end of FY 1999-00. Even in FY 2000-01, a biennial renewal year, the deficit will remain at \$386,105.26, and is projected to worsen from there.

It should be noted that account balance figures for FY 1997-98 and FY 1998-99 include a \$300,000 loan and repayment from the Professional Licensure Augmentation Account, a pooled account for 22 licensing boards situated within the Bureau of Professional and Occupational Affairs. This loan was authorized by the General Assembly by Act 2-A of 1997, act of April 25, 1997, to forestall a potential shortfall in the Board's account.

Biennial revenues for the Board have remained relatively constant. In contrast, expenditures over the past 3 fiscal years have increased by an average of 7% per year and are projected to increase by 3% per year through FY 2000-01: (FY 1994-95: \$2,191,515; FY 1995-96: \$2,334,722; FY 1996-97: \$2,494,215; Projected FY 1997-98: \$2,851,000; Projected FY 1998-99: \$2,986,000; Projected FY 1999-00: \$3,075,580; Projected FY 2000-01: \$3,167,847).

Because the Board's operations are funded almost entirely by licensee fees, the Board is in need of an increase in revenue in order to meet its statutory obligations in a timely and responsive manner. These obligations include issuing licenses, hearing and adjudicating complaints and assisting licensees and the public with legal-medical issues which come before the Board.

The proposed fee increase will generate approximately \$6,526,250 in the biennium as indicated:

Licensee	No.	Fee	Revenue
Acupuncturists	240	\$ 40	\$ 9,600
Physician Assistants	1,504	\$ 40	\$ 60,160
Physician	43,532	\$125	\$5,441,500
Trainee	8,000	\$ 15	\$ 120,000
Midwife	265	\$ 40	\$ 10,600
Respiratory Care Practitioner	5,356	\$ 25	\$ 133,900
Non-renewal Revenue			\$ 750,000
Total			\$6,526,250

The current medical doctor renewal fee is the second lowest in the nation, behind only Arkansas. With the increase, it will be the ninth lowest. The current fee is the lowest of the Medical Board fees for the surrounding states and will remain the lowest of these states even with the increase. A review of the medical doctor renewal fees indicates a National average of \$108.50. Twenty-eight state medical boards renew biennially, like the Commonwealth. Twenty-two states renew annually, and two renew every 3 years. Calculated annually, the Commonwealth currently charges medical doctors \$40. That figure will rise to \$62.50 with the increase.

Maryland	\$400	West Virginia	\$200
New Jersey	\$345	Delaware	\$160
New York	\$330	Pennsylvania	\$ 80
Ohio	\$250		

The proposed fee is also reasonable relative to other Commonwealth health care professionals:

Chiropractor	\$210	Pharmacist	\$120
Dentist	\$100	Podiatrist	\$175
Nursing Home Admin.	\$108	Psychologist	\$120
Osteopathic Phys.	\$140	Registered Nurse	\$ 21
Optometrist	\$135	Veterinarian	\$105

If the proposed fee increase is implemented, the Board's financial status is projected to remain stable through FY 1998-2001.

Statutory Authority

Section 6 of the act requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

Fiscal Impact

The proposed amendment will increase the biennial renewal fees for licensees of the Board, but should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed amendment will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendment should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the proposed amendment on February 4, 1998, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1. A copy of the material is available to the public upon request. If IRRC has objections to any portion of the proposed amendments, it will notify the Board by within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections prior to final publication of the regulation by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Cindy L. Warner, Board Administrator, State Board of Medicine, Post Office Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

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

Fiscal Note: 16A-498. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS

SUBCHAPTER B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.13. Licensure, certification, examination and registration fees.

* * * * *

(b) The fee for a license without restriction for a graduate of an accredited medical college is \$20. The fee for a license without restriction for a graduate of an unaccredited medical college is \$80. The biennial registration fee for a license without restriction is \$[80] 125.

* * * * *

(e) The fee for a graduate license for a graduate of an accredited medical college is \$15. The fee for a graduate license for a graduate of an unaccredited medical college is \$80. The fee to renew a graduate license is \$[10] 15.

* * * * *

(h) The fee for a midwife license is \$20. The biennial registration fee for a midwife license is \$[25] 40.

(i) The fee for a physician assistant certificate is \$15. The biennial registration fee for a physician assistant certificate is \$[25] 40.

* * * * *

(m) The fee for an acupuncturist registration is \$15. The biennial registration fee for an acupuncturist registration is \$[25] 40.

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(o) The biennial registration fee for a drugless therapist license is \$[25] 40.

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[Pa.B. Doc. No. 98-255. Filed for public inspection February 13, 1998, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

The Delaware River Basin Commission will hold a public hearing on Wednesday, February 18, 1998 rather than the earlier announced date of February 25. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, NJ.

An informal conference among the Commissioners and staff will be held at 10 a.m. at the same location and will include a presentation on GIS soils data and status report; 1998 DRBC meeting locations and events and discussion of the Commission's Ground Water Advisory Committee functions.

In addition to the subjects listed which are scheduled for public hearing at the 1 p.m. business meeting, the Commission will also address the following: Minutes of the January 28, 1998 business meeting; announcements; General Counsel's Report; report on Basin hydrologic conditions; a resolution to adopt the current expense and capital budgets for Fiscal Year 1999; a resolution concerning election of a Chairman at meetings of the U.S. Supreme Court Decree Parties with regard to DRBC drought-related resolutions; a resolution to authorize funding for a research study concerning rainfall frequency; a resolution concerning U.S. Geological Survey study of flow need issues in the Delaware Estuary; and public dialogue.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Under Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Holdover: City of Bethlehem Authority D-97-47 CP.* A proposed temporary surface water withdrawal project that entails installation of an emergency intake structure in the Beltzville Reservoir, just downstream of the confluence of Pohopoco Creek with the Reservoir's tailwater, in Towamensing Township, Carbon County, PA. The withdrawal is planned to provide up to 15 million gallons per day during a 3-year period while the applicant's Penn Forest Dam is undergoing reconstruction and refilling. The applicant's distribution system serves the City of Bethlehem and 11 other municipalities in its vicinity, in both Lehigh and Northampton Counties. This hearing continues that of January 28, 1998.

2. *Borough of Clementon D-87-92 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 31 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 9, 10 and 11. Commission approval on February 24, 1988 was limited to 6 years, subsequently revised to 10 years, and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 31 mg/30 days. The project is located in Clementon Borough, Camden County, NJ.

3. *Borough of Alburtis D-91-42 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 6.5 mg/30 days of water to the applicant's distribution system from Well Nos. 1, 2, 3 and 4. Commission approval on December 9, 1992 was limited to 5 years. The applicant requests that the total withdrawal from all wells remain limited to 6.5 mg/30 days. The project is located in Alburtis Borough, Lehigh County, PA.

4. *Schwenksville Borough Authority D-92-39 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 11.8 mg/30 days of water to the applicant's distribution system from Well Nos. 3, 4, 5, 6 and 7. Commission approval on February 17, 1993 was limited to 5 years. The total withdrawal from all wells will be to 11.8 mg/30 days based on current and predicted uses. The project is located in Schwenksville Borough, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Mount Holly Water Company D-94-8 CP.* An application for approval of a ground water withdrawal project to supply up to 108.5 mg/30 days of water to the applicant's Mount Holly System from existing Well Nos. 3R, 4, 5, 6 and 7, and to retain the existing withdrawal limit of 108.5 mg/30 days for all Mount Holly Water System wells. The project is located in Westampton and Mount Holly Townships, Burlington County, NJ.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883-9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883-9500 ext. 203 prior to the hearing.

SUSAN M. WEISMAN,
Secretary

[Pa.B. Doc. No. 98-256. Filed for public inspection February 13, 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 February 3, 1998.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-28-98	Enterprise Bank (In Organization) Allison Park Allegheny County	4091 Mt. Royal Blvd. Allison Park Hampton Twp. Allegheny County	Approved Incorporated 1-29-98

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
1-29-98	First Union Corporation, Charlotte, North Carolina, To indirectly acquire control of Mentor Trust Company, Philadelphia, Pennsylvania	Charlotte, NC	Approved

Conversions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
2-2-98	PSB Mutual Holding Company Philadelphia Philadelphia County <i>To:</i> PSB Bancorp, Inc. Philadelphia Philadelphia County	Philadelphia	Approved

Represents conversion from a mutual holding company to a stock holding company which will wholly own Pennsylvania Savings Bank, a State-chartered stock savings bank.

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-30-98	FirstService Bank Lansdale Montgomery County	Neshaminy Valley Commons Condominium Bristol Road Bensalem Bucks County	Filed
2-3-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market Jeffersonville Shopping Center 1930 West Main St. Norristown Montgomery County	Approved
2-3-98	The Fidelity Deposit & Discount Bank Dunmore Lackawanna County	Clarks Summit State Hospital 1451 Hillside Drive Clarks Summit Lackawanna County (Limited Service Facility)	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-3-98	Fulton Bank Lancaster Lancaster County	<i>To:</i> Village at Gap Shopping Center Route 30 Gap Salisbury Township Lancaster County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> 841 Route 41 Gap Salisbury Township Lancaster County	

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>
1-27-98	Community of Healthcare Employees Credit Union, Chambersburg, and Gettysburg Area Federal Credit Union, Gettysburg Surviving Institution—Community of Healthcare Employees Credit Union, Chambersburg	Chambersburg	Filed

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 98-257. Filed for public inspection February 13, 1998, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of March, 1998

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of March, 1998, is 8 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 5.87 to which was added 2.50 percentage points for a total of 8.37% that by law is rounded off to the nearest quarter at 8 1/4%.

RICHARD C. RISHEL
Secretary

[Pa.B. Doc. No. 98-258. Filed for public inspection February 13, 1998, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Philadelphia College of Pharmacy and Science for Approval of Articles of Amendment

Under 24 Pa.C.S.A. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Philadelphia College of Pharmacy and Science for a Certificate of Authority approving the institution's change of name to University of the Sciences in Philadelphia.

In accordance with 24 Pa.C.S.A. § 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).

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. 98-259. Filed for public inspection February 13, 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 standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings should contact the Community Relations Coordinator at (717) 657-4585. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

PA 0057347. Sewage, **Michael Pompei**, 2550 West Rock Road, Perkasie, PA 18944.

This application is for issuance of an NPDES permit to discharge treated sewage from a single residence STP in Hilltown Township, **Bucks County**. This is a new discharge to Pleasant Springs Creek.

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

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

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

Other Conditions:

The EPA waiver is in effect.

PA 0052990. Sewage, 221 Valley Green Drive, Coatesville, PA 19320.

This application is for renewal of an NPDES permit to discharge treated sewage from a single residence STP in West Caln Township, **Chester County**. This is an existing discharge to a tributary to Rock Run.

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

The proposed effluent limits for Outfall 001, based on an average flow of 350 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	
pH	within limits of 6.0—9.0 standard units at all times	

Other Conditions:

The EPA waiver is in effect.

PA 0053074. Sewage, **Valley Green Corporate Center**, 1767 Sentry Parkway West, Suite 205, Blue Bell, PA 19422.

This application is for renewal of an NPDES permit to discharge treated sewage from Valley Green Corporate Center STP in Whitmarsh Township, **Montgomery County**. This is an existing discharge to Sandy Run 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 8,300 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	30	60
Ammonia (as N) (5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Total Residual Chlorine (Issuance through Year 2)	0.8	2.0
(Year 3 through Expiration)	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

Other Conditions:

The EPA waiver is in effect.

PA 0025488, Amendment No. 1. Sewage, **Avondale Borough Sewer Authority**, P. O. Box 247, Avondale, PA 19311.

This application is for an amendment of an NPDES permit to discharge treated sewage from a wastewater treatment plant in Avondale Borough, **Chester County**. This is an existing discharge to an unnamed tributary to East Branch White Clay Creek.

The receiving stream is classified for cold water fish.

The revised proposed effluent limits for total residual chlorine for Outfall 001, based on an average flow of 0.3 mgd and a chlorine demand of the stream as 0.3 mg/l are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine (From issuance through June 30, 1999)	0.75	1.75
(From July 1, 1999 through Expiration)	0.6	1.4

The EPA waiver is in effect.

Other Conditions:

Requirement to submit a toxics reduction evaluation.

Special Test Methods for certain pollutants.

Start date for Phase I TRE is July 1, 1998.

PA 0057371. Sewage, **Relocation Resources, Inc.**, 120 Longwater Drive, Norwell, MA 02061.

This application is for issuance of an NPDES permit to discharge treated sewage from a single residence sewage treatment plant in Upper Providence Township, **Delaware County**. This is a new discharge to UNT to Ridley Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of .0005 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD 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)	1.5	3.0
(11-1 to 4-30)	4.5	9.0
Phosphorus (as P)		
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.

PA 0024015. Sewerage, **Cressona Borough Authority**, 78 Sillyman Street, Cressona, PA.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into West Branch Schuylkill River in Cressona Borough, **Schuylkill County**.

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

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

The proposed effluent limits for Outfall 001 based on a design flow of .72 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0—9.0 standard units at all times		
Total Residual Chlorine			
1st month through 24th month	monitor and report		
25th month through expiration	1		2

The EPA waiver is in effect.

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

PA 0008427. SIC: 4961, Industrial waste, **Harrisburg Steam Works, Ltd.**, 150 North Tenth Street, P. O. Box 3357, Harrisburg, PA 17105-3357.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Paxton Creek, in Harrisburg City, **Dauphin County**.

The receiving stream is classified for warm water 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 Columbia Borough located in Columbia Borough, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 060 for a design flow of 0.084 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		from 6.0—9.0 inclusive	
Total Suspended Solids	30	60	100

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	XXX	30	37
Temperature (5-1 to 10-31)	110°F	XXX	XXX
(11-1 to 4-30)	85°F	XXX	XXX
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
Total Residual Chlorine	0.5	XXX	1.6
Oil and Grease	15	30	30
Total Copper	0.059	0.118	0.147
Total Fluoride	5.2	10.4	13.0
Total Iron	2.5	5.0	6.2

The EPA waiver is in effect.

PA 0028886. SIC: 4952, Sewage, **Borough of Quarryville**, 300 Saint Catherine Street, Quarryville, PA 17566.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to South Fork of Big Beaver Creek, in Providence Township, **Lancaster County**.

The receiving stream is classified for trout stock 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 the Holtwood Dam Power Plant located in Martic Township, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.4 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	5.5		11.0
(11-1 to 4-30)	16.5		33.0
Total Phosphorus	2.0		4.0
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0—9.0 inclusive		
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	3,500/100 ml as a geometric average		

The EPA waiver is in effect.

PA 0087700. SIC: 4952, Sewage, **South Londonderry Township Municipal Authority**, Municipal Building, Center and Market Streets, P. O. Box 3, Campbelltown, PA 17010-0003.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to Killinger Creek, in South Londonderry Township, **Lebanon 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 PA American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.21 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	3.0	XXX	6.0
(11-1 to 4-30)	9.0	XXX	18.0
Total Residual Chlorine	0.12	XXX	0.40
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0—9.0 inclusive		
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,600/100 ml as a geometric average		

The EPA waiver is in effect.

PA 00023264. SIC: 1649, Sewage, **Twin Boroughs Sanitary Authority (STP)**, P. O. Box 118, Mifflin, PA 17058.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to the Juniata River, in Mifflin Borough, **Juniata County**.

The receiving stream is classified for warm water fish, 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 Dauphin Consolidated Water Company located in Dauphin County. The discharge is not expected to impact any potable water supply.

The existing effluent limits for Outfall 001 for a design flow of 0.58 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Residual Chlorine	monitor and report		monitor and report
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0—9.0 inclusive		
Fecal Coliforms	200/100 ml as a geometric average		
(5-1 to 9-30)	100,000/100 ml as a geometric average		
(10-1 to 4-30)			

The proposed effluent limits for Outfall 001 for a design flow of 0.90 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0—9.0 inclusive		
Fecal Coliforms	200/100 ml as a geometric average		
(5-1 to 9-30)	100,000/100 ml as a geometric average		
(10-1 to 4-30)			

The EPA waiver is in effect.

PA 0083011. SIC: 4952, Sewage, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Etters, PA 17319.

This application is for renewal and amendment of an NPDES permit for an existing discharge of treated sewage to the Susquehanna River, in Newberry Township, **York County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Wrightsville Water Supply Company located in York County. The discharge is not expected to impact any potable water supply.

The proposed interim effluent limits for Outfall 001 for a design flow of 0.4 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
Total Suspended Solids	30	45		60
Total Phosphorus	2.0			4.0
Total Residual Chlorine	monitor and report		monitor and report	
Dissolved Oxygen	minimum of 5.0 at all times			
pH	from 6.0—9.0 inclusive			
Fecal Coliforms	200/100 ml as a geometric average			
(5-1 to 9-30)	10,000/100 ml as a geometric average			
(10-1 to 4-30)				
Total Nitrogen	monitor and report			

The proposed final effluent limits for Outfall 001 for a design flow of 1.3 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
Total Suspended Solids	30	45		60
Total Phosphorus	2.0			4.0
Total Residual Chlorine	0.5			1.6
Dissolved Oxygen	minimum of 5.0 at all times			
pH	from 6.0—9.0 inclusive			

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average		
Total Nitrogen	monitor and report	10,000/100 ml as a geometric average		

The EPA waiver is not in effect.

PA 0020478. SIC: 49, 89, 91, Sewage, **Borough of Bloomfield**, P. O. Box 144, New Bloomfield, PA 17068.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to an unnamed tributary to Tort Run, in Bloomfield Borough, **Perry County**.

The receiving stream is classified for cold water 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 Dauphin Consolidated Water Company located in Dauphin County. The discharge is not expected to impact any potable water supply.

The existing effluent limits for Outfall 001 for a design flow of 0.15 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	XXX	50
Total Suspended Solids	30	45	XXX	60
NH ₃ -N (5-1 to 10-31) (11-1 to 4-30)	6 18	9 monitor and report	XXX XXX	12 monitor and report
Total Phosphorus				
Total Residual Chlorine	monitor and report	XXX	XXX	XXX
Dissolved Oxygen		minimum of 5.0 at all times		
pH		from 6.0—9.0 inclusive		
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 5,800/100 ml as a geometric average		

The existing effluent limits for Outfall 001 for a design flow of 0.25 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	XXX	50
Total Suspended Solids	30	45	XXX	60
NH ₃ -N (5-1 to 10-31) (11-1 to 4-30)	4.5 13.3	6.75 monitor and report	XXX XXX	9.0 monitor and report
Dissolved Oxygen		minimum of 5.0 at all times		
pH		from 6.0—9.0 inclusive		
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 6,000/100 ml as a geometric average		

The EPA waiver is in effect.

PA 0008869. SIC: 2621, Industrial waste, **P. H. Glatfelter Company**, 228 South Main Street, Spring Grove, PA 17362-0500.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Codorus Creek in Spring Grove Borough, **York County**.

The receiving stream is classified for warm water fish, recreation, water supply and aquatic life. The discharge is not expected to impact any potable water supply.

A. Outfall 001 receives wastewater from production of pulp and paper by bleach kraft process and from secondary treated municipal wastewater.

The proposed effluent limits for Outfall 001 for a design flow of 13.7 mgd are:

<i>Discharge Parameter</i>	<i>Discharge Limitations</i>				
	<i>Mass Units (lbs/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Report	Report	XXX	XXX	XXX
pH	XXX	XXX	6.0—9.0 standard units at all times		

Discharge Parameter	Mass Units (lbs/day)		Discharge Limitations		
	Average XXX	Maximum XXX	Average	Concentrations (mg/l) Maximum 5 mg/l at all times	Instantaneous
D.O. (Minimum)					
CBOD ₅ (5-1 to 10-31)	1,168	2,335	monitor and report	20	30
(11-1 to 4-30)	1,751	3,503	monitor and report	25	35
Total Suspended Solids	3,000	6,000	monitor and report	60	90
NH ₃ -N (5-1 to 10-31)	XXX	XXX	1.5	3.0	3.8
(11-1 to 4-30)	XXX	XXX	2.0	4.0	5.0
Color (PCU) (Route 116 Bridge)	XXX	XXX		monitor and report	
(Effluent)	XXX	XXX		monitor and report	
(Downstream)	XXX	XXX	225	375	200
Temperature (Route 116 Bridge)	XXX	XXX		monitor and report	
(Effluent)	XXX	XXX		monitor and report	
(Downstream)	XXX	XXX		See Part C. V	
COD	XXX	XXX		monitor and report	
Total Phosphorus	XXX	XXX	2	4	5
Dioxin 2,3,7,8-TCDD	XXX	XXX	XXX	0.01 pg/l	XXX
Furan 2,3,7,8-TCDF	XXX	XXX		monitor and report	
Aldrin	XXX	XXX		monitor and report	
4,4' DDE	XXX	XXX		monitor and report	
Chloroform	XXX	XXX		monitor and report	
AOX	XXX	XXX		monitor and report	
WETT	XXX	XXX		monitor and report	
Pentachlorophenol	XXX	XXX		monitor and report	
2,4,6-Trichlorophenol	XXX	XXX		monitor and report	

B. Outfall 002 receives wastewater from noncontact cooling water.

Discharge Parameter	Mass Units (lbs/day)		Discharge Limitations		
	Average Monthly	Maximum Daily	Average Monthly	Concentrations (mg/l) Maximum Daily	Instantaneous Maximum
Flow (mgd)	Report	Report	XXX	XXX	XXX
Temperature (Upstream)	XXX	XXX		monitor and report	
(Effluent)	XXX	XXX		monitor and report	
(Rt. 116 Bridge)	XXX	XXX		See Part C. V	
pH	XXX	XXX	6.0—9.0	standard units at all times	
Total Residual Chlorine	XXX	XXX		monitor and report	
CBOD ₅	XXX	XXX		monitor and report	
Total Suspended Solids	XXX	XXX		monitor and report	
Streamflow at Gage (cfs) (5-1 to 10-31)	21.3 Min	monitor and report		XXX	
(11-1 to 4-30)	7-day Avg	minimum daily			
	15.8 Min	monitor and report		XXX	
	7-day Avg	minimum daily			
Streamflow at Gage (cfs)	16.4 annual average	XXX		XXX	

C. Outfall 101, Internal Monitoring Point—Bleach Plant Effluent

Discharge Parameter	Mass Units (lbs/day)		Discharge Limitations		
	Average Monthly	Maximum Daily	Average Monthly	Concentrations (mg/l) Maximum Daily	Instantaneous Maximum
AOX	XXX	XXX	10.5	16	XXX
Chloroform	XXX	XXX	0.07	0.12	XXX
2,3,7,8-TCDD	XXX	XXX	XXX	<ML	XXX
2,3,7,8-TCDF	XXX	XXX	XXX	31.9 pg/l	XXX
Trichlorosyringol	XXX	XXX	XXX	<ML	XXX
3,4,5-trichlorocatechol	XXX	XXX	XXX	<ML	XXX
3,4,6-trichlorocatechol	XXX	XXX	XXX	<ML	XXX
Tetrachlorocatechol	XXX	XXX	XXX	<ML	XXX

Discharge Limitations

<i>Discharge</i>	<i>Mass Units (lbs/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Average</i>	<i>Maximum</i>	<i>Average</i>	<i>Maximum</i>	<i>Instantaneous</i>
3,4,5-trichloroguaiacol	XXX	XXX	XXX	<ML	XXX
3,4,6-trichloroguaiacol	XXX	XXX	XXX	<ML	XXX
4,5,6-trichloroguaiacol	XXX	XXX	XXX	<ML	XXX
Tetrachloroguaiacol	XXX	XXX	XXX	<ML	XXX
2,4,5-trichlorophenol	XXX	XXX	XXX	<ML	XXX
2,4,6-trichlorophenol	XXX	XXX	XXX	<ML	XXX
2,3,4,6-tetrachlorophenol	XXX	XXX	XXX	<ML	XXX
pentachlorophenol	XXX	XXX	XXX	<ML	XXX
COD	XXX	XXX	XXX	monitor and report	XXX

D. Stormwater Outfalls SW1 through SW46 shall be monitored for the following parameters:

<i>Discharge Parameters</i>	<i>Monitoring Requirements</i>	
	<i>Composite Sample (mg/l)</i>	<i>Grab Sample (mg/l)</i>
BOD ₅	monitor and report	monitor and report
COD	monitor and report	monitor and report
Oil and Grease	monitor and report	monitor and report
pH (S. U.)	monitor and report	monitor and report
Total Suspended Solids	monitor and report	monitor and report
Total Phosphorus	monitor and report	monitor and report
Total Kjeldahl Nitrogen	monitor and report	monitor and report
Total Iron	monitor and report	monitor and report

In addition to the above effluent limitations, the permit requires the following:

1. Augmentation of the streamflow to maintain winter, summer and annual flows of 15.8, 21.3 and 16.4 cfs at the USGS Gaging Station.
2. Chronic Whole Effluent Toxicity Testing of Outfall 001.
3. Control of any Chemical Additives to prevent environment problem.
4. Completion of a new 316(a) Study (fish and macroinvertebrates) to demonstrate the impact of the existing heat discharges on the Codorus Creek and recommend reductions if necessary.
5. Continue to reduce color discharge to comply with the EPA "Cluster Rule" and the Amended Consent Adjudication with the Department.
6. A Solids, Odor and Sediment Bioassay Study to assess impact of the discharge on the Codorus Creek.
7. Sampling of parameters found by the EPA during development of the "Cluster Rule" at a predefined detection limit.
8. Implementation of Best Management Practices to comply with the "Cluster Rule."

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

PA 0002054-A2. Industrial waste, SIC: 4911, **GPU Generation, Inc.**, 1001 Broad Street, Johnstown, PA 15907.

This application is for an amendment of an NPDES permit to discharge untreated stormwater from Seward Generating Station in East Wheatfield, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Conemaugh River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Saltsburg Municipal Water Works, located at Saltsburg, 22 miles below the discharge point.

Outfall 017: new stormwater discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Iron				monitor and report	
Aluminum				monitor and report	
Manganese				monitor and report	
pH	monitor and report				

Outfall 018: existing stormwater discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Iron					monitor and report
Aluminum					monitor and report
Manganese					monitor and report
pH	monitor and report				

The EPA waiver is not in effect.

Outfall 018: existing stormwater discharge.

The EPA waiver is not in effect.

PA 0090328. Industrial waste, SIC: 2011, **Green Valley Packing, Inc.**, P. O. Box 202, Claysville, PA 15323.

This application is for renewal of an NPDES permit to discharge treated process water from the Green Valley Packing Company in Claysville Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to Buffalo Creek, classified as a HQ-WWF fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is located at Pennsylvania-Ohio State border below the discharge point.

Outfall 001: existing discharge, design flow of 0.0075 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
BOD ₅	0.62	1.25	10	20	
TSS	0.62	1.25	10	20	
Fecal Coliform (5-1 to 9-30)	200/100 ml (as a geometric mean)				
(10-1 to 4-30)	400/100 ml (as a geometric mean)				
Ammonia-Nitrogen (5-1 to 10-31)			1.5	3.0	
(11-1 to 4-30)			4.5	9.0	
TRC			1.4		3.3
Oil and Grease			10		20
Mercury			0.00005	0.0001	
Aluminum			2.11	4.22	
Total Phenols			0.085	0.17	
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PAS 806106. Industrial waste, SIC: 5171, **Ashland Brand Marketing, Inc.**, P. O. Box 391, 2000 Ashland Drive, Ashland, KY 41114.

This application is for issuance of an NPDES permit to discharge treated stormwater from the Ashland Greensburg Bulk Plant No. 762 in South Greensburg Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters Slate Creek, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the McKeesport Municipal Water System, located at McKeesport, over 20 miles below the discharge point.

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

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

Other Conditions: Chemical additives, control floating solids, solids disposal, stormwater conditions and petroleum marketing terminal conditions.

The EPA waiver is in effect.

PA 0024864. Sewage, **Ligonier Borough**, Town Hall, 120 East Main Street, Ligonier, PA 15658.

This application is for amendment of an NPDES permit to discharge treated sewage from Ligonier Borough STP in Ligonier Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Mill Creek, 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 Latrobe Municipal Authority.

Outfall 001: existing discharge, design flow of 0.6 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				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	7	11		14
(11-1 to 4-30)	21	32		42
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5,000/100 ml as a geometric mean			
Total Residual Chlorine	0.8			2.7
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 0092533. Sewage, **Indiana County Municipal Services Authority**, P. O. Box 351, 827 Water Street, Indiana, PA 15761.

This application is for issuance of an NPDES permit to discharge treated sewage from the Iselin STP in Young Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Harpers Run, 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 Freeport Water Authority.

Outfall 001: existing discharge, design flow of .0125 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	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	5	8		10
(11-1 to 4-30)	15	23		30
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(11-1 to 4-30)	3,500/100 ml as a geometric mean			
Total Residual Chlorine				
1st month to 36th month	monitor and report			
37th month expiration	0.7			1.8
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0095885. Sewage, **Mountain View Manor**, P. O. Box 138, Mountain View Drive, Hillshall, PA 15746.

This application is for renewal of an NPDES permit to discharge treated sewage from Mountain View Manor in Montgomery Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Painters Run, which are classified as a high quality 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 Cherrytree Borough Water Authority.

Outfall 001: existing discharge, design flow of .0125 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		10		20
Suspended Solids		10		20
Ammonia Nitrogen				
(5-1 to 10-31)		3		6
(11-1 to 4-30)		9		18
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine				
1st month to 36th month	monitor and report			
37th month expiration	1.4			3.3
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 0110531. Sewage, **Hutchinson Property Development Group, Inc.**, 120 West Hutchinson Avenue, Pittsburgh, PA 15218.

This application is for renewal of an NPDES permit to discharge treated sewage from Ligonier Highlands STP in Jenner Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Beaverdam Run, 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 Greater Johnstown Water Authority.

Outfall 001: existing discharge, design flow of .04 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	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	2			4
(11-1 to 4-30)	3			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 to 36th month	monitor and report			
37th month expiration	.02			.05
Dissolved Oxygen	not less than 6 mg/l			
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 0104141, Amendment No. 1. Jay Township Authority Weedville Wastewater Treatment Plant.

This application is for an amended NPDES Permit to discharge treated sewage to Bennett Branch Sinnemahoning Creek in Jay Township, **Elk County**. This is an expanded 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 Keystone Water Company on West Branch Susquehanna River located at White Deer, approximately 125 miles below point of discharge.

The proposed effluent limits, based on a design flow of 0.1 mgd, are:

Outfall No. 001 (Interim)

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
CBOD ₅	25	40	50
TSS	30	45	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 10-31) (10-1 to 4-30)	200/100 ml as a geometric average 30,000 ml as a geometric average		
pH		6.0—9.0 at all times	

The proposed effluent limits, based on a design flow of 0.2 mgd, are:

Outfall No. 001 (Final)

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
CBOD ₅	25	40	50
TSS	30	45	60
Fecal Coliform (5-1 to 10-31) (10-1 to 4-30)	200/100 ml as a geometric average 10,600 ml as a geometric average		
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0222496. Sewage. Summerville Municipal Authority Wastewater Treatment Plant.

This application is for a new NPDES Permit to discharge treated sewage to Runaway Run in Summerville Boro, **Jefferson County**. This is a new discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Hawthorn Water Company on Redbank Creek located at Hawthorn, approximately 9 miles below point of discharge.

The proposed effluent limits, based on a design flow of 0.09 mgd, are:

Outfall No. 001

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
CBOD ₅	25	40	50
TSS	30	45	60
Fecal Coliform (5-1 to 10-31) (10-1 to 4-30)	200/100 ml as a geometric average 100,000 ml as a geometric average		
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0210056. Sewage. Amsterdam Estates, 115 Amsterdam Road, Grove City, PA 16127.

This application is for a renewal of an NPDES permit to discharge treated sewage to the Unnamed Tributary to Black Run in Liberty Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Salvation Army Camp on Slippery Rock Creek located at Wayne Township, approximately 25 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.01 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31)	9.5	19
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	1.4	4.3
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

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

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

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

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

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

APPLICATIONS—NPDES MINOR RENEWALS

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0080748	N. Lebanon County Auth. P. O. Box 434 Jonestown, PA 17038	Lebanon Jonestown Boro	Swatara Creek	TRC
PA0085243	Manns Choice-Harrison Jt. Munic. Authority P. O. Box 28 Manns Choice, PA 15550	Bedford Manns Choice Borough	Raystown Branch Juniata River	TRC
PA0081981	Smithville Mobile Home 686 Pennsy Road Willow Street, PA 17584	Lancaster Providence Township	UNT to Huber Run	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law (Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and

telephone number; identification of the plan or application to which the protest is addressed and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given 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 *Pennsyl-*

vania Bulletin. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

A. 5098401. Sewage, submitted by **Triple Crown Corporation**, 5351 Jaycee Avenue, Harrisburg, PA 17112 in Centre Township, **Perry County** to construct sewers to serve the Meadow View Village Mobile Home Park was received in the Southcentral Region on January 9, 1998.

A. 6794401 98-1. Sewage, submitted by **Robert H. Conley**, 626 Old York Road, Etters, PA 17319 in Newberry Township, **York County** to correct sewer problems and BC's Restaurant was received in the Southcentral Region on January 9, 1998.

A. 6798401. Sewage, submitted by **Paul K. Miller**, R. D. 2, Box 2421, Stewartstown, PA 17363 in Hopewell Township, **York County** to install a sewage treatment plant to serve Oakwood Heights Mobile Home Park was received in the Southcentral Region on January 2, 1998.

A. 0798401. Sewage, submitted by **Logan Township Board of Supervisors**, 800 39th Street, Altoona, PA 16602-1799 in Hollidaysburg Borough; Blair Township; Frankstown Township; Allegheny Township, and Logan Township, **Blair County** to improve the Brush Run Interceptor was received in the Southcentral Region on January 15, 1998.

A. 0672403 98-1. Sewage, submitted by **Oley Township Municipal Authority**, P. O. Box 19, Oley, PA 19547 in Oley Township, **Berks County** to expand their existing wastewater treatment plant was received in the Southcentral Region on January 15, 1998.

A. 3898401. Sewage, submitted by **Paul C. and E. Flere Bomba**, R. D. 2, Denver, PA 17517 in Millcreek Township, **Lebanon County** to install a wastewater treatment system to correct their malfunctioning sewer system was received in the Southcentral Region on January 23, 1998.

A. 6797407. Sewage, submitted by **Jackson Township Sewer Authority**, R. D. 4, Box 4308, Spring Grove, PA 17362 in Jackson Township, **York County** to construct the sewage treatment plant was received in the Southcentral Region on January 27, 1998.

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

A. 0298401. Sewerage, **Girty's Run Joint Sewer Authority**, 1097 North Ave., Room 110, Millvale, PA 15209. Application for the construction and operation of Sewers and Appurtenances, Outfall and Headwall, and Wet Weather Equalization Tank located in the Townships of Ross and Shaler, **Allegheny County** to serve the Girty's Run Site #1 Upper Tank and the Site #2 Lower Tank.

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

A. 6598401. Sewerage, **Calandrella's Inc.**, R. D. 2, Box 320, Avonmore, PA 15618. Application for the construction and operation of a package type extended aeration sewage treatment plant to serve Calandrella's Inc., an existing commercial and residential establishment located in Bell Township, **Westmoreland County**.

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

WQM Permit No. 2598404. Sewage, **Robert Blakeslee SRSTP**, 23855 Maple Grove Rd., Union City, PA 16438. This project is for the construction of a Single Residence Sewage Treatment Plant in Concord Township, **Erie County**.

WQM Permit No. 4398401. Sewage, **Alice R. Williams SRSTP**, 99 S. Myers Ave., Sharon, PA 16146. This project is for the construction of a Single Residence Sewage Treatment Plant in South Pymatuning Township, **Mercer County**.

WQM Permit No. 4398402. Sewage, **John P. and Melinda J. Holfelder, Jr. SRSTP**, 4174 Bethel Rd., New Wilmington, PA 16142. This project is for the construction of a Single Residence Sewage Treatment Plant in Wilmington Township, **Mercer County**.

WQM Permit No. 4398403. Sewage, **Donald Blank Estate, c/o Rod McClelland SRSTP**, 101 Beaver St., Mercer, PA 16137. This project is for the construction of a Single Residence Sewage Treatment Plant in Jackson Township, **Mercer County**.

WQM Permit No. 4398404. Sewage, **Randall L. Carroll SRSTP**, 622 Charleston Rd., Sharpsville, PA 16150. This project is for the construction of a Single Residence Sewage Treatment Plant in Jefferson Township, **Mercer County**.

WQM Permit No. 4398405. Sewage, **David McCoy SRSTP**, 247 Nicklin Rd., Grove City, PA 16127. This project is for the construction of a Single Residence Sewage Treatment Plant in Findley Township, **Mercer County**.

WQM Permit No. 3398402. Sewage, **Summerville Borough Municipal Authority**, P. O. Box 278, Summerville, PA 15864. This project is for the construction of a sewage treatment plant, pump station and all sewers and appurtenances necessary in Summerville Borough, **Jefferson County**.

WQM Permit No. 6298401. Sewage, **Conewango Township Municipal Authority**, 4 Firemans Street, Warren, PA 16365. This project is for the construction of a pump station and all sewers and appurtenances in Conewango Township, **Warren County**.

INDIVIDUAL PERMITS

(PAS)

NPDES Individual

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the 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 appealable to the Environmental Hearing Board.

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Southeast Regional Office: Regional Water Management

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PAS702202	Houghton International P. O. Box 930 Valley Forge, PA 19482	Lehigh Co. U. Macungie Twp.	Iron Run	

SAFE DRINKING WATER

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

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

3597503. Public water supply. **Pocono Pure Water Inc.**, Thomas Henning, General Manager, 4949 Birnery Avenue, Moosic, PA 18507. This proposal involves the construction of a distilled bottle water facility utilizing PAWC as a source of supply. It is located in Moosic Borough, **Lackawanna County**.

5298501. Public water supply. **Lakeside Water Systems, Inc.**, R. R. 2, Box 2886, Greentown, PA 18426. This proposal involves the retaining of three of seven existing

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

NPDES Permit PAS10-G301. Stormwater. **TCLG, Inc.**, 30 South Valley Road, Suite 306, Paoli, PA 19301, has applied to discharge stormwater from a construction activity located in Upper Uwchlan Township, **Chester County**, to Pickering Creek.

NPDES Permit PAS10-G302. Stormwater. **K. Hovnanian Company**, 1369 Troon Lane, West Chester, PA 19380, has applied to discharge stormwater from a construction activity located in East Goshen Township, **Chester County**, to Ridley Creek.

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 PAS10Q149. Stormwater. **East Penn Real Estate**, 4445 Harriet Lane, Bethlehem, PA 18017 has applied to discharge stormwater from a construction activity located in Lower Macungie Township, **Lehigh County**, to Little Lehigh Creek.

Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (717) 629-3060.

NPDES Permit PAS10S060. Stormwater. **Fern Plaza**, Fern Partners, 257 Rimrock Drive, Stroudsburg, PA 18360 has applied to discharge stormwater from a construction activity located in Hamilton Township, **Monroe County**, to Appenzell Creek.

Northampton County Conservation District, District Manager, R. R. 4, Greystone Building, Nazareth, PA 18064-9211, (610) 746-1971.

NPDES Permit PAS10U087. Stormwater. **Milford Land Company**, 2300 Wagonwheel Drive, Easton, PA 18042 has applied to discharge stormwater from a construction activity located in Forks Township, **Northampton County**, to Bushkill Creek.

wells and one tank. The addition of disinfection at each well house, the addition of two tanks and three booster pumps. The Lakeside Water System includes existing trailers and a townhouse development. *Engineer: Ceco Associates, John F. Davis, P.E.*

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

A. 0698501. Public water supply. **Pleasant Hills Mobile Home Park**, Tilden Township, **Berks County**, (*Responsible Official: Frank T. Perano, Owner, and Alex A. McIntyre, Project Engineer, 1297 Wheatland Avenue, Lancaster, PA 17603*), *Type of Facility:* Expansion of Mobile Home Park from 247 units to 314 units and increased permitted yields of well no. 1 from 35 gallons per minute to 40 gallons per minute, (*Consulting Engi-*

near: Alex A. McIntyre, P.E., 1297 Wheatland Avenue, Lancaster, PA 17603).

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

2675501-A1. Mountain Water Association, Box 297, Fairchance, PA 15436-0297. Construction of the Brownsfield Hollow storage tank and waterlines serving Georges Township, **Fayette County**.

Northwest Regional Office, Regional Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.

A. 2598502. Public water supply. **Pleasant Ridge Manor—West**, 8300 West Ridge Rd., Girard, PA 16417-9802. This proposal involves the permitting of an existing water system in Fairview Township, **Erie County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

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

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

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department of Environmental Protection 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.

Elf Atochem North America, Inc., Upper Merion Township, **Montgomery County**. Mark Piazza, Senior Environmental Engineer, Elf Atochem North America,

Inc., 2000 Market St., Philadelphia, PA 19103-3222, has submitted a Notice of Intent to Remediate groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the Statewide health standard.

Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Pennsylvania Power & Light Company (PP&L)—Distribution pole #62540S47627, Whitehall Township, **Lehigh County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard.

Air Products and Chemicals, City of Allentown, **Lehigh County**. Edward J. Dulac, Senior Principal Environmental Specialist with Air Products and Chemicals, Inc., 7201 Hamilton Boulevard, Allentown, PA 18195-1501 has submitted a Notice of Intent to Remediate concerning the remediation of soils at the project site (located at 2801 Mitchell Avenue, Allentown, PA 18103) which are contaminated with metals. The applicant proposes to address the site to meet the Statewide human health standard. The applicant also proposes to meet the site-specific standard for contaminated groundwater. Please refer to additional *Pennsylvania Bulletin* notification.

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

Smartbuys Store, Borough of Mifflinburg, **Union County**. Timothy Burkett on behalf of his client Giles Wickham, R. D. 3, Box 45A, Sunbury, PA 17801 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Item* on January 6, 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 below. During this comment period a municipality may request that the person identified below, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department of Environmental Protection 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.

Sears Logistics Services, Inc., City of Philadelphia, **Philadelphia County**. David Frearson, P. G., Resource Control, Corp., P. O. Box 579, Rancocas, N.J., 08073-0579, has submitted a Notice of Intent to Remediate groundwater contaminated with solvents, BTEX and polycyclic aromatic hydrocarbons. 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 *Philadelphia Inquirer* on January 28, 1998.

Melchiorre Construction Company, Phoenixville Borough, **Chester County**. Michael Gonshor, P. G., RT Environmental Services, Inc., 215 W. Church Road, King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals. 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 Mercury* on January 12, 1998.

Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Air Products and Chemicals, City of Allentown, **Lehigh County**. Edward J. Dulac, Senior Principal Environmental Specialist with Air Products and Chemicals, Inc., 7201 Hamilton Boulevard, Allentown, PA 18195-1501 has submitted a Notice of Intent to Remediate concerning the remediation of groundwater at the project site (located at 2801 Mitchell Avenue, Allentown,

PA 18103) which is contaminated with solvents. The applicant proposes to address the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on October 14, 1997. The applicant also proposes to meet the State-wide health standard for contaminated soils. Please refer to additional *Pennsylvania Bulletin* notification.

Luning Prak Limited Liability Company and Bosman Limited Partners, City of Allentown, **Lehigh County**. Edward J. Dulac, Senior Principal Environmental Specialist with Air Products and Chemicals, Inc., 7201 Hamilton Boulevard, Allentown, PA 18195-1501 has submitted a Notice of Intent to Remediate (on behalf of Luning Prak Limited Liability Company and Bosman Limited Partners, 2125 S. W. 28th Street, Allentown, PA 18103) concerning the remediation of groundwater at the project site which is contaminated with solvents. The applicant proposes to address the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on October 14, 1997.

Business Park at Carbondale Railyards, Carbondale Borough, **Lackawanna County**. Terrence A. Shannon, President of Synergist, Inc., 10 Enterprise Drive, Carbondale, PA 18407, has submitted a Notice of Intent to Remediate (on behalf of the Carbondale Industrial Development Authority, One North Main Street, Carbondale, PA 18407) concerning the remediation of site groundwater contaminated with metals, and site soils contaminated with metals, solvents, petroleum hydrocarbons, and polyaromatic hydrocarbons. The applicant proposes to address the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was supposedly published in *The Scranton Times-Tribune* on February 2, 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), 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: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2516.

Permit I. D. No. 101663. Carbon County Recycling & Transfer Center, Carbon County Recycling & Transfer Center, Inc., 52 Fairview Drive, Lehighton, PA 18235. An application for a new municipal waste recycling facility and transfer station, located in Mahoning Township, **Carbon County**. The application was received in the Regional Office on January 13, 1998 and was found to be administratively complete on January 16, 1998.

Permit I. D. No. 100933. Alliance Landfill, Empire Sanitary Landfill, Inc., P. O. Box 28, Taylor, PA 18517. A major permit modification for the alteration of the 53 acre Phase II disposal area, the relocation of old waste, the addition of a soil stockpile area and the relocation of a stream at this municipal waste landfill, located in Ransom Township and Taylor and Old Forge Boroughs, **Lackawanna County**. The application was received in the Regional Office November 17, 1997 and was found to be administratively complete on January 16, 1998.

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

A. 101421. Shade Landfill Inc., 2000 Cliff Mine Road, Park West Two, Suite 420, Pittsburgh, PA 15275. Shade Landfill, 1176 R. D. 1, Cairnbrook, PA 15924. Application for a major permit modification which presents changes to the underdrain system, liner system, leachate management system, final cover system, final cover configuration, CQA/QC Plan, closure/post-closure bonding estimates and erosion and sedimentation controls, for a landfill in Shade Township, **Somerset County**. This application was received in the Regional Office on January 29, 1998.

A. 100280. USA Valley Facility, Inc., R. D. 2, Box 282A, Pleasant Valley Road, Irwin, PA 15642. An application for a major permit modification to redesign the contours of the northeast area of the landfill in Penn Township, **Westmoreland County**, was received in the Pittsburgh Region Office on January 27, 1998.

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

A. 301317. Frey Farm Landfill, Lancaster County Solid Waste Management Authority (1299 Harrisburg Pike, P. O. Box 4425, Lancaster, PA 17601-4425). Application for a residual waste processing facility at a site in Manor Township, **Lancaster County**. Application determined to be administratively complete in the Regional Office January 28, 1997.

AIR POLLUTION OPERATING PERMITS

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

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

46-318-037: United States Can Company (431 Privet Road, Horsham, PA 19044) for the operating of Can Side Seam Welding & Coating Lines in Horsham Township, **Montgomery County**.

15-310-025A: Glasgow, Inc. (660 Morehall Road, Malvern, PA 19355) for the operation of Stone Crushing Plant in East Whiteland, **Chester County**.

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

8-313-011C: OSRAM Sylvania Products, Inc. (Hawes Street, Towanda, PA 18848-0504) for the operation of a spray dryer and associated air cleaning devices (a cyclone, fabric collector and absolute filter) in Department 214, Building 22 in North Towanda Township, **Bradford County**.

8-399-044B: OSRAM Sylvania Products, Inc. (Hawes Street, Towanda, PA 18848-0504) for the operation of a molybdenum/tungsten plate rolling mill, plate furnace, plate press, rod rolling mill, rod furnace, plate conveyor and associated air cleaning devices (fabric collectors and air filters) in Department 055, Buildings 14 and 16 in North Towanda Township, **Bradford County**.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities

subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to title V operating permits).

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

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

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

Southeast Regional Office: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Attn: Edward Brown, (610) 832-6242.

TVOP-09-00011: Perkasio Industries Corporation (50 E. Spruce Street, Perkasio, PA 18944) issued January 26, 1998, for major VOC Facility in Perkasio Borough, **Bucks County**.

PLAN APPROVALS

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

Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.

06-1007K: Carpenter Technology Corporation (P. O. Box 14662, Reading, PA 19612-4662) for modification of strip finish mill controlled by a fabric collector, two scrubbers and low NOx burners in Reading, **Berks County**.

REASONABLY AVAILABLE CONTROL TECHNOLOGY

(RACT)

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

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

OP-15-0017: Transcontinental Gas Pipeline Corporation (TGPL) (Station 200, Frazer, PA 19355) for the approval of Major NOx and Minor VOC Facility located in East Whiteland Township, **Chester County**.

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

Approval of an amendment of a Reasonably Available Control Technology (RACT) plan for **The Hon Company**, Division of Hon Industries, Inc., in Williamsport, **Lycoming County**.

The Department of Environmental Protection (Department) has made a preliminary determination to approve an amendment of a Reasonably Available Control Technology (RACT) plan and an amendment to the State Implementation Plan (SIP) for a wood furniture manufacturing facility owned and operated by The Hon Company, Division of Hon Industries, Inc. in Williamsport, Lycoming County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT approval for the facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will result in the revision of Operating Permit #OP-41-0003 issued on June 7, 1996, and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following is a summary of the preliminary RACT determination which the Department proposes to incorporate into Operating Permit #OP-41-0003 for 14 small natural gas/#2 fuel oil-fired combustion sources associated with the respective wood furniture manufacturing facility as a revision to the respective permit:

1) The combined potential to emit volatile organic compounds from 14 small natural gas or #2 fuel oil fired combustion sources, with individual heat inputs from 105,000 BTU per hour to 6,250,000 BTU per hour, shall not exceed 3 pounds per hour, 15 pounds per day or 2.7 tons per year.

One public hearing will be held for the purpose of receiving comments on the proposed operating permit revision and SIP revision. The hearing will be held on March 3, 1998 at 1 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (717) 327-3659 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (717) 327-3659 or the Pennsylvania AT&T relay service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to David Aldenderfer, Air Quality Environmental Program Manager, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by March 18, 1998.

All pertinent documents are available for review from 8 a.m. to 4 p.m. in the Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling (717) 327-3693.

Approval of Reasonably Available Control Technology (RACT) plan for **Atlantic Refining & Market Corp., owner, and Sun Company, Inc.** (R & M), operator, in Point Township, **Northumberland County**.

The Department of Environmental Protection (Department) has made a preliminary determination to approve a Reasonably Available Control Technology (RACT) plan and an amendment to the State Implementation Plan (SIP) for a petroleum product storage and distribution facility (Northumberland Terminal) owned by Atlantic Refining & Marketing Corp. and operated by Sun Company, Inc. (R & M) in Point Township, Northumberland County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT approval for the facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into an operating permit for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following is a summary of the preliminary RACT determination for this operation:

The potential to emit volatile organic compounds from each of the following source categories shall never exceed 3 pounds per hour, 15 pounds per day or 2.7 tons per year (as determined by the Department). Should any of these limitations ever be exceeded for any of the source categories listed, a detailed RACT analysis which meets the criteria specified in 25 Pa. Code § 129.92 must be submitted to the Department for each source contained in the respective source category.

- fixed roof distillate storage tanks
- distillate truck loading rack
- pumps, valves and flanges
- oil/water separator
- additive tank
- heating oil tank for furnace
- office furnace

One public hearing will be held for the purpose of receiving comments on the proposed operating permit and the proposed SIP revision. The hearing will be held on March 3, 1998 at 1 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (717) 327-3659 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (717) 327-3659 or the Pennsylvania AT&T relay service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to David Aldenderfer, Air Quality Environmental Program Manager, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by March 18, 1998.

All pertinent documents are available for review from 8 a.m. to 4 p.m. in the Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling (717) 327-3693.

Approval of Reasonably Available Control Technology (RACT) plan for **Montour Oil Service Co., A Division of Sun Company, Inc.**, in Loyalsock Township, **Lycoming County**.

The Department of Environmental Protection (Department) has made a preliminary determination to approve a Reasonably Available Control Technology (RACT) plan and an amendment to the State Implementation Plan (SIP) for a petroleum product storage and distribution facility (Sand Hill Terminal) owned and operated by Montour Oil Service Co., A Division of Sun Company, Inc., in Loyalsock Township, Lycoming County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT approval for the facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into an operating permit for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following is a summary of the preliminary RACT determination for this operation:

The potential to emit volatile organic compounds from each of the following source categories shall never exceed 3 pounds per hour, 15 pounds per day or 2.7 tons per year (as determined by the Department). Should any of these limitations ever be exceeded for any of the source categories listed, a detailed RACT analysis which meets the criteria specified in 25 Pa. Code § 129.92 must be submitted to the Department for each source contained in the respective source category.

- distillate truck loading rack
- pumps, valves and flanges
- oil/water separator
- additive tank
- heating oil tank for furnace and hot water heater
- office furnace
- hot water heater

One public hearing will be held for the purpose of receiving comments on the proposed operating permit and the proposed SIP revision. The hearing will be held on March 3, 1998 at 1 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (717) 327-3659 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes per individual and two written

copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (717) 327-3659 or the Pennsylvania AT&T relay service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wishing to comment, should provide written comments to David Aldenderfer, Air Quality Environmental Program Manager, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Comments should be submitted by March 18, 1998.

All pertinent documents are available for review from 8 a.m. to 4 p.m. in the Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling (717) 327-3693.

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 such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for such 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—23 and § 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52, and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity, and pH. In addition to the above, more restrictive effluent

limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

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

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

Coal Applications Received

32980101. M. B. Energy, Inc. (P. O. Box 1319, Indiana, PA 15701-1319), commencement, operation and restoration of bituminous strip mine in Brushvalley and Center Townships, **Indiana County**, affecting 140.0 acres, receiving stream unnamed tributaries of Brush Creek to Blacklick Creek and unnamed tributaries of Yellow Creek to Yellow Creek both to Two Lick Creek to Conemaugh River, application received January 20, 1998.

56980101. Heritage Mining Company (P. O. Box 126, Cresson, PA 16630), commencement, operation and restoration of bituminous strip mine in Shade and Paint Townships, **Somerset County**, affecting 62.3 acres, receiving stream unnamed tributaries to Shade Creek, Shade Creek, application received January 20, 1998.

32930101. Kent Coal Mining Company (P. O. Box 729, Indiana, PA 15701), commencement, operation and restoration of bituminous strip mine renewal for reclamation, only in Center Township, **Indiana County**, affecting 120.8 acres, receiving stream unnamed tributaries to Yellow Creek, application received January 26, 1998.

56880103. Permit Renewal, Future Industries, Inc. (P. O. Box 157, Meyersdale, PA 15552), commencement, operation and restoration of bituminous strip mine in Summit Township, **Somerset County**, affecting 785.0 acres, receiving stream unnamed tributaries to Casselman River, the Casselman River, two unnamed tributaries to Lick Run, Lick Run, two unnamed tributaries to Bigby Creek, and one unnamed tributary to Cranberry Run, application received January 28, 1998.

McMurray District Office

32921301. Keystone Coal Mining Corp. (P. O. Box 729, Indiana, PA 15701), to renew the permit for the Plumcreek No. 1 in Washington Township, **Indiana County**, no additional discharges. Application received December 1, 1997.

30841316. Consol Pennsylvania Coal Co. (P. O. Box 174, Graysville, PA 15337), to revise the permit for the Bailey Mine in Richhill Township, **Greene County** to add 625 permit and subsidence control plan acres, no additional discharges. Application received January 5, 1998.

30831303. Cyprus Cumberland Resources Corp. (P. O. Box 1020, 145 Elm Dr., Waynesburg, PA 15370), to renew the permit for the Cumberland Mine in Whiteley Township, **Greene County**, no additional discharges. Application received November 7, 1997.

03871302. Triple K Coal Co. (R. D. 1, Box 308, Rural Valley, PA 16249), to renew the permit for the Triple K No. 1 Mine in Burrell Township, **Armstrong County**, no additional discharges. Application received December 23, 1997.

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. Application received January 15, 1998.

30901601. Chess Coal Co. (R. R. 1, Box 151, Smithfield, PA 15478), to renew the permit for the Poland Dock in Monongahela Township, **Greene County**, no additional discharges. Application received January 15, 1998.

32841320. Helvetia Coal Co. (P. O. Box 729, Indiana, PA 15701), to revise the permit for the Lucerne No. 8 Mine in Young Township, **Indiana County**, no additional discharges. Application received January 22, 1998.

56911302. Rox Coal, Inc. (2851 Stoystown Rd., P. O. Box 149, Friedens, PA 15541), to renew the permit for the Long T Permit in Stonycreek Township, **Somerset County**, no additional discharges. Application received January 23, 1998.

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

40980102. Lombardo Brothers Development Co., Inc. (22 Hale Street, Yatesville, PA 18640), commencement, operation and restoration of an anthracite surface mine operation in Hughestown Borough, **Luzerne County**, affecting 7.24 acres, receiving stream Susquehanna River. Application received January 8, 1998.

49931601R. Black Creek Breaker Company (R. R. 2, Box 630, Shamokin, PA 17872), renewal of an anthracite coal preparation plant operation in West Cameron Township, **Northumberland County** affecting 5.7 acres, receiving stream none. Application received January 26, 1998.

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

Noncoal Permits Received

48750401C2. Lafarge Corporation (5160 Main Street, Whitehall, PA 18052-1827), correction to an existing quarry operation in Allen Township, **Northampton County** affecting 342.0 acres, receiving stream Hokendauqua Creek. Application received January 16, 1998.

5575SM1A3C2. State Aggregates, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9454), renewal of NPDES Permit No. PA0119555 in Clifford Township, **Susquehanna County**, receiving stream East Branch of Tunkhannock Creek. Application received January 22, 1998.

40980301. Brdaric Excavating Inc. (230 Bunkerhill Road, Wyoming, PA 18644), commencement, operation and restoration of a noncoal surface mine in Kingston Township, **Luzerne County**, affecting 67.6 acres, receiving stream Susquehanna River. Application received January 26, 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. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

E64-186. Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Holbert Creek (HQ-TSF), consisting of an 18-foot × 14.5-foot cast-in-place concrete box culvert, with its invert depressed 1.0 foot below the streambed. The project is located on S. R. 0006, Section 671, Segment 0320, Off-Set 1388, approximately 0.7 mile northwest of the intersection of S. R. 0006 and S. R. 0652 (White Mills, PA Quadrangle N: 9.8 inches; W: 13.5 inches) in Texas Township, **Wayne County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E53-308. Encroachment. **Galen Zeger**, 2156 Buchanan Trail East, Greencastle, PA 17225. To maintain three 91 inch by 12 foot long corrugated metal pipes with associated fill in the West Branch of Pine Creek located approximately 2 miles south of Galeton on SR 2002 (Galeton, PA Quadrangle N: 14.5 inches; W: 12.0 inches) in West Branch Township, **Potter County**. The crossing has been constructed under GP085397507 and has impacted approximately 20 feet of waterway which is designated HQ-CWF.

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

E02-1084-A1. Encroachment. **Port Authority of Allegheny County**, 2235 Beaver Avenue, Pittsburgh, PA 15233. To amend Permit No. E02-1084 that authorized the Port Authority of Allegheny County to remove existing structures, construct and maintain new structures and to rehabilitate and maintain existing structures in Oakwood Run, Chartiers Creek, Campbells Run and the Monongahela River for the purpose of constructing a new busway in the Borough of Crafton, the Borough of Rosslyn Farms, the Borough of Carnegie and the City of Pittsburgh, Allegheny County to include the replacement and maintenance of approximately 1,210 feet of an existing stream enclosure in Bells Run (WWF), and to enclose and maintain an additional 520 feet of Bells Run (WWF) located just north of the intersection of Penn Lincoln Parkway (U. S. Route 22-30), and Bell Avenue (Pittsburgh West PA Quadrangle N: 7.35 inches; W: 11.7 inches) in Carnegie Borough and the Borough of Rosslyn Farms, **Allegheny County**.

E26-242. Encroachment. **Fayette County Commissioners**, Court House, 61 East Main Street, Uniontown, PA 15401. To construct and maintain a low flow stream crossing consisting of two 48 inch high density polyethylene pipe culvert placed in an unnamed tributary to the Youghiogheny River (CWF). The project is located along Township Road No. 878, 1.1 mile south of its intersection with S. R. 0040 (Friendsville, MD-PA-WVA Quadrangle N: 18.8 inches; W: 6.8 inches) in Henry Clay Township, **Fayette County**.

E02-1145-A1. Encroachment. **East Deer Township**, 927 Freeport Road, Creighton, PA 15030. To reissue and amend permit E02-1145 which permitted the construction and maintenance of a Riverfront Park in the flood plain of the right bank of the Allegheny River (WWF) located on the north side of the confluence of Crawford Run (WWF) and the Allegheny River (New Kensington West, PA Quadrangle N: 14.8 inches; W: 3.7 inches) in East Deer Township, **Allegheny County**, to include the construction and maintenance of a pedestrian bridge having a span of 50 feet and a minimal underclearance of 6.3 feet across Crawford Run located approximately 500 feet upstream from its confluence with the Allegheny River.

E32-390. Encroachment. **PA Department of General Services**, Eighteenth and Herr Streets, Harrisburg, PA 17120. To place and maintain fill in 1.43 acres of palustrine emergent wetlands and in an unnamed tributary to McKee Run (CWF) for the purpose of constructing a maximum security facility. The project is located along SR 0286 at its intersection with T-470 (Musser Road) (Clymer, PA Quadrangle N: 4.1 inches; W: 14.0 inches) in White Township, **Indiana County**. The applicant proposes to construct 2.06 acres of replacement wetlands on a site adjacent to this project.

E65-684. Encroachment. **City of New Kensington**, 301 Eleventh Street, New Kensington, PA 15068. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 45.0 foot and a minimum underclearance of 8.5 feet across Little Pucketa Creek (TSF) for the purpose of improving structural integrity. The applicant also proposes the construction and maintenance of a temporary causeway along the right bank and temporary cofferdams at the abutments during construction. The project is located at the eastern end of Fourth Street in the City of New Kensington. (New Kensington West, PA Quadrangle N: 10.4 inches; W: 1.3 inches) in the City of New Kensington, **Westmoreland County**.

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

E10-274. Encroachment. **Butler County Commissioners**, P. O. Box 1208, Butler, PA 16003-1208. To rehabilitate the existing County Bridge No. 121 (Moore Bridge) by replacing the superstructure with new steel girders, reinforced concrete deck and steel guide rails. County Bridge No. 121 (Moore Bridge) is located on Christy Road across Bull Run (WWF) approximately 500 feet south of the intersection of Cherry Valley Road and Christy Road (Curtisville, PA Quadrangle N: 9.6 inches; W: 14.0 inches) located in Clinton Township, **Butler County**.

E25-565. Encroachment. **Waterford Township**, 12451 Circuit Road, Waterford, PA 16441. To remove the existing structure and to construct and maintain a single span precast concrete arch culvert with a clear span of 32 feet and an underclearance of 6 feet 2 inches on township Road T-300 (Bagdad Road) across Trout Run (CWF). This project is located on Bagdad Road across Trout Run approximately 4,400 feet east of the intersection of Bagdad Road and Trask Road (Cambridge Springs NE, PA Quadrangle N: 13.3 inches; W: 0.1 inch) located in Waterford Township, **Erie County**.

E62-336. Encroachment. **PA Department of Transportation**, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323-1289. To remove the existing concrete slab bridge and to construct and maintain a pre-cast reinforced concrete box culvert measuring 15 feet wide by 5 feet high on SR 4021 (Jamestown Street) across Brands Run (CWF). This box culvert will be placed one foot below existing stream bed elevation to allow for unobstructed access for aquatic organisms. The project is located on SR 4021 (Jamestown Street) across Brands Run approximately 1,200 feet northwest of the intersection of SR 4021 (Jamestown Street) and SR 0957 in Sugar Grove Borough. (Sugar Grove, PA Quadrangle N: 20.0 inches; W: 11.7 inches) located in Sugar Grove Borough, **Warren County**.

DAM SAFETY

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

D67-500A. Dam. **PP&L, Inc.** (Two North Ninth Street, Allentown, PA 18101-1179). To close Ash Basin No. 7 at the Brunner Island Steam Electric Station by regrading the ash in the basin, covering the site with 1 foot of soil and seeding. The basin is located along the Susquehanna River in East Manchester Township, **York County**.

WATER ALLOCATIONS

Applications filed under the act of June 24, 1939 (P. L. 824, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

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

WA13-627B. Water Allocation Permit. **Nesquehoning Borough Authority**, 114 W. Catawissa Street, Nesquehoning, PA 18240. This proposal involves the use of the Nesquehoning Borough Authority's Fourth Hollow Reservoir unfiltered, surface water supply by the Panther Creek Energy Facility (PCEF). The PCEF proposes to withdraw the water, when available, as a process supply

source for the cogeneration plant. The processed water will not be used for consumption; and the service area for the reservoir will be PCEF. *Engineer: Alfred Benesch & Co., Patrick M. Caulfield, M.*

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

WA63-1006. Water allocation. **Pennsylvania-American Water Company, Washington County**. Provide 4,300,000 gallons per day to Paris-Florence, Independence Township Municipal Authority, Cedar Grove Water Association, Village of Independence, West Middletown, and Franklin Manor/Claysville, 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 has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

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

Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.100).

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

Permits Issued

NPDES Permit No. PA0052965. Industrial waste. **Rex Heat Treat of PA, Inc.**, 8th Street and Valley Forge Road, Lansdale, PA 19446 is authorized to discharge from a facility located in Lansdale Borough, **Montgomery County** into UNT to West Branch of Neshaminy Creek.

NPDES Permit No. PA0021181, Amendment No. 2. Sewerage. **Bucks County Water & Sewer Authority**, 306 Green Street, Doylestown, PA is authorized to

discharge from a facility located in Doylestown Township, **Bucks County** into Neshaminy Creek.

NPDES Permit No. PA0057223. Sewage. **William and Donna Hodson**, 387 Allentown Road, Souderton, PA 18964-2103 is authorized to discharge from a facility located in Franconia Township, **Montgomery County** into East Branch of the Perkiomen Creek.

NPDES Permit No. PA0057207. Sewage. **William Smith**, 1492 Salford Street, Salford, PA 18457 is authorized to discharge from a facility located in Gwynedd Township, **Montgomery County** into Wissahickon Creek.

NPDES Permit No. PA0056847. Sewage. **East Rockhill Township**, 500 Branch Road, Perkasio, PA 18944 is authorized to discharge from a facility located in East Rockhill Township, **Bucks County** into East Branch of the Perkiomen Creek.

NPDES Permit No. PA0055212, Amendment No. 1. Sewerage. **Concord Township Sewer Authority**, 666 Concord Road, Concord, PA 19342 is authorized to discharge from a facility located in Concord Township, **Delaware County** into West Branch of Chester Creek.

NPDES Permit No. PA005542. Sewerage. **John and Jane Topp**, 1261 North Manor Road, Honeybrook, PA 19344 is authorized to discharge from a facility located in Brandywine Township, **Chester County** into Dry Swale to Indian Creek.

NPDES Permit No. PA0054585. Sewerage. **John Skinner**, 22 Jeremiah Collett Road, Glenn Mills, PA 19342 is authorized to discharge from a facility located in Concord Township, **Delaware County** into West Branch Chester Creek.

NPDES Permit No. PA0012190, Amendment No. 2. Industrial waste. **Mueller Streamlined Company**, Church Road and Wissahickon Avenue, North Wales, PA 19454 is authorized to discharge from a facility located in Upper Gwynedd Township, **Montgomery County** into Wissahickon Creek.

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

Permit No. 4597404. Sewerage. **Pocono Mountain School District**, Pocono Mountain School Road, P. O. Box 200, Swiftwater, PA 18370-0200. Permit to construct and operate a SBR Wastewater Treatment Plant at the Swiftwater Campus, located in Pocono Township, **Monroe County**.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17011, (717) 657-4590.

NPDES Permit No. PA0084107. Industrial waste. **REMTECH Environmental Lewisberry, L. P.**, 550 Industrial Drive, Lewisberry, PA 17339 is authorized to discharge from a facility located in Fairview Township, **York County** to an unnamed tributary to Fishing Creek.

NPDES Permit No. PA0083011. Industrial waste. **Herr and Sacco, Inc.**, P. O. Box 99, Elmwood Avenue, Landisville, PA 17538 is authorized to discharge from a facility located in East Hempfield Township, **Lancaster County** to the receiving waters named Swarrs Run.

NPDES Permit No. PAG053516. General permit. **Sun Company, Inc.**, Ten Penn Center, 1801 Market Street, Philadelphia, PA 19103 is authorized to discharge from a facility located in Spring Township, **Berks County** to the receiving waters named Cacoosing Creek.

NPDES Permit No. PA0009733. Industrial waste. **PECO Energy Company**, 1848 Lay Road, Delta, PA 17314 is authorized to discharge from a facility located in Peach Bottom Township, **York County** to the receiving waters named Susquehanna River.

NPDES Permit No. PA0085138. Sewerage. **Five Forks Brethren in Christ Church**, 9244 Five Forks Road, Waynesboro, PA 17268-9623 is authorized to discharge from a facility located in Quincy Township, **Franklin County** to the receiving waters of an unnamed tributary to West Branch of Antitam Creek.

NPDES Permit No. PA0081329. Sewerage. **South Londonderry Township Municipal Authority**, Municipal Building, Center and Market Streets, P. O. Box 3, Campbelltown, PA 17010-0003 is authorized to discharge from a facility located in South Londonderry Township, **Lebanon County** to the receiving waters named Conewago Creek.

NPDES Permit No. PA0027189. Sewerage. **Lower Allen Township Authority**, 120 Limekiln Road, New Cumberland, PA 17070 is authorized to discharge from a facility located in Fairview Township, **York County** to the receiving waters named Susquehanna River.

NPDES Permit No. PAG043573. Sewerage. **Stacy D. and John T. McCarthy, Sr.**, R. D. 1, Box 1647, New Freedom, PA 17349 is authorized to discharge from a facility located in Shrewsbury Township, **York County** to an unnamed tributary to Deer Creek.

NPDES Permit No. PA0087611. Sewerage. **Richfield Area Joint Authority**, P. O. Box 204, Richfield, PA 17086 is authorized to discharge from a facility located in Monroe Township, **Juniata County** to the receiving waters named West Branch Mahantango Creek.

Permit No. 2197413. Sewerage. **Silver Spring Township Authority**, 6475 Carlisle Pike, Mechanicsburg, PA 17055. Construction of sewers and appurtenances in Silver Spring Township, **Cumberland County**.

Permit No. 3497401. Sewerage. **Richfield Area Joint Authority**, P. O. Box 204, Richfield, PA 17086. Construction of sewers and appurtenances in Monroe Township, **Juniata County**.

Permit No. 6797408. Sewerage. **Stacy D. and John T. McCarthy, Sr.**, R. D. 1, Box 1647, New Freedom, PA 17349. Construction of sewage treatment facilities in Shrewsbury Township, **York County**.

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

Permit No. 2685407-Amendment No. 1. Sewerage, **Fairchance-Georges Joint Municipal Sewage Authority**, 125 West Church Street, Fairchance, PA 51436. Expansion of a Sewage Treatment Plant located in the Township of Georges, **Fayette County** to serve the Fairchance-Georges STP.

Permit No. 6397406. Sewerage, **North Strabane Township Municipal Authority**, 1929 B Route 519 South, Canonsburg, PA 15317-5007. Construction of Gravity Sewers and Appurtenances located in the Township of North Strabane, **Washington County** to serve the Racetrace Road Interceptor Extension to serve portions of Meadowbrook Phase III and IV.

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

NPDES Permit No. PA0033260. Sewage. **Karavoula, Inc.**, 1138 Candy Lane, Erie, PA 16505 is authorized to discharge from a facility located in Fairview Township, **Erie County** to an unnamed tributary to Brandy Run.

NPDES Permit No. PA0035289. Sewage. **Glen Lakes Estates**, 6315 Forbes Avenue, Pittsburgh, PA 15217 is authorized to discharge from a facility located in Pine Township, **Mercer County** to an unnamed tributary to Wolf Creek.

WQM Permit No. 2597421. Sewage. **City of Erie**, 626 State Street, Room 400, Erie, PA 16501-1128. This project is for the installation of interceptor relief sewers titled Manor Drive, East-Side and West-Side Interceptor Relief Sewers in the City of Erie, **Erie County**.

WQM Permit No. 4397201. Industrial waste. **Caparo Steel Company**, 15 Roemer Boulevard, Farrell, PA 16121. This project is for the construction and operation of the wastewater cooling and recycling system at the Hot Strip Mill Reheat Furnaces in Farrell, **Mercer County**.

WQM Permit No. 4397202. Industrial waste. **Caparo Steel Company**, 15 Roemer Boulevard, Farrell, PA 16121. This project is for the construction and operation of the wastewater recycle and treatment systems at the Continuous Caster in Farrell, **Mercer County**.

WQM Permit No. 3397408. Sewage. **Falls Creek Borough Municipal Authority**, P. O. Box 418, 117 Taylor Avenue, Falls Creek, PA 15840. This project is for the construction and operation of a wastewater treatment system to serve Falls Creek Borough and Washington Township, **Jefferson County** and Sandy Creek Township, **Clearfield County**.

WQM Permit No. 2597423. Sewage. **Borough of North East**, 58 East Main Street, North East, PA 16428. This project is for plans to construct a final clarifier and sludge pumping station at the Site I wastewater treatment plant in the Borough of North East, **Erie County**.

WQM Permit No. 1097410. Sewage. **Best Oil, Inc.**, 2939 Saw Mill Run Boulevard, Pittsburgh, PA 15227. This project is for the construction and operation of a sewage treatment facility to serve a travel center in Muddy Creek Township, **Butler County**.

INDIVIDUAL PERMITS

(PAS)

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

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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-G289	Koon Steel, Inc. 2092 West Main Street Norristown, PA 19404	East Coventry Twp. Chester County	Unnamed Tributary to Schuylkill River
PAS10-G292	Maplewood Development Corp. Lejeune Properties, Inc. 134 John Thomas Drive Exton, PA 19341	West Nantmeal Twp. Chester County	Unnamed Tributary of East Branch Brandywine Creek

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

PAS-10-M074-1. Individual NPDES. **Whitetail Land Partnership, L. P.**, 13805 Blairs Valley Road, Mercersburg, PA 17236. To Implement an Erosion and Sedimentation Control Plan for the construction of additional ski slopes, trailside villages and a golf course for the expansion of the existing Whitetail Resort on 971 acres in Montgomery Township, **Franklin County**. The project is located along Blairs Valley Road (T-310) about 1 mile north of the PA-MD boundary line (Clean Spring, MD-PA Quadrangle N: 20.4 inches; W: 8.0 inches). Drainage will be to unnamed tributary to Licking Creek, Lanes Run and Little Conococheague Creek.

INDIVIDUAL PERMITS

(PAR)

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s)

to discharge wastewater into the surface waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices, and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

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

The application and related documents, effluent limitations, permitting requirements and other information are

on file and may be inspected and arrangement made for copying at the contact office noted.

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

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Sewage Sludge By Land Application to Agricultural Land, Forest, A Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

General Permit Type—4 PAG 2

*Facility Location
County and
Municipality*

<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>
Tyrone Township Adams County	PAR-10-0062	Knouse Foods Cooperative, Inc. P. O. Box 709 53 East Hanover Street Biglerville, PA 17307	Bermudian Creek	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Bonneauville Borough Adams County	PAR-10-0041-R	Meyer & Meyer Partnership 1566 Black Rock Road Hanover, PA 17301	Littles Run	Adams County CCD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Bedford Township Bedford County	PAR-10-0431	Penn Detroit Diesel P. O. Box 147 Route 220 North Bedford, PA 15522	Raystown Branch	Bedford CCD 702 West Pitt Street Suite 4 Bedford, PA 15009 (814) 623-6706
Laureldale Borough Berks County	PAR-10-C0195	Yuasa Exide Inc. Warehouse Exp. Yuasa Exide Inc. P. O. Box 14145 2400 Bernville Road Reading, PA 19612-4145	Bernhart Creek	Berks CCD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Centre Township Centerport Borough Berks County	PAR-10-C191	Blue Ribbon Farms Glenn Sandritter, President 1988 Corp. Inc./P. O. Box 439 Blandon, PA 19510	Irish Creek	Berks CCD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Spring Township Sinking Spring Borough Berks County	PAR-10-C200	Oakview Estates Phase 2 Gerhard Riethmuller 82 Eagle Rock Way Montclair, NJ 07042	Cacoosing Creek	Berks CCD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
East Pennsboro Township Cumberland County	PAR-10-H146	Logins Run Associates 2151 Linglestown Road Harrisburg, PA 17110	Holtz Run	Cumberland CCD 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAR-10-H142	Mt. Zion Associates 20 Erford Road Lemoyne, PA 17043	Sears Run	Cumberland CCD 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Greene Township Franklin County	PAR-10-M145	Scot-Greene Estates, Inc. 3218 Philadelphia Ave. Chambersburg, PA 17201	Conococheague Creek	Franklin CCD 550 Cleveland Avenue Chambersburg, PA 17201 (717) 264-8074
East Hanover Township Lebanon County	PAR-10-P066	Military Instruction Barracks Wiley Road and Bellamy Ave. Fort Indiantown Gap, Annville	UNT Aires Run	Lebanon CCD 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3377
East Hanover Township Lebanon County	PAR-10-P067	PA Arng Military Educational Fac. Service Road and Wiley Road Fort Indiantown Gap, Annville	UNT Aires Run	Lebanon CCD 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3377
Dover Township York County	PAR-10-Y044-R	Norman Berman Golden Villas at Honey Run P. O. Box 3688 York, PA 17402	Little Conewago Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township York County	PAR-10-Y090-R	Costas G. Skouras Shiloh Farms 1700 Rainbow Circle York, PA 17407	Little Conewago Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Heidelberg Township York County	PAR-10-Y212-R	Warehime Enterprises Inc. Evans Development II 251 Frederick Street Hanover, PA 17331	UNT to Oil Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Manchester Township York County	PAR-10-Y210-R	BL & B Associates Penvale Square 550 East King Street York, PA 17403	UNT to Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
East Manchester Township York County	PAR-10-Y036-R	Asbury Pointe LTD Asbury Pointe 135 North George Street York, PA 17401	Codorus Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Lower Windsor Township York County	PAR-10-Y230-R	John Fox Barshinger Road Property 60 South Pin Oak Drive Boiling Springs, PA	Beaver Creek	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Snyder County Beavertown Borough Beavertown Township	PAR105911R	Earle and Edna L. Chubb Beaver Tale Development 105 10th Ave. Selinsgrove, PA 17870	Wetzel Run	Snyder CCD 403 W. Market St. Middleburg, PA 17842 (717) 837-0085

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lawrence County Wilmington Township	PAR103719-R	Farmers Dairy Food, Inc. Farmers Cheese Wastewater Treatment Facility R. R. 1 P. O. Box 111B New Wilmington, PA 16142	Shenango River	Lawrence Conservation District Lawrence Co. Government Ctr. 430 Court Street New Castle, PA 16101-3593 (412) 652-4512
Lehigh County N. Whitehall Township	PAR10Q014-R	Jake Arner Box 600 Lehighton, PA 18235-0600	Rockdale Creek	Lehigh CD (610) 391-9583
Lehigh County Upper Milford Twp.	PAR10Q028-R	Sophie Gerhard 3910 Larkspur Drive Allentown, PA 18103	Indian Creek	Lehigh CD (610) 391-9583
Lehigh County N. Whitehall Township	PAR10Q082-R	Lehigh Farm & Home Management Box 501 Lehighton, PA 18235	Lehigh River	Lehigh CD (610) 391-9583
Luzerne County Hazle Township	PAR10R134	Humboldt Ind. Park Lot 55A Hazle Township Oak Ridge Road Hazle Township	Tomhicken Creek	Luzerne CD (717) 674-7991
Luzerne County Jenkins Township	PAR10R131	OSM 40(1354) 101.1 Old Boston	Lampblack Creek	Luzerne CD (717) 674-7991
Luzerne County Hanover Township	PAR10R136	Mericle Properties Lots 20, 21, 22 600 Baltimore Dr. Wilkes-Barre, PA 18702	Warrior Creek	Luzerne CD (717) 674-7991
Northampton County L. Nazareth Township	PAR10U071-1	Wegmans Food Market, Inc. 1500 Brooks Ave. Rochester, NY 14624	Shoeneck Creek	Northampton CD (610) 746-1971
Newtown Township Delaware County	PAR10-J108	Brandywine Operating Partnership 500 North Gulph Road, Suite 220 King of Prussia, PA 19406	Crum Creek	PA Dept. of Environmental Protection Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Springfield Township Delaware County	PAR10-J109	McKee Properties 900 West Sproul Road Springfield, PA 19064	Crum Creek	PA Dept. of Environmental Protection Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Upper Chichester Township Delaware County	PAR10-J053-R	Cisco Corporation P. O. Box 2184 Boothwyn, PA 19061	Naamans Creek	PA Dept. of Environmental Protection Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6131

*General Permit Type—PAG 3**Facility Location
County and
Municipality*Luzerne County
Plains Township*Permit No.*
PAR802234*Applicant Name
and Address*
CNF Transportation Inc.
3240 Hillview Avenue
Palo Alto, CA 94304*Receiving Stream
or Body of Water*
Laurel Run Creek*Contact Office and
Telephone No.*
Northeastern Regional
Office
Water Management
2 Public Square
Wilkes-Barre, PA
18711-0790
(717) 826-2511*General Permit Type PAG—4**Facility Location
County and
Municipality*Lebanon County
Millcreek Township*Permit No.*
PAG043587*Applicant Name
and Address*
Paul C. and E. Flere Bomba
R. D. 2
Denver, PA 17517*Receiving Stream
or Body of Water**Contact Office and
Telephone No.*
DEP—
Southcentral
Room 126
1 Ararat Boulevard
Harrisburg, PA 17110
(717) 657-4590*General Permit Type PAG—8**Facility Location
County and
Municipality*East Hempfield
Township
Lancaster County*Permit No.*
PAG-08-3509*Applicant Name
and Address*
Kline's Services, Inc.
5 Holland Street
P. O. Box 626
Salunga, PA 17538*Receiving Stream
or Body of Water*
N/A*Contact Office and
Telephone No.*
DEP
Southcentral Region
1 Ararat Boulevard
Harrisburg, PA 17110
(717) 657-4590*General Permit Type—PAG 9**Facility Location
County and
Municipality*Letterkenny Township
Franklin County*Permit No.*
PAG-09-3510*Applicant Name
and Address*
Chamberlin Septic Service
7703 Upper Horse Valley
Road
Upper Strasburg, PA 17265*Receiving Stream
or Body of Water*
N/A*Contact Office and
Telephone No.*
DEP
Southcentral Region
1 Ararat Boulevard
Harrisburg, PA 17110
(717) 657-4590**SEWAGE FACILITIES ACT****PLAN APPROVAL****Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).***Regional Office, Water Management Program Manager,
Southcentral Region, One Ararat Boulevard, Harrisburg,
PA 17110.**Location: Maiden creek Township, Berks County,
P. O. Box 529, Blandon, PA 19510-0529. The approved
plan provides for expansion of an existing sewage treat-
ment plant from .45 mgd to 1.1 mgd. The purpose of the
expansion is to provide additional treatment capacity for
future new land development and for "fill in" develop-
ment within the existing sewer service area. The expanded
facility will continue to discharge to Willow Creek. Phase
II of the Township Plan is to be submitted to the
Department within 9 months and will address the non-
sewer service areas of the Township. The Department's
review of the sewage facilities update revision has not
identified any significant environmental impacts result-
ing from this proposal. Any required NPDES Permits or*

WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Southwest Regional Office, Water Management Program
Manager, 400 Waterfront Drive, Pittsburgh, PA 15222,
(412) 442-4000.**Location: Sunnydale Gardens Mobile Home Park
right (northside of SR 0819, 0.7 mile west of the intersec-
tion of SR 0819 and SR 0119), East Huntingdon Town-
ship, Westmoreland County.**Project Description: Approval of a revision to the Offi-
cial Sewage Facility Plan of East Huntingdon Township,
Westmoreland County. Project involves the construction of
a sewage treatment facility to serve the proposed 80 lot
Sunnydale Gardens Mobile Home Park. Treated effluent
will be discharged to an unnamed tributary of Jacobs
Creek.***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. 6396502. Public Water Supply. **Pennsylvania-American Water Company**, 800 West Hershey Park Drive, P. O. Box 888, Hershey, PA 17033. *Type of Facility:* Booster pump station (Cross Creek). *Permit to Operate Issued:* January 20, 1998.

Permit No. 6598506-T1. Public Water Supply. **Cary E. and Lori L. Ruffner**, d/b/a Little Acres Mobile Home Park, 701 Vincent Drive, North Huntingdon, PA 15642. *Type of Facility:* Transfer from Loughner's Mobile Manor. *Permit to Operate Issued:* January 20, 1998.

Permit No. 0288502-T1. Public Water Supply. **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601. *Type of Facility:* Mosside pump station and booster chlorination. *Permit to Operate Issued:* January 20, 1998.

Permit No. 0292505-T1. Public Water Supply. **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601. *Type of Facility:* Ice Plant Hill pump station. *Permit to Operate Issued:* January 20, 1998.

Permit No. 6227-T1. Public Water Supply. **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601. *Type of Facility:* North Versailles Township distribution system, 162,000 gallon Naser #1 Storage Tank and the 540,000 gallon Greensburg Pike Tank. *Permit to Operate Issued:* January 20, 1998.

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

A. 4410166MA2. The Department issued an operating permit to **Foxcroft Manor MHP** (P. O. Box 438, Montoursville, PA 17754, Muncy Creek Township, **Lycoming County**) for operation of a 3,000 gallon storage tank and associated booster pumps.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department's Regional Office under which the notice

of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following reports:

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

Smartbuys Store, Borough of Mifflinburg, **Union County**. Timothy Burkett on behalf of his client Giles Wickham, R. D. 3, Box 45A, Sunbury, PA 17801 has submitted a Final Report addressing soil and groundwater contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

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

Graham Packaging Facility, 33 Memorial Drive, Oil City, PA 16301, **Venango County**, Oil City Township, has submitted a Final Report to remediate soil. The site has been found to be contaminated with Lead. The report is intended to document remediation of the site to meet the Statewide health standard. A summary of the Final Report was reported to have been published in the *Derrick Newspaper* on December 9, 1997.

AIR POLLUTION

OPERATING PERMITS

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

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

23-329-003A: Haverford College (370 Lancaster Avenue, Haverford, PA 19041) issued January 30, 1998, for two Emergency Generators in Haverford Township, **Delaware County**.

AQ-SE-0004: New Hope Crushed Stone (P. O. Box 248, New Hope, PA 18938) issued January 12, 1998, for portable Stone Crushing Plant in Solebury Township, **Bucks County**.

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

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

GP-43-182: Wheatland Tube Co. (1 Council Avenue, Wheatland, PA 16161) for a natural gas fired boiler in Wheatland Borough, **Mercer County**.

PLAN APPROVALS

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

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

PA-61-193A: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512) issued January 15, 1998, for the construction of a natural gas compressor station in Mineral Township, **Venango County**.

PA-42-176A: Allegheny MDF Ltd. Partnership (Hutchins Road, Kane, PA 16735) issued January 22, 1998, for the construction of a standby gas fired hot oil heater in Sargeant Township, **McKean County**.

24-313-132A: Carbone of America Corp. (215 Stackpole Street, St. Marys, PA 15857) issued January 15, 1998, for the installation of a jet mill in St. Marys, **Elk 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.

OP-46-0035: SmithKline Beecham Pharmaceuticals (709 Swedeland Road, King of Prussia, PA 19034) amended January 23, 1998, for Facility NOx/VOC sources in Upper Gwynedd Township, **Montgomery County**.

OP-09-0008: Tavo Packaging, Inc. (2 Canal Street, Penn-Warner Industrial Park, Fairless Hills, PA 19030) revised January 22, 1998, for Facility VOC/NOx in Fairless Hills Township, **Bucks County**.

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

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

OP-46-0060: Department of Public Welfare (1001 Sterigere Street, Norristown, PA 19401) issued January 21, 1998, for the operation of Facility NOx Sources in Norristown Township, **Montgomery County**.

OP-46-0082: Stabilus (92 County Line Road, Colmar, PA 18915) issued January 22, 1998, for Synthetic Minor VOC Facility in Colmar Township, **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. §§ 4401—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

Coal Applications Issued:

32930101. Kent Coal Mining Company (P. O. Box 729, Indiana, PA 15701), commencement, operation and restoration of bituminous strip mine renewal for reclamation, only in Center Township, **Indiana County**, affecting 120.8 acres, receiving stream unnamed tributaries to Yellow Creek, application received January 26, 1998, permit issued January 28, 1998.

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

26920401. Coolspring Mining, Inc. (P. O. Box 1328, Uniontown, PA 15401). Permit revised to add nine acres for underground mining at a noncoal surface mining site located in North Union Township, **Fayette County**, affecting 60.6 acres. Receiving streams: unnamed tributary to Coolspring Run, to Shutes Run, to Cove Run, to Redstone Creek, to the Monongahela River. Application received: September 25, 1997. Revision issued: January 21, 1998.

03920107R. McKay Coal Co., Inc. (R. D. 2, Templeton, PA 16259-9211). Permit renewed for continued reclamation only of a bituminous surface mine located in Mahoning Township, **Armstrong County**, affecting 26.5 acres. Receiving streams: unnamed tributary to Cathcart Run. Application received: November 19, 1997. Renewal issued: January 21, 1998.

30850103R. Patriot Mining Co., Inc. (P. O. Box 4360, Star City, WV 26505). Permit renewed for continued reclamation only of a bituminous surface mine located in Greene Township, **Greene County**, affecting 127.4 acres. Receiving streams: unnamed tributary to Whiteley Creek. Application received: November 7, 1997. Renewal issued: January 21, 1998.

02920103R. KMP Associates, Inc. (301 Salt Street, Saltsburg, PA 15681). Renewal issued for continued reclamation only of a bituminous surface mine located in Plum Township, **Allegheny County**, affecting 30 acres. Receiving streams: Little Plum Creek and an unnamed tributary to Little Plum Creek to Plum Creek. Application received: November 13, 1997. Renewal issued: January 21, 1998.

030930104R. Dutch Run Coal Co., Inc. (R. R. 2, Box 366, Shelocta, PA 15774). Renewal issued for continued reclamation only of a bituminous surface mine located in Plumcreek Township, **Armstrong County**, affecting 7.7 acres. Receiving streams: Dutch Run and Plum Creek. Application received: December 10, 1997. Renewal issued: January 22, 1998.

03920109R. Thomas J. Smith, Inc. (R. R. 1, Box 260D, Shelocta, PA 15774-9641). Renewal issued for con-

tinued reclamation only of a bituminous surface/auger mine located in Plumcreek Township, **Armstrong County**, affecting 37.7 acres. Receiving streams: Plum Creek. Application received: December 10, 1997. Renewal issued: January 22, 1998.

65880102R. Fairex Coal Company (R. D. 1, Box 264-D, Ligonier, PA 15658). Renewal issued for continued reclamation only of a bituminous surface mine located in Ligonier Township, **Westmoreland County**, affecting 85.2 acres. Receiving streams: unnamed tributary to Mill Creek and unnamed tributary to Loyalhanna Creek. Application received: December 10, 1997. Renewal issued: January 22, 1998.

McMurray District Office

03901304. TJS Mining, Inc., (R. D. 1, Box 260D, Shelocta, PA 15774), to revise the permit for the Darmac No. 3 in Plumcreek Township, **Armstrong County** to add permit and subsidence control plan boundary, no additional discharges. Permit issued January 15, 1998.

32971302. Rosebud Mining Company, (R. D. 9, Box 379A, Kittanning, PA 16201), to operate the Parker Mine in Washington Township, **Indiana County** to Unnamed Tributary to Dutch Run. Permit issued January 15, 1998.

65921602. Mon 70 Transloading, (P. O. Box 256, Belle Vernon, PA 15012), to renew the permit for the Mon 70 site in Rostraver Township, **Westmoreland County**, no additional discharges. Permit issued January 15, 1998.

32850701. Mears Enterprises, Inc., (P. O. Box 157, Clymer, PA 15728), to renew the permit for the Clymer Refuse Disposal Site in Cherryhill Township, **Indiana County**, no additional discharges. Permit issued January 21, 1998.

56821304. Quemahoning Collieries, Inc., (P. O. Box 955, Somerset, PA 15501), to renew the permit for the Quemahoning Mine No. 1 in Quemahoning Township, **Somerset County**, reclamation only, no additional discharges. Permit issued January 21, 1998.

33971301. Doverspike Brothers Coal Co., (R. D. 4, Box 271, Punxsutawney, PA 15767), to operate the Dora No. 8 Mine in Perry Township, **Jefferson County**, new underground mine, Mahoning Creek. Permit issued January 28, 1998.

56841604. Genesis Inc. dba Meadow Run Genesis Inc., (P. O. Box 317, Stoystown, PA 15563), to renew the permit for the Jenner Prep Plant in Jenner Township, **Somerset County** to transfer the permit from Solar Fuel Co. Inc., no additional discharges. Permit issued January 28, 1998.

56841604. Genesis, Inc. dba Meadow Run Genesis, Inc., (P. O. Box 317, Stoystown, PA 15563), to revise the permit for the Jenner Prep Plant in Jenner Township, **Somerset County** to post mining land use, no additional discharges. Permit issued January 28, 1998.

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

54851311R2. R & K Coal Company (278 Main Street, Joliett, PA 17981), renewal of an existing anthracite underground mine operation in Hegins Township, **Schuylkill County** affecting 1.4 acres, receiving stream none. Renewal issued January 28, 1998.

54970103. The Harriman Coal Corporation (P. O. Box 127, Valley View, PA 17983), commencement, operation and restoration of a coal surface mine permit in

Porter Township, **Schuylkill County**, affecting 213.0 acres, receiving stream Wiconisco Creek. Issue date January 30, 1998.

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

Noncoal Permits Issued

5278SM2C. Milestone Materials, Inc. (P. O. Box 231, Easton, PA 18044-0231), renewal of NPDES Permit No. PA0595764 in Lake Township, **Wayne County**, receiving stream unnamed tributary to Middle Creek. Renewal issued January 27, 1998.

22970301. Dauphin Meadows, Inc. (P. O. Box 68, Route 209, Millersburg, PA 17061), commencement, operation and restoration of a noncoal surface mine permit in Washington Township, **Dauphin County**, affecting 52.0 acres, receiving stream Wiconisco Creek. Issue date January 30, 1998.

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

General Small Noncoal Authorizations Granted

50960801. Roy E. and Scott D. Hall (1013 Sandy Hollow Road, New Bloomfield, PA 17068), commencement, operation and restoration of a small quarry operation in Carroll Township, **Perry County** affecting 2.0 acres, receiving stream none. Authorization granted January 28, 1998.

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

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 1 (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. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P.S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (*Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.*)

Permits Issued and Actions on 401 Certification

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

E45-336. Encroachment. **Lester G. Abeloff**, 4005 Glenbrook Road, Stroudsburg, PA 18360. To regrade, stabilize and maintain approximately 50 feet of the channel of a tributary to Big Meadow Run and an associated de minimis wetland area, less than or equal to 0.05 acre to obtain site distance for the proposed drive-ways of the Hunters Run Subdivision-Section 2 located on the north side of S. R. 2020 (Clearview Avenue) and Township Road T639 (East Stroudsburg, PA Quadrangle N: 1.6 inches; W: 13.5 inches) in Stroud Township, **Monroe County**.

Permit No. E66-114. Encroachment. **Exeter Township**, P. O. Box 88, Falls, PA 18615-9801. To maintain a single span bridge, having a span of approximately 31 feet and average underclearance of 7.3 feet across White Lock Creek. The project is located along Township Road T336 (Coolbaugh Mountain Road), approximately 0.2 mile south of its intersection with S. R. 0292 (Ransom, PA Quadrangle N: 10.5 inches; W: 15.4 inches) in Exeter Township, **Wyoming County**.

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

E15-564. Encroachment Permit. **Koons Steel, Inc.**, 2092 West Main Street, Norristown, PA 19404. To construct and maintain an outfall structure along the northern bank of an unnamed tributary to Schuylkill River (HQ, TSF). This structure will accommodate a 30-inch diameter corrugated plastic pipe culvert, and includes a concrete endwall and rip-rap energy dissipater. The culvert will convey stormwater flow into the tributary from the proposed Koons Steel, Inc. detention basin, and extend beneath Anderson Road. The site is located along the southern side of Anderson Road (T-504) at a point approximately 500 feet northeast of its intersection with Schuylkill Road (S. R. 0724) (Phoenixville, PA Quadrangle N: 15.3 inches; W: 12.9 inches) in East Coventry Township, **Chester 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.

E17-310. Encroachment. **Sandy Township Supervisors**, P. O. Box 267, DuBois, PA 15801-0267. To construct, operate and maintain an enclosure of an unnamed tributary to Beaver Run that will provide access to an industrial development. The work shall consist of constructing the stream enclosure with a 48-inch diameter corrugated metal pipe that will have a length of 150-feet. The project is located along the southern right-of-way of SR 0080 approximately 1.1 miles west of the intersection of SR 0255 and SR 0080 (Sabula, PA Quadrangle N: 1.2 inches; W: 14.7 inches) in Sandy Township, **Clearfield County**.

E17-314. Encroachment. **Sheetz Inc.**, 5700 Sixth Ave., Altoona, PA 16602. To place and maintain "de minimis" fill in a palustrine emergent wetland for the purpose of constructing a commercial development. The site is located on the west side of SR 0879 approximately 0.49 mile south of I-80 interchange (Exit 19) (Clearfield, PA Quadrangle N: 6.1 inches; W: 4.1 inches) in Lawrence Township, **Clearfield County**.

E17-315. Encroachment. **M & G Partnership**, 29 South Jared St., DuBois, PA 15801. To modify, operate and maintain an existing structure and its appurtenances in the floodway of Pentz Run for the expansion of a commercial facility. The modification work shall consist of constructing a 1,025 square foot addition to the existing building that is located along the western right-of-way of SR 0219 approximately 900 feet west of the intersection Jared St. and SR 0219 (DuBois, PA Quadrangle N: 22.1 inches; W: 2.1 inches) in the City of DuBois, **Clearfield County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E41-412. Encroachment. **Sherman C. Mittell, President**, South Williamsport Borough, 329 West Southern Ave., South Williamsport, PA 17701. To construct, operate and maintain a single span bridge to carry pedestrian traffic across Hagermans Run. The bridge shall be constructed with a span of 50-feet, an underclearance of 9-feet and minimum width of 4-feet. The project is located along the western right-of-way of SR 0015 approximately 400-feet southeast of the intersection of Hasting St. and Mountain Ave. (Montoursville, PA Quadrangle N: 19 inches; W: 15.9 inches) in South Williamsport Borough, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E26-240. Encroachment. **Redstone Township Board of Supervisors**, R. D. 1, Box 211, Grindstone, PA 15442. To construct and maintain a flood protection project in and along 1,200 feet of Dunlap Creek consisting of sediment removal and fill placement. The project is located in the Village of Fairbank (New Salem, PA Quadrangle N: 12.1 inches; W: 14.3 inches) in Redstone Township, **Fayette County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

E56-281. Encroachment. **Somerset County Commissioners**, 111 East Union Street, Suite 100, Somerset, PA 15501-1543. To repair, operate and maintain the Somerset County Bridge No. 70 (Wolfhope Bridge) having a clear span of 43.7 feet and a maximum underclearance of 14 feet across the Raystown Branch of the Juniata River (CWF) located on T-810 (Club Road) at a point approximately 600 feet north of I-76 (New Baltimore, PA Quadrangle N: 20.6 inches; W: 4.3 inches) in Allegheny Township, **Somerset County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

E65-679. Encroachment. **Export Borough**, 5821 Washington Avenue, Export, PA 15632. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 20 feet and an underclearance of 3.9 feet across Turtle Creek for the purpose of improving transportation safety and roadway standards. The project is located on Jefferson Street (Slickville, PA Quadrangle N: 7.0 inches; W: 16.0 inches) in the Borough of Export, **Westmoreland County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

E11-257. Encroachment. **Windber Area Authority**, 1700 Stockholm Avenue, Windber, PA 15963-2061. To operate and maintain a culvert crossing consisting of an 11.5-foot × 7.5-foot corrugated metal pipe arch and an

8-foot corrugated metal pipe constructed under Emergency Permit No. EP1196207 in an unnamed Tributary to Stony Creek for the purpose of providing access to the Windber Area Sewage Treatment Plant (Johnstown, PA Quadrangle N: 1.7 inches; W: 2.2 inches) in Richland Township, **Cambria 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.

E20-450. Encroachment. **Vernon Township Sanitary Authority**, 10929 Jackson Avenue, Meadville, PA 16335. To remove the existing Kerrtown Pump Station building and to construct and maintain a 17-foot-wide by 69-foot-long sewage pump station building in the floodway of French Creek along the west side of Park Row in Vernon Township, Crawford County. To construct and maintain a 12-inch diameter sanitary sewer forcemain across French Creek approximately 500 feet upstream of the Smock Memorial Bridge (S. R. 6/322/19) (Meadville, PA Quadrangle N: 0.3 inch; W: 4.6 inches) located in Vernon Township, **Crawford County**.

E25-550. Encroachment. **Erie Sewer Authority**, 68 Port Access Road, Erie, PA 16507-2202. To construct and maintain a 90-inch diameter reinforced concrete pipe relief outfall structure with rock riprap armor in Lake Erie beginning at the shore near the Erie Wastewater Treatment Plan (Erie North, PA Quadrangle N: 4.1 inches; W: 10.2 inches) and extending a total distance of approximately 7,100 feet into Lake Erie, ending with a diffuser (Erie North, PA Quadrangle N: 5.9 inches; W: 6.8 inches). The structure will have an appropriate 8-foot depth of water from the top of the rock armor to the Ordinary Low Water Elevation of 569.2 feet and will occupy a maximum of approximately 7.4 acres of the bed of Lake Erie located in the City of Erie, **Erie County**.

E25-559. Encroachment. **City of Erie**, 626 State Street, Room 400, Erie, PA 16501-1128. To construct and maintain an 84-inch diameter sewer line across the top of the existing Mill Creek Tube stream enclosure including modification to the enclosure for the West Side Interceptor Relief Sewer located at the intersection of Wallace Street and East Front Street (Erie North, PA Quadrangle N: 2.4 inches; W: 10.55 inches) located in the City of Erie, **Erie County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E33-190. Encroachment. **Jefferson County Commissioners**, Jefferson Place, 155 Main Street, Brookville, PA 15825. To remove the existing County Bridge No. JC-36 and to install and maintain a concrete box culvert having a 6.096 meter wide by 1.95 meter high waterway opening in Sawmill Run including a de minimis wetland impact on T-632 approximately 61 meters west of S. R. 3021 (Punxsutawney, PA Quadrangle N: 13.7 inches; W: 15.1 inches) located in Young Township, **Jefferson County**.

E62-333. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to install and maintain a concrete box culvert having 20-foot wide by 5-foot high waterway opening in Sill Run on S. R. 2012, Segment 0070, Offset 2634 approximately 250 feet west of S. R. 3005 (Warren, PA Quadrangle N: 13.9 inches; W: 8.8 inches) located in Pleasant Township, **Warren County**.

E62-334. Encroachment. **Sugar Grove Township Supervisors**, R. R. 4, Box 205, Sugar Grove, PA 16350. To

operate and maintain twin 50-foot long, 7-foot, 8-inch diameter steel culverts in Stillwater Creek on T-587 (Dobson Road) approximately 0.5 mile north of S. R. 957 (Sugar Grove, PA Quadrangle N: 20.6 inches; W: 8.5 inches) located in Sugar Grove, **Warren 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.

Northwest Regional Office, Regional Program Manager, Water Supply Management, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6899.

Permits Issued

Permit No. WA 43-30B. Water allocation. **Borough of Sharpville**, 1 South Walnut Street, Sharpville, PA 16150-2222. Grants the applicant's right to increase their water allocation from 1.0 mgd to 1.5 mgd to meet the projected water needs of the Borough. Water will continue to be withdrawn from the Shenango River. The Borough of Sharpville is located along the Shenango River in **Mercer County**, PA. *Type of Facility:* Borough. *Consulting Engineer:* Jose Toledo, P. E., Morris Knowles & Associates, Inc., 103 Smithfield Street, Pittsburgh, PA 15222. *Permit Issued:* January 26, 1998.

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

WA18-220-A. The Department issued a Water Allocation to **Borough of Renovo** (Borough Building, 5th Street, Renovo, PA 17764, Renovo Borough, Clinton County) which granted the right to withdraw up to a maximum of 420,000 gallons per day from Paddy's Run, located in Chapman Township, **Clinton County**.

SPECIAL NOTICES

Public Hearing Notice

102/NPDES/Stormwater

The Department of Environmental Protection (DEP) Water Management Program will be holding a fact-finding hearing on the following Stormwater NPDES permit application Jonathan Thir, Matthews Run, PAS10-G298.

The hearing is scheduled for March 17, 1998 at 1:30 p.m. at Chester County Conservation District Office, Government Services Center, Conference Room 380, 601 Westtown Road, West Chester, PA 19382-4519, Chester County. The hearing is being held to solicit pertinent comments on this application. The application is for stormwater construction activities, with a discharge to the French Creek Watershed. A copy of this application is available for review in the Southeast Regional Office's Record Management Section, (610) 832-6268. Those interested in reviewing the application should call to schedule a date to review the file. The project sponsor is Jonathan Thir, 20 Keldon Court, Glenmoore, PA 19342.

Comments received will be considered by DEP in completing its review and prior to taking final action concerning the application. The hearing will not be a question and answer session.

Anyone intending to make a presentation at the hearing should submit written notice to the Regional Man-

ager, Water Management Program at the above address. The notice should include your name, address and phone number, whether you are opposed or in favor of the project and a brief statement about your presentation. Comments should be kept brief and, depending on the number of speakers, may be limited to 10 minutes per speaker. Where groups are represented, a spokesperson is requested to present the group's concerns. Anyone wishing to present written material directly to DEP may do so within 30 days following the hearing.

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 Sharon Moore, at (610) 832-6073. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Certification to Perform Radon-Related Activities in Pennsylvania

In the month of January 1998, the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, 1-800-23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Dennis Flaherty	1297 Old Meadow Road Pittsburgh, PA 15241	Testing
Harold Beers H. E. Beers, Co.	1601 North Front Street Harrisburg, PA 17102	Mitigation
Paul Helmstaedter	913 Stratford Court Cranberry Township, PA 16066	Testing
Matthew Hodges Hodges Environmental Technology	2040 State Street East Petersburg, PA 17520	Testing
Daniel Jones	223 Trevor Street Connellsville, PA 15425	Testing
Joseph Kelly	156 Chapel Drive Virgenville, PA 19564	Testing
Timothy McDaniel	716 Wyandotte Street Bethlehem, PA 18015	Testing
Myron Sonkin N. I. Radon/GlobeSpec, Inc.	402 E. Roosevelt Rd., Suite 102 Wheaton, IL 60187	Testing
RSSI	6312 West Oakton Street Morton Grove, IL 60053	Laboratory
Ahmad Samadi	490 West Telner Street Philadelphia, PA 19118	Testing
David Scholtz	P. O. Box 118 Effort, PA 18330	Laboratory
Georgiana Simchick	P. O. Box 136 Johnsonburg, PA 15845	Testing
James Tillery	2843 North Front Street Harrisburg, PA 17110	Testing

[Pa.B. Doc. No. 98-260. Filed for public inspection February 13, 1998, 9:00 a.m.]

Air Quality Technical Advisory Committee (AQTAC); Schedule of 1998 Meetings

The Air Quality Technical Advisory Committee announces its schedule of 1998 meetings. The meetings will be held at the Rachel Carson State Office Building in Harrisburg at 9:30 a.m. Dates and locations are as follows:

March 19	2nd Floor Training Room
May 29	Room 105
July 23	Room 105
September 25	Room 105
November 19	Room 105

Questions concerning this schedule or agenda items can be directed to Terry Black at (717) 772-2030 or e-mail at

Black.Terry@a1.dep.state.pa.us. This schedule and an agenda for each meeting 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 Terry Black directly at (717) 772-2030 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. 98-261. Filed for public inspection February 13, 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 "June 1997 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 be adding its revised documents to the Web throughout 1997.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

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

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

Final Technical Guidance—New Guidance

DEP ID: 562-2504-312 Title: Surety Reclamation of Bond Forfeiture Sites Description: Outlines procedures for the evaluation of reclamation proposals submitted under the provisions of Act 43 of 1966. Effective Date: December 31, 1997 Page Length: 5 pages Location: Vol 12, Tab 20a Contact: Evan Shuster at (717) 787-7846

Final Technical Guidance—Substantive Revision

DEP ID: 381-5500-001 Title: Guidance for Reviewing Capital Grants for Construction Description: Establishes rational and reasonable guidance to promote quality, timely and consistent recommendations by DEP staff evaluating proposals for capital grants. Effective Date: February 2, 1998 Page Length: 31 pages Location: Vol 27, Tab 05 Contact: Joseph Hoffman at (717) 787-5017.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-262. Filed for public inspection February 13, 1998, 9:00 a.m.]

DEPARTMENT OF HEALTH

Renal Disease Advisory Committee Public Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 140) (35 P. S. § 6204), will hold a public meeting on Friday, February 27, 1998.

The meeting will be held in Room 812, Health and Welfare Building, Harrisburg, PA from 10 a.m. to 3 p.m.

For additional information, contact Jane E. Renaut, Director of the Chronic Renal Disease Program, Division of Special Health Care Needs at (717) 787-9772.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact the Chronic Renal Disease Program at (717) 787-9772. TDD: (717) 783-6514/ Network TDD: 8-443-6514.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 98-263. Filed for public inspection February 13, 1998, 9:00 a.m.]

DEPARTMENT OF REVENUE

Cigarette Sales and Licensing Notice

Under section 227-A of the Fiscal Code (72 P. S. § 227-A) (relating to administration powers and duties), the Department hereby announces the lowest cost of the stamping agent, wholesaler and retailer, respectively, effective upon publication of this notice, as follows:

	<i>Premium Brands</i>	<i>Generic Brands</i>
	<i>(a.k.a Kings & Regulars)</i>	
Cost of the Stamping Agent (for sales to wholesalers)	\$16.44	\$13.74
Cost of the Wholesaler (for sales to retailers)	\$17.10	\$14.29
Cost of the Retailer (for sales to retail customers)	\$18.13	\$15.15

The Department considers these costs as presumptive minimum costs. Cigarette stamping agents, wholesalers and retailers are prohibited from selling cigarettes at a price lower than their respective presumptive minimum costs. These costs are listed on a per carton basis, 10 packs of cigarettes per carton, 20 cigarettes per pack. To determine the presumptive minimum price per pack of cigarettes, one should divide the costs listed above by ten and round off to the next higher cent. For example, the presumptive minimum price of a pack of cigarettes sold by a retailer to a consumer is \$1.82 for premium brands (\$18.13/10), \$1.52 for generic brands (\$15.15/10).

Cigarette dealers who either sell cigarettes under a different packaging setup (that is, eight packs per carton) or sell cigarettes that do not qualify as premium or generic brands (that is, sub-generic, foreign or specialty cigarettes) as described above are prohibited from selling cigarettes at a price lower than the cost of the stamping agent, cost of the wholesaler, or cost of the retailer, respectively, as further defined and explained in the Department's cigarette tax regulations, 61 Pa. Code Article III.

Cigarette dealers wishing to prove a cost different from the Department's presumptive costs stated above must follow the procedures listed under 61 Pa. Code, Chapter 76 (relating to unfair sales of cigarettes).

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-264. Filed for public inspection February 13, 1998, 9:00 a.m.]

Wild Card Lotto

In accordance with the authority set forth in 61 Pa. Code § 817.118(l) and (i)(5) (relating to determination of prize winners), the Department, by public notice, is amending the Wild Card Lotto game by adding an additional prize category; modifying the percent of the winnings pool allocated to each prize and paying all prizes payable to the first place prize category winners as a one time cash payment. These amendments will be effective for Wild Card Lotto drawings beginning February 24, 1998.

The additional prize category will allow a player to win a \$1 fixed prize if the player selects six numbered squares all in the same game panel which match three of the winning numbers drawn for the game in which the ticket is participating.

The modification of the percent of the winnings pool allocated to each prize category will result in the parimutuel prize to be awarded to an owner of an apparent winning ticket to be determined as follows:

<i>Tickets Containing the Following, In One Single Lettered Game Grid</i>	<i>Prize Category</i>	<i>Percent (%) of Winnings Pool Allocated to Prize Category</i>
All Six Winning Numbers	First Prize	74.17% After Deduction of Seventh Prize
Five Winning Numbers Plus The Wild Card Number	Second Prize	4.305% After Deduction of Seventh Prize
Five Winning Numbers	Third Prize	4.305% After Deduction of Seventh Prize
Four Winning Numbers Plus The Wild Card Number	Fourth Prize	4.305% After Deduction of Seventh Prize
Four Winning Numbers	Fifth Prize	8.61% After Deduction of Seventh Prize
Three Winning Numbers Plus The Wild Card Number	Sixth Prize	4.305% After Deduction of Seventh Prize
Three winning numbers	Seventh Prize	\$1 Fixed

The modification of the percent of the winnings pool allocated to each prize category will result in the probability of winning and distribution of the parimutuel prize pool as follows:

<i>Number of Winning Numbers Selected By Player</i>	<i>Probability of Winning Per Ticket</i>	<i>Probability of Winning Per Play</i>	<i>Distributions of Payment Prize Pool</i>
6 of 6	1:6,135,756	1:12,271,512	74.17% After Deduction of Seventh Prize
5 of 6 Plus Wild Card	1:1,022,626	1:2,045,252	4.305% After Deduction of Seventh Prize
5 of 6	1:24,942	1:49,884	4.305% After Deduction of Seventh Prize
4 of 6 Plus Wild Card	1:9,976.5	1:19,954	4.305% After Deduction of Seventh Prize
4 of 6	1:498.8	1:998	8.61% After Deduction of Seventh Prize
3 of 6 Plus Wild Card	1:374	1:748	4.305% After Deduction of Seventh Prize
3 of 6	1:29	1:58	\$1 Fixed

The amendment to pay all prizes payable to the first place prize category winners as a one time cash payment results in all individual ticket prize payments for the first, second, third, fourth, fifth, sixth and seventh prize categories to be paid entirely in cash.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-265. Filed for public inspection February 13, 1998, 9:00 a.m.]

The following property is available for sale by the Department.

A parcel of unimproved land located in Radnor Township, Delaware County. Vacant land was formerly identified as 113 Burnside Road, Villanova, PA 19085 and consists of 19,973.0sf more or less or Parcel #21 on the highway plan. Department has determined that land is no longer needed for present and future transportation purposes. Appraised value is \$22,000.00.

Interested public entities are invited to express their interest in purchasing this site within thirty (30) calendar days from the date of publication of this notice to Mr. Andrew Warren, District Administrator-Transportation, District 0600, 200 Radnor-Chester Road, St. Davids, PA 19087-5178, ATTENTION: Matthew J. Kulpa, Jr., Real Estate Technician, King of Prussia Annex, Telephone No.: (610)768-3101.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-266. Filed for public inspection February 13, 1998, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation under 71 P. S. § 513(e)(7) intends to sell certain land owned by the Department.

Finding Montgomery 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 rehabilitate S. R. 0029, Gravel Pike, between the Village of Rahns and the Borough of Schwenksville in Perkiomen Township, Montgomery County. The project involves reconstructing the existing roadway, constructing paved shoulders, milling the existing roadway surface and overlaying the roadway and shoulders. The project also involves replacing a box culvert and signalizing the intersection of S. R. 0029 and S. R. 0073 near Schwenksville Borough. Guide rail and drainage updates will also be included. This project will require the acquisition of strip right-of-way from the Paul Naxes House in the Rahns Historic District and from the National Register Eligible Ott's Greenhouse. The effect of this project on the Paul Naxes House and the Ott's Greenhouse Properties will be mitigated by the following measures to minimize harm to the resources.

1. All roadway work will remain in the already disturbed berm adjacent to the historic properties.

2. All existing features such as walls and fences will remain undisturbed except for the relocation of approximately 10 feet of a wooden fence in front of the Paul Naxes House in the Village of Rahns.

3. Where appropriate, a concrete curb will be placed on the roadway side of the stone walls in order to protect them.

4. Guide rail will be placed in-situ in some areas with minor extensions in other areas.

5. All disturbed vegetation will be restored upon completion of construction.

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 restoration of this highway.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-267. Filed for public inspection February 13, 1998, 9:00 a.m.]

Training Certification of Municipal Police Officers

The Department of Transportation, Bureau of Maintenance and Operations, under the provisions of Section 4704(f) of the Vehicle Code (75 Pa.C.S. § 4704(f)), certifies the following municipal police officers have successfully completed the training prescribed by the Department of Transportation and are hereby certified as "Qualified Commonwealth Employees" as defined in Section 4102 of the Vehicle Code (75 Pa.C.S. § 4102) for the calendar year ending December 31, 1998. Accordingly, local police so qualified are authorized to conduct systematic vehicle inspections of any vehicle, driver, documents, equipment and load and enforce any law or regulation pertaining to same.

Donald F. Airey	Falls Township, Bucks County
Donald K. Alspaugh	Littlestown Borough, Adams County
Guy R. Antolick	Mahanoy City, Schuylkill County
Thomas J. Augustin	Lower Makefield Township, Bucks County
Timothy J. Biggins	Cumberland Township, Adams County
Nicholas L. Bolognese	Cumru Township, Berks County
Larry A. Bonazza	Smith Township, Washington County
Joseph P. Bowers	Exeter Township, Berks County
Paul M. Bradbury	Lower Providence Township, Montgomery County
Dennis C. Brillhart	North Codorus Township, York County
John E. Burlett	Edgeworth Borough, Allegheny County
William C. Camlin	West Goshen Township, Chester County
Dennis W. Cassel, Jr.	Robeson Township, Berks County
Steven M. Chieffo	Pottstown, Montgomery County
Neil P. Coll	East Pennsboro Township, Cumberland County
Richard J. Creese	Baden Borough, Beaver County
Edward E. Cross	Leet Township, Allegheny County
David W. Danley	Claysville Borough, Washington County
Alfred D. DeCarbo	Union Township, Lawrence County
Russell L. Devens	Dallas Borough, Luzerne County
Donald E. D'Ginto	Uwchlan Township, Chester County
Thomas P. Donaldson	Franklin Township, Butler County
David D. Dunlap	Montgomeryville Township, Montgomery County
Robert D. Eberly	Muhlenberg Township, Berks County
David M. Faulkner	East Whiteland Township, Chester County
Stephen A. Ferri	Lower Makefield Township, Bucks County
Stephen E. Forman	Middletown Township, Bucks County
Todd A. Fox	Colebrookdale District, Berks County
Larry P. Geist	Fleetwood, Berks County

Thomas J. Glenn	Allegheny County, Allegheny County	Brian Markovchick	West Hazleton, Luzerne County
Thomas G. Goodfellow, Jr.	Tyrone, Blair County	Michael G. Marshall	Wright Township, Luzerne County
David J. Greeley	Highspire Borough, Dauphin County	T. A. Marshall	Edgeworth Borough, Allegheny County
Gregory S. Gruber	Whitehall Township, Lehigh County	Jerry J. Martin	Richland Township, Cambria County
Andrew J. Hansen	Latimore Township-York Springs, Adams County	Kenneth F. Massey	Upper Chichester Township, Delaware County
Ronald G. Harvey	Monroeville, Allegheny County	F. Allan Mauger, Jr.	Uwchlan Township, Chester County
Roger Heins	Northeastern Berks Regional, Berks County	Steven Mawhinney	Bristol Township, Bucks County
Kenneth M. Henry	Mount Joy Township, Lancaster County	John McCarthy	Montgomery Township, Montgomery County
Patrick N. Hinds	West Manchester Township, York County	Dale V. McClure	Uwchlan Township, Chester County
Leonard R. Hoffer	Windsor Township, York County	Michael P. McGonigle	Lehigh Township, Northampton County
Joseph Huth	Washington Township, Westmoreland County	Douglas G. McKinney	Gettysburg Borough, Adams County
Frank J. Keegan	West Whiteland Township, Chester County	Robert F. McNally	Tinicum Township, Bucks County
Robert S. Keen, Jr.	State College Borough, Centre County	Gary R. Metzger	Lancaster City, Lancaster County
Troy A. Keenhold	Walnutport, Northampton County	Paul F. Miller, Jr.	Cumru Township, Berks County
Thomas E. Keirn	Richland Township, Cambria County	Robert F. Miller	Hilltown Township, Bucks County
Craig A. Kelly	Fairview Township, York County	Ronald Miller	Monroeville, Allegheny County
Luke J. Kelly	West Norriton, Montgomery County	Ronald A. Mohl	Leesport Borough, Berks County
Steven D. Kingsborough	Middlesex Township, Cumberland County	Joseph L. Montemurro	Aleppo Township, Allegheny County
Joel W. Klinedinst	Northeastern Regional, York County	John J. Mullner	Northampton Borough, Northampton County
John E. Krieg	Meshoppen Borough, Wyoming County	Christopher L. Neidert	Exeter Township, Berks County
William D. Leighty	East Cocalico Township, Lancaster County	Shawn P. Nihen	Coaldale, Schuylkill County
Gerard M. Lindenlauf	New Garden Township, Chester County	Allan J. Nocera	Shenango Township, Lawrence County
Robert L. Lockcuff	Shamokin Dam, Snyder Township	R. Scott Ohs	State College Borough, Centre County
James D. Loder	Exeter Township, Berks County	Vince Pacifico	Phoenixville, Chester County
Joseph Logic	Parkesburg Borough, Chester County	James A. Papale, Jr.	Lower Windsor Township, York County
Michael W. Lubold	Middletown Township, Bucks County	David M. Pavelko	Butler Township, Luzerne County
Peter H. Lunn	Upper Chichester Township, Delaware County	Mark N. Pellicciotti	Birdsboro, Berks County
Jeffrey A. Lutz	Pocono Mountain Regional, Monroe County	Lawrence L. Pence	East Brandywine Township, Chester County
Richard J. Manko	Sewickley, Allegheny County	Joseph W. Pennisi	Walnutport, Northampton County
		John R. Pioth	Monroeville, Allegheny County

Jeffery D. Potteiger	Silver Spring Township, Cumberland County	Matthew R. Watts	West Hills Regional, Cambria County
Dwight R. Robison, Jr.	Penn Township, York County	Gary West	Moore Township, North- ampton County
Richard J. Rocco	Newberry Township, York County	James L. Wetzel	Franklin, Venango County
Keith S. Roehm	West Manchester Township, York County	Todd W. Williams	Richland Township, Cambria County
Michael P. Ruane	Benton Area, Columbia County	Daniel E. Wilson	East Whiteland Township, Chester County
Larry Runk	Gettysburg Borough, Adams County	Troy L. Wiser	Mount Holly Springs Bor- ough, Cumberland County
Donald J. Rusnak	Mount Joy Borough, Lancaster County	Timothy Woll	Cumru Township, Berks County
James R. Sadler	Silver Spring Township, Cumberland County	Joseph P. Yatsko	Jackson Township, York County
Christopher M. Sam	Wyomissing Borough, Berks County	Ronald L. Yocum, Jr.	Shoemakersville Borough, Berks County
Robert P. Schaeffer	Schuylkill Haven Borough, Schuylkill County	John Zielinski	Easton, Northampton County
Edwin J. Schneider	West Manheim Township, York County	The Department of Transportation, from time to time, during the calendar year, will publish addenda to the listing of Qualified Commonwealth Employees as the same become certified.	
Robert G. Schortemeyer	Middletown Borough, Dau- phin County	Comments, suggestions, or questions may be directed to Daniel R. Smyser, P.E., Chief, Motor Carrier Division, Bureau of Maintenance and Operations, P. O. Box 8210, Harrisburg, PA 17105-8210, telephone number (717)787- 7445.	
Ronald H. Shank	Manheim Borough, Lancaster County	BRADLEY L. MALLORY <i>Secretary</i>	
Barry L. Sherman	Middlesex Township, Cum- berland County	[Pa.B. Doc. No. 98-268. Filed for public inspection February 13, 1998, 9:00 a.m.]	
Donald S. Siekerman	Mechanicsburg Borough, Cumberland County	<hr/>	
Jay P. Smith	Newberry Township, York County	INDEPENDENT REGULATORY REVIEW COMMISSION	
R. G. Smith	Middlesex Township, Cum- berland County	Actions Taken by the Commission	
Thomas R. Smith	Aleppo Township, Allegheny County	The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, January 29, 1998, and took the following actions:	
Jeffrey A. Snyder	Hampden Township, Cumber- land County	<i>Regulations Approved</i>	
Stuart A. Spencer	East Pennsboro Township, Cumberland County	Insurance Department # 11-130: Notice of Increase in Premium and Midterm Cancellation or Nonrenewal of Policies (amends 31 Pa Code Chapter 113 Subchapter G)	
Kenneth P. Stephens, Jr.	Whitehall Township, Lehigh County	Insurance Department # 11-148 Credit Life Insurance, Credit Accident and Health Insurance and Credit Unem- ployment Insurance (amends 31 Pa Code Chapters 71 and 73)	
Brian K. Strand	Bern Township, Berks County	Department of Revenue # 15-371 Tax Amnesty Pro- gram; Further Examination of Books and Records (amends 61 Pa Code by deleting existing § 6.22 and adding § 8a.1 to Chapter 8a.)	
Timothy A. Stringer	Ferguson Township, Centre County	<i>Regulations Deemed Approved under section 5(g) of the Regulatory Review Act — Effective January 27, 1998.</i>	
Sean Stuber	Bushkill Township, North- ampton County	Insurance Department #11-141: Miscellaneous (deletes 31 Pa. Code §§ 137.2—137.4)	
Scott Sundquist	East Hempfield Township, Lancaster County	<hr/>	
John K. Trindle	Falls Township, Bucks County		
Bill P. Van Etten	Township of Spring, Berks County		
Arthur G. Vogel	Rostraver Township, West- moreland County		
Henry P. Ward	Falls Township, Bucks County		

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
January 29, 1998

Insurance Department—Notices of Increase in Premium and Midterm Cancellation or Nonrenewal of Policies; Doc. No. 11-130

Order

On August 29, 1996, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapter 113 Subchapter G. The statutory authority for the regulation is found in section 9 of the Act of July 3, 1986 (P. L. 396, No. 86) (act) (40 P. S. § 3409), as amended by Act 10 of 1995 (Act 10). The proposed regulation was published in the September 14, 1996 edition of the *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on January 5, 1998.

These amendments address problems that have occurred with cancellations and nonrenewals of commercial property and casualty insurance policies. In addition, they modify the existing regulation to be consistent with the amendments made by Act 10.

Amendments include reducing the time period for providing advance notice of intent to increase premiums for commercial policies from 60 days to 30 days. Also, consistent with Act 10, the current requirement that insurers provide insureds with an estimate of premiums at least 30 days prior to the renewal date of the insurance policy is eliminated.

The Department improved the clarity of the final-form regulation by revising the definition of commercial property and casualty risk insurance. The Department also added a new definition of personal risk insurance to help distinguish the two basic categories of risk insurance.

We have reviewed this regulation and find it to be in the public interest. Benefits to affected commercial property and casualty insurers and agents include having to provide only one notice of premium increases to policyholders instead of two. This change is estimated to reduce costs for the insurance industry by approximately \$2.2 million annually. Policyholders will be protected because they will continue to receive advance notice of premium increases.

Therefore, It Is Ordered That:

1. Regulation No. 11-130 from the Insurance Department, as submitted to the Commission on January 5, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
January 29, 1998

Insurance Department—Credit Life Insurance, Credit Accident and Health Insurance and Credit Unemployment Insurance; Doc. No. 11-148

Order

On July 23, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapters 71 and 73. The authority for this regulation is found in Section 12 of the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance (40 P. S. § 1007.12) and Sections 641(b) and (b.1) of the Insurance Department Act of 1921 (40 P. S. § 281(b) and (b.1)). The proposed regulation was published in the August 2, 1997 edition of the *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on January 5, 1998.

The Department is proposing to delete Chapter 71 relating to general provisions and amend Chapter 73 relating to credit life insurance, credit accident and health insurance, and credit unemployment insurance. The Department notes that Chapters 71 and 73 have become outdated and incomplete as the nature and type of credit transactions and resulting credit insurance coverages have evolved. To keep up with the changing nature of credit insurance, the Department has issued various notices and directives to provide direction to the credit insurance industry. The proposed regulation codifies these notices and reflects the provisions of the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance and the Insurance Department Act of 1921.

We have reviewed this regulation and find it to be in the public interest. The proposal will provide necessary updates to the Department's credit insurance regulations.

Therefore, It Is Ordered That:

1. Regulation No. 11-148 from the Insurance Department, as submitted to the Commission on January 5, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
January 29, 1998

Department of Revenue—Tax Amnesty Program; Further Examination of Books and Records; Doc. No. 15-371

Order

On September 13, 1995, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code by deleting existing Section 6.22 Further examination of books and records and adding Section 8a.1 Further examination of books and records, to Chapter 8a. Enforcement. This rulemaking also amends similar language in Section 35.1 Tax examinations and assessments to avoid conflict or confusion with Section 8a.1. The authority for this regulation is 72 P. S. § 9915-A. The proposed regulation was published in the September 23, 1995 *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on October 22, 1997, and was disapproved by the Commission on November 20, 1997. The Department submitted a modified final-form regulation to the Commission on January 5, 1998.

Public Meeting held
January 29, 1998

This regulation provides for examination of all books, papers and records of a taxpayer to verify the accuracy and completeness of any tax return filed by the taxpayer or to assess any tax owed to the Commonwealth if no tax return has been filed by the taxpayer. Included in the provisions of this regulation is the use of "statistical sampling" and "block sampling" in "test audits" under certain circumstances to establish the liability of a taxpayer.

The Department has already adopted regulations which are the subject matter of this proposed rulemaking. Section 22 of Act 21 of June 30, 1995 (Act 21) (P. L. 139, No. 21) contains the Tax Amnesty Program for which the Legislature allowed the Department to adopt regulations without going through the regulatory review process. In conjunction with implementation of the Tax Amnesty Program, and working within the time constraints of Act 21, the Department added Section 6.22 Further examination of books and records. The proposed regulation, upon which the Commission expressed strong concerns, was identical to the tax amnesty program regulation at Section 6.22. The Department intends to delete Section 6.22 of its regulations when the final-form version of Section 8a.1 is approved.

We have reviewed this modified final-form regulation and find it to be in the public interest. The original proposal by the Department in 1995 contained vague procedures the Department would use. As a result, the Commission commented extensively on the proposed rulemaking. On November 20, 1997, the Commission unanimously disapproved the final-form regulation submitted by the Department citing a lack of standards an audit must meet, optional consideration of factors rather than binding consideration, and some other clarity issues. The regulation submitted to the Commission on January 5, 1998, is a significant improvement over the original proposal submitted in 1995. The Department has added definitions of the terms used in the regulation. The Department clarified the scope of the regulation. The Department delineated factors the Department will consider in determining the audit method to use. The Department added provisions which provide guidance on the procedures used for statistical sampling, including allowing the taxpayer an option to increase the size of the sample. The test audit plan will be reviewed with the taxpayer prior to an audit, including an explanation that the taxpayer may request an increase in sample size. The Department will review audit findings and calculations with the taxpayer, including procedures for processing, assessing, and appealing of audit findings. Finally, the statutory basis for a taxpayer to appeal was added to the regulation. The Department's response to our concerns has resulted in a modified final-form regulation that meets the criteria of the Regulatory Review Act.

Therefore, It is Ordered That:

1. Regulation No. 15-371 from the Department of Revenue, as submitted to the Commission on January 5, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Insurance Department—Miscellaneous; Doc. No. 11-141

Order

On March 31, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Insurance). This rulemaking deletes 31 Pa. Code §§ 137.2—137.4. The authority for this regulation is sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). The proposed regulation was published in the April 12, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on January 5, 1998.

This regulation will delete existing provisions that duplicate policies and requirements found elsewhere in State or Federal laws and regulations. It repeals 31 Pa. Code Chapter 137 which is entitled "Miscellaneous."

The final-form regulation contains no changes from the proposed regulation. We did not file any comments on the proposed regulation. Furthermore, we did not receive any negative recommendations on the final-form regulation from the House Insurance Committee and Senate Banking and Insurance Committee.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 11-141 from the Insurance Department, as submitted to the Commission on January 5, 1998, was deemed approved under section 5(g) of the Regulatory Review Act on January 27, 1998.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-269. Filed for public inspection February 13, 1998, 9:00 a.m.]

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. The regulations will be considered within 30 days of their receipt at a public meeting of the Commission. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
19-1	Department of Corrections State Correctional Institutions and Facilities	01/29/98

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-270. Filed for public inspection February 13, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

Continuing Education Advisory Board Guidelines and 1998 Continuing Education Advisory Board Members

1. Name

The Pennsylvania Continuing Education Advisory Board shall be referred to as the Advisory Board.

2. Purpose

The Advisory Board serves the following purposes:

- Periodically makes recommendations to the Commissioner regarding the development of criteria for awarding a contract for the administration of continuing education.
- Offers guidance regarding approval or disapproval of courses, credit hours, qualifications of course sponsors and instructors.
- Makes recommendations as liaison with the NAIC task force on continuing education.
- Recommends changes to the continuing education regulation.
- Reviews appeals by course sponsors and instructors whose courses or qualifications were not approved by the Department and make recommendations to the Commissioner to aid the Commissioner in reaching a final decision on the appeal.
- Offers guidance on any other matters that the Commissioner requests.

3. Operational Year

The Advisory Board will operate on a yearly basis from January 1 through December 31.

4. Membership

A. Total Number of Members

The Advisory Board will consist of no more than 15 organizations and individuals but not less than 13 organizations and individuals.

B. Composition of Advisory Board

1) Appointments made to the Advisory Board will follow these basic requirements:

- a) Individual representation
 - 3 Individual agent/broker at large
- b) Organizational representation:
 - 3 Statewide agent associations
 - 3 companies or company associations
 - 3 nonprofit educational organizations
 - 1 for-profit educational provider of continuing education courses

2) The Insurance Department shall have a permanent representative on the Advisory Board as an ex-officio nonvoting member.

C. Contact Person

For organizations, the appointment to the Advisory Board is the organization, not the individual. Each organization is to identify a contact person for matters referring to the Advisory Board's activity. This contact person shall be responsible for receiving and distributing all communication pertaining to Advisory Board business within its organization.

D. Compensation for Advisory Board Members

Members on the Advisory Board receive no compensation or reimbursement of expenses.

5. Appointment Process

A. Identification of Advisory Board Members

1) Initial members of the Advisory Board shall be appointed by the Commissioner in accordance with section 4(B).

2) All requests or nominations for an appointment are to be sent to the Department which will forward them to the Chair of the Advisory Board. The Advisory Board will review the requests and make recommendations on appointments to the Commissioner.

B. Recommendations to the Commissioner

The Advisory Board is to send all requests with the Advisory Board's recommendations to the Commissioner annually by November 1st.

C. Timeline for Consideration and Appointments

The Advisory Board will review all requests at its regularly scheduled quarterly meetings. The Advisory Board will forward recommendations to the Commissioner who will make the final appointments which will become effective with the beginning of the Advisory Board's operational year (January 1st).

D. Criteria Form

A criteria form will be used for prospective Advisory Board Members to request an appointment.

6. Term

A. Appointment/Term

Members shall serve a term of 3 years, except as provided in sections 7.B or 7.C.

B. Initial Staggering of Terms

During the initial period of appointment, one-third of the Members shall have a term of 1 year, expiring December 31, 1998; one-third of the Members shall have a term of 2 years, expiring December 31, 1999; and the remainder of the Members shall have a term of 3 years, expiring December 31, 2000; the for profit continuing education provider will serve for 2 years.

7. Vacancies

A. Unexpired Term

Vacancies on the Advisory Board shall be filled by the Commissioner for the unexpired portion of the current term. Insofar as practical, a vacancy shall be filled by an organization or individual of the same category (for example, agent association, company or company associations, nonprofit educational organizations and for-profit educational provider) as the Member leaving the Advisory Board.

B. Resignation of Advisory Board Member

A Member who does not attend two (2) consecutive or four (4) total regular meetings of the Advisory Board during a term of appointment shall be deemed to have resigned from the Board and a vacancy will thereby be declared.

C. Termination of License or Organization

An organization appointed to the Advisory Board which has ceased to exist, or an individual appointee who no

longer is licensed to sell insurance in the Commonwealth of Pennsylvania is deemed to have resigned and a vacancy is thereby declared.

8. Meetings

A. Annual Meeting

The Advisory Board shall meet annually for its organizational meeting in July of each year.

B. Regular Meetings

The Advisory Board may provide for the date, time and place of additional regular quarterly meetings to be held throughout the year.

C. Special Meetings

Special Meetings may be called by the Chair. Additionally, any four members may petition the Chair to call a special meeting if no regular meeting is scheduled to be held within the next 30 days, whereupon said special meeting shall be called.

D. Minutes

The Secretary of the Advisory Board, or another Member appointed by the Chair to act on behalf of the Secretary, at each annual, regular or special meeting shall take and report minutes to Members of all actions taken and topics discussed at the meetings. Minutes of the previous meeting and an agenda for the forthcoming meeting shall be provided with each meeting notice provided for in section 10.

E. Robert's Rules

The Board may promulgate or adopt, as it deems necessary, rules of procedure governing the conduct of its annual, regular and special meetings. To the extent possible, it is the intention of the Board to conduct meetings in an informal manner. At such times, however, as formal procedures are deemed necessary, the Board will be governed by the provisions of the current edition of *Robert's Rules of Order*.

9. Notice of Meetings

Notice of all annual, regular and special meetings shall be sent to each individual and organization serving as a Member of the Advisory Board. Each notice shall state the purpose of the meeting and identify any proposed changes to rules or procedures that will be considered at said meeting. Any meeting notice shall be given by first class mail or facsimile at least 14 days prior to the date of the meeting. The 14-day notice period shall commence on the date of mailing of the notice.

10. Quorum

Fifty-one percent of the members shall constitute a quorum for the transaction of any business or the exercise of regular powers of the Advisory Board.

11. Officers and Duties

A. General

The Advisory Board shall elect annually, from among its members at the annual meeting, a Chair, Vice Chair and Recording Secretary, to serve 1-year terms or until their successors are elected and assume office. Officers may serve unlimited consecutive terms.

B. Chair

The Chair shall preside at all annual, regular and special meetings and discharge other duties incidental to the office or as the Advisory Board may require. The Chair shall further serve as principal liaison between the

Advisory Board and the Commissioner and the Commissioner's Representative to the Advisory Board.

C. Vice Chair

The Vice Chair shall, in the event the Chair is unavailable, assume the duties of the Chair.

D. Recording Secretary

The Recording Secretary shall:

- issue all notices of annual, regular and special meetings;
- record the minutes of the meetings; and
- discharge other duties as may be incidental to the office of Recording Secretary and as the Advisory Board may direct.

12. Terms of Office and Vacancies

A vacancy in the office of Chair, Vice Chair or Recording Secretary is declared when the individual or organization filling the office resigns from the office or is no longer eligible to be a member of the Advisory Board. A vacancy will be filled by election at the earlier of the next annual, regular or special meeting of the Advisory Board. The individual or organization selected will serve in that position until the next annual organizational meeting of the Advisory Board.

13. Voting

A. General

For purposes of establishing a quorum and conducting votes on matters of the Advisory Board, each member organization and each individual member not representing an organization shall be entitled to one vote, no matter how many individuals may attend who are affiliated with an organization. The Chair shall retain the right to vote on all issues.

B. Procedure

Except as provided under section 18, the Advisory Board shall act by simple majority vote. Any proposal or motion shall be carried if a quorum is present and the proposed receives an affirmative vote of a majority of the quorum at a duly constituted annual, regular or special meeting.

C. Proxy Votes

For purposes of establishing a quorum and for conducting business of the Advisory Board, no proxy votes shall be permitted. All votes must be cast in person by the duly acknowledged representative of a member organization or by a person specifically appointed by the Commissioner to the Advisory Board.

14. Committees

The Advisory Board or Chair may establish standing and special committees and subcommittees as may be necessary to discharge the duties of this Advisory Board. Committees, subcommittees and the members thereof are subject to reappointment and affirmation at each annual organizational meeting.

15. Appeal Procedures

31 Pa. Code § 39.22(c) provides: If the Commissioner or the Commissioner's delegate determines that a course sponsor application or the qualifications for courses and instructors do not meet the requirements of this chapter, the appellant may request the Advisory Board to review the Commissioner's or Commissioner's delegate's decision. Following the review, the Advisory Board will make its recommendations to the Commissioner. The Commis-

sioner will consider the recommendations of the Advisory Board in reaching a final decision.

The Advisory Board adopts the following procedures for the purpose of considering the petitions of aggrieved parties.

A. Appeal Format

The appeal shall be in writing from the aggrieved party. The appeal letter shall clearly state the reasons why the disapproval was not proper under 31 Pa. Code Chapter 39. The appellant should include all supporting documentation that was presented with the filing.

B. To Whom Addressed

The appeal shall be addressed to: The Continuing Education Advisory Board, c/o The Pennsylvania Insurance Commissioner, Insurance Department, 1300 Strawberry Square, Harrisburg, PA 17120

C. Distribution to the Advisory Board

The Commissioner or the Commissioner's delegate shall forward the appeal, including a copy of the determination as provided to the appellant and any supplemental documentation considered in the Commissioner's determination to the Chair of the Advisory Board within 14 days of receipt of the appeal.

D. Time Line for Consideration

The Chair of the Advisory Board shall determine whether additional information is needed in order to perform a review. If additional information is needed the party holding the necessary information shall submit it to the Advisory Board within 10 days of the Board's request.

The appeal shall be considered by the Advisory Board no later than at its next regular meeting.

E. Personal Appearance/Presentation

Personal appearances of an appellant before the Advisory Board shall be at the discretion of the Advisory Board. All requests for a personal appearance shall be reviewed and approved by the Chair.

F. Executive Session for Consideration

An executive session of the Advisory Board shall be called to review and discuss the appeal.

G. Participation

The executive session shall consist of one representative per member organization and any individuals appointed by the Commissioner. The Department's representative may not participate in any executive session that is being held for the purpose of reviewing an appeal. Any member that is an appellant in a matter being reviewed in the executive session may not participate in the review of that particular matter.

H. Recommendation

Upon completion of the executive session, the Advisory Board shall vote on the appeal. Only Board members shall have voting authority in all appeals. A majority of those present shall constitute a quorum.

I. Presentation of Recommendation to Commissioner

The Chair shall provide a written report of the recommendation of the Advisory Board to the Commissioner within 15 days of the Advisory Board's meeting. A copy of the report shall be provided to the appellant. All documentation shall be given to the Commissioner.

J. Records

The Insurance Department shall be responsible for all records forwarded from the Advisory Board.

16. Reports from the Insurance Department

At each regular meeting, the Insurance Department shall report on all relevant items affecting the Advisory Board, its charges, these procedures and the continuing education regulations.

17. Amendment to Procedures

Amendment to these procedures may be made by the Advisory Board. Any proposed changes must be submitted to the Advisory Board members at least 20 days in advance of any meeting as an agenda item. A vote of 2/3 of a quorum is necessary for adoption of any proposal.

Any approved changes may only become effective upon the Commissioner's approval.

18. Authority of Board Members

The Advisory Board shall recommend and offer guidance to the Commissioner on issues relating to continuing education. The Commissioner is not bound by the Advisory Board's recommendations. Sole decision making authority shall rest with the Insurance Commissioner and not the Advisory Board.

BOARD MEMBERS

Agents

Audette T. Gelinis
Gelinis Associates, Inc.
Boiling Springs, PA 17007-0100
1-Year Term

Michael L. Malloy, CPCU
Mellon Insurance Agency
Pittsburgh, PA 15258-0001
2-Year Term

George Lopata, CLU
Greek Catholic Union of the USA
Beaver, PA 15009-9513
3-Year Term

Nonprofit CE Providers

Robert G. Potalivo
Preferred Institute of Educational Services
Erie, PA 16504
1-Year Term

James F. Fryer
AICPCU/IIA
Malvern, PA 19355-0716
2-Year Term

Burton T. Beam, Jr.
The American College
Bryn Mawr, PA 19010
3-Year Term

For Profit CE Provider

Frank M. Cimino
Wise Education, Inc.
Southampton, PA 18966
2-Year Term

Department Representative

Lisa Forry, Director
Bureau of Producer Licensing
Harrisburg, PA 17120

Statewide Agent Associations

Peter Calcara
Professional Insurance Agents Association
Mechanicsburg, PA 17055
1-Year Term

Mark A. Male
Independent Insurance Agents of PA
Harrisburg, PA 17110
2-Year Term

Scott D. Jackson, CAE
PA Association of Life Underwriters
Harrisburg, PA 17101
3-Year Term

Company Associations

Jerry Slothower
Prudential
Camp Hill, PA 17011-5608
1-Year Term

Dennis S. Marlo
PA Association of Community Bankers
Villanova, PA 19085
2-Year Term

Linda Cooper
State Farm
Concordville, PA 19339
3-Year Term

First Meeting

Monday, March 9, 1998

Time

2 p.m. to 4 p.m.

Location

Insurance Department
13th Floor Strawberry Square
Harrisburg, PA 17120

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-271. Filed for public inspection February 13, 1998, 9:00 a.m.]

Jesse Rawls, Sr.; Doc No. AG98-01-022

The hearing is scheduled for March 17, 1998 at 9 a.m., in the Administrative Hearing Office, Suite 200, 901 North Seventh Street, Harrisburg, PA 17102.

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508, 701—704 (relating to The Administrative Agency Law) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

Pending hearing, parties shall exchange proposed exhibits, the names of witnesses and provide an offer of proof with respect to each witness, and informally attempt to resolve undisputed facts by stipulation.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing, with the Docket Clerk, Insurance Department, Suite 200, 901 North Seventh Street, Harrisburg, PA 17102 on or before March 4, 1998.

A prehearing conference in the Administrative Hearing Office is scheduled for March 4, 1998 at 2 p.m.

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. 98-272. Filed for public inspection February 13, 1998, 9:00 a.m.]

Notice to All Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In June 1997, the Insurance Commissioner determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 27 Pa.B. 2795 (June 7, 1997). Accordingly, for those insurance coverages which are included on the export list, a diligent search among insurers admitted to do business in Pennsylvania is not required before placement of the coverages in the surplus lines market.

The Insurance Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Insurance Commissioner is soliciting comments regarding the current export list. Persons may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Insurance Commissioner's current export list are invited to submit a written statement within 30 days from the date of this publication. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Regulation of Companies, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, (717) 783-2144, fax (717) 787-8557. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-273. Filed for public inspection February 13, 1998, 9:00 a.m.]

Rate Filing; Hartford Insurance Company of the Midwest; Personal Automobile Rate Revision

On January 28, 1998, the Insurance Department received from Hartford Insurance Company of the Midwest a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 5.4% decrease amounting to -\$2,446,339 annually, to be effective March 1, 1998 for new business and April 18, 1998 for renewal business.

Unless formal administrative action is taken prior to March 29, 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 Michael W. Burkett, Insurance Department, Office of Rate and Policy Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-274. Filed for public inspection February 13, 1998, 9:00 a.m.]

Rate Filing; TICO Insurance Company; Personal Automobile Rate Revision

On January 29, 1998, the Insurance Department received from TICO Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 5.1% increase amounting to \$3,460,658 annually, to be effective March 15, 1998.

Unless formal administrative action is taken prior to March 30, 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 of the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Office of Rate and Policy Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-275. Filed for public inspection February 13, 1998, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with her company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Julie Depue; file no. 97-121-08580; Allstate Insurance Company; doc. no. P98-01-019; March 11, 1998, at 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings,

witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

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

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-276. Filed for public inspection February 13, 1998, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insured's policies.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Howard R. and Wanda L. Quinter; file no. 97-215-36974; State Farm Fire and Casualty Co.; doc. no. PH98-01-025; March 18, 1998, 1 p.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to partici-

pate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-277. Filed for public inspection February 13, 1998, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Northumberland County, Wine & Spirits Shoppe #4902, 53 E. Independence Street, Shamokin, PA 17872-6830.

Lease Expiration Date: August 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,900 net useable square feet of new or existing retail commercial space on Independence Street within the City of Shamokin.

Proposals due: March 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board

Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Ronald Hancher, (717) 657-4228
JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 98-278. Filed for public inspection February 13, 1998, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 March 9, 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 beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00114621. Tri-State Emergency Systems, Inc., t/d/b/a Emergycare (1701 Sassafras Street, Erie, Erie County, PA 16502, a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, using both wheelchair accessible and nonwheelchair accessible vehicles, to, from and between medical and medically related facilities in the counties of Erie, Crawford, Warren and Venango, and from points in the said counties to points in Pennsylvania, and return. *Attorney:* Scott L. Wallen, 2222 West Grandview Boulevard, Erie, PA 16506-4508.

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 March 2, 1998.

A-00114626. Starke And Sons, Inc., 511 Hoffman Avenue, Philadelphia, PA 19143

A-00114635. Holstein Transport, Inc., 1402 West High Street, Pottstown, PA 19464.

A-00114636. Robert L. Gast, t/a II Corps, 114 Spring Avenue, Lancaster, PA 17602

A-00114637. Michael C. Barone, t/a Main Line Pet Limo, P. O. Box 1136, Bryn Mawr, PA 19010

A-00113427. Darlene C. Christy, t/a D C Cab, 1301 Frankstown Road, Johnstown, PA 15902; John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15902.

A-00114639. Paul Devlin, t/a Expedited Transport Services, 252 Edmonds Avenue, Northampton, PA 18067.

A-00114638. Philip M. Smith, t/a Smith Trucking, R. D. 2, Box 196, Landisburg, PA 17040.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-279. Filed for public inspection February 13, 1998, 9:00 a.m.]

Water Service Without Hearing

A-213550 F0013. York Water Company. Application of the York Water Company, under section 1102 of the Public Utility Code, for approval of the right to begin to offer or furnish water service to the public in portions of Conewago Township, York County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before March 2, 1998, under 52 Pa. Code (relating to public utilities).

Applicant: The York Water Company.

Through and By Counsel: Michael W. Gang, Esquire, Michael W. Hassell, Esquire, Morgan, Lewis & Bockius

LLP, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101-1904.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-280. Filed for public inspection February 13, 1998, 9:00 a.m.]

PORT OF PITTSBURGH COMMISSION

Request for Proposals

The Port of Pittsburgh Commission requests proposals from qualified contractors to administer a revolving loan program. Interested parties may receive copies of the Request for Proposals by calling the Port of Pittsburgh Commission at (412) 442-5204 and requesting RFP No. PPC-980305. Written proposals will be accepted at the Commission's office at 503 Martindale St., 5th Fl., Pittsburgh, PA 15212 until 1 p.m., Thursday, March 5, 1998.

JAMES R. MCCARVILLE
Executive Director

[Pa.B. Doc. No. 98-281. Filed for public inspection February 13, 1998, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Bids

The Turnpike Commission is requesting sealed bids for Window Replacement, Everett Fare Collection Office & PA State Police Barracks, Bedford County.

Mandatory Site Inspection: February 24, 1998 at 11 a.m., at Everett Fare Collection/State Police Barracks, Milepost 154.2.

Open Date: March 12, 1998 at 11:30 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated above. Bid proposal Forms and Conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-282. Filed for public inspection February 13, 1998, 9:00 a.m.]

Request for Bids

The Turnpike Commission is currently soliciting competitive bids for Facilities Capital Replacement Upgrades and Repair Services in District 4 of the Turnpike. District 4 extends from Milepost 300.00 to 359.00 and Milepost A1.00 to A15.00 in Chester, Montgomery and Bucks Counties in Pennsylvania.

Services under consideration are:

Electrical—Bid Opening March 9, 1998 at 11 a.m.;
General—Bid Opening March 10, 1998 at 11:30 a.m.;
Mechanical—Bid Opening March 11, 1998 at 11:30 a.m.;
Plumbing—Bid Opening March 12, 1998 at 11 a.m.;
Roofing—Bid Opening March 16, 1998 at 11 a.m.

Sealed proposals will be received by the Purchasing Manager for the Turnpike Commission at the Administra-

tion Building (mailing address: P. O. Box 67676, Harrisburg, PA 17106-7676) not later than the times indicated. Bid proposal Forms and Conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-283. Filed for public inspection February 13, 1998, 9:00 a.m.]

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contracts:

Contract No. 98-012-RF55-C—Roadway Repairs, Between M. P. 109.91, Exit 10 and M. P. 145.50, Exit 11 on the Pennsylvania Turnpike System in Somerset and Bedford Cos., PA

Bid Opening Date—March 18, 1998, 1:30 p.m.

Contract No. 98-012-RU05-C—Roadway Repairs, between M. P. 0.06 at the Pennsylvania and Ohio Border and M. P. 47.73, Exit 5, and between M. P. B- 27.53, Exit 15 and M. P. B- 45.00, Exit 20 on the Pennsylvania Turnpike System and Toll 60 in Lawrence, Beaver, Butler and Allegheny Cos., PA

Bid Opening Date—March 18, 1998, 1 p.m.

Contract No. 98-012-RW16-C—Roadway Repairs, between M. P. 188.59, Exit 14 and M. P. 236.22, Exit 17 on the Pennsylvania Turnpike System in Franklin and Cumberland Cos., PA

Bid Opening Date—March 18, 1998, 2:30 p.m.

Contract No. 98-012-RQ14-C—Roadway Repairs, Between M. P. A-37.31, Exit 33 and M.P. A- 94.45, Exit 37 on the Pennsylvania Turnpike System in Lehigh, Carbon and Luzerne Cos., PA

Bid Opening Date—March 18, 1998, 2 p.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per set (Do not add State Tax) by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Pennsylvania Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-284. Filed for public inspection February 13, 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.

<h3 style="margin: 0;">Reader's Guide</h3>	<h3 style="margin: 0;">REQUIRED DATA DESCRIPTIONS</h3>																				
<h2 style="margin: 0;">Legal Services & Consultation—26</h2> <p style="text-align: center; margin: 10px 0;"> ① Service Code Identification Number </p> <p style="text-align: center; margin: 10px 0;"> ② Commodity/Supply or Contract Identification No. </p> <p style="margin: 10px 0;"> 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. </p> <table style="width: 100%; border: none;"> <tr> <td style="width: 40%;">Department:</td> <td>General Services</td> <td style="width: 20%;"></td> <td style="width: 40%; text-align: center;">③ Contract Information</td> </tr> <tr> <td>Location:</td> <td>Harrisburg, Pa.</td> <td></td> <td style="text-align: center;">④ Department</td> </tr> <tr> <td>Duration:</td> <td>12/1/93-12/30/93</td> <td></td> <td style="text-align: center;">⑤ Location</td> </tr> <tr> <td>Contact:</td> <td>Procurement Division</td> <td></td> <td style="text-align: center;">⑥ Duration</td> </tr> <tr> <td></td> <td>787-0000</td> <td></td> <td></td> </tr> </table> <p style="margin: 10px 0;"> ⑦ (For Commodities: Contact: Vendor Services Section 717-787-2199 or 717-787-4705) </p>	Department:	General Services		③ Contract Information	Location:	Harrisburg, Pa.		④ Department	Duration:	12/1/93-12/30/93		⑤ Location	Contact:	Procurement Division		⑥ Duration		787-0000			<p>① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.</p> <p>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.</p> <p>③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.</p> <p>④ Department: State Department or Agency initiating request for advertisement.</p> <p>⑤ Location: Area where contract performance will be executed.</p> <p>⑥ Duration: Time estimate for performance and/or execution of contract.</p> <p>⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.</p> <p>(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705</p>
Department:	General Services		③ Contract Information																		
Location:	Harrisburg, Pa.		④ Department																		
Duration:	12/1/93-12/30/93		⑤ Location																		
Contact:	Procurement Division		⑥ Duration																		
	787-0000																				

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

8128520 Agricultural machinery and supplies—1 each furnish and install hydraulic driven Alamo Versa Attachment 60 in/152 cm; 1 each furnish and install Alamo Hyro 88 Interstater, PTO Driven.

Department: Transportation
Location: Temple, Berks County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1680117 Construction and building materials—1 lot CIP furnish and install (1) roof for mailroom expansion.

Department: Corrections
Location: Somerset, Somerset County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1693117 Construction and building materials—62 each replacement windows, furnish only, single hung, approximately 61" W X 66 1/2" H, color bronze; 3 each replacement windows, furnish only, single hung, approximately 39" W x 49" H, color bronze; 43 each replacement windows, furnish and install, double hung, approximately 49 1/2" W X 72 1/2" H, color white; 34 each replacement windows, furnish and install, double hung, approximately 45" W x 88 1/4" H, color white; 2 each replacement windows, furnish and install, double hung, approximately 49 1/2" W x 93" H, color white; 3 each replacement windows, furnish and install, double hung, approximately 49 1/2" W x 36 1/4" high, color white.

Department: Corrections
Location: Cambridge Springs, Crawford County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1714187 Paper and printing—110M application for PA Boat Registration and/or Title Rev-336 CM (12-97).

Department: Revenue
Location: Harrisburg, Dauphin County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8177140 Prefab structures and scaffolding—1 lot hardwood Glulam timber deck and wooden guide rails.

Department: Transportation
Location: Lebanon, Lebanon County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1692137 Service and trade equipment—15 each Over-The-Road cart systems Cart No. OTR-48. Overall size 27x61x73, frame size 24x48x63, 3 wire shelves and 1 solid bottom shelf, 8" rubber casters.

Department: Military Affairs
Location: Spring City, Chester County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1579117 Steam plant and drying equipment—1 project dust collection system: 1 Sternvent Model No. CYA2407 or approved equal, "Cyclone" with offset transition.

Department: Corrections
Location: Pittsburgh, Allegheny County, PA
Duration: FY 97-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

SERVICES

Agricultural Services—02

98-100 Horses, to be utilized for mounted detail. Horses should have dark colored coats and must be geldings. Size requirements: 15—16 hands (60"—64"), 1,100—1,300 lbs. Age 7—12 years. Horses are to be well mannered, trainable and must not be gun shy.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: February 1, 1998 to June 30, 1998
Contact: Delores Stephens, (717) 975-5200

SW-1 Grass seed—Caven Rock switchgrass (pure live seed)—2,000 pounds. Shelter switchgrass (pure live seed)—600 pounds.

Department: Game Commission
Location: State Game Lands 50, 774 Berlin Plank Road, Somerset, PA 15501
Duration: April 30, 1998
Contact: D. E. Jones, (412) 238-9523

Audio/Video—04

20,056 The contractor shall either repair or replace any hardware and/or software component of the telecommunications equipment located at the State Correctional Institution at Dallas. Institution has a Norther Telecom Electronic Private Automatic Branch Exchange (EPABX) system with approximately 600 telephones using approximately 300 different extension numbers. A site visit is required.

Department: Corrections
Location: State Correctional Institution at Dallas, Dallas, PA 18612
Duration: July 1, 1998 through June 30, 2001
Contact: Robert Faneck, Business Manager, (717) 675-1101, Ext. 215

20,058 Contractor shall provide maintenance coverage for repairs to high band radio system which includes mobile, hand held portables and base station.

Department: Corrections
Location: State Correctional Institution at Dallas, Dallas, PA 18612
Duration: July 1, 1998 to June 30, 2001
Contact: Robert Faneck, Business Manager, (717) 675-1101, Ext. 215

AC 98 01 To provide maintenance service for the NFA 2400 SIM telephone system. Vendor shall supply all labor, parts and materials to make all necessary repairs, deletions or additions to the telephone system.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: July 1, 1998—June 30, 2001
Contact: Peggy A. Chilcote, Purchasing Agent, (814) 643-6520

Computer Related Services—08

040198KLN The State System of Higher Education, Dixon University Center is soliciting bids for Sun Enterprise Servers to be installed at West Chester University as part of the Keystone Library Network. Please call Linda Venneri at (717) 720-4135 to receive the bid specifications. All bids must be received in the Dixon University Center office by 4 p.m. of March 6, 1998.

Department: State System of Higher Education
Location: Information Technology System, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110
Duration: NTE 60 days
Contact: Linda Venneri, (717) 720-4135

AC 98 02 To provide maintenance service for the KAC 6000 Digital Equipment System. Vendor shall supply all labor, parts and materials to make all the necessary repairs that may be required.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: July 1, 1998—June 30, 2001
Contact: Peggy A. Chilcote, Purchasing Agent, (814) 643-6520

SP-330644 Maintenance and upgrade service for PEP for Infoconnect Software for 10,000 desktop personal computers in the Department of Public Welfare.

Department: Public Welfare
Location: Bureau of Information Systems, Room 32A, Willow Oak Building, Harrisburg State Hospital, P. O. Box 2675, Harrisburg, PA 17105
Duration: March 01, 1998—June 30, 1999
Contact: Kathy A. King-McCarthy, (717) 772-7119

X99831 The Department of Environmental Protection, Bureau of Personnel is seeking to obtain software and licenses for a fully-developed training administration software system.

Department: Environmental Protection
Location: Harrisburg, PA
Duration: One year from acquisition of software
Contact: Allyson Hubler, (717) 787-2471

Construction—09

97-55 Mansfield University is seeking interested contractors for renovations to tennis courts located on the campus of Mansfield University of Pennsylvania—Project 97-55. Construction includes base, paving, color coating, line painting, caulking, patching, adapting net posts and installation tie downs. A prebid meeting is scheduled for February 24, 1998 at 10 a.m. in Brooks Maintenance Building, Mansfield University and the bid opening will be March 13, 1998 at 2 p.m. in the Purchasing Department, Mansfield University. Bid packages can be obtained from Peg Chapel, Purchasing Department, Mansfield University, Brooks Maintenance Building, Mansfield, PA 16933—Bid package cost: \$15, nonrefundable deposit. Bonding is required for this project. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Mansfield University, Mansfield, PA 16933
Duration: 45 days from date of Notice to Proceed
Contact: Peg Chapel, (717) 662-4148

CL-472 Clarion University is soliciting bids for construction of a 197 space parking lot including excavation, grading, blacktopping, line painting, installation of a precast concrete fence; landscaping and lighting and accessories. Contracts to be awarded for general and electrical construction. Prebid conference: 10 a.m., March 3, 1998 in McEntire Maintenance Building, Clarion, PA. Bids due: 1:30 p.m., March 19, 1998; Public bid opening: 10 a.m., March 20, 1998. Bid packages available from contact person, 218 Carrier Hall, Clarion University, Clarion, PA 16214 by sending \$20 nonrefundable deposit (by check only) payable to Clarion University.

Department: State System of Higher Education
Location: Clarion University, Clarion, Clarion County, PA
Duration: 45 days from Notice to Proceed
Contact: Judy McAninch, Contract Manager, (814) 226-2240

DGS A 251-452 Project title: Roof Replacement. Brief description: Remove existing gravel, membrane roofing, insulation and flashing. Install new tapered insulation, membrane roofing and flashing. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, February 25, 1998 at 1 p.m.

Department: General Services
Location: Pennsylvania Department of Transportation Maintenance Building, Honesdale, Wayne County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 417-18 Phase 4 Project title: Install Snow Guard and Repair Gutter Work. Brief description: Installation of snowguards on upper roof and lower roof on south side of building. Remove and repair all sections of damaged gutters along lower roof on south side of building, replace damaged hangers and add new ones between existing hangers. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, March 4, 1998 at 2 p.m.

Department: General Services
Location: Thaddeus Stevens State School of Technology, Lancaster, Lancaster County, PA
Duration: 90 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 572-28 Project title: Repairs to Central Tower—Building No. 16. Brief description: Demolish upper portion of Central Tower, rebuild with new roof in gable-shape. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, February 25, 1998 at 2 p.m.

Department: General Services
Location: State Correctional Institution Huntingdon, Huntingdon County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 575-3 Project title: Construction of a 500 Cell Maximum Security Facility with Provision for Expansion to 750 Cells for Violent Juvenile Offenders. Brief description: Construction of a maximum security facility for violent juvenile offenders consisting of administration, health services, laundry, commissary, maintenance, correctional industries, religious services, psychological services, education/vocational, arts/crafts, recreation, central plant and warehouse facilities. General, HVAC, plumbing, electrical and sprinkler construction. Plans deposit: \$970 per set. Payable to: Vitetta Group, Inc./Chinn Planning Partnership (Joint Venture). Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Vitetta Group, Inc./Chinn Planning Partnership (Joint Venture), 642 North Broad Street, Philadelphia, PA 19130, (215) 235-3500. Bid date: Wednesday, March 18, 1998 at 11 a.m.

Department: General Services
Location: State Correctional Institution, Pine Grove, Indiana County, PA
Duration: 730 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

948-41ST1 Project title: Structural and Miscellaneous Steel. Brief description: Provide, erect and install structural and miscellaneous steel and prefabricated metal stairs. General construction. Plans deposit: \$175 per set. Payable to: Reliance Reprographic, 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. Additional sets may be purchased. Cost of additional sets are not refundable. Mail requests to: Reliance Reprographics, Inc., 535 West Hamilton Street, Suite 101, Allentown, PA 18101, Attn: Matthew F. Swartz, (610) 821-5100. Bid date: Tuesday, March 17, 1998 at 2 p.m. A prebid conference has been scheduled for Monday, March 2, 1998 at 1:30 p.m. in the Arsenal Building, Corporate Board Room, 18th and Herr Streets, Harrisburg, PA 17125. Contact: Bill Chambers, P. E., or Drew Emerson, (717) 233-7507. All bidders who have secured plans and specifications are invited and urged to attend this prebid conference. All questions must be submitted in writing to Boylin Cywinski Jackson/Hayes Large Architects—Joint Venture, 125 South 9th Street, Philadelphia, PA 19107, Attn: Randy Reid, AIA, (215) 592-0600, fax: (215) 592-9637 by Friday, March 6, 1998.

Department: General Services
Location: Keystone Building, Capitol Complex, Harrisburg, Dauphin County, PA
Duration: Proposed date of completion—September 22, 1999
Contact: Contract Bidding Unit, (717) 787-6556

Contract No. FDC-133-259 Rehabilitation/replacement of existing equipment at six locations and replacing roofs at six locations throughout Bald Eagle State Park.

Department: Conservation and Natural Resources
Location: Howard and Liberty Townships, Centre County, PA
Duration: 240 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-133-260 Demolition; earthmoving; seeding; painting; supplying and installing equipment; and electrical work associated with sewage treatment facilities renovations at Bald Eagle State Park.

Department: Conservation and Natural Resources
Location: Howard and Liberty Townships, Centre County, PA
Duration: 240 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-314-297 Excavation for ditches; subbase preparation; 2A stone (300 tons); and paving (880 tons) for the new office parking lot at Trough Creek State Park.

Department: Conservation and Natural Resources
Location: Todd Township, Huntingdon County, PA
Duration: 60 days
Contact: Construction Management Section, (717) 787-5055

FM 08779705 Contractor to supply all labor, tools, equipment, scaffolding, building materials and appurtenances to furnish and install new concrete sidewalks and repair loading dock at administration building of the Ebensburg Center. Complete bid specifications can be obtained from the Purchasing Office at the Ebensburg Center.

Department: Public Welfare
Location: Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931
Duration: 150 days from effective date of the contract
Contact: Cora Davis, Purchasing Agent I, (814) 472-0288

SP336973 All labor, equipment and materials to clean, tack coat and overlay roadway (approximately 2,375' x 15' using a 1/2" leveling course and a final course of 1" ID2 wearing course, including milling tie-in joint at the north end of the project, and apply 2RC berms.

Department: Conservation and Natural Resources
Location: Bureau of Forestry, Bald Eagle State Forest, Clinton County, McCall Dam State Forest Road in Eastville, PA
Duration: April 1, 1998—June 30, 1998
Contact: James J. Lipko, (717) 922-3344

SP-341258 Work under this contract includes the removal of an existing stone laid retaining wall; the construction of a new gravity retaining wall; construction of a concrete jacket adjacent to an existing retaining wall footing; and the placement of guide rail along the new gravity retaining wall and existing retaining wall.

Department: Conservation and Natural Resources
Location: State Parks Region No. 3, Blue Knob State Park, R. R. 1, Box 449, Imbler, PA 16655-9407
Duration: Completion time—60 days after Notice to Proceed
Contact: Ken Kozak, (814) 733-9123

SP 342945 Rehabilitation of five stone masonry bridge structures located in Luzerne County, Lehigh Gorge State Park, PA.

Department: Conservation and Natural Resources
Location: State Parks, Lehigh Gorge State Park, R. R. 1, Box 81, White Haven, Luzerne County, PA 18661
Duration: June 30, 1998
Contact: Regional Park Office, (215) 453-5016

Demolition—11

030-0284 Demolition and removal of a one story brick and frame home, block green house, one story frame workshop and a one story frame dwelling.

Department: Transportation
Location: Perry County, PA
Duration: Sixty (60) days
Contact: Joel K. Hart, (717) 368-4237

Engineering Services—14

98 A/E West Chester University is issuing RFP 98 A/E for Open-Ended Professional Design Services. WCU will select one or more firms for multiple maintenance, repair, renovation and alteration projects and possibly small construction. The professional may be required to provide feasibility studies, construction cost/time estimates, design/specification services and construction administration. Agreements will be issued for 1 year with two 1-year options for renewals. In order to insure responsiveness and in the best interest of WCU, it is necessary to have professional (and all subs) located within 50 miles of WCU. WCU will use "Tripquest" at <http://www.mapquest.com> to determine miles. RFPs are due on or before 11 a.m. on March 12, 1998. WCU encourages responses from small, minority, women owned firms and firms which have not previously worked with WCU, and will consider joint ventures which will enable these firms to participate. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and SSHE. RFPs may be obtained by calling (610) 436-2705, faxing (610) 436-2720 or e-mail jmarthinsen@wcupa.edu.

Department: State System of Higher Education
Location: West Chester University, West Chester, PA 19383
Duration: 1 year with option for two 1-year renewals
Contact: Jacki Marthinsen, Contracts Manager, (610) 436-2705

Firefighting Services—18

CH-278 The contractor shall provide service, parts and labor to maintain fire extinguishers and fire suppression systems at the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: July 1, 1998 to June 30, 2001
Contact: Delores Stephens, (717) 975-5200

FAS-93 Vendor will provide semiannual alarm testing and required maintenance/repairs on FCI and Simplex fire alarm systems—as per Safety Code requirements.

Department: Military and Veterans Affairs
Location: Southeastern PA Veterans Center, Spring City, Chester County, PA 19475
Duration: July 1, 1998—June 30, 2001
Contact: Francis Bellan, Purchasing Agent, (610) 948-2492

Food—19

175 Estimated need: enriched white bread, Texas toast, wheat bread, cinnamon/raisin bread, Italian bread, hamburger rolls, frankfurter rolls, soft dinner rolls, semi-hard rolls, hard rolls, English muffins, assorted pastries, individual size pies.

Department: Public Welfare
Location: Youth Development Center, R. R. 6, Box 21A, New Castle, Lawrence County, PA 16101
Duration: April 1, 1998—June 30, 1998
Contact: Kathy Zeigler, Purchasing Agent, (412) 656-7308

AA 01154 Grocery and frozen food items. Additional information is available by contacting this agency.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: April and May, 1998
Contact: Jeanette Gualtieri, (814) 878-4930

BOWC-1-98 Provide catered luncheons for conferences, meetings or special seminars.

Department: Labor and Industry
Location: Bureau of Workers' Compensation, 1171 South Cameron Street, Harrisburg, PA 17104
Duration: July 1, 1998 through June 30, 2000
Contact: Jane C. Williams, (717) 783-5421

RFP-98-1 This request for proposal is to have an official soft drink through vending machines, dispensing equipment and services for Pennsylvania State Parks and Pennsylvania Historical and Museum Commission. Proposal documents can be obtained from the Bureau of State Parks, 400 Market Street, P. O. Box 8551, Harrisburg, PA 17105-8551, or by calling (717) 787-2129. Proposals are due by March 31, 1998 by 2 p.m. A preproposal conference will be held on February 20, 1998 at 10 a.m. in the Carson State Office Building.

Department: Conservation and Natural Resources
Location: Bureau of State Parks, Historical and Museum Commission, State-wide
Duration: Five (5) years
Contact: Rayford E. Williams, (717) 787-2129

Hazardous Material Services—21

IFB 97-07-07 Pick up and properly dispose of infectious waste generated at the Bureau of Laboratories, 110 Pickering Way, Lionville, PA 19353, according to all applicable laws and regulations of the Commonwealth of Pennsylvania. This waste includes sharps (needles, syringes, culture tubes, glass slides) and other infectious waste (animal tissue, gloves, gowns, masks, animal bedding). These items are placed in leakproof, puncture resistant sealed containers or red hazard bags (for nonsharp items) by the Bureau of Laboratories which will place these containers in shipping/transport containers supplied by the contractor (each container is to hold up to 45 pounds). Collection shall be weekly and will average approximately 315 pounds per week. The Department of Health will provide puncture resistant sealed containers or red hazard bags.

Department: Health
Location: Bureau of Laboratories, 110 Pickering Way, Lionville, PA 19353
Duration: 3 years (July 1, 1998 to June 30, 2001)
Contact: Turene McConaghy or Donald Middleman, (610) 363-8500, Ext. 222, 232

HVAC—22

Project No. 409-FJ Lock Haven University of PA, of the Pennsylvania State System of Higher Education (SSHE) is seeking bids for the installation of a new ventilation system for the existing crawl space in the basement of Bentley Dining Hall, Project 409-FJ. A prebid meeting will be held February 10, 1998 (1 p.m.) in Price Auditorium. All prospective contractors are encouraged to attend. Bids are due and will be opened publicly on February 24, 1998 at 2 p.m. For further information, or to request contract documents at a nonrefundable cost of \$10 per set (payable to Comprehensive Design), bidders can contact Paulette Rider of Comprehensive Design, 3054 Enterprise Drive, State College, PA 16801-2755, (814) 238-7706. Contract Bonds and MBE/WBE solicitation apply. The System encourages responses from small firms, minority firms, women-owned firms and firms which may have not previously performed work for the System. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Lock Haven University, Bentley Dining Hall, North Fairview Street and Glenn Road, Lock Haven, PA
Duration: 120 days from date of Notice to Proceed
Contact: Comprehensive Design A.E., (814) 238-7706

1030 To provide on-call electrical repair service to Department of Transportation Building, located at R. D. 2, Shippenville, PA 16254 and at four stockpile locations. (2) MP 56 on 180 WB; (3) Callensburg; (4) New Bethlehem; (06) Tylersburg. 48 hour response time to call out. Any hours worked on holidays will be paid at regular rate.

Department: Transportation
Location: R. D. 2, Shippenville, PA 16254
Duration: July 01, 1998—June 30, 1999
Contact: Cal J. Guth, (814) 226-8200

Project No. 9821 Electric service replacement.

Department: Military and Veterans Affairs
Location: PAARNG Armory, 490 East Main Street, Nanticoke, Luzerne County, PA
Duration: February 15—September 30, 1998
Contact: Emma Schroff, (717) 861-8518

HUN-317 The contractor shall provide technical repair and maintenance service for the Institution power plant diesel generators, as required. To include an annual preventive maintenance servicing. Requirements and specifications on bid proposal on file in Purchasing Department of Agency.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike Street, Huntingdon, PA 16654-1112
Duration: July 01, 1998 to June 30, 2001
Contact: Gloria Morder, Purchasing Agent I, (814) 643-2400

MAINT 98 01 Provide regular preventive maintenance service for Cleveland boiler room panel control and provide emergency service on an as-needed basis. Equipment includes Cleveland Controls, central instrumentation and combustion control consoles.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: July 1, 1998—June 30, 2001
Contact: Peggy A. Chilcote, Purchasing Agent, (814) 643-6520

Laboratory Services—24

CH-277 The contractor shall provide water determinations to the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: July 1, 1998 to June 30, 2001
Contact: Delores Stephens, (717) 975-5200

Medical Services—29

320-297991 Provide licensed practical nursing supplemental services, (L.P.N.'s with meds). This service will begin July 1, 1998 and end on June 30, 1999. Additional information is available by contacting this agency.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 1998 through June 30, 1999
Contact: Jeanette Gualtieri, (814) 878-4930

320-297992 Provide certified nursing assistants supplemental services. This service will begin on July 1, 1998 and end on June 30, 1999. Additional information is available by contacting this agency.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 1998 through June 30, 1999
Contact: Jeanette Gualtieri, (814) 878-4930

MXR-98 Vendor to supply services of a mobile x-ray unit to the Southeastern PA Veterans Center.

Department: Military Affairs
Location: Southeastern PA Veterans Center, Spring City, Chester County, PA 19475
Duration: July 1, 1998—June 30, 1999
Contact: Francis Bellan, Purchasing Agent, (610) 948-2492

PH&T-98 The Southeastern PA Veterans Center wishes to contract for on-call pharmacist and pharmacy technician to perform services in the absence of facility staff due to sickness, vacations, and the like.

Department: Military & Veterans Affairs
Location: Southeastern PA Veterans Center, Spring City, Chester County, PA 19475
Duration: July 1, 1998—June 30, 1999
Contact: Francis Bellan, Purchasing Agent, (610) 948-2492

PHYS-98 The Southeastern PA Veterans Center wishes to contract for on-site and on-call physician services.

Department: Military & Veterans Affairs
Location: Southeastern PA Veterans Center, Spring City, Chester County, PA 19475
Duration: July 1, 1998—June 30, 1999
Contact: Francis Bellan, Purchasing Agent, (610) 948-2492

SP 351308 Contractor to provide the services of a part-time physical therapist to the consumers of Wernersville State Hospital. Provider of service must possess a current nonrestricted PA license to practice physical therapy. Details upon request.

Department: Public Welfare
Location: Wernersville State Hospital, Wernersville, PA 19565-0300
Duration: July 1, 1998 through June 30, 2003
Contact: Karl Koenig, Purchasing Agent, (610) 670-4127

Property Maintenance—33

Project No. 9822 Fence repairs.

Department: Military and Veterans Affairs
Location: PAARNG Armory, 280 Market Street, Wilkes-Barre, Luzerne County, PA
Duration: February 15—September 30, 1998
Contact: Emma Schroff, (717) 861-8518

320-297990 Painting service—nursing home resident rooms. Additional information is available by contacting this agency.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: March 1, 1998 through June 30, 1998
Contact: Jeanette Gualtieri, (814) 878-4930

00716-000-97-SMS Sawmill Plank Floor Replacement and New Installation. To replace an approximately 10' x 30' section of 2" hemlock plank flooring in the upper level of the PLM sawmill. New flooring is to be jointed (ship lapped) and caulked to prevent water from entering new exhibit area below. Also, to have installed a 2" hemlock plank floor in the lower level of the sawmill at the bottom of the stairs, so as to make this area ADA acceptable. A mandatory site visit and sign in will be required for all firms interested in submitting bids for the project. No bids will be accepted by any contractors who do not make the Mandatory Site Visit and Sign In. For directions, contact the site at (814) 435-2652. All interested bidders should submit a request for a bid package in writing, to: PA Historical and Museum Commission, P. O. Box 1026, Room 526, Harrisburg, PA 17108-1026, Attention: Judi Yingling or fax request to (717) 783-1073. Proposals are due on Friday, March 6, 1998 at 10 a.m. Proposals will be received at The Pennsylvania Lumber Museum in Galeton, PA 16922.

Department: Historical and Museum Commission
Location: Bureau of Historic Sites and Museums, Pennsylvania Lumber Museum, P. O. Box K, Galeton, PA 16922
Duration: April 1, 1998 to June 30, 1998
Contact: Bob Helsley, (814) 435-2652

CL-483 Clarion University is soliciting bids for replacement of the slate roof on Moore Hall located on the Clarion campus. Prebid conference: 10 a.m., February 26, 1998 in McEntire Maintenance Building, Clarion, PA. Bids due: 1:30 p.m., March 18, 1998. Public bid opening: 10 a.m., March 19, 1998. Bid packages available from contact person—\$15 nonrefundable deposit by check to Clarion University mailed to 218 Carrier Hall, Clarion University, Clarion, PA 16214.

Department: State System of Higher Education
Location: Clarion University, Clarion, Clarion County, PA 16214
Duration: 30 days from Notice to Proceed
Contact: Judy McAninch, Contract Manager, (814) 226-2240

CL-484 Clarion University is soliciting bids for refurbishing of exterior surfaces of Moore Hall on the Clarion campus to include: ragging and repointing of all masonry joints, replacement of damaged masonry units; cleaning and repairing of masonry surfaces and painting of appropriate surfaces. Prebid conference: 10 a.m., February 27, 1998. Bids due: 1:30 p.m., March 18, 1998. Public bid opening: 10:30 a.m., March 19, 1998. Bid packages available from contact person—\$15 nonrefundable deposit by check to Clarion University, mailed to 218 Carrier Hall, Clarion University, Clarion, PA 16214.

Department: State System of Higher Education
Location: Clarion University, Clarion, Clarion County, PA 16214
Duration: 45 days from Notice to Proceed
Contact: Judy McAninch, Contract Manager, (814) 226-2240

FM 09819702 Contractor to furnish and install a stainless steel kitchen hood, fire suppression system, ductwork, exhaust and supply fans and related equipment for the new food service room of building No. 3, YDC New Castle. Site visit will be required. Call for specifications.

Department: Public Welfare
Location: Youth Development Center, Frew Mill Road, R. R. 6, Box 21A, New Castle, Lawrence County, PA 16101
Duration: Indeterminate 1997-98
Contact: T. E. Mateja, Purchasing Agent, (412) 656-7310

MR 0800-25 Mowing along primary highways throughout Southern Lebanon County. All requests for bid packages must be received by fax at (717) 772-0975 (Attn: Bill Tyson) or telephone (717) 787-7600 7:30 a.m. to 3:30 p.m. Monday through Friday. (Roadside Mowing Group MR 0800-25).

Department: Transportation
Location: Southern Lebanon County, Primary and Secondary
Duration: May 1, 1998 to April 30, 2003; 1 year with four 1-year renewals
Contact: William Tyson, (717) 787-7600

SP 342944 Cleaning and repainting the exterior surfaces of buildings located throughout Nockamixon State Park, including a three-story stone house, garage, lean-to and pole shed gables totaling approximately 1,500 feet at one location and the exterior wooden, stucco and painted galvanized gutter surfaces on a three story stone house totaling approximately 4,000 square feet, at another location at Nockamixon State Park, Bucks County, PA.

Department: Conservation and Natural Resources
Location: Nockamixon State Park, 1542 Mountain View Drive, Quakertown, Bucks County, PA 18951-5732
Duration: June 30, 1998
Contact: Regional Park Office, (215) 453-5016

Real Estate Services—35

49A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 9,599 useable square feet of new or existing office space in Philadelphia, Philadelphia County, PA within the following boundaries: North: Wingohocking/Courtland/Ramona and Franklin Creeks; South: Vine Street; East: Delaware River; West: Broad Street. The office must be situated within three blocks of a public transportation system. Proposals due: April 6, 1998. Solicitation No.: 92624.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: John A. Hocker, (717) 787-4394

50A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 18,100 useable square feet of new or existing office space in Darby and/or Upper Darby, Delaware County, PA, with minimum parking for 120 vehicles, within the following boundaries: North: Baltimore Pike; South: Chester Pike; East: Lansdowne Avenue/Main Street; West: Bishop Avenue/South Avenue. Proposals due: April 6, 1998. Solicitation No.: 92625.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Cynthia T. Lentz, (717) 787-4394

Sanitation—36

0830 Refuse removal. Roll-off container and disposal, 40 cubic yards for PA Department of Transportation, Franklin County, 0830. Specifications and bid packages must be requested by fax at (717) 264-0960 or telephone (717) 264-4171 (Attn: Ed Leighty) from 7 a.m. to 3 p.m., Monday through Friday.

Department: Transportation
Location: 0830, Willowdale Drive, Greencastle, Franklin County, PA 17225
Duration: June 1, 1998 to May 31, 2003
Contact: Ed Leighty, (717) 264-4171

20,055 The contractor shall provide sanitary containers for pick up and removal of all solid waste from the Institution. Container must carry a minimum displacement of 6 cubic yards. Pick up of containers shall be made only by request of the Institution. Containers are to be maintained in a sanitary condition by the contractor.

Department: Corrections
Location: State Correctional Institution at Dallas, Dallas, PA 18612
Duration: July 1, 1998 through June 30, 2001
Contact: Robert Faneck, Business Manager, (717) 675-1101, Ext. 215

090-000224 Landfill service: must be D.E.P.-approved. Landfill site located in Somerset County. Estimated 150 tons yearly of municipal waste to be disposed at contracted site. Refuse and trash to be collected and hauled by Department trucks.

Department: Transportation
Location: 9-0, Somerset County, PA
Duration: July 1, 1998 to June 30, 1999 (with three renewals)
Contact: Scott Feathers, (814) 696-7266

HUN-316 Contractor to provide services for the pick-up and removal of municipal waste (garbage) and pick-up and disposal of residual waste from the State Correctional Institution at Huntingdon. Contractor to provide dumpsters and roll-offs. Requirements and specifications on file in the Purchasing Department of the Using Agency.

Department: Corrections
Location: State Correctional Institution, 1100 Pike Street, Huntingdon, PA 16654-1112
Duration: July 01, 1998 to June 30, 2001
Contact: Gloria Morder, Purchasing Agent I, (814) 643-2400

SP 320567 Sealed bids will be received at Regional Park Office No. 2, P. O. Box 387, 195 Park Road, Prospect, PA 16052-0387 and then publicly opened and read. A bid opening date has not yet been set. For pumping holding tanks, septic tanks and the sewage treatment plant at Presque Isle State Park in accordance with bid proposal. A bid proposal containing all pertinent information must be obtained from the Office of the Park Manager, Presque Isle State Park.

Department: Conservation and Natural Resources
Location: Presque Isle State Park, P. O. Box 8510, Route 832, Peninsula Drive, Erie, PA
Duration: July 1, 1998 to June 30, 2001
Contact: Presque Isle State Park, (814) 833-7424

Security Services—37

CH-276 The contractor shall furnish all labor, equipment, materials, repair parts and replacement components necessary to repair the Del Norte perimeter fence security system at the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: July 1, 1998 to June 30, 2001
Contact: Delores Stephens, (717) 975-5200

Miscellaneous—39

CH-279 The contractor shall provide burial services for inmates who pass away during their stay at the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: July 1, 1998 to June 30, 2001
Contact: Delores Stephens, (717) 975-5200

WC 680 West Chester University is soliciting sealed bids for the supply and installation of a dumbwaiter at 210 East Rosedale Avenue. Work shall be coordinated with that of the University's Project Work Force, who will prepare the required floor pit and shaft and provide an electrical circuit. Prevailing wages apply. Performance and payment bonds will be required.

Department: State System of Higher Education
Location: West Chester University, 210 East Rosedale Avenue, West Chester, PA 19383
Duration: 160 days from Notice to Proceed
Contact: Jacki Marthinsen, Contracts Manager, (610) 436-2705

SPC 323121 Site preparation and installation of woven wire fences in a forested area located on the Sproul State Forest. The vendor will supply all materials necessary to install the fences. The sites are located throughout the Sproul State Forest in Centre and Clinton Counties.

Department: Conservation and Natural Resources
Location: Bureau of Forestry, Sproul State Forest in Centre and Clinton Counties, PA
Duration: September 30, 1998
Contact: Jeffrey Prowant, (717) 923-6011

[Pa.B. Doc. No. 98-285. Filed for public inspection February 13, 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
1489357-01	02/03/98	Continental Trade Net	20,999.00
1510117-01	02/03/98	Harvey Lipsitz Co.	42,120.00
1520117-01	02/03/98	Dory Enter- prises, Inc.	23,667.00
8116260-01	02/03/98	Castlebar In- dustries, Inc.	20,100.00

Requisition or Contract #	Awarded On	To	In the Amount Of
8132830-01	02/03/98	Universal Pro- tective Pack- aging, Inc.	15,950.00
8169220-01	02/03/98	Zoubek Assoc.	23,895.00
8504150-01	02/03/98	Hesco, Inc.	89,530.00

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-286. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 215, 217, 219, 220, 224—226, 230 and 232]

Radiological Health

The Environmental Quality Board (Board) proposes to amend Chapters 215, 217, 219, 220, 224—226, 230 and 232. The proposed amendments update the standards for protection against radiation.

This proposal was adopted by the Board at its regular meeting on December 16, 1997.

A. *Effective Date*

These proposed amendments will be effective immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information, the contact persons are Stuart R. Levin, Chief, Division of Radiation Control, Bureau of Radiation Protection, 13th Floor, Rachel Carson State Office Building, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-3720; and Mary Lou Barton, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9th Floor, 400 Market Street, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

C. *Statutory Authority*

These amendments are proposed under the authority of the following statutes:

Sections 301 and 302 of the Radiation Protection Act (act) (35 P. S. §§ 7110.301 and 7110.302), which, respectively, direct the Department to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation sources and radiation source users, and delegates to the Board the power to adopt the regulations of the Department of Environmental Protection (Department) to implement the act.

Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes and directs the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background and Purpose*

In 1995, the Board updated its radiological health regulations to provide for compatibility with other states and to serve as a basis for the Commonwealth to assume authority from the United States Nuclear Regulatory Commission (NRC) for radioactive material licensees in this Commonwealth as an Agreement State. These updates were published at 25 Pa. B. 5088 and 5206 (November 18, 1995). Technological advances in the use of radioactive material and the need to establish and maintain radiation protection standards at least as stringent as the NRC standards provide the basis for these revisions to the existing radiological health regulations.

The proposed amendments are necessary for the Commonwealth to acquire Agreement State status from the NRC. Under section 201 of the act, the Governor of the Commonwealth is authorized to enter into agreements with the NRC transferring regulatory authority to the

Commonwealth for radiation protection. Presently, Pennsylvania is responsible for the regulation of naturally occurring and accelerator-produced radioactive material (NARM) and radiation producing equipment. Under The Atomic Energy Act of 1954 (42 U.S.C.A. § 2021), the NRC is authorized to enter into an agreement with the Governor of the Commonwealth to discontinue NRC regulatory authority with respect to most by-product materials, source materials and special nuclear materials in amounts insufficient to form a critical mass.

The proposed amendments are based on the current NRC radiation protection regulations at 10 CFR Parts 19—71.

As required by section 301(c)(14) of the act (35 P. S. § 7110.301(c)(14)) the Department provided the Radiation Protection Advisory Committee (Committee) with an opportunity to review the proposed amendments and to advise the Department prior to submittal to the Board. The proposal was provided to the Committee for review on August 20, 1997. The Committee provided oral and written comments at the meeting.

E. *Summary of Regulatory Requirements*

The proposed amendments revise current radiation protection regulations to reflect compatibility with NRC radiation protection regulations. The revisions are requisite to the Commonwealth's attainment of Agreement State status from the NRC. A description of the proposed amendments is provided as follows:

Chapter 215, General Provisions

§ 215.2. *Definitions.* The definitions of "A₁," "A₂," "misadministration," "prescribed dosage," "prescribed dose," "radiological physicist" and "written directive" were deleted. The following definitions were updated to be compatible with the NRC: "member of the public," "NRC," "occupational dose" and "public dose." A new definition for "reclaiming" was added.

§ 215.12. *Inspections.* The target inspection frequency for major medical facilities was changed from every 2 years to every 3 years.

§ 215.32 *Exempt qualifications.* The new Chapter 232 was added to the list of chapters.

Chapter 217, Licensing of Radioactive Material

§ 217.1 (purpose and scope) and § 217.2 (address) were updated to include the new Chapter 232 and the new Department mailing address.

§ 217.42(d) was amended by adding additional requirements for general licenses.

§ 217.58 (financial assurance arrangements for reclaiming sites) is a new section which provides for site cleanup money for certain licensees and is compatible with the NRC regulation.

§ 217.65 (specific licenses for the use of sealed sources in industrial radiography) was updated to be compatible with the NRC regulations.

§ 217.84 (licensing the manufacture and distribution of measuring, gauging or controlling devices) was amended to be compatible with the NRC regulations.

A new Appendix E (quantities for use with § 217.58), and a new Appendix F (criteria relating to use of financial

tests and self guarantees of providing reasonable assurance of funds for decommissioning) were added to support the new § 217.58.

Chapter 219, Standards for Protection Against Radiation

§ 219.3 (definitions) was amended by adding a definition for, "constraint (dose constraint)."

§ 219.21(a) (radiation protection programs) was amended to clarify the scope of the required radiation protection program.

§ 219.21(f) was added for compatibility with the NRC requirement for a constraint on air emissions for radioactive material.

§ 219.51(a)(1) (dose limits for individual members of the public) was amended to be compatible with the NRC.

§ 219.51(a)(2) was deleted and § 219.51(a)(3) was re-numbered as (2).

§ 219.51(a)(2) ... (2). The new 219.51(a) was updated for compatibility with the NRC regulations.

§ 219.114 (further restrictions on the use of respiratory protection equipment) was added for compatibility with the NRC.

§ 219.223(2)(vi) was added to the list of reports in § 219.223 (reports of exposures, radiation levels, and concentrations of radioactive material exceeding the limits). The phrase "ALARA constraints" was added to 219.223(b)(1)(iv).

Chapter 220, Notices, Instructions and Reports to Workers; Inspections

§§ 220.2 and 220.3 were updated for compatibility with the NRC.

§ 220.8 was updated to reflect the Department's name change from Environmental Resources to Environmental Protection.

Chapter 224, Medical Use of Radioactive Material

§ 224.2 (definitions) was amended by adding definitions for "authorized nuclear pharmacist," "diagnostic clinical procedures manual," "prescribed dosage," "prescribed dose," "recordable event" and "written directive." The definition of "medical use" was amended to add "human research subjects under the supervision of an authorized user." The definition of "misadministration" was updated.

§§ 224.6(2) (license amendments) and 224.7 (notifications) were amended by adding the phrase, "or authorized nuclear pharmacist" A new subsection (b) was added to § 224.6 to be compatible with 10 CFR 35.15 (relating to exemptions regarding Type A specific licenses of broad scope).

§ 224.9 (specific exemptions) was amended by changing the name of the advisory committee from Advisory Committee on Medical Uses of Radioactive Material to Radiation Protection Advisory Committee.

§ 224.10 (provisions for research involving human subjects) and § 224.11 (FDA, other Federal, State requirements) were added for compatibility with the NRC regulations.

§ 224.53(2)(ii) (radiation safety committee) was amended by adding the phrase "an authorized nuclear pharmacist."

§ 224.55 (a) (supervision) was amended by adding two sections regarding the authorized use of radioactive material by auxiliary personal.

§ 224.60 (suppliers) was reworded to be compatible with the NRC regulations.

§ 224.61 (quality management program) was added for compatibility with the NRC regulations.

§ 224.101(b)(3) (possession, use, calibration and check of dose calibrators) was added for compatibility with the NRC regulations.

§ 224.103(1), (2), and (3)(iii) (measurement of pharmaceutical dosages) was amended for compatibility with the NRC regulations.

§ 224.104(1) (authorization for calibration and reference sources) was amended to include 25 millicuries each of accelerator produced material.

§ 224.108(e) (surveys for contamination and ambient radiation exposure rate) was amended for compatibility with the NRC regulations.

§ 224.109 (release of patients containing radiopharmaceuticals or permanent implants) was rewritten to be compatible with the NRC regulations.

§ 224.112 (decay-in-storage) was amended to allow sealed sources of accelerator produced radioactive material with a physical half-life of up to 300 days to be held for decay-in-storage.

§ 224.113 (possession, use, calibration, and check of instruments to measure dosages of alpha- or beta-emitting radionuclides) was added for compatibility with NRC regulations.

§§ 224.151, 224.201, and 224.251 which involve the use of radiopharmaceuticals for diagnosis and therapy were amended for compatibility with NRC regulations. The radiopharmaceutical may be obtained from a licensed manufacturer, licensed preparer or from an authorized nuclear pharmacist. References to NDA's ("New Drug Application") and IND's ("Notice of Claimed Investigational Exemption for a New Drug") were deleted.

§§ 224.152 and 224.204 regarding the possession of survey instruments was updated for compatibility with NRC regulations.

§§ 224.252, 224.253, 224.305, 224.306, 224.352, 24.406 and 224.408 were updated for compatibility with the NRC regulations.

Subchapter J (training and experience requirements) was amended in two main areas. First, additional certifying bodies were added. They are: the American Board of Medical Physics, the Royal College of Physicians and Surgeons of Canada, American Osteopathic Board of Radiology, and the American Osteopathic Board of Nuclear Medicine. Also, § 224.454(2)(ii)(F) was added for compatibility with the NRC regulations and § 224.465 (recentness of training) was amended for compatibility with NRC regulations.

Second, two new sections, § 224.466 (training for an authorized nuclear pharmacist) and § 224.467 (training for experienced nuclear pharmacists) were added for compatibility with the NRC regulations.

Subchapter K (enforcement) was deleted because it is obsolete.

Chapter 225, Radiation Safety Requirements for Industrial Radiographic Operations

Chapter 225 was renamed "Radiation Safety Requirements for Industrial Uses and Radiographic Operations."

§ 225.1 (purpose and scope) was amended to include industrial radiographic operations as well as traditional industrial radiography.

§ 225.2 (definitions) was amended by updating and adding some definitions. Updated definitions are: "cabinet X-ray system," "radiographer," "radiographer's assistant" and "temporary job site." New definitions are: "annual refresher safety training," "associated equipment," "certifying entity," "collimator," "control cable," "control drive mechanism," "crank-out device," "exposure head," "guide tube (projection sheath)," "individual's certification," "lock-out survey," "personal supervision" and "radiographic operations," "S-tube," "source assembly," "storage facility" and "transport container."

A new § 225.10 (application for a specific license or registration) was added which requires a person using X-ray machines for industrial radiography to get Department approval before commencing operations.

The heading, "Sealed Source Requirements," was deleted and §§ 225.11 and 225.12 were brought under the heading, "General Provisions." § 225.11 (storage position radiation level limits) was rewritten as "reciprocity" requirements. Section 225.12 (radiation source locks) was rewritten as a prohibition against using radiation sources regulated by Chapter 225 for human use.

§§ 225.13—225.18, 225.21—225.23, 225.31—225.33 and 225.41—225.44 were deleted because they were obsolete.

The heading, "Precautionary Procedures," was replaced by "General Administrative Requirements." Section 225.51 was renamed as "Duties of Personnel." This new section describes the duties of the radiation safety officer, radiographer, radiographer's assistant and radiography trainee.

New §§ 225.71 and 225.72 describe the training and testing requirements for radiographers and radiographer assistants. A new § 225.73 describes the required audits and safety reviews of radiographers and radiographer assistants. A new § 225.74 describes the reporting requirements including those for incidents involving radiographic equipment.

A new heading, "General Technical Requirements," includes requirements for certification of personnel, requirements for an independent certifying organization, requirements for certification programs, requirements for written examinations, permanent radiographic installation, operating requirements, records required at temporary job sites, and operating and emergency procedures. These requirements are in §§ 225.101—225.108 respectively.

A new heading, "Radiation Survey Instrument and Personnel Monitoring," includes requirements for radiation survey meters, radiation survey meter calibration, personnel monitoring control and personal alarm rate meters. These requirements are in §§ 225.151—225.154.

A new heading, "Radiation Producing Machine Requirements," includes requirements for cabinet X-ray systems, shielded room X-ray machine radiography, field site radiography, surveys and survey records, utilization logs, bomb detection and baggage X-ray systems and X-ray calibration systems. These requirements are in §§ 225.201—225.207.

The existing heading, "Sealed Source Requirements," containing §§ 225.11—225.225.18 is replaced with a new group of §§ 225.251—225.261 which are compatible with the NRC radiography regulations. These sections include requirements for performance of radiography equipment, limits on levels of radiation for radiographic exposure

devices, locking and relocation of exposure devices, storage precautions, leak testing of and replacement of sealed sources, physical inventories, inspection and maintenance of exposure devices, utilization logs, radiation surveys and records, supervision of radiographer's assistants, and radiographic operations, security and posting.

Chapter 226. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

Chapter 226 was renamed "Radiation Safety Requirements for Well Logging."

§ 226.1 (purpose and scope) was generally updated and revised to include persons using uranium sinker bars.

§ 226.2 (definitions) was amended by revising, adding and deleting some definitions. Definitions that were revised are: logging supervisor, personal supervision, radioactive marker and well logging. New definitions are: fresh water aquifer, logging assistant, logging tool, safety review, subsurface casing for protecting fresh water aquifers, temporary jobsite, uranium sinker bar and well. Deleted definitions are: mineral logging and wireline service operation.

Other minor revisions were made to §§ 226.3, 226.11—226.17, 226.19, 226.21—226.23, 226.31, 226.33—226.34, 226.41—226.43 and 226.51 for compatibility with NRC regulations.

A new § 226.20, "radioactive markers and uranium sinker bars," is added for compatibility with the NRC regulations.

Appendix B, "Example of Plaque for Identifying Wells Containing Radioactive Material Abandoned Downhole," was deleted.

Chapter 230. Packaging of and Transportation of Radioactive Material

§ 230.2 (definitions) was amended by revising, adding, and deleting some definitions. Definitions that were revised are: "A2," "exclusive use," "fissile material," "low specific activity material" and "transport index." New definitions are: "containment system," "conveyance," "low toxicity alpha emitters," "maximum normal operating pressure," "natural thorium," "surface contaminated object (SCO)" and "uranium (natural, depleted, enriched)." Deleted definitions are: "closed transport vehicle" and "fissile material package."

§ 230.12 and Appendix A were updated for compatibility with NRC regulations.

§§ 230.25 and 230.26 were deleted. Section 230.41 (fissile material: assumptions as to unknown properties) was deleted and replaced as the section for "applicability of operating controls and procedures" for compatibility with NRC regulations.

A new § 230.48 (opening instructions) was added for compatibility with NRC regulations.

Tables I-IV were deleted and replaced with new Tables A-1 and A-2 for compatibility with NRC regulations.

Chapter 232. Licenses and Radiation Safety Requirements for Irradiators

Chapter 232 is a new chapter which is compatible with 10 CFR Part 36, "Licenses and Radiation Safety Requirements for Irradiators."

Subchapter A (general provisions) contains the sections for "purpose and scope" and "definitions."

Subchapter B (specific licensing requirements) contains requirements for addressing application for a specific

license, specific licenses for irradiators, start of construction, applications for exemptions and request for written statements.

Subchapter C (design and performance requirements for irradiators) contains requirements for addressing performance criteria for sealed sources, access control, shielding, fire protection, radiation monitors, control of source movement, irradiator pools, source rack protection, power failures, design requirements, and construction monitoring and acceptance testing.

Subchapter D (operation of irradiators) contains requirements for addressing training, operating and emergency procedures, personnel monitoring, radiation surveys, detection of leaking sources, inspection and maintenance, pool water purity, attendance during operation, entering and leaving the radiation room, and irradiation of explosive or flammable materials.

Subchapter E (records) contains requirements for addressing records and retention periods, and reports.

F. *Benefits Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

Benefits

As set forth in this proposal, users of radioactive material will be required to comply with radiation protection standards that will not only protect employees but will also protect the general public.

Compliance Costs

There are no compliance costs because the licensees are currently complying with these proposed amendments by virtue of their NRC licenses.

Compliance Assistance Plan

Compliance assistance is available to all existing holders of a license through the use of NRC guidance which they use currently.

Paperwork Requirements

The proposed amendments will not change paperwork requirements because the licensees are already complying with the identical NRC requirements.

G. *Sunset Review*

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

H. *Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 20, 1998, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and 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 the Committee have objections to any portion of the proposed amendments, they will notify the Department within 20 days of the close of the public comment period.

If IRRC has any objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' comment

period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the regulations.

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477 Harrisburg, PA. 17105-8477 (express mail: Rachel Carson State Office Building, 15th floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by April 15, 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 be received by April 8, 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 regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments.dep.state.pa.us and must also be received by the Board by April 8, 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.

JAMES M. SEIF,
Chairperson

Fiscal Note: 7-335. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart D. ENVIRONMENTAL HEALTH AND SAFETY
ARTICLE V. RADIOLOGICAL HEALTH
CHAPTER 215. GENERAL PROVISIONS
GENERAL PROVISIONS

* * * * *

§ 215.2. Definitions.

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

* * * * *

[*A₁*—The maximum activity of special form radioactive material permitted in a Type A package.]

[*A₂*—The maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. These values are either listed in Chapter 230, Appendix A (relating to packaging and transportation of radioactive materials), Table I, or may be derived in accordance with the procedure prescribed in Chapter 230, Appendix A.]

* * * * *

Member of the public—An individual [in a controlled or unrestricted area. An individual is not a member of the public during any period in which the] except when that individual [receives] is receiving an occupational dose.

* * * * *

[*Misadministration*—The administration to a human being of:

(i) A radiopharmaceutical dosage greater than 30 microcuries (1.11 MBq) of either sodium iodide I-125 or I-131 under one of the following conditions:

(A) Involving the wrong patient or wrong pharmaceutical.

(B) When both the administered dosage differs from the prescribed dosage by more than 20% of the prescribed dosage and the difference between the administered and prescribed dosage exceeds 30 microcuries (1.11 MBq).

(ii) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131 under one of the following conditions:

(A) Involving the wrong patient, wrong radiopharmaceutical, or wrong route of administration.

(B) When the administered dosage differs from the prescribed dosage by more than 20% of the prescribed dosage.

(iii) A gamma stereotactic radiosurgery radiation dose under one of the following conditions:

(A) Involving the wrong patient or wrong treatment site.

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10% of the total prescribed dose.

(iv) A teletherapy radiation dose under one of the following conditions:

(A) Involving the wrong patient, wrong mode of treatment or wrong treatment site.

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10% of the total prescribed dose.

(C) When the calculated weekly administered dose is 30% greater than the weekly prescribed dose.

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20% of the total prescribed dose.

(v) A brachytherapy radiation dose under one of the following conditions:

(A) Involving the wrong patient, wrong radioisotope, or wrong treatment site—excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site.

(B) Involving a sealed source that is leaking.

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure.

(D) When the calculated administered dose differs from the prescribed dose by more than 20% of the prescribed dose.

(vi) A diagnostic radiopharmaceutical dosage, other than quantities greater than 30 microcuries (1.11 MBq) of either sodium iodide I-125 or I-131, when the conditions in clauses (a) and (b) apply:

(A) Involving the wrong patient, wrong radiopharmaceutical, wrong route of administration or when the administered dosage differs from the prescribed dosage.

(B) When the dose to the patient exceeds 5 rem (50 mSv) effective dose equivalent or 50 rems (0.5 Sv) dose equivalent to any individual organ.

(vii) An X-ray therapy dose (with energies less than 1 MeV) under one of the following conditions:

(A) Involving the wrong patient, wrong mode of treatment, wrong treatment site, wrong tube potential or wrong filtration.

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10% of the prescribed dose.

(C) When the calculated weekly administered dose is 30% greater than the weekly prescribed dose.

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20% of the total prescribed dose.

(viii) A radiation therapy dose using X-rays or electron beams with energies of 1 MeV and above under one of the following conditions:

(A) Involving the wrong patient, wrong mode of treatment, wrong treatment site, wrong photon or electron beam energy, wrong applicator or wrong treatment geometry.

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10% of the total prescribed dose.

(C) When the calculated weekly administered dose is 30% greater than the weekly prescribed dose.

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20% of the total prescribed dose.]

* * * * *

NRC—United States Nuclear Regulatory Commission or its authorized representatives.

* * * * *

Occupational dose—The dose received by an individual in [a restricted area or in] the course of employment in which the individual's assigned duties involve exposure to sources of radiation, whether in the possession of the licensee, registrant or another person. The term does not include dose received: from background radiation, as a patient from medical practices, from exposure to individuals administered radioactive material and released in accordance with § 224.109 (relating to release of patients containing radiopharmaceu-

ticals or permanent implants), from voluntary participation in medical research programs or as a member of the public.

* * * * *

[**Prescribed dosage**—The quantity of radiopharmaceutical activity as documented in one of the following methods:

- (i) In a written directive.
- (ii) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

Prescribed dose—One of the following:

- (i) For gamma stereotactic radiosurgery, the total dose as documented in the written directive.
- (ii) For teletherapy, X-ray therapy, and electron beam therapy, the total dose and dose per fraction as documented in the written directive.
- (iii) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive.]

Public dose—The dose received by a member of the public from exposure to [**sources of radiation either within a licensee's or registrant's controlled area or in unrestricted areas**] radiation sources under the control of the licensee or registrant. The term does not include occupational dose, dose received from background radiation, dose received as a patient from medical practices, **from exposure to individuals administered radioactive material and released in accordance with § 224.109**, or dose from voluntary participation in medical research programs.

* * * * *

[**Radiological physicist**—An individual who complies with one of the following:

- (i) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics or x- and gamma-ray physics.
- (ii) Has a bachelor's degree in one of the physical sciences or engineering and 3 years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties shall include duties involving the calibration and spot checks of a medical accelerator or a teletherapy unit.
- (iii) Has a master's or a doctor's degree in physics, biophysics, radiological physics, health physics or engineering; has had 1 year's full-time training in therapeutic radiological physics; and has had 1 year's full-time work experience in a radiotherapy facility where that person's duties involve calibration and spot checks of a medical accelerator or a teletherapy unit.]

* * * * *

Reclaiming—Returning property to a condition where the property no longer presents a public health or safety hazard or threat to the environment. The term includes but is not limited to those activities necessary to decommission the licensed facility (that is, to remove the facility safely from service and reduce residual radioactivity to a level

that permits release of the property for unrestricted use and termination of the license).

* * * * *

[**Written directive**—An order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in subparagraph (vi), containing the following information:

- (i) For any administration of quantities greater than 30 microcuries (1.11 MBq) of either sodium iodide I-125 or I-131: the dosage.
- (ii) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage and route of administration;
- (iii) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern and total dose.
- (iv) For teletherapy: the total dose, dose per fraction, treatment site and overall treatment period.
- (v) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site and total dose.
- (vi) For all other brachytherapy the following apply:

- (1) Prior to implantation: the radioisotope; number of sources; source strengths; and number, type and size of applicator.
- (2) After implantation but prior to completion of the procedure: the radioisotope; treatment site; and total source strength and exposure time (or, equivalently, the total dose).
- (vii) For X-ray therapy at potentials less than 1 MeV: the total dose, dose per fraction, treatment site, field size, tube potential and filtration and overall treatment period.

(viii) For X-ray and electron beam therapy at energies of 1 MeV and above: the total dose, dose per fraction, treatment site, field size, beam type and energy, applicator, use of beam blocking or shaping devices, treatment geometry and overall treatment period.]

* * * * *

RIGHTS AND RESPONSIBILITIES OF THE DEPARTMENT

§ 215.12. Inspections.

* * * * *

(c) *Inspections by the Department.*

(1) The Department, its employes and agents may conduct inspections of the facilities of registrants of radiation-producing machines and licensees of radioactive material at the following frequencies:

- (i) For major medical facilities, including hospitals, at least once every [2] 3 years.

* * * * *

EXEMPTIONS

§ 215.32. Exemption qualifications.

The following sources, uses and types of users are exempt from Chapters 216—[230] 232:

CHAPTER 217. LICENSING OF RADIOACTIVE MATERIAL

Subchapter A. GENERAL

§ 217.1. Purpose and scope.

(b) A licensee is subject to Chapters 215, 219 and 220 (relating to general provisions; standards for protection against radiation; and notices, instructions and reports to workers; inspections). A licensee engaged in industrial radiographic operations is subject to Chapter 225 (relating to radiation safety requirements for industrial radiographic operations). A licensee using radioactive material for human use is subject to Chapter 224 (relating to medical use of radioactive material). A licensee using sealed sources in well logging is subject to Chapter 226 (relating to radiation safety requirements for [wireline service operations and subsurface tracer studies] well logging). A licensee using irradiators is subject to Chapter 232 (relating to licenses and radiation safety requirements for irradiators).

§ 217.2. Address.

An application for a license, license renewal and license amendments and other communications under this chapter shall be addressed to the Bureau of Radiation Protection, Department of Environmental [Resources] Protection, Post Office Box [2063] 8469, Harrisburg, Pennsylvania [17120] 17105-8469.

Subchapter C. LICENSES

GENERAL LICENSES: MATERIAL OTHER THAN SOURCE MATERIAL

§ 217.42. Certain measuring, gauging or controlling devices.

(d) A person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device under the general license in subsection (a):

(10) Shall conduct a physical inventory every 6 months to account for all sources or devices, or both, received and possessed under subsection (a) and do the following:

(i) Maintain the physical inventory records for 3 years from the date of each inventory.

(ii) Furnish a report to the Department annually showing to the extent practical, the make, model, serial number, isotope, source activity and location of each device. The report shall list an individual to contact regarding questions about this report.

(11) For portable devices, shall also comply with the following:

(i) A person who initiates acquisition of a portable device and does not already hold a license under subsection (a) shall notify the Department within 15 days of their action.

(ii) Portable devices may only be used by or under the direct supervision of individuals who have been instructed in the operating and emergency procedures necessary for ensuring safe use.

(iii) For each individual that the licensee permits to use a portable device, the licensee shall maintain a record showing the type of device use permitted and the basis for that authorization such as training certificates. An individual's record shall be kept for at least 3 years after the individual terminates association with the licensee.

(iv) Portable devices shall be secured against access by unauthorized personnel when not under the direct surveillance of an individual authorized to use the device.

(v) The licensee shall maintain current logs, which shall be kept available for inspection by the Department for 3 years from the date of the event, showing for each portable device the following applicable information:

- (A) The model and serial number of the device.
(B) The name of the assigned user.
(C) Locations and dates of use.

(vi) Emergency instructions shall accompany each portable device taken off the premises of the licensee.

SPECIFIC LICENSES—GENERAL CONDITIONS

§ 217.58. Financial assurance arrangements for reclaiming sites.

(a) Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in Appendix E (relating to quantities for use with § 217.58) shall submit a decommissioning funding plan as described in subsection (e). The decommissioning funding plan shall also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is defined here as the sum of the quantity of each isotope to the applicable value in Appendix E.

(b) Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in subsection (d) shall do one of the following:

- (1) Submit a decommissioning funding plan.
(2) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (d) using one of the methods described in subsection (f). For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirement of subsection (f) shall be submitted to the Department before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Department, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of subsection (f).

(c) Each holder of a specific license shall do one of the following:

(1) If the license was issued on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal*), which is of a type described in subsection (a) or (b), the licensee shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section.

(2) If the license was issued before _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal*) and of a type described in subsection (a), the licensee shall submit, on or before _____ (*Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposal*) a decommissioning funding plan as described in subsection (e) or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in an application for license renewal.

(3) If a specific license was issued before _____ (*Editor's Note: The blank refers to the effective date of the adoption of this proposal*), and of a type described in subsection (b) the licensee shall submit, on or before _____ (*Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposal*), a decommissioning funding plan as described in subsection (e), or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(d) If the required amounts of financial assurance for decommissioning by quantity of material is:

(1) Greater than 10^4 but less than or equal to 10^5 times the applicable quantities of Appendix E in unsealed form (for a combination of isotopes, if R, as defined in subsection (a), divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1), the required amount is \$ 750,000.

(2) Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of Appendix E in unsealed form (for a combination of isotopes, if R, as defined in subsection (a), divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1), the required amount is \$150,000.

(3) Greater than 10^{10} times the applicable quantities of Appendix E in sealed sources or plated foils (For a combination of isotopes, if R, as defined in subsection (a), divided by 10^{10} is greater than 1), the required amount is \$75,000.

(e) Each decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from subsection (f), including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan shall also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning

and a signed original of the financial instrument obtained to satisfy the requirement of subsection (f).

(f) Financial assurance for decommissioning shall be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit or deposit of government securities in a form approved by the Department.

(2) *A surety method.* A surety method, insurance or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix F (relating to criteria relating to use of official tests and self guarantees of providing reasonable assurance of funds for decommissioning). A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix F. A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

(i) The surety method or insurance shall be opened or, if written for a specified term, such as 5 years, shall be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Department, the beneficiary and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be automatically paid to the beneficiary prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Department within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the Department. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(iii) The surety method or insurance shall remain in effect until the Department has terminated the license.

(3) *An external sinking fund.* An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being

accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit or deposit of government securities in a format approved by the Department. The surety or insurance provision shall be as stated in subsection (f)(2).

(4) *Statement of intent.* In the case of Federal, State or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on subsection (d), and indicating that funds for decommissioning will be obtained when necessary.

(5) *Alternate financial assurance arrangements.* Alternate financial assurance arrangements not listed in this section may be accepted by the Department, provided the alternate arrangements are submitted to the Department in writing and approval for the alternate arrangement is granted by the Department in writing.

(g) Each person licensed under this article shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with §§ 217.51—217.57 (relating to specific licenses—general conditions), licensees shall transfer all records described in this subsection to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Department considers important to decommissioning consists of:

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, forms and concentrations.

(2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored, or both, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after a leak) or radioac-

tive material having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:

(i) All areas designated and formerly designated restricted areas as defined in § 215.2 (relating to definitions).

(ii) All areas outside of restricted areas that require documentation under paragraph (1).

(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under § 219.209 (relating to records of waste disposal).

(iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under § 219.182 (relating to method of obtaining approval of proposed disposal procedures).

(4) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of funding method used for assuring funds if either a funding plan or certification is used.

(h) the following specific licensees are required to make financial surety arrangements:

(1) Major processors.

(2) Waste handling licensees.

(3) Former United States Atomic Energy Commission or NRC licensed facilities.

(4) All others except persons exempt under subsection (i).

(i) The following persons are exempt from the requirements of subsection (a):

(1) Persons authorized to possess no more than 1,000 times the quantity specified in Appendix B (relating to exempt quantities).

(2) Persons authorized to possess radioactive noble gasses in sealed sources with no radioactive daughter product with half-life greater than 30 days.

§ 217.65. Specific licenses for the use of sealed sources in industrial radiography.

In addition to the requirements of § 217.52 (relating to general requirements for the issuance of specific licenses), a specific license for use of sealed sources in industrial radiography will be issued if:

(1) The applicant has an adequate program for training radiographers and radiographer's assistants and submits to the Department a schedule or description of the program which specifies the following:

(i) Initial training.

(a) After May 28, 1999, an applicant need not describe its initial training and examination program for radiographers in the subjects outlined in Appendix A, Chapter 225 (relating to radiation safety requirements for industrial uses and radiographic operations).

(b) From ____ (*Editor's Note: The blank refers to the effective date of adoption of this proposal*) to May 28, 1999, an applicant may affirm that all individuals acting as industrial radiographers will

be certified in radiation safety by a certifying entity before commencing duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in Appendix A, Chapter 225 (relating to radiation safety requirements for industrial uses and radiographic operations).

* * * * *

(vi) The procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid.

(vii) The inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed 6 months, as described in § 225.73 (relating to audits and safety reviews of radiographers and radiographers' assistants).

* * * * *

(5) The applicant who desires to conduct the required leak tests of sealed sources or of exposure devices containing depleted uranium personally has established adequate procedures to be followed in testing sealed sources for possible leakage and contamination and submits to the Department a description of the procedures to be used including the following:

* * * * *

(8) The applicant identifies and lists the qualifications of the individual designated as the radiation safety officer under § 225.51(a) (relating to radiation safety officer for industrial radiography) and potential designees responsible for ensuring that the applicant's radiation safety program is implemented in accordance with approved procedures.

(9) If the applicant intends to perform "in-house" calibrations of survey instruments, the description of the methods to be used and the relevant experience of the individual who will perform the calibrations. Calibrations shall be performed according to the procedures described and at the frequency described in § 225.152 (relating to radiation survey meter calibration requirements).

(10) The applicant identifies and describes the locations of all field stations and permanent radiographic installations.

(11) The applicant identifies the locations where all records required by this article and Chapter 225 (relating to radiation safety requirements for industrial uses and radiographic operations) will be maintained.

§ 217.84. Licensing the manufacture and distribution of measuring, gauging or controlling devices.

(a) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under § 217.42 (relating to certain measuring, gauging or controlling devices) or equivalent regulations of the NRC, an agreement state or a licensing state will be approved if:

* * * * *

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak

testing, operating and safety instructions and potential hazards of the device to provide reasonable assurance that:

* * * * *

(ii) Under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that a person will receive in a period of [**one calendar quarter**] **1 year** [**a dose in excess of 10% of the limits specified in the table in § 219.11(a) (Reserved)**] **a dose in excess of 10% of the annual limits specified in § 219.31 (relating to occupational dose limits for adults).**

* * * * *

(Editor's Note: Appendices E and F are proposed to be added. They are printed in regular type to enhance readability).

APPENDIX E

QUANTITIES FOR USE WITH § 217.58

<i>Material</i>	<i>Microcuries</i>
American -241	.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 9.2h	100
Europium-152 13 yr	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10

<i>Material</i>	<i>Microcuries</i>	<i>Material</i>	<i>Microcuries</i>
Gadolinium-159	100	Rubidium-87	10
Gallium-72	10	Rubidium-97	100
Germanium-71	100	Ruthenium-103	10
Gold-198	100	Ruthenium-105	10
Gold-199	100	Ruthenium-106	1
Hafnium-181	10	Samarium-151	10
Holmium-166	100	Samarium-153	100
Hydrogen-3	1,000	Scandium-46	10
Indium-113m	100	Scandium-47	100
Indium-114m	10	Scandium-48	10
Indium-115m	100	Selenium-75	10
Indium-115	10	Silicon-31	100
Iodine-125	1	Silver-106	10
Iodine-126	1	Silver-110m	1
Iodine-129	0.1	Silver-111	111
Iodine-131	1	Sodium-24	10
Iodine-132	10	Strontium-85	10
Iodine-133	1	Strontium-89	1
Iodine-134	10	Strontium-90	0.1
Iodine-135	10	Strontium-91	10
Iridium-192	10	Strontium-92	10
Iridium-194	100	Sulphur-35	100
Iron-55	100	Tantalum-182	10
Iron-59	10	Technetium-96	10
Krypton-85	100	Technetium-97m	100
Krypton-87	10	Technetium-97	100
Lanthanum-140	10	Technetium-99m	100
Lutetium-177	100	Technetium-99	10
Manganese-52	10	Tellurium-125m	10
Manganese-54	10	Tellurium-127m	10
Manganese-56	10	Tellurium-127	100
Mercury-197m	100	Tellurium-129m	10
Mercury-197	100	Tellurium-129	100
Mercury-203	10	Tellurium-131m	10
Molybdenum-99	100	Tellurium-132	10
Neodymium-147	100	Terbium-160	10
Neodymium-149	100	Thallium-200	100
Nickel-50	100	Thallium-201	100
Nickel-63	10	Thallium-202	100
Nickel-65	100	Thallium-204	10
Niobium-93m	10	Thorium (natural) ¹	100
Niobium-95	10	Thulium-170	10
Niobium-97	10	Thulium-171	10
Osmium-185	10	Tin-113	10
Osmium-191m	100	Tin-125	10
Osmium-191	100	Tungsten-181	10
Osmium-193	100	Tungsten-185	10
Palladium-106	100	Tungsten-187	100
Palladium-108	100	Uranium (natural) ²	100
Phosphorus-33	10	Uranium-233	.01
Platinum-191	100	Uranium-234 and Uranium	.01
Platinum-193m	100	235	
Platinum-193	100	Vanadium-48	10
Platinum-197m	100	Xenon-131m	1,000
Platinum-197	100	Xenon-133	100
Plutonium-239	.01	Xenon-135	100
Polonium-210	0.1	Yttrium-175	100
Potassium-42	10	Yttrium-90	10
Praseodymium-142	100	Yttrium-91	10
Praseodymium-143	10	Yttrium-92	100
Promethium-147	10	Yttrium-93	100
Promethium-149	10	Zinc-65	10
Radium-236	.01	Zinc-69m	100
Rhenium-136	100	Zinc-69	1,000
Rhenium-138	100	Zirconium-93	10
Rhodium-103m	100	Zirconium-95	10
Rhodium-106	100	Zirconium-97	10
Rubidium-66	10		

<i>Material</i>	<i>Microcuries</i>
Any alpha emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition.	0.01
Any radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition.	0.1

(1) Based on alpha disintegration rate of TH-232, TH-230 and their daughter products.

(2) Based on alpha disintegration rate of U-233, U-234 and U-235.

Note—For purposes of § 217.58(a) (relating to financial assurance arrangements for reclaiming sites), where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of the ratios for all the isotopes in the combination equals "R."

APPENDIX F

CRITERIA RELATING TO USE OF FINANCIAL TESTS AND SELF GUARANTEES OF PROVIDING REASONABLE ASSURANCE OF FUNDS FOR DECOMMISSIONING

I. *Introduction.*

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this Appendix. The terms of the self-guarantee are in Section III of this Appendix. This Appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. *Financial Test.*

A. To pass the financial test, a company must meet all of the following criteria:

1. Tangible net worth at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

2. Assets located in the United States amounting to at least 90% of total assets or least 10 times the total current decommissioning cost estimate (for the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

3. A current rating for its most recent bond issuance of AAA, AA or A as issued by Standard and Poors (S&P), or AAA, AA or A as issued by Moody's.

B. To pass the financial test, a company must meet all of the following additional requirements:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.

(2) The company's independent certified public accountant must have compared the data used by the company in the financial test which is derived from the independently audited, yearend financial statements for the latest fiscal year, with the amounts in the financial statement, in connection with that procedure. The licensee shall inform the Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

c. If the licensee no longer meets the requirements of Section II, A, of this Appendix, the licensee shall send immediate notice to the Department of its intent to establish alternate financial assurance as specified in the Department's regulations within 120 days of such notice.

III. *Company Self-Guarantee.*

The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

a. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Department, as evidenced by return receipt.

b. The licensee shall provide alternative financial assurance as specified in the Department's regulations within 90 days following receipt by the Department of a notice of cancellation of the guarantee.

c. The guarantee and financial test provisions shall remain in effect until the Department has terminated the license or until another financial assurance method acceptable to the Department has been put in effect by the licensee.

D. The licensee will promptly forward to the Department and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission under the requirement of section 13 of the Securities and Exchange Act of 1934.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poors or Moodys, the licensee will provide notice in writing of that fact to the Department with 20 days after publication of the change by the rating services. If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poors and Moody's the licensee no longer meets the requirements of Section II, A, of this Appendix.

F. The applicant or licensee must provide to the Department a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Department, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

CHAPTER 219. STANDARDS FOR PROTECTION AGAINST RADIATION

Subchapter A. GENERAL PROVISIONS

§ 219.3. Definitions.

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

* * * * *

Constraint (dose constraint)—A value above which specified licensee actions are required.

* * * * *

Subchapter B. RADIATION PROTECTION PROGRAMS

§ 219.21. Radiation protection programs.

(a) The licensee or registrant shall develop, document and implement a radiation protection program commensurate with the scope and extent of the licensee's or registrant's activities and sufficient to ensure compliance with this chapter.

* * * * *

(f) To implement the ALARA requirements of subsection (b) and notwithstanding the requirements in § 219.51 (relating to dose limits for individual members of the public), a constraint on air emissions of radioactive material to the environment, excluding Radon-222 and its daughters, shall be established by licensees so that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the exceedence as provided in § 219.223 (relating to reports of exposures, radiation levels and concentrations of radioactive material exceeding the limits) and promptly take appropriate corrective action to ensure against recurrence.

Subchapter D. RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

§ 219.51. Dose limits for individual members of the public.

(a) The licensee or registrant shall conduct operations so that the following conditions are met:

(1) [Except as provided in paragraph (2), the] The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose [contribution] contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with § 224.109 (relating to release of patients containing radiopharmaceuticals or permanent implants), from voluntary participation in medical research programs and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with § 219.183 (relating to disposal by release into sanitary sewerage).

[(2) The total effective dose equivalent to individual members of the public in unrestricted areas

from exposure to radiation from diagnostic radiation machines does not exceed 5 mSv (0.5 rem).]

[(3)] (2) The dose in any unrestricted area from external sources exclusive of the dose contributions from patients administered radioactive material and released in accordance with § 224.109, (relating to release of patients containing radiopharmaceuticals or permanent implants) does not exceed 0.02 mSv (0.002 rem) in any 1 hour, if an individual were continuously present in the area.

* * * * *

Subchapter H. RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

§ 219.114. Further restrictions on the use of respiratory protection equipment.

The Department may impose restrictions in addition to those in §§ 219.112 and 219.113 (relating to use of other controls; and use of individual respiratory equipment) and Appendix A to:

(1) Ensure the respiratory protection program of the licensee is adequate to limit exposures of individuals to airborne radioactive material.

(2) Limit the extent to which a licensee may use respiratory protection equipment instead of process or other engineering controls.

Subchapter M. REPORTS

§ 219.223. Reports of exposures, radiation levels and concentrations of radioactive material exceeding the limits.

(a) Reportable events. In addition to the notification required by § 219.222 (relating to notification of incidents), each licensee or registrant shall submit a written report within 30 days after learning of one or more of the following occurrences:

* * * * *

(2) Doses in excess of one or more of the following:

* * * * *

(vi) The ALARA constraints for air emissions established under § 219.21(f) (relating to radiation protection programs).

* * * * *

(b) Contents of reports.

(1) Each report required by subsection (a) shall describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

* * * * *

(iv) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license or registration conditions.

CHAPTER 220. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

§ 220.2. Posting of notices to workers.

* * * * *

(d) Department documents posted under subsection (a)(4) shall be posted within [5] 2 working days after receipt of the documents from the Department; the licensee's or registrant's response shall be posted within 5

working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.

* * * * *

§ 220.3. Instructions to workers.

(a) An individual [working in or frequenting a portion of a restricted area] who is likely to receive in a year an occupational dose in excess of 100 mrem(1 mSv) shall be:

(1) Informed of the storage, transfer or use of radiation sources [in the portion of the restricted area].

* * * * *

(b) The extent of the instruction shall be commensurate with potential radiological health protection problems in the [restricted area] work place.

§ 220.8. Inspections not warranted; informal review.

(a) If the Bureau of Radiation Protection determines that an inspection is not warranted for a complaint made under § 220.7 (relating to requests by workers for inspections) because there are no reasonable grounds to believe that a violation exists or has occurred, the Bureau of Radiation Protection will notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written statement of position to the Office of the Secretary, Department of Environmental [Resources] Protection. The Department will provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Department which will provide the complainant with a copy of the statement by certified mail.

* * * * *

CHAPTER 224. MEDICAL USE OF RADIOACTIVE MATERIAL

Subchapter A. GENERAL

§ 224.2. Definitions.

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

* * * * *

Authorized nuclear pharmacist—A pharmacist who meets one of the following requirements:

(i) Is board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties.

(ii) Is identified as an authorized nuclear pharmacist on a Department, NRC or agreement state license that authorizes the use of radioactive material in the practice of nuclear pharmacy.

(iii) Is identified as an authorized nuclear pharmacist on a permit issued by the Department, NRC or agreement state specific license of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy.

* * * * *

Diagnostic clinical procedures manual—A collection of written procedures that describes each method—and other instructions and precau-

tions—by which the licensee performs clinical diagnostic procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical dosage and route of administration.

* * * * *

Medical use—In the practice of medicine, the intentional administration (external or internal) of radioactive material, or the radiation therefrom, to human beings or human research subjects under the supervision of an authorized user.

* * * * *

Misadministration—The administration of one of the following:

(i) A radiopharmaceutical or radiation from a radiation source other than the one intended or prescribed.

(ii) A radiopharmaceutical or radiation therapy to a wrong patient.

(iii) A radiopharmaceutical or radiation by a route of administration other than that intended by the prescribing physician or radiation therapy to an organ other than that prescribed by the physician.

(iv) A diagnostic dosage of a radiopharmaceutical differing from the prescribed dosage by more than 50%.

(v) A therapy dosage of a radiopharmaceutical differing from the prescribed dosage by more than 10%.

(vi) A therapy radiation dose from a radiation source such that errors in the source calibration, time of exposure and treatment geometry result in a calculated total treatment dose differing from the final prescribed total treatment dose by more than 10%.

(vii) Radioactive material not specifically authorized for human use, or medical irradiation by sources whose characteristics do not meet established criteria for that type of radiation source.]

(i) A radiopharmaceutical dosage greater than 30 µCi (1.11 MBq) of either sodium iodide I-125 or I-131 under one of the following conditions:

(A) Involving the wrong individual or wrong pharmaceutical.

(B) When both the administered dosage differs from the prescribed dosage by more than 20% of the prescribed dosage and the difference between the administered and prescribed dosage exceeds 30 µCi (1.11 MBq).

(ii) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131 under one of the following conditions:

(A) Involving the wrong individual, wrong radiopharmaceutical or wrong route of administration.

(B) When the administered dosage differs from the prescribed dosage by more than 20% of the prescribed dosage.

(iii) A gamma stereotactic radiosurgery radiation dose under one of the following conditions:

(A) Involving the wrong individual or wrong treatment site.

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10% of the total prescribed dose.

(iv) A teletherapy radiation dose under one of the following conditions:

(A) Involving the wrong individual, wrong mode of treatment or wrong treatment site.

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10% of the total prescribed dose.

(C) When the calculated weekly administered dose is 30% greater than the weekly prescribed dose.

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20% of the total prescribed dose.

(v) A brachytherapy radiation dose under one of the following conditions:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(B) Involving a sealed source that is leaking.

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure.

(D) When the calculated administered dose differs from the prescribed dose by more than 20% of the prescribed dose.

(vi) A diagnostic radiopharmaceutical dosage, other than quantities greater than 30 uCi (1.11 MBq) of either sodium iodide I-125 or I-131, when the conditions in clauses (A) and (B) apply:

(A) Involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage.

(B) When the dose to the individual exceeds 5 rem (50 mSv) effective dose equivalent or 50 rems (0.5 Sv) dose equivalent to any individual organ.

* * * * *

Prescribed dosage—The quantity of radiopharmaceutical activity as documented in one of the following methods:

(i) In a written directive.

(ii) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

Prescribed dose—One of the following:

(i) For gamma stereotactic radiosurgery, the total dose as documented in the written directive.

(ii) For teletherapy, the total dose and dose per fraction as documented in the written directive.

(iii) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive.

* * * * *

Recordable event—The administration of:

(i) A radiopharmaceutical or radiation without a written directive when a written directive is required.

(ii) A radiopharmaceutical or radiation when a written directive is required without daily recording of each administered radiopharmaceutical dosage or radiation in the appropriate record.

(iii) A radiopharmaceutical dosage greater than 30 microcuries of either sodium iodide I-125 or I-131 when both:

(A) The administered dosage differs from the prescribed dosage by more than 10% of the prescribed dosage.

(B) The difference between the administered dosage and prescribed dosage exceeds 15 microcuries.

(iv) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage differs from the prescribed dosage by more than 10% of the prescribed dosage.

(v) A teletherapy radiation dose when the calculated weekly administered dose exceeds the weekly prescribed dose by 15% or more of the weekly prescribed dose.

(vi) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than 10% of the prescribed dose.

* * * * *

Written directive—An order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in subparagraph (vi), containing the following information:

(i) For any administration of quantities greater than 30 uCi (1.11 MBq) of either sodium iodide I-125 or I-131 the dosage.

(ii) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage and route of administration.

(iii) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern and total dose.

(iv) For teletherapy: the total dose, dose per fraction, treatment site and overall treatment period.

(v) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site and total dose.

(vi) For all other brachytherapy the following apply:

(A) Prior to implantation: the radioisotope, number of sources and source strengths.

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

§ 224.6. License amendments.

(a) A licensee shall apply for and receive a license amendment before it:

* * * * *

(2) Permits anyone, except a visiting authorized user described in § 224.56 (relating to visiting authorized user), to work as an authorized user **or authorized nuclear pharmacist** under the license.

* * * * *

(b) A licensee possessing a Type A specific license of broad scope for medical use is exempt from the following:

(1) Subsection (a)(2).

(2) Subsection (a)(5) regarding additions to or changes in the areas of use only at the addresses specified in the license.

§ 224.7. Notifications.

A licensee shall notify the Department by letter within 30 days when an authorized user, radiation safety officer or teletherapy physicist **or authorized nuclear pharmacist** permanently discontinues performance of duties under the license or has a name change, or when the licensee's mailing address changes. The licensee shall mail the report to the appropriate address identified in § 224.5(c) (relating to application for license, amendment or renewal).

§ 224.9. Specific exemptions.

The Department may, upon application of an interested person or upon its own initiative, grant exemptions from this article as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. The Department will review requests for exemptions from training and experience requirements with the assistance of its **Radiation Protection Advisory Committee [on the Medical Uses of Radioactive Material]**.

§ 224.10. Provisions for research involving human subjects.

A licensee may conduct research involving human subjects using radioactive material if the research is conducted, funded, supported or regulated by a Federal agency which has implemented the Federal policy for the protection of human subjects. Otherwise, a licensee shall apply for and receive approval of a specific amendment to its license before conducting the research. Both types of licensees shall, at a minimum, obtain informed consent from the human subjects and obtain prior review and approval of the research activities by an "institutional review board" in accordance with the meaning of these terms as defined in the Federal policy for the protection of human subjects.

§ 224.11. FDA, other Federal and State requirements.

This chapter does not relieve the licensee from complying with applicable FDA, other Federal and State requirements governing radioactive drugs or devices, and 49 Pa. Code Chapter 27 (relating to State Board of Pharmacy).

Subchapter B. GENERAL ADMINISTRATIVE REQUIREMENTS

§ 224.53. Radiation safety committee.

A medical institution licensee shall establish a radiation safety committee (committee) to oversee the use of radioactive material.

* * * * *

(2) To oversee the use of licensed material, the committee shall:

* * * * *

(ii) Review, on the basis of safety and with regard to the training and experience standards in Subchapter J (relating to training and experience requirements), and approve or disapprove an individual who is to be listed as an authorized user, the radiation safety officer, **an authorized nuclear pharmacist** or a teletherapy physicist before submitting a license application or request for amendment or renewal.

* * * * *

§ 224.55. Supervision.

(a) A licensee that permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by § 224.4(b) (relating to license required) shall:

* * * * *

(4) Permit only auxiliary personnel who have met the applicable requirements of 49 Pa. Code, Part I, Subpart A (relating to professional and occupational affairs) to use radioactive materials for diagnostic or therapeutic purposes.

(5) Permit only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government to use radioactive materials for diagnostic or therapeutic purposes in accordance with written job descriptions and employe qualifications.

* * * * *

§ 224.60. Suppliers for sealed sources or devices for medical use.

A licensee may use the following for medical use only:

(1) [Radioactive material manufactured, labeled, packaged and distributed in accordance with a license issued under Chapter 217 (relating to licensing of radioactive material) or the equivalent regulations of an agreement state or the NRC.] Sealed sources or devices manufactured, labeled, packaged and distributed in accordance with a license issued under Chapter 217 (relating to licensing of radioactive material), the equivalent regulations of an agreement state or the NRC.

[(2) Reagent kits that have been manufactured, labeled, packaged and distributed in accordance with an approval by the Department under § 217.91 (relating to manufacture and distribution of generators or reagent kits for preparation of radiopharmaceuticals), an agreement state or the NRC, under equivalent regulations for the preparation of radiopharmaceuticals for medical use.]

[(3)] (2) * * *

§ 224.61. Quality management program.

(a) An applicant or licensee under this chapter, as applicable, shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program shall include written policies and procedures to meet the following specific objectives:

(1) Except as provided in subsections (h)—(j) that, prior to administration, a written directive is prepared for:

- (i) Any teletherapy radiation dose.
- (ii) Any gamma stereotactic radiosurgery dose.
- (iii) Any brachytherapy radiation dose.

(iv) Any administration of quantities greater than 30 microcuries of either sodium iodide I-125 or I-131.

(v) Any therapeutic administration of radiopharmaceutical other than sodium iodide I-125 or I-131.

(2) That, prior to each administration the patient's identity is verified by more than one method as the individual named in the written directive.

(3) That final plans of treatment and related calculations for brachytherapy, teletherapy and gamma stereotactic radiosurgery are in accordance with the respective written directives.

(4) That each administration is in accordance with the written directive.

(5) That an unintended deviation from the written directive is identified and evaluated and appropriate action is taken.

(b) The licensee shall:

(1) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of the following:

- (i) A representative sample of patient administrations.
- (ii) All recordable events.
- (iii) All misadministrations to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months.

(2) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of subsection (a).

(3) Retain records of each review, including the evaluations and findings of the review, in an auditable form for 3 years.

(c) The licensee shall evaluate and respond within 30 days after discovery of the recordable event, to each recordable event by:

- (1) Assembling the relevant facts including the cause.
- (2) Identifying what, if any, corrective action is required to prevent further recurrence.
- (3) Retaining a record, in an auditable form for 3 years of the relevant facts and the corrective action taken if any was taken.

(d) The licensee shall retain:

- (1) Each written directive.
- (2) A record of each administered radiation dose or radiopharmaceutical dosage when a written directive is required in subsection (a)(1), in an auditable form, for 3 years after the date of administration.

(e) The licensee may make modifications to the quality management program to increase the program's efficiency so long as the program's effectiveness is not decreased. The licensee shall furnish the modification to the appropriate regional office within 30 days after the modification has been made.

(f) An applicant for a new license as applicable shall submit to the Department a quality management program as part of the application for a license and implement the program upon issuance of the license.

(g) An existing licensee shall submit to the Department a written certification that the quality management program has been implemented along with a copy of the program.

(h) If, because of the patient's condition, a delay in order to provide a written revision to an existing written direction would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, so long as the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision.

(i) A written revision to an existing written directive may be made for any diagnostic or therapeutic procedure so long as the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose or the next teletherapy fractional dose.

(j) If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, so long as the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

Subchapter C. GENERAL TECHNICAL REQUIREMENTS

§ 224.101. Possession, use, calibration and check of dose calibrators.

* * * * *

(b) A licensee shall:

* * * * *

(3) Test each dose calibrator for linearity upon installation and at least quarterly thereafter over the range of its use between the highest dosage that will be administered to a patient and [10] 30 microcuries ([370 kBq] 1.1 MBq).

* * * * *

§ 224.103. Measurement of radiopharmaceutical dosages.

A licensee shall do the following:

(1) Measure the activity of each radiopharmaceutical [dosage that contains more than 10 microcuries (370 kBq)] of a photon-emitting radionuclide before medical use.

[(2) Measure the activity of each radiopharmaceutical dosage with a desired activity of 10 microcuries (370 kBq) or less of a photon-emitting radionuclide before medical use to verify that the dosage does not exceed 10 microcuries (370 kBq).] Measure by direct measurement or by combination of measurements and calculations, the activity of each dosage of an alpha- or beta-emitting radionuclide prior to medical use except for unit dosages obtained from a manufacturer or preparer licensed under § 217.90 (relating to manufacture and distribution of radiopharmaceuticals for medical use under group licenses) or equivalent agreement state requirements.

(3) Retain a record of the measurements required by this section for 3 years. To satisfy this requirement, the record shall contain the following:

* * * * *

(iii) The prescribed dosage and activity of the dosage at the time of measurement, or a notation that the total activity is less than [10] 30 microcuries [(370 kBq)] (1.1 MBq).

* * * * *

§ 224.104. Authorization for calibration and reference sources.

A person authorized by § 224.4 (relating to license required) for medical use of radioactive material may receive, possess and use the following radioactive material for check, calibration and reference use:

(1) Sealed sources manufactured and distributed by a person licensed under § 217.92 (relating to manufacture and distribution of sources or devices containing radioactive material for medical use), the NRC or equivalent agreement state regulations and that do not exceed 15 millicuries (555 mBq) each of byproduct material or 25 millicuries each of accelerator produced material.

* * * * *

§ 224.105. Requirements for possession of sealed sources and brachytherapy sources.

* * * * *

(f) A licensee is not required to perform a leakage test on the following sources:

* * * * *

(4) Sources stored and not being used. The licensee shall, however, test these sources for leakage before the use or transfer unless it has been leakage-[treated] tested within 6 months before the date of use or transfer.

* * * * *

§ 224.108. Surveys for contamination and ambient radiation exposure rate.

* * * * *

(e) A licensee shall survey for removable contamination [each day of use the areas] once each week where

radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.

* * * * *

§ 224.109. Release of patients containing radiopharmaceuticals or permanent implants.

(a) [A licensee may not authorize release from confinement for medical care a patient administered a radiopharmaceutical until one of the following conditions have been met:

(1) The measured dose rate from the patient is less than 5 millirem (50 µSv) per hour at a distance of 1 meter.

(2) The activity in the patient is less than 30 millicuries (1.11 GBq)]. The licensee may authorize the release from its control of an individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to another individual from exposure to the released individual is not likely to exceed 5 mSv (0.5 rem).

(b) [A licensee may not authorize release from confinement for medical care of a patient administered a permanent implant until the measured dose rate from the patient is less than 5 millirems (50 µSv) per hour at a distance of 1 meter.] The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals ALARA if the total effective dose equivalent to another individual is likely to exceed 1 mSv (0.1 rem). If the dose to a breastfeeding infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast feeding, the instructions shall also include both of the following:

(1) Guidance on the interruption or discontinuation of breast feeding.

(2) Information on the consequences of failure to follow guidance.

(c) The licensee shall maintain a record of the basis for authorizing the release of an individual, for 3 years after the date of release, if the total effective dose equivalent is calculated by any one of the following:

(1) Using the retained activity, rather than the activity administered.

(2) Using an occupancy factor less than 0.25 at 1 meter.

(3) Using the biological or effective half-life.

(4) Considering the shielding by tissue. (d) The licensee shall maintain a record, for 3 years after the date of release, that instructions were provided to a breastfeeding woman if the radiation dose to the infant or child from continued breastfeeding could result in a total effective dose equivalent exceeding 5 mSv (0.5 rem).

§ 224.112. Decay-in-storage.

(a) A licensee may hold sealed sources of accelerator produced radioactive material with a physical half-life of up to 300 days and any radioactive material with a physical half-life of less than 65 days for

decay-in-storage before disposal in ordinary trash and is exempt from the requirements of § 219.181 (relating to general requirements) if it:

* * * * *

§ 224.113. Possession, use, calibration and check of instruments to measure dosages of alpha- or beta-emitting radionuclides.

(a) This section does not apply to unit dosages of alpha- or beta-emitting radionuclides that are obtained from a manufacturer or preparer licensed under § 217.90 (relating to manufacture and distribution of radiopharmaceuticals for medical use under group licenses) or equivalent.

(b) For other than unit dosages obtained to subsection (a), a licensee shall possess and use instrumentation to measure the radioactivity of alpha- or beta-emitting radionuclides. The licensee shall have procedures for use of the instrumentation. The licensee shall measure by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha- or beta-emitting radionuclides prior to administration to each patient or human research subject. In addition, the licensee shall do both of the following:

(1) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary.

(2) Check each instrument for constancy and proper operation at the beginning of each day of use.

Subchapter D. UPTAKE, DILUTION AND EXCRETION

§ 224.151. Use of radiopharmaceuticals for uptake dilution and excretion studies.

A licensee may use radioactive material in a radiopharmaceutical and for a diagnostic use involving measurements of uptake, dilution or excretion [for which the FDA has accepted "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA)] that is either:

(1) Obtained from a manufacturer or preparer licensed under § 217.90 (relating to manufacture and distribution of radiopharmaceuticals for medical use under group licenses) or equivalent NRC or agreement state requirements.

(2) Prepared by an authorized nuclear pharmacist, who meets the training criteria specified in § 224.466 (relating to training for an authorized nuclear pharmacist) or § 224.467 (relating to training for experienced nuclear pharmacists), a physician who is an authorized user and who meets the requirements specified in § 224.453 (relating to training for uptake, dilution and excretion studies) or an individual under the supervision of either specified in § 224.55 (relating to supervision).

§ 224.152. Possession of survey instrument.

A licensee authorized to use radioactive material for uptake, dilution and excretion studies shall have in its possession a portable radiation detection survey instru-

ment capable of detecting dose rates over the range 0.1 millirem (1 µSv) per hour to [50] 100 millirem ([0.5] 1.0 mSv) per hour.

Subchapter E. IMAGING AND LOCALIZATION

§ 224.201. Use of radiopharmaceuticals[, generators and reagent kits] for imaging and localization studies.

[(a)] A licensee may use for imaging and localization studies any unsealed radioactive material [in a diagnostic radiopharmaceutical or a generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material provided for which the FDA has accepted a "Notice of Claimed Investigational Exemption for a New Drug" or approved a "New Drug Application"] prepared for medical use that is either:

[(b) A licensee shall elute generators and prepare reagent kits in accordance with the manufacturer's instructions.]

(1) Obtained from a manufacturer or preparer licensed under § 217.91 (relating to manufacture and distribution of generator or reagent kits) or equivalent NRC or agreement requirements.

(2) Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in § 224.454 (relating to training for imaging and localization studies) or an individual under the supervision of either specified in § 224.55 (relating to supervision).

§ 224.204. Possession of survey instruments.

A licensee authorized to use radioactive material for imaging and localization studies shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range of 0.1 millirem (1 µSv) per hour to [50] 100 millirem ([0.5] 1.0 mSv) per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem (10 µSv) per hour to 1000 millirem (10 mSv) per hour.

Subchapter F. RADIOPHARMACEUTICALS FOR THERAPY

§ 224.251. Use of radiopharmaceuticals for therapy.

A licensee may use [a radioactive material in a radiopharmaceutical and for a therapeutic use for which the FDA has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or approved a "New Drug Application" (NDA). The licensee shall comply with the package insert instructions regarding indications and method of administration.] for therapeutic administration any unsealed radioactive material prepared for medical use that is:

(1) Obtained from a manufacturer or preparer licensed under § 217.92 (relating to manufacture and distribution of sources or devices for medical use) or equivalent NRC or agreement state requirements.

(2) Prepared by an authorized nuclear pharmacist, who meets the training criteria specified in § 224.466 (relating to training for an authorized nuclear pharmacist) or § 224.467 (relating to train-

ing for experienced nuclear pharmacists), a physician who is an authorized user and who meets the requirements specified in § 224.454 (relating to training for imaging and localization studies) or an individual under the supervision of either specified in § 224.55 (relating to supervision).

§ 224.252. Safety instruction.

* * * * *

(1) Patient or human research subject control.

§ 224.253. Safety precautions.

(a) For each patient receiving radiopharmaceutical therapy and hospitalized in compliance with § 224.109 (relating to release of patients containing radiopharmaceuticals or permanent implants), a licensee shall:

* * * * *

[(6) Provide the patient with radiation safety guidance that will help to keep radiation dose to household members and the public ALARA before authorizing release of the patient.]

[(7)] (6) * * *

[(8)] (7) * * *

* * * * *

Subchapter G. SOURCES FOR BRACHYTHERAPY

§ 224.305. Safety precautions.

(a) For each patient or human research subject receiving implant therapy, a licensee shall comply with the following conditions:

(1) The patient may not be quartered in the same room with a patient who is not receiving radiation therapy [unless the licensee can demonstrate compliance with § 219.51 (relating to dose limits for individual members of the public) at a distance of 1 meter from the implant].

* * * * *

[(5) The patient shall be provided with radiation safety guidance that will help to keep radiation dose to household members and the public ALARA before releasing the patient if the patient was administered a permanent implant.]

* * * * *

[(c) Nonoccupationally exposed individuals having incidental contact with patients having implanted or applied sealed sources—for example, visitors nurses and other patients—may not receive doses in excess of doses specified in 219.51 (relating to dose limits for individual members of the public) as a result of their contact with the patients.]

§ 224.306. Possession of survey instrument.

A licensee authorized to use radioactive material for implant therapy shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 0.1 millirem (1 µSv) per hour to [50] 100 millirem ([0.5] 1.0 mSv) per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem (10 µSv) per hour to 1000 millirem (10 mSv) per hour.

Subchapter H. SEALED SOURCES FOR DIAGNOSIS

§ 224.352. Availability of survey instrument.

A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range 0.1 millirem (1 µSv) per hour to [50] 100 millirem ([0.5] 1.0 mSv) per hour or a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem (10 µSv) per hour to 1000 millirem (10 mSv) per hour. The instrument shall have been calibrated in accordance with § 224.102 (relating to calibration and check of survey instruments).

Subchapter I. TELETHERAPY

§ 224.406. Possession of survey instrument.

A licensee authorized to use radioactive material in a teletherapy unit shall have in its possession a portable radiation detection survey instrument capable of detecting a dose rate over the range of 0.1 millirem (1 µSv) per hour to [50] 100 millirem ([0.5] 1.0 mSv) per hour or a portable radiation measurement survey instrument capable of measuring dose rates over the range 1 millirem (10 µSv) per hour to 1000 millirem (10 mSv) per hour.

§ 224.408. Full calibration measurements.

* * * * *

(b) To satisfy the requirement of subsection (a), full calibration measurements shall include determination of the following:

* * * * *

(6) The accuracy of all distance measuring and localization devices in medical use.

* * * * *

Subchapter J. TRAINING AND EXPERIENCE REQUIREMENTS

§ 224.451. Radiation safety officer.

Except as provided in § 224.452 (relating to training for experienced radiation safety officer), the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer as provided in § 224.54 (relating to statements of authority and responsibilities) to be an individual who meets one of the following requirements:

(1) Is certified by one of the following:

* * * * *

(vi) The American Board of Medical Physics.

(vii) The Royal College of Physicians and Surgeons of Canada in Nuclear Medicine.

(viii) The American Osteopathic Board of Radiology.

(ix) The American Osteopathic Board of Nuclear Medicine.

* * * * *

§ 224.453. Training for uptake, dilution and excretion studies.

Except as in § 224.463 or § 224.464 (relating to training for experienced authorized users; and physician training in a 3-month program), the licensee shall require the authorized user of a radiopharmaceutical in § 224.151 (relating to use of radiopharmaceuticals for uptake, dilu-

tion and excretion studies) to be a physician who meets one of the following requirements:

- (1) Is certified in one of the following:
* * * * *

(iii) Diagnostic radiology **or radiology** by the American Osteopathic Board of Radiology.

(iv) **Nuclear medicine by the Royal College of Physicians and Surgeons of Canada.**

(v) **American Osteopathic Board of Nuclear Medicine in nuclear medicine.**

§ 224.454. Training for imaging and localization studies.

Except as provided in §§ 224.463 and 224.464 (relating to training for experienced authorized users; and physician training in a 3-month program), the licensee shall require the authorized user of a radiopharmaceutical, generator or reagent kit in § 224.201(a) (relating to use of radiopharmaceuticals, generators and reagent kits for imaging and localization studies) to be a physician who meets one of the following requirements:

- (1) Is certified in one of the following:
* * * * *

(iii) Diagnostic radiology **or radiology** by the American Osteopathic Board of Radiology.

(iv) **Nuclear medicine by the Royal College of Physicians and Surgeons of Canada.**

(v) **American Osteopathic Board of Nuclear Medicine in nuclear medicine.**

(2) Has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators and reagent kits, work experience and has had supervised clinical experience as follows:

* * * * *

(ii) Five hundred hours of supervised clinical experience under the supervision of an authorized user and that includes the following:

* * * * *

(f) **Eluting Technetium-99^m from generator systems, measuring and testing the eluate for Molybdenum-99 and Alumina contamination and processing the eluate with reagent kits to prepare Technetium-99^m labeled radiopharmaceuticals.**

* * * * *

§ 224.455. Training for therapeutic use of radiopharmaceuticals.

Except as provided in § 224.463 (relating to training for experienced authorized users), the licensee shall require the authorized user of radiopharmaceuticals in § 224.251 (relating to use of radiopharmaceuticals for therapy) to be a physician who meets one of the following requirements:

- (1) Is certified by one of the following:
* * * * *

(iii) **Nuclear medicine by the Royal College of Physicians and Surgeons of Canada.**

(iv) **The American Osteopathic Board of Radiology after 1984.**

* * * * *

§ 224.458. Training for use of brachytherapy sources.

Except as provided in § 224.463 (relating to training for experienced authorized users), the licensee shall require the authorized user of a brachytherapy source listed in § 224.301 (relating to use of sources for brachytherapy) to be a physician who meets one of the following requirements:

- (1) Is certified in one of the following:

(i) Radiology or therapeutic radiology **or radiation oncology** by the American Board of Radiology.

* * * * *

§ 224.460. Training for use of sealed sources for diagnosis.

Except as provided in § 224.463 (relating to training for experienced authorized users), the licensee shall require the authorized user of a sealed source in a device listed in § 224.351 (relating to use of sealed sources for diagnosis) to be a physician, dentist or podiatrist who meets one of the following requirements:

- (1) Is certified in one of the following:

(i) Radiology, diagnostic radiology or therapeutic radiology **or radiation oncology** by the American Board of Radiology.

* * * * *

(iv) **Nuclear Medicine by the Royal College of Physicians and Surgeons of Canada.**

* * * * *

§ 224.461. Training for teletherapy.

Except as provided in § 224.463 (relating to training for experienced authorized users), the licensee shall require the authorized user of a sealed source listed in § 224.401 (relating to use of a sealed source in a teletherapy unit) in a teletherapy unit to be a physician who meets one of the following requirements:

- (1) Is certified in one of the following:

(i) Radiology or therapeutic radiology **or radiation oncology** by the American Board of Radiology.

* * * * *

§ 224.462. Training for teletherapy physicist.

The licensee shall require the teletherapy physicist to be an individual who meets one of the following requirements:

* * * * *

(3) **Is certified by the American Board of Medical Physics in radiation oncology.**

§ 224.465. Recentness of training.

The training and experience specified in this chapter shall have been obtained within the [5] 7 years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

§ 224.466. Training for an authorized nuclear pharmacist.

(a) **The licensee shall require the authorized nuclear pharmacist to be a pharmacist who meets one of the following requirements:**

(1) Has current board certification as a nuclear pharmacist by the Board of Pharmaceutical Specialties.

(2) Has completed 700 hours in structured educational program consisting of both of the following:

(i) Didactic training in the following areas:

(A) Radiation physics and instrumentation.

(B) Radiation protection.

(C) Mathematics pertaining to the use and measurement of radioactivity.

(D) Chemistry of byproduct material for medical use.

(E) Radiation biology.

(ii) Supervised experience in a nuclear pharmacy involving the following:

(A) Shipping, receiving and performing related surveys.

(B) Using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides.

(C) Calculating, assaying and safely preparing dosages for patients or human research subjects.

(D) Using administrative controls to avoid mistakes in the administration of byproduct material.

(E) Using procedures to prevent or minimize contamination and using proper decontamination procedures.

(b) A pharmacist meeting the requirements of subsection (a)(2) shall obtain written certification, signed by a preceptor authorized nuclear pharmacist, that the above training has been satisfactorily completed and that the pharmacist has achieved a level of competency sufficient to independently operate a nuclear pharmacy.

§ 224.467. Training for experienced nuclear pharmacists.

A licensee may apply for and must receive a license amendment identifying an experienced nuclear pharmacist as an authorized nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in § 224.466(a)(2) (relating to training for an authorized nuclear pharmacist) before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal), and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with §§ 224.465 and 224.466(b) (relating to recentness of training) to qualify as an authorized nuclear pharmacist.

[Subchapter K. ENFORCEMENT] (RESERVED)

§ 224.501. [Resolution of conflicting requirements during transition period] (Reserved).

[If this chapter conflicts with the licensee's radiation safety program as identified in its license, and if that license was approved by the Department before June 20, 1992 and has not been renewed since June 20, 1992, the requirements in the license

apply. However, if that licensee exercises its privilege to make minor changes in its radiation safety procedures that are not potentially important to safety under § 224.58 (relating to radiation safety program changes), the portion changed shall comply with this chapter. At the time of license renewal and thereafter, this chapter applies.]

CHAPTER 225. RADIATION SAFETY REQUIREMENTS
FOR INDUSTRIAL USES AND RADIOGRAPHIC
OPERATIONS

GENERAL PROVISIONS

§ 225.1. Purpose and scope.

(a) This chapter establishes radiation safety requirements for persons utilizing radiation sources for industrial [radiography] uses and radiographic operations. Licensees and registrants who use radiation sources for industrial [radiography] uses and radiographic operations shall comply with this chapter. The requirements of this chapter are in addition to and not a substitution for other applicable requirements of this article. **This chapter does not apply to medical diagnosis or therapy.**

(b) Persons who use particle accelerators to perform radiographic operations shall also comply with Chapter 228 (relating to particle accelerators).

§ 225.2. Definitions.

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

Annual refresher safety training—A review conducted or provided by the licensee or registrant for its employes on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, accidents or errors that have been observed, and should also provide opportunities for employes to ask safety questions.

Associated equipment—Equipment used in conjunction with a radiographic exposure device to make radiographic exposures when the equipment drives, guides or comes into contact with the source.

Cabinet X-ray system—An X-ray system with the X-ray tube installed in an enclosed, interlocked cabinet, designed to exclude personnel from its interior during operation. The term includes X-ray systems designed primarily for the inspection of baggage or packages. The term does not include an X-ray tube used within a shielded part of a building or X-ray equipment which may temporarily or occasionally incorporate portable shielding.

* * * * *

Certifying entity—An independent certifying organization meeting the requirements of § 225.102 (relating to requirements for an independent certifying organization) or an agreement state which meets the same requirements as § 225.102.

Collimator—A radiation shield made of lead, tungsten or other heavy metal which is placed on the end of a guide tube or directly onto a radiographic exposure device to restrict the size and

shape of the radiation beam when the sealed source is moved into position to make a radiographic exposure.

Control cable—The cable which is connected to the source assembly and used to drive the source to and from the exposure location. The term may be also referred to as the drive cable.

Control drive mechanism—The device that enables the source assembly to be moved to and from the exposure device.

Crank-out device—The cable, protective sheath and handcrank used to move the sealed source from the shielded to the unshielded position to make an industrial radiographic exposure.

Exposure head—A device that locates the gamma radiography sealed source in the selected working position. An exposure head is also known as a source stop.

Guide tube (projection sheath)—A flexible or rigid tube (that is, "J"-tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

Individual's certification—Written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing and experience criteria.

* * * * *

Lock-out survey—A radiation survey performed to determine that a sealed source is in its shielded position.

* * * * *

Personal supervision—The provision of guidance and instruction to a radiographer's assistant by a radiographer who is:

- (i) Physically present at the site.
- (ii) In visual contact with the radiographer's assistant while the assistant is using radiation sources.
- (iii) In proximity so that immediate assistance can be given if required.

* * * * *

Radiographer—An individual who performs, or [provides personal supervision of,] who, while in attendance at the site where the radiation source is being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with this part and the conditions of the license or registration.

Radiographer's assistant—An individual who, under the personal supervision of a radiographer, uses radiographic exposure devices, radiation sources, related handling tools or radiation survey instruments in industrial radiography.

* * * * *

Radiographic operations—All activities associated with the presence of radiation sources in a radiographic exposure device or in a radiation-producing machine during use of the device or

machine or transport (except when being transported by common carrier or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment and any activity inside restricted area boundaries.

S-tube—A tube through which the radioactive source travels when inside a radiographic exposure device.

* * * * *

Source assembly—A component to which the sealed source is affixed or in which the sealed source is contained. The source assembly includes the sealed source.

* * * * *

Storage facility—A location, area or vehicle which is used to store, transport or secure a radiographic exposure device, a storage container, or a sealed source when it is not in use, and which is locked or has a physical barrier to prevent accidental or inadvertent exposure, tampering with or unauthorized removal of the device, container or source.

* * * * *

Temporary job site—A location where industrial radiography is performed for 180 days or less during any consecutive 12-months other than the location listed in a specific license or registration.

Transport container—A package that is designed and constructed to provide radiation safety and security when a sealed source is transported and which meets applicable provisions of Chapter 230 (relating to packaging and transportation of radioactive material).

§ 225.10. Application for a specific license or registration.

(a) A person who intends to use sealed sources in industrial uses or radiographic operations shall file an application in accordance with §§ 217.51 and 217.65 (relating to filing application for specific license; and specific licenses for the use of sealed sources in industrial radiography).

(b) A person who intends to use X-ray machines for industrial radiography shall have a program for training personnel, written operating and emergency procedures, an internal review system, and an organizational structure which includes specified delegations of authority and responsibility for operation of the program. This program shall be approved by the Department before commencing industrial radiography.

[SEALED SOURCE REQUIREMENTS] GENERAL PROVISIONS

§ 225.11. [Storage position radiation level limits.] Reciprocity.

[(a) Radiographic exposure devices that have the sealed source storage position located less than 4 inches (10 centimeters) from an exterior surface of the device shall have radiation levels not exceeding 50 milliroentgens (12.9 µC/kg) per hour at 6 inches (15 centimeters) from an exterior surface of the device when the sealed source is in the shielded-off-position.

(b) Radiographic exposure devices that have the sealed source storage position located more than 4

inches (10 centimeters) from an exterior surface of the device, and storage containers for sealed sources or outer containers for radiography exposure devices, shall have radiation levels not exceeding 200 milliroentgens (51.6 $\mu\text{C}/\text{kg}$) per hour and not exceeding 10 milliroentgens (2.58 $\mu\text{C}/\text{kg}$) per hour at 1 meter from an exterior surface when the sealed source is in the shielded—off—position.]

Out-of-State users of sealed source radiographic exposure devices or X-ray machines shall meet the requirements of § 216.7 or 217.121 (relating to out-of-state radiation producing machines; and reciprocity of licenses of by-product, source, and special nuclear materials in quantities not sufficient to form a critical mass), as appropriate.

§ 225.12. [Radiation source locks] Prohibitions.

[(a) A radiation source shall be kept in a lockable radiographic exposure device or in a lockable source changer to prevent unauthorized removal of, or accidental exposure from, the radiation source. The radiographic exposure device, source changer and storage container shall be kept locked when containing a radiation source except when under the direct surveillance of a radiographer or radiographer's assistant, or as may be otherwise authorized under § 225.52 (relating to security).

(b) Radiographic exposure devices, source changers and storage containers, prior to being moved from one location to another and also prior to being secured at a given location shall be locked and surveyed to assure that the sealed source is in the shielded position.]

Human use of the radiation sources covered by this chapter is not permitted.

(*Editor's Note:* Sections 225.13—225.18, 225.21—225.23, 225.31—225.33 and 225.41—225.44 are proposed to be deleted. The current versions of these sections appear at pps. 225-6—225-17, *Pennsylvania Code* serial pps. (203960)—(203971)).

§§ 225.13—225.18. (Reserved).

[RADIATION-PRODUCING MACHINE
REQUIREMENTS]

§§ 225.21—225.23. (Reserved).

[RADIATION SURVEY INSTRUMENTS AND
LOGS]

§§ 225.31—225.33. (Reserved).

[OPERATOR'S PERSONAL SAFETY
REQUIREMENTS]

§§ 225.41—225.44. (Reserved).

[PRECAUTIONARY PROCEDURES] GENERAL
ADMINISTRATIVE REQUIREMENTS

§ 225.51. [Permanent radiographic installation]
Duties of personnel.

[Permanent radiographic installations having high radiation area entrance controls of the types described in §§ 219.91 and 219.154 (relating to control of access to high radiation areas; and posting of high radiation areas) shall also meet the following requirements.

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation shall have visible and audible warning signals to warn of the presence of radiation. The visible signal shall be activated by radiation whenever the source is exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed.

(2) The control device or alarm system shall be tested for proper operation at the beginning of each day of use.]

(a) The radiation safety officer (RSO) shall be an individual who shall ensure that radiation safety activities are being performed in accordance with approved procedures and requirements in the daily operation of the licensee's or registrant's program, and in compliance with Department requirements, and who has the authority to suspend or terminate operations which are not being conducted in accordance with license or registration conditions.

(b) The radiographer shall be an individual who performs or who is in attendance at a site where a source is being used, who personally supervises radiographic operations, and who is responsible to the licensee or registrant for ensuring compliance with this article and conditions of a license or registration.

(c) The radiographer's assistant shall be an individual who, under the personal supervision of a radiographer, uses radiographic exposure devices, sealed sources or X-ray machines, related handling tools or radiation survey instrumentation.

(d) The radiography trainee is an individual who is in the process of becoming a radiographer's assistant or a radiographer, in accordance with a licensee's or registrant's procedures. The trainee is not permitted to operate radiographic exposure devices, sealed sources or X-ray machines, or radiation survey instrumentation.

§ 225.71. Training of personnel.

A licensee or registrant may not allow an individual to act as a radiographer or assistant radiographer unless that individual meets the requirements of § 225.72 (relating to training and testing), appropriate license or registration requirements, and operating and emergency procedures.

§ 225.72. Training and testing.

(a) The licensee or registrant may not permit an individual to act as a radiographer until that individual:

(1) Has been instructed in the subjects outlined in Appendix A (relating to subjects to be covered during instruction of radiographs).

(2) Is certified through a radiographer's certification program by a certifying entity in accordance with the criteria specified in §§ 225.102 and 225.103 (relating to requirements for an independent certifying organization; and requirements for certification programs). An independent organization that would like to be recognized as a certifying entity shall submit its request to the Department. The licensee or registrant may allow an individual who has not met the certification requirements to act as

a radiographer, so long as the individual has received the training required under this subchapter. This allowance expires _____ (*Editor's Note: The blank refers to a date 2 years after the effective date of adoption of this proposal.*)

(3) Has received copies of this chapter, Chapters 219, 220 and 230. A copy of the license or certificate of registration issued to the licensee or registrant and copies of the licensee's or registrant's operating and emergency procedures.

(4) Has been instructed in the use of the licensee's or registrant's sources of radiation, radiographic exposure devices, radiation-producing machines, related handling tools, radiation survey instruments, regulations, and operating and emergency procedures.

(5) Has demonstrated, to the satisfaction of the licensee or registrant, competency and understanding of the information as evidenced by having successfully completed a written test and a field examination.

(b) The licensee or registrant may not permit an individual to act as a radiographer's assistant until that individual:

(1) Has received copies of, and instruction in, the licensee's or registrant's operating and emergency procedures.

(2) Has been instructed in the use, and has demonstrated, to the satisfaction of the licensee or registrant, that when the individual is under the direct personal supervision of the radiographer, the individual is competent in the use of sources of radiation, radiographic exposure devices, related handling tools and radiation survey instruments that will be used.

(3) Has demonstrated, to the satisfaction of the licensee or registrant, an understanding of the information as evidenced by having successfully completed a written or oral test and a field examination on the subjects relevant to being an assistant radiographer.

(c) Records of the training required under subsections (a) and (b), including copies of written tests, dates of oral tests and field examinations, shall be maintained for inspection by the Department for 5 years following termination of employment by the individual or until the radioactive material license or certificate of registration is terminated.

§ 225.73. Audits and safety reviews of radiographers and radiographers' assistants.

(a) The licensee or registrant shall provide safety reviews for radiographers and radiographer's assistants at least once during each calendar year.

(b) The licensee or registrant shall conduct an annual inspection program for the job performance of each radiographer and radiographer's assistant to ensure that this title, license or certificate of registration requirements and the licensee's or registrant's operating and emergency procedures are followed. This audit program shall:

(1) Include observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed 1-calendar year.

(2) Provide that, if a radiographer or radiographer's assistant has not participated in a radiographic operation for more than 6 months since the last inspection, the individual's performance shall be observed and recorded when the individual next participates in a radiographic operation.

(c) The licensee or registrant shall maintain records of the training required in subsections (a) and (b) to include certification documents, written and field examinations, annual safety reviews and annual audits of job performance. These records shall be maintained by the licensee or registrant for inspection by the Department for 5 years following termination of employment by the individual or until the radioactive material license or certificate of registration is terminated.

§ 225.74. Reporting requirements.

(a) In addition to the reporting requirements in Chapter 219 (relating to standards for protection against radiation), each licensee or registrant shall provide to the Department, within 30 days of its occurrence, a written report on the following incidents involving radiographic equipment used for industrial radiography:

(1) Unintentional disconnection of the source assembly from the control cable.

(2) Inability to retract or secure a sealed source to its fully shielded position.

(3) Failure of a component critical to the safe operation of a radiographic exposure device to perform its intended function properly.

(4) Inability to terminate irradiation with an X-ray machine.

(5) Failure of an interlock in shielded room radiography.

(b) The licensee or registrant shall include the following information in each report submitted under subsection (a):

(1) A description of the equipment problem.

(2) The cause of the incident, if known or determined.

(3) The manufacturer and model number of the equipment involved.

(4) The place, time and date of the incident.

(5) The action taken to reestablish normal operations.

(6) The corrective action taken or planned to prevent reoccurrence.

(7) The names and qualifications of personnel involved.

(c) Reports of overexposures, required under § 219.222 (relating to notification of incidents) or of excessive exposures, required under § 219.223 (relating to reports of exposures, radiation levels and concentrations of radioactive material exceeding the limits) which involve the failure of safety components of radiography equipment shall also include the information specified under subsection (b).

GENERAL TECHNICAL REQUIREMENTS

§ 225.101. Certification of personnel.

Radiographers and assistant radiographers shall meet the examination criteria in the license application and procedures defined in the license application.

§ 225.102. Requirements for an independent certifying organization.

An independent certifying organization shall meet the following conditions:

(1) Be an organization such as a society or association, whose members participate in, or have an interest in, the fields of industrial radiography or nondestructive testing.

(2) Make its membership available to the general public Nationwide that is not restricted because of race, color, religion, sex, age, national origin or disability.

(3) Have a certification program open to non-members.

(4) Be an incorporated, Nationally-recognized organization, that is involved in setting National standards of practice within its fields of expertise.

(5) Have an adequate, full-time staff, a viable system of financing its operations, and a policy and decisionmaking review board.

(6) Have a set of written organizational bylaws and policies that provide adequate assurances of lack of conflict of interest and a system of monitoring and enforcing those bylaws and policies.

(7) Have a committee, whose members can carry out their responsibilities impartially, to review and improve the certification guidelines and procedures, and to advise the organization's staff in implementing the certification program.

(8) Have a committee, whose members can carry out their responsibilities impartially, to review complaints against certified individuals and to determine appropriate sanctions.

(9) Have written procedures describing all aspects of its certification program, maintain records of the current status of each individual's certification and the administration of its certification program.

(10) Have procedures to ensure that certified individuals are provided due process with respect to the administration of its certification program, including the process of becoming certified, and any sanctions imposed against certified individuals.

(11) Have procedures for proctoring examinations, including qualifications for proctors. These procedures shall ensure that the individuals proctoring each examination are not employed by the same company or corporation or a wholly-owned subsidiary of the company or corporation as any of the examinees.

(12) Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC or agreement states.

(13) Allow periodic review of its certification program and its related records.

(14) Provide a description to the Department of its procedures for choosing examination sites and for providing an appropriate examination environment.

§ 225.103. Requirements for certification programs.

Certification programs shall meet the following conditions:

(1) Require that individuals meet the following:

(i) Receive training in the topics in Appendix A (relating to subjects to be covered during the instruction of radiographers).

(ii) Complete satisfactorily a written examination covering the topics in Appendix A.

(2) Require applicants for certification to provide documentation that demonstrates that the applicant has met the following:

(i) Received training in the topics in Appendix A.

(ii) Completed satisfactorily a minimum period of on-the-job training.

(iii) Received verification by an agreement state or NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer.

(3) Include procedures to ensure that all examination questions are protected from disclosure.

(4) Include procedures for denying an application, revoking, suspending and reinstating a certificate.

(5) Provide a certification period of not less than 3 years nor more than 5 years.

(6) Include procedures for renewing the certifications and, if the procedures allow renewals without examination, require evidence of recent active, full-time employment and annual refresher training.

(7) Include procedures whereby an individual's certification may be revoked, suspended or restricted for willful or significant failure to comply with his employer's operating and emergency procedures, or the Department's, the NRC's or an agreement state's regulations.

(8) Provide for automatic suspension of an individual's certification, based on the Department's, NRC's or an agreement state's action prohibiting the individual from acting as a radiographer.

(9) Provide the sanctions imposed against the certified individuals that are at least as severe as any action taken by the Department, NRC or an agreement state.

(10) Provide a timely response to inquiries, by telephone, letter or electronic means, from members of the public, about an individual's certification status.

§ 225.104. Requirements for written examinations.

Examinations shall meet the following conditions:

(1) Be designed to test an individual's knowledge and understanding of the topics listed in Appendix A (relating to subjects to be covered during the instruction of radiographers) or equivalent NRC or agreement state requirements.

(2) Be written in a multiple-choice format.

(3) Have test items drawn from a question bank containing psychometrically valid questions based on the material in Appendix A.

§ 225.105. Permanent radiographic installation.

(a) Permanent radiographic installations having high radiation area entrance controls of the types described in §§ 219.91 and 219.154 (relating to control of access to high radiation areas; and posting of high radiation areas) shall also meet the following requirements:

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation shall have both visible and audible warning signals to warn of the presence of radiation. The visible signal shall be actuated by radiation whenever the source is exposed or when the X-ray tube is energized. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed or the X-ray tube is energized.

(2) The entrance control device or alarm system shall be tested for proper function prior to beginning operations on each day of use.

(3) The radiographic exposure system may not be used if an entrance control device or alarm system is not operating properly. If an entrance control device or alarm system is not functioning properly, it shall be removed from service and repaired or replaced immediately. If no replacement is available, the facility may continue to be used so long as the licensee or registrant implements the continuous surveillance of §§ 225.52 and 225.53 (relating to security; and posting) and, if the permanent radiographic installation uses sealed sources, § 225.261 (relating to radiographic operations, security and posting) and uses an alarming ratemeter. Before the entrance control device or alarm system is returned to service, the radiation safety officer or an individual designated by the radiation safety officer shall validate the repair.

(b) Records of the tests performed under subsection (a) shall be maintained for inspection by the Department for 5 years.

§ 225.106. Operating requirements.

(a) When radiography is performed at a location other than a permanent radiographic installation, a minimum of two radiographic personnel shall be present to operate the radiographic exposure device. At least one of the radiographic personnel shall be a certified radiographer. The other individual may be either a certified radiographer or a radiographer's assistant.

(b) Collimators shall be used in industrial radiographic systems that use crank-out devices except when physically impossible.

(c) Other than a radiographer, or a radiographer's assistant who is under the personal supervision of a radiographer, an individual may not manipulate the controls or operate the equipment used in industrial radiographic operations.

(d) At each job site, the following shall be supplied by the licensee or registrant:

(1) The appropriate barrier ropes and warning signs.

(2) At least one operable, calibrated radiation survey instrument.

(3) A current whole body individual monitoring device ("film badge" or "TLD") for each worker.

(4) An operable, calibrated pocket ionization chamber (that is, "pocket dosimeter") with a range of zero to 51.6 $\mu\text{C}/\text{kg}$ (200 milliroentgen) for each worker.

(5) An operable, calibrated alarm rate meter for each worker who performs industrial radiography with a sealed source.

(e) An industrial radiographic operation may not be performed if any of the items in subsection (d) are not available at the job site or is inoperable.

§ 225.107. Records required at temporary job sites.

Each licensee or registrant using a source of radiation at a temporary job site shall maintain and have available at that job site, for inspection by the Department, the following records or documents:

(1) The radioactive materials license, certificate of registration or equivalent document and personnel certifications.

(2) Operating and emergency procedures.

(3) Relevant regulations of the Department.

(4) Survey records required under this chapter for the period of operation at the site.

(5) Daily pocket ionization chamber records for the period of operation at the site.

(6) If sealed sources are used at the site, daily alarm rate meter records for the period of operation at the site.

(7) Both the latest radiation survey meter calibration records and sealed source leakage or contamination test records for specific devices in use at the site. Acceptable records include tags or labels that are affixed to the device or survey meter and decay charts showing leakage or contamination test results for the sources that have been manufactured within the last 6 months.

§ 225.108. Operating and emergency procedures.

The licensee's or registrant's operating and emergency procedures shall include instruction in at least the following:

(1) Handling and use of sources of radiation to be employed so that no individual is likely to be exposed to radiation in excess of the limits established in Chapter 219 (relating to standards for protection against radiation).

(2) Methods and occasions for conducting the radiation surveys.

(3) Methods for controlling access to areas where radiographic operations are being conducted.

(4) Methods and occasions for locking and securing sources of radiation.

(5) Personnel monitoring and the use of individual monitoring devices, including steps that are to be taken immediately by radiographic personnel if of an ionization chamber (that is, "pocket dosimeter") is found to be off-scale.

(6) Transportation to field locations, including packing of sources of radiation in the vehicle, placarding of the vehicle if necessary, and control of sources of radiation during transport.

(7) Methods and procedures for minimizing exposure of individuals in the event of an accident, including procedures to follow in the event of a disconnect accident, a transportation accident or the loss of a sealed source.

(8) The procedure for notifying proper personnel in the event of an accident or loss of a sealed source.

(9) Maintenance of records required by the Department.

(10) The inspection and maintenance of radiographic exposure devices, source changers, storage containers, transportation containers, source guide tubes, crank-out devices and radiation-producing machines.

RADIATION SURVEY INSTRUMENT AND PERSONNEL MONITORING REQUIREMENTS

§ 225.151. Radiation survey instruments.

(a) A licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments to make physical radiation surveys as required by this chapter and Chapter 219 (relating to standards for the protection against radiation).

(b) A radiographic operation may not be conducted unless calibrated and operable radiation survey instrumentation is available and used at each site where radiographic exposures and radiation-producing machines are used.

(c) Immediately prior to use, a radiation survey instrument shall be checked to ensure that it is operating properly by bringing it near a source of radiation and observing its response. Instruments that fail to respond may not be used.

§ 225.152. Radiation survey instrument calibration requirements.

(a) In addition to the requirements of § 225.151 (relating to radiation survey instruments), instruments required by this chapter shall be capable of measuring 0.516 $\mu\text{C}/\text{kg}$ (2 mR) per hour through 258 $\mu\text{C}/\text{kg}$ (1 R) per hour.

(b) Each radiation instrument shall be calibrated:

- (1) At energies appropriate for use.
- (2) At intervals not to exceed one of the following:
 - (i) For radioactive materials, 6 months.
 - (ii) For radiation-producing machines, 6 months.
- (3) After each instrument servicing, other than battery replacement.
- (4) So that accuracy within $\pm 20\%$ can be demonstrated.

(5) For linear scale instruments, at two points located approximately one-third and two-thirds of full scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least 1 decade; and for digital instruments, at three points between 0.516 $\mu\text{C}/\text{kg}$ (2 mR) and 258 $\mu\text{C}/\text{kg}$ (1 R) per hour.

(6) By a person authorized by the Department, the NRC or an agreement state.

(c) Records of calibration shall be maintained for 5 years after the calibration date for inspection by the Department.

§ 225.153. Personnel monitoring control.

(a) A licensee or registrant may not permit an individual to act as a radiographer or as a radiographer's assistant, unless, at all times during radiographic operations, each individual wears a combination of direct-reading pocket dosimeter, an operating alarm ratemeter and either a film badge or a thermoluminescent dosimeter (TLD). The individual shall wear the personnel monitors on the trunk of the body. Registrants are exempted from requiring the use of alarm rate meters. Each film badge or TLD shall be assigned to and worn by only one individual.

(b) Film badges shall be replaced at intervals not to exceed 1 month and thermoluminescent dosimeters (TLDs) shall be replaced at intervals not to exceed 3 months.

(c) The use of pocket dosimeters is subject to the following requirements:

(1) Pocket dosimeters shall have a range of 0 to 51.6 $\mu\text{C}/\text{kg}$ (200 mR) and shall be recharged at least daily or at the start of each work shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(2) Pocket dosimeters shall be read and exposures recorded at least at the beginning and end of each worker's shift involving the use of a source of radiation.

(3) Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed 1 year, and acceptable dosimeters shall read within $\pm 30\%$ of the true radiation exposure. Records of pocket dosimeter calibration shall be maintained for inspection by the Department for 5 years.

(4) If an individual's pocket dosimeter is discharged beyond its range (that is, "off-scale"), industrial radiographic operations by that individual shall cease immediately and the individual's film badge or TLD shall be sent immediately for processing. The individual may not use sources of radiation until the individual's radiation dose has been determined.

(d) Reports received from film badge or TLD processors and workers with daily pocket dosimeter readings shall be kept for inspection by the Department until the radioactive materials license or certificate of registration is terminated or until the Department authorizes their disposition, in writing, following a determination by the Department that the records contain inaccurate personnel monitoring information.

§ 225.154. Personal alarm rate meters.

(a) In addition to other requirements of this subsection, each individual performing radiography with sealed sources shall wear and use an operable and functioning alarm rate meter. Each alarm rate meter shall:

(1) Be checked prior to use at the start of each shift to ensure that the alarm functions properly (sounds).

(2) Be set to give an alarm signal at a preset dose rate of 5 millisievert (500 millirem) per hour or less.

(3) Require special means to change the preset alarm function.

(4) Be checked for proper response to radiation at intervals not to exceed 1 year. The alarm rate shall alarm within $\pm 20\%$ of the true radiation dose rate. Records of alarm rate meter calibration shall be maintained for inspection by the Department for 5 years.

(b) The alarm rate meter shall be used in addition to, and not as substitute for, the portable radiation survey instrument required by this chapter. The alarm rate meter is intended to provide additional assurance that the radiation exposure levels are within regulatory limits.

RADIATION PRODUCING MACHINE REQUIREMENTS

§ 225.201. Cabinet X-ray systems.

(a) It shall be impossible to energize a cabinet X-ray system unless all openings are securely closed and the openings meet the requirements of § 219.31 (relating to occupational dose limits for adults). Each access door to the cabinet shall have an interlock that terminates the exposure whenever the door is opened. The enclosure shall be shielded so that every location on the exterior meets the conditions for an unrestricted area.

(b) A registrant may not permit an individual to operate a cabinet X-ray system until the individual has received a copy of, and instruction in, the operating procedures for the system and has demonstrated an understanding of the operating procedures and competency in the use of the cabinet X-ray system.

(c) The registrant shall evaluate the cabinet X-ray system to assure compliance with § 219.31 (relating to occupational dose limits for adults) and with 21 CFR 1020.40 (relating to cabinet X-ray systems) if the system is a certified cabinet X-ray system. The records of these evaluations shall be maintained for inspection by the Department for 5 years after evaluation.

(d) The registrant shall test the on-off switch, the unit interlocks and safety devices at intervals not exceeding 1 year, and make repairs as necessary. Records of these tests shall be maintained for inspection by the Department for 5 years.

(e) Cabinet X-ray systems are exempt from all other provisions of this chapter.

§ 225.202. Shielded room X-ray machine radiography.

(a) A room used for shielded room radiography shall be shielded so that every location on the exterior meets conditions for an unrestricted area and the only access to the room is through openings which are interlocked so that the radiation source will not operate unless all openings are securely closed and meet the requirements of § 219.91 (relating to control of access to high radiation areas).

(b) A registrant may not permit an individual to operate a radiation-producing machine for shielded room radiography until the individual has received a copy of, and instruction in, the operating proce-

dures for the unit and has demonstrated an understanding of the operating procedures and competency in the use of the unit.

(c) The registrant shall provide personnel monitoring equipment to every individual who operates, positions material for irradiation or performs maintenance on a radiation-producing machine for shielded room radiography.

(d) The operator shall conduct a physical radiation survey to determine that the radiation machine X-ray tube is de-energized prior to each entry into the radiographic exposure area.

(e) Shielded room radiography using radiation-producing machines shall be exempt from §§ 225.251—225.262 (relating to sealed source requirements).

§ 225.203. Field site radiography.

(a) The operator shall conduct a physical radiation survey to determine that the radiation machine X-ray tube is de-energized prior to each entry into the radiographic exposure area. Survey results and records of the boundary location shall be maintained and kept available for inspection by the Department for 5 years.

(b) Mobile or portable radiation-producing machines shall be physically secured to prevent tampering or removal by unauthorized personnel.

(c) Other radiography using radiation-producing machines shall be exempt from §§ 225.251—225.262 (relating to sealed source requirements).

§ 225.204. Surveys and survey records.

(a) A survey with a calibrated radiation survey instrument shall be made after each radiographic exposure to determine that the radiation-producing machine X-ray tube is de-energized.

(b) Records of the surveys required by subsection (a) shall be maintained for inspection by the Department for 5 years. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the Department authorizes their disposition.

§ 225.205. Utilization logs.

A registrant shall maintain current logs, which shall be kept available for inspection by the Department for 5 years from the date of the event, showing for each radiation-producing machine, the following applicable information:

(1) The identity (name and signature) of the operator to whom the radiation-producing machine is assigned.

(2) The model and serial number of the radiation-producing machine.

(3) The location and date of use.

(4) The technique factors (tube kilovoltage, tube current, exposure time) used for each radiographic exposure.

§ 225.206. Bomb detection or baggage/package X-Ray systems.

(a) This section applies to X-ray systems that produce an image which may be used to screen packages for the presence of explosive devices or components, weapons, or other contraband or pro-

hibited items. This section does not apply to cabinet X-ray systems designed and used primarily for the inspection of baggage or packages at airports. X-ray systems used for bomb detection or baggage/package screening are exempt from §§ 225.251—225.262 (relating to sealed source requirements).

(b) An X-ray system used for explosives or weapons detection may not be used on human beings or animals. X-ray systems whose purpose is the irradiation of human beings for medical diagnosis are covered under Chapter 221 (relating to X-rays in the healing arts). X-ray systems that irradiate animals for diagnosis or therapy are covered under Chapter 223 (relating to veterinary medicine).

(c) Training shall be as follows:

(1) A registrant shall provide training and safety rules to each individual who operates the radiation-producing machines or equipment under his control, including restrictions of the operating technique required for the safe operation of the particular apparatus, and require that the operator demonstrate familiarity with these rules.

(2) An individual may not operate these X-ray systems unless the individual has received training in, and received a copy of, the operating instructions for the unit and the operating and emergency procedures relevant to the use of these systems. The operator shall demonstrate, to the satisfaction of the registrant, competency in the safe use of this equipment.

(d) Radiographic equipment shall conform to the following:

(1) The leakage radiation from the source assembly measured at a distance of 1 meter in any direction from the source may not exceed 25.8 $\mu\text{C}/\text{kg}$ (100 mR) in 1 hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(2) Portable X-ray systems shall be equipped with collimators which are capable of restricting the useful beam to the area of interest. Collimators shall provide the same degree of protection required in paragraph (1).

(3) A means shall be provided to terminate the exposure after a preset time or exposure or a preset product of exposure time and tube current.

(4) The X-ray control shall have a dead-man type exposure switch.

(5) X-ray controls shall indicate the technique factors (that is, kilovoltage, tube current and exposure time or the product of tube current and exposure time).

(6) The X-ray machine shall be labeled with a readily discernible sign bearing the radiation symbol and the words, "Caution Radiation—This equipment produces radiation when energized" or words containing a similar warning, near any switch that energizes the X-ray tube.

(7) For fixed radiographic equipment, an easily visible warning light shall be located adjacent to the X-ray tube and labeled with the words "X-ray on" or words containing a similar warning. This

light shall be illuminated only when the X-ray tube is energized or only when the shutter is open.

(e) Fluoroscopic equipment shall be as follows:

(1) Leakage radiation from the source assembly measured at a distance of 1 meter in any direction from the source may not exceed 25.8 $\mu\text{C}/\text{kg}$ (100 mR) in 1 hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(2) The X-ray machine shall be labeled with a readily discernible sign bearing the radiation symbol and the words, "Caution Radiation—This equipment produces radiation when energized" or words containing a similar warning, near any switch that energizes the X-ray tube.

(3) To the extent practicable, the X-ray system (X-ray tube, imaging system and the object being irradiated) shall be completely enclosed so that every location on the exterior meets conditions for an unrestricted area and the only access to the room or enclosure is through openings which are interlocked so that the radiation source will not operate unless all openings are securely closed and meet the requirements of § 219.91 (relating to control of access to high radiation areas).

(4) The equipment shall be so constructed that, under conditions of normal use, the entire cross-section of the useful beam shall be attenuated by a primary protective barrier permanently incorporated into the equipment.

(5) The X-ray control shall have a dead-man type exposure switch. Activation of the X-ray beam shall be possible only by continuous pressure on the exposure switch.

(6) The X-ray machine shall be labeled with a readily discernible sign bearing the radiation symbol and the words, "Caution Radiation—This equipment produces radiation when energized" or words containing a similar warning, near any switch that energizes the X-ray tube.

(7) An easily visible warning light shall be located adjacent to the X-ray tube or on the outside of the enclosure and be labeled with the words "X-ray on" or words containing a similar warning. This light shall be illuminated only when the X-ray tube is energized or only when the shutter is open.

(f) Portable X-ray radiographic equipment operating procedures are as follows:

(1) To the extent practicable, portable X-ray tube heads shall be supported by a stand.

(2) To the extent practicable, supporting or positioning devices for the film shall be used for radiation exposures.

(3) Individuals, other than those whose presence is necessary to conduct the X-ray procedure, shall be located at least 5 meters away from the X-ray tube and the object being irradiated during exposures.

(4) An individual may not be regularly employed to support the film or object during radiation exposures.

(g) Fixed radiographic equipment operating procedures are as follows:

(1) A registrant shall test the safety and warning devices, including interlocks, at intervals not to exceed 12 months. Records of these tests shall be maintained for inspection by the Department for 5 years after the test has been conducted.

(2) A safety or warning device which is found not to be functioning properly shall be repaired as necessary.

§ 225.207. X-ray calibration systems.

(a) This section applies to registrants who regularly, or for commercial purposes, calibrate equipment used to measure the output of radiation for medical diagnosis and therapy, or for radiation survey meters and similar instrumentation. X-ray systems used for calibration purposes are exempt from §§ 225.251—225.262 (relating to sealed source requirements).

(b) A room or enclosure used for calibration shall be shielded so that every location on the exterior meets conditions for an unrestricted area and the only access to the room or enclosure is through openings which are interlocked so that the radiation source will not operate unless all openings are securely closed and meet the requirements of § 219.91 (relating to control of access to high radiation areas).

(c) A registrant may not permit an individual to operate a radiation-producing machine for shielded room radiography until the individual has received a copy of, an instruction in, the operating procedures for the unit and has demonstrated an understanding of the operating procedures and competency in the use of the unit.

(d) The operator shall conduct a physical radiation survey to determine that the radiation machine X-ray tube is de-energized prior to each entry into the radiographic exposure area.

(e) As an alternative to the radiation survey requirement of subsection (d), the registrant may use an independent radiation monitoring system that displays the radiation intensity or displays when radiation levels have returned to their pre-irradiation levels.

SEALED SOURCE REQUIREMENTS

§ 225.251. Performance requirements for radiography equipment.

Equipment used in industrial radiographic operations shall meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly and sealed source and all associated equipment shall meet the requirements in American National Standards Institute N432-1980, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," published as NBS Handbook 136 issued January, 1981.

(2) In addition to the requirements in paragraph (1), the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources:

(i) Each radiographic exposure device shall have attached to it by the user, a durable, legible, clearly visible label bearing the following:

(A) The chemical symbol and mass number of the radionuclide in the device.

(B) The activity and the date on which this activity was last measured.

(C) The model number and serial number of the sealed source.

(D) The manufacturer of the sealed source.

(E) The licensee's name, address and telephone number.

(ii) A radiographic exposure device intended for use as a Type B transport container shall meet the applicable requirements of Chapter 230 (relating to transportation of radioactive materials).

(iii) Modification of an exposure device, source changer, source assembly and associated equipment is prohibited, unless the design of any replacement component including source holder, source assembly, controls or guide tubes would not compromise the design safety features of the system.

(3) In addition to the requirements specified in paragraphs (1) and (2), the following requirements apply to radiographic exposure devices, source assemblies and associated equipment that allow the source to be moved out of the device for routine operations or to source changers:

(i) The coupling between the source assembly and the control cable shall be designed so that the source assembly will not become disconnected if cranked outside the guide tube. The coupling shall be such that it cannot be unintentionally disconnected under normal and reasonable, or foreseeable abnormal, conditions.

(ii) The device shall automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation of the exposure device.

(iii) The outlet fittings, lock box and drive cable fittings on each radiographic exposure device shall be equipped with safety plugs or covers which shall be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(iv) Each sealed source or source assembly shall have attached to it or engraved on it a durable, legible, visible label with the words, "Danger, Radioactive." The label may not interfere with the safe operation of the exposure device or associated equipment.

(v) The guide tube shall be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(vi) Guide tubes shall be used when moving the source out of the device.

(vii) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube shall be attached to the outmost end of the guide tube during radiographic operations.

(viii) The guide tube exposure head connection shall be able to withstand the tensile test for control units specified in ANSI N432-1980.

(ix) Source changers shall provide a system for assuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) Newly manufactured radiographic exposure devices and associated equipment acquired by a licensee after January 10, 1992, shall comply with this section.

(5) Radiographic exposure devices and associated equipment in use after January 10, 1996, shall comply with this section.

(6) Notwithstanding paragraphs (1), (4) and (5), equipment used in industrial radiographic operations need not comply with section 8.9.2(c) of the endurance test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

§ 225.252. Limits on levels of radiation for radiographic exposure devices, storage containers and source changers.

(a) Radiographic exposure devices measuring less than 10 centimeters (4 inches) from the sealed source storage position to any exterior surface of the device shall have no radiation level in excess of 12.9 $\mu\text{C}/\text{kg}$ (50 mR) per hour at 15 centimeters (6 inches) from any exterior surface of the device.

(b) Radiographic exposure devices measuring a minimum of 10 centimeters (4 inches) from the sealed source storage position to any exterior surface of the device or for radiographic exposure devices, shall have no radiation level in excess of 51.6 $\mu\text{C}/\text{kg}$ (200 mR) per hour at any exterior surface, and 2.58 $\mu\text{C}/\text{kg}$ (10 mR) per hour at 1 meter from any exterior surface. The radiation level specified is with the sealed source in its shielded ("off") position.

(c) The maximum exposure rate 1 meter from storage containers and source changers is 51.6 $\mu\text{C}/\text{kg}$ (200 mR) per hour at any exterior surface, and 2.58 $\mu\text{C}/\text{kg}$ (10 mR) per hour at 1 meter from any exterior surface when the sealed source is in its shielded ("off") position.

(d) Subsection (a) applies to all equipment manufactured prior to January 10, 1992. After January 10, 1996, radiographic equipment other than storage containers and source changers shall meet the requirements of § 225.251 (relating to performance requirements for radiography equipment).

§ 225.253. Locking and relocation of radiographic exposure devices, storage containers and source changers.

(a) A license may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible and clearly visible label bearing the standard trefoil radiation caution symbol conventional colors, that is, magenta, purple or black on a yellow background,

having a minimum diameter of 25 millimeters, and the wording: "Caution, Radioactive Material, Notify Civil Authorities (or "Name of Company") or "Danger".

(b) Each radiographic exposure device shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from a shielded position. The exposure device or its container shall be kept locked when not under the direct surveillance of a radiographer or a radiographer's assistant or as otherwise may be authorized in § 225.105 (relating to permanent radiographic installations). During radiographic operations the sealed source assembly shall be secured in the shielded position each time the source is returned to that position.

(c) Each sealed source storage container and source changer shall have a lock or outer lock container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers shall be kept locked when containing sealed sources except when under the direct surveillance of a radiographer or radiographer's assistant.

(d) Radiographic exposure devices, source changers and storage containers, before being moved from one location to another, shall have the guide tubes and control cables disconnected, safety plugs or covers applied, be locked and physically secured to prevent accidental loss, tampering or removal of licensed material.

(e) A lock-out survey shall be performed before moving the radiographic exposure device, source changer or storage container to a new location and when securing against unauthorized removal.

§ 225.254. Storage precautions.

Locked radiographic exposure devices, source changers, storage containers and transport containers that contain sealed sources shall be secured to prevent tampering or removal by unauthorized personnel from its permanent storage facility.

§ 225.255. Leak testing and replacement of sealed sources.

(a) Only persons specifically authorized by the Department, the NRC or an agreement state, may replace or leak test a sealed source fastened to or contained in a radiographic exposure device or source changer.

(b) Each sealed source shall be tested for leakage at intervals not to exceed 6 months. Each sealed source shall be leak tested prior to its first use unless the supplier furnishes a certificate stating that the source has been tested within 6 months prior to its first use.

(c) Each exposure device using depleted (DU) uranium shielding and an "S"-tube configuration shall be tested for DU contamination at intervals not to exceed 12 months.

(d) The leak test required by subsections (a) and (b) shall be capable of detecting the presence of .005 microcuries (185 Bq) of the removable contamination of the test sample. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest acces-

sible point to the sealed source position or other appropriate measuring point by a procedure approved under § 219.65(5) (relating to specific licenses for the use of sealed sources in industrial radiography).

(e) Records of leak test results shall be kept in units of becquerels or microcuries and be maintained for 5 years from the date of the test for inspection by the Department.

(f) A leak test conducted under subsection (b) which reveals the presence of 0.005 microcuries (185 Bq) or more of removable contamination is considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and cause it to be decontaminated and repaired or to be disposed of, in accordance with §§ 217.101 and 219.61–219.66. Within 5 days of the test that reveals the leakage, the licensee shall file a report with the Department describing the equipment involved, and the test results and the corrective action taken.

(g) If the testing of an exposure device using depleted uranium shielding reveals the presence of DU contamination, the exposure device shall be removed from use until an evaluation of the wear of the S-tube has been made. If this evaluation reveals that the S-tube is worn through, the device may not be used again.

(h) Sealed sources that are stored and not being used shall be leak tested within 6 months prior to the date of transfer, and the maximum interval between leak tests may not exceed 3 years.

(i) Depleted uranium shielding devices that are stored and not being used need not be tested for depleted uranium contamination while in storage and not in use. The device shall be tested for DU contamination prior to use or transfer of the device if the interval of storage exceeds 12 months. A record of the depleted uranium leak test shall be made in accordance with subsection (e).

(j) A sealed source which is not fastened to or contained in a radiographic exposure device shall have a durable tag permanently attached to it. This tag shall have a dimension of at least 1 inch (2.5 centimeters) square and bear the prescribed radiation caution symbol in conventional colors, magenta or purple on a yellow background, and at least the instructions: "Danger—Radioactive Material—Do not handle—Notify civil authorities if found."

§ 225.256. Physical inventories.

(a) A licensee shall conduct a physical inventory at intervals not to exceed 3 months to account for all sources of radiation received or possessed. The inventory shall cover all sources or radiation, including, but not limited to, sealed sources, source changers and radiographic exposure devices containing depleted uranium as shielding.

(b) Records of the inventories shall be maintained for 5 years from the date of the inventory for inspection by the Department and shall include the manufacturer, model, serial number, radionuclide and activity, if applicable, location of each source of radiation, date of the inventory and the name of the individual performing the inventory.

(c) If, during an inventory, a radiation source cannot be located or accounted, the licensee shall notify the Department as required under § 219.221 (relating to reports of stolen, lost or missing licensed sources of radiation).

§ 225.257. Inspection and maintenance of radiographic exposure devices, storage containers, associated equipment and source changers.

(a) A licensee shall ensure that checks for obvious defects in radiographic exposure devices, transport containers, source changers, source guide tubes and crankout devices are performed at the beginning of each day of use.

(b) At intervals not to exceed 3 months, each licensee shall conduct a program of inspection and maintenance of the radiographic exposure devices, transport containers and source changers to assure proper functioning of components. Appropriate parts shall be maintained in accordance with manufacturer's specifications. The licensee shall have written procedures for the conduct of this program.

(c) A licensee shall have a written program for inspection and maintenance of the Type B packaging used to transport radioactive materials. This program shall include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(d) Records of inspection and maintenance shall be maintained for inspection by the Department for 5 years.

(e) If an inspection conducted under subsection (a) or (b) reveals damage to components critical to radiation safety, the licensee shall remove the device from service until repairs have been made.

(f) Opening, repair or modification of any sealed source shall be performed by persons specifically authorized by the Department.

§ 225.258. Utilization logs.

A licensee shall maintain current logs, which shall be kept available for 5 years from the date of the recorded event, for inspection by the Department, at the address specified in the license, showing for each sealed source the following information:

(1) The make, model and serial number of the radiographic exposure device or source container in which the sealed source is located.

(2) The identity and signature of the radiographer to whom assigned.

(3) The plant or site where used and dates of use.

§ 225.259. Radiation surveys and records.

(a) After each radiographic exposure, a survey with a calibrated radiation survey instrument shall be made to determine that the sealed source has returned to the shielded position. The entire perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a guide tube or collimator, the survey shall include the guide tube or collimator, or both.

(b) A physical radiation survey shall be made to determine that each sealed source is in its shielded position prior to securing the radiographic expo-

sure device or storage container as specified in § 225.253 (relating to locking and relocation or radiographic exposure devices, storage containers and source changers).

(c) Records of the surveys required by subsection (b) shall be maintained for inspection by the Department for 5 years. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the Department authorizes their disposition.

§ 225.260. Supervision of radiographer's assistant(s).

Except when a radiographer's assistant uses radiographic exposure devices, uses sealed sources or related source handling tools, or conducts physical radiation surveys required under § 225.259(a) and (b) (relating to radiation surveys and records) to determine that the sealed source has returned to the shielded position after an exposure, a radiographer's assistant shall be under the personal supervision of a qualified radiographer. The personal supervision shall include the radiographer's physical presence at the site where the sealed sources are being used at a proximity that immediate assistance can be given if required and watching the performance of the radiographer's assistant.

§ 225.261. Radiographic operations, security and posting.

(a) Whenever radiography is performed at a location other than a permanent radiographic installation, a radiographer shall be accompanied by at least one other qualified radiographer or an individual who has at minimum met the requirements of § 225.72(b) (relating to training and testing of radiographer's assistant). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(b) During each radiographic operation, a radiographer or a radiographer's assistant shall maintain constant direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except where one of the following exists:

(1) The high radiation area is equipped with a control device or alarm system as described in § 219.91 (relating to control of access to high radiation areas).

(2) The high radiation area is locked to protect against unauthorized or accidental entry.

(c) Areas in which radiography is being performed shall be conspicuously posted as required by § 219.153 or § 219.154 (relating to radiation areas; and high radiation areas), as appropriate.

(d) A licensee or registrant shall keep sufficient calibrated and operable radiation survey instruments at the location of use of licensed material or a radiation-producing machine.

(e) A radiographer or an assistant radiographer shall be located near the crank handle of the radiographic exposure device to return the sealed

source to its safe position in the event of unauthorized or accidental entry by an individual.

(f) Barricades shall be provided around the perimeter of the restricted area and shall be posted with sufficient conspicuous warning signs to prevent unauthorized entry. Radiation levels at the boundary of the restricted area may not be greater than 0.516 µC/kg (2 mR) in any 1 hour.

APPENDIX A

Subjects to be Covered During the Instruction of Radiographers

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II. Radiation Detection Instrumentation to be Used

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C. Use of personnel monitoring equipment

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2. Thermoluminescent dosimeters (TLDs)

3. Pocket dosimeters and alarm ratemeters

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CHAPTER 226. RADIATION SAFETY REQUIREMENTS FOR [WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES] WELL LOGGING

**Subchapter A. SCOPE AND DEFINITIONS
GENERAL**

§ 226.1. Purpose and scope.

This chapter establishes radiation safety requirements for persons using radiation sources for [**wireline service operations including mineral logging**] well logging in a single well, radioactive markers, uranium sinker bars and subsurface tracer studies. Persons who use radiation sources for [**wireline service**] well logging operations shall comply with this chapter, which is in addition to and not in substitution for other applicable requirements of this article.

§ 226.2. Definitions.

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

* * * * *

Fresh water aquifer—A geologic formation that is capable of yielding fresh water to a well or spring.

* * * * *

Logging assistant—An individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by this chapter.

Logging supervisor—The individual who uses radioactive material or provides personal supervision of the utilization of radiation sources at the temporary jobsite, and who is responsible for assuring compliance with this chapter and license conditions.

Logging tool—A device used beneath the surface to perform well logging.

[**Mineral logging**—Logging performed for the purpose of mineral exploration other than oil or gas.]

Personal supervision—Guidance and instruction by the supervisor who is physically present at the temporary jobsite and watching the performance of the operation in [such] proximity so that contact can be maintained and immediate assistance given as required.

Radioactive marker—Radioactive material placed beneath the surface or on a structure intended for subsurface use to determine depth or direction. The term includes radioactive collar markers and radioactive iron nails.

Safety review—The periodic review provided by the licensee for its employes on radiation safety aspects of well logging. This review may include, as appropriate, the results of internal inspections, new procedures or equipment, accidents or errors that have been observed or reported, and opportunities for employes to ask safety questions.

* * * * *

Subsurface casing for protecting fresh water aquifers—A pipe or tube used as a lining in a well to isolate fresh water aquifers from the well.

* * * * *

Temporary jobsite—A place where radioactive materials are present for the purpose of performing well logging or subsurface tracer studies.

Uranium sinker bar—A weight containing depleted uranium used to pull a logging tool toward the bottom of a well.

Well—A drilled hole in which well logging may be performed.

Well[-] logging—The use of measuring devices or tools which may contain radiation sources in well-bores or cavities to obtain information about the well or adjacent formations, or both. The term includes subsurface tracer studies.

[*Wireline service operation*—An evaluation or mechanical service which is performed in the well-bore using logging tools with electrical or electronic cable assemblies.]

§ 226.3. Prohibition.

A licensee may not perform [*wireline service operations*] well logging with a sealed source unless, prior to commencement of the operation, the licensee has a written agreement with the well operator, well owner or drilling contractor that:

* * * * *

EQUIPMENT CONTROL

§ 226.11. Limits on levels of radiation.

The licensee or registrant shall use, store and transport radiation sources in accordance with §§ 219.31—219.38, 219.51 (relating to occupational dose limits; and radiation dose limits for individual members of the general public) and Chapter 230 (relating to packaging and transportation of radioactive material).

§ 226.12. Storage and transport precautions.

* * * * *

(c) Transport containers shall be locked and physically secured to the transporting vehicle to prevent accidental loss, tampering or unauthorized removal of the radiation sources.

§ 226.13. Radiation survey instruments.

(a) *Maintenance*. The licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments at a site where radiation sources are present to make physical radiation surveys as required by this chapter and by § 219.71 (relating to general). Instrumentation shall be capable of measuring 0.1 milliroentgen (25.8 nC/kg) per hour through at least 50 milliroentgens (12.9 µC/kg) per hour. [*Survey instruments acquired before December 19, 1987, and capable of measuring 0.1 milliroentgen (25.8 nC/kg) per hour through at least 20 milliroentgens (5.16 µC/kg) per hour also satisfy this requirement until July 14, 1992.*]

(b) *Calibration*.

* * * * *

(3) For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale; for logarithmic scale instruments, at midrange of each decade, and at two points of at least 1 decade; and for digital instruments, at appropriate points.

(c) *Time period*. Calibration records shall be maintained for [a period of 5] 3 years or until the Department authorizes their disposal.

(d) The licensee shall have available additional calibrated and operable radiation survey instruments sensitive enough to detect the low radiation and contamination levels that could be encountered if a source ruptured. The licensee may own these instruments or may have a procedure to obtain them quickly from another person.

§ 226.14. Leak testing of sealed sources.

* * * * *

(b) A sealed source shall be tested for leakage at intervals not to exceed 6 months. The sealed source shall be leak-tested prior to its first use unless the supplier furnishes a certificate stating that the source has been tested within 6 months prior to its first use. If it is suspected that a sealed source may be leaking, it shall be removed from service immediately and tested for leakage. The leak test shall be capable of detecting the presence of .005 microcuries (185 Bq) of removable contamination on the test sample. An acceptable leak test for sealed sources would be to take the test sample from the surface of the source, source holder or the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. Records of leak test results shall be kept in units of microcuries—or becquerels—and maintained for [5] 3 years from the date of the test or until the Department authorizes their disposal.

* * * * *

(e) The method of testing a sealed source for leakage shall be performed using a leak test kit or method approved by the Department, an agreement state or the NRC. The wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The analysis shall be capable of detecting the presence of 185 Bq (.005 µCi) of radioactive material on the test sample and shall be performed by a person approved by the Department, the NRC

or an agreement state to perform the analysis, if the licensee does not possess suitably sensitive equipment.

§ 226.15. [Quarterly] Physical inventory.

(a) A licensee or registrant shall conduct a [quarterly] semiannual physical inventory of radiation sources to account for all sources of radiation received or possessed. Records of inventories shall be maintained for [5] 3 years from the date of the inventory or until the Department authorizes their disposal [and]. Records shall include the quantities and kinds of radiation sources, the location where radiation sources are assigned, the date of the inventory and the name of the individual conducting the inventory.

(b) Physical inventory records may be combined with leak test records.

§ 226.16. Utilization records.

A licensee or registrant shall maintain current records, which shall be kept available for inspection by the Department for [5] 3 years from the date of the recorded event, showing the following information for each radiation source:

* * * * *

(4) In the case of tracer materials and radioactive markers, the radionuclide and quantity of activity used in a particular well and the disposition of any unused tracer materials.

§ 226.17. Design[,] and performance [and certification] criteria for sealed sources [used in downhole operations].

[(a)] A licensee may not use a sealed source, except those containing radioactive material in gaseous form, [used] in [downhole operations and manufactured after December 19, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Department, as meeting the] well logging unless the sealed source meets the following minimum criteria:

(1) [Be] Is of doubly encapsulated construction.

* * * * *

(3) [Has been individually pressure tested to at least 24,600 pounds per square inch absolute (170 MN/m²) without failure] The sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

(i) The test source shall be held at -40°C for 20 minutes, 600°C for 1 hour, and then subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds.

(ii) A 5 kg steel hammer, 2.5 cm in diameter, shall be dropped from a height of 1 meter onto the test source.

(iii) The test source shall be subject to a vibration from 25 Hz to 500 Hz at 5g amplitude for 30 minutes.

(iv) A 1 gram hammer and pin, 0.3 cm pin diameter, shall be dropped from a height of 1 meter onto the test source.

(v) The test source shall be subjected to an external pressure of 24,600 pounds per square inch absolute (1.695 × 10⁷ pascals).

[(b) For a sealed source, except one containing radioactive material in gaseous form, acquired after December 19, 1988, in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of subsection (a), the sealed source may not be put into use until the determinations and testing have been performed.

(c) A sealed source, except those containing radioactive material in gaseous form, used in downhole operations after December 19, 1989, shall be certified by the manufacturer or other testing organization acceptable to the Department as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, *Sealed Radioactive Sources, Classification*.

(d) Certification documents shall be maintained for a period of 5 years after source disposal or until the Department authorizes their disposal. If the source is abandoned downhole, the certification documents shall be maintained until the Department authorizes their disposition.]

§ 226.19. Inspection and maintenance.

(a) A licensee or registrant shall conduct, at intervals not to exceed 6 months, a program of inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, uranium sinker bars and injection tools to assure [proper labeling and physical condition] that the required labeling is legible and that no physical damage is visible. Records of inspection and maintenance shall be maintained for [a period of 5] 3 years or until the Department authorizes their disposal.

(b) If any inspection conducted under subsection (a) reveals damage to labeling or components critical to radiation safety, the device shall be removed from service until repairs have been made. A record shall be made, listing the following information:

- (1) The date of the check.
- (2) The name of the inspector.
- (3) The equipment involved.
- (4) Defects found.
- (5) Repairs made.

* * * * *

(d) Records required under subsection (b) shall be maintained for 3 years after the defect is found.

(e) Removal of a sealed source from a source holder or logging tool, and maintenance on sealed sources or holders in which sealed sources are contained may not be performed by the licensee unless a written procedure developed under § 226.22 (relating to operating and emergency procedures) has been approved by the Department, the NRC or an agreement state or a licensing state.

(f) If a sealed source is stuck in the source holder, the licensee may not perform any operation, such as drilling, cutting or chiseling, on the source

holder unless the licensee is specifically approved by the Department, the NRC or an agreement state to perform the actions.

§ 226.20. Radioactive markers and uranium sinker bars.

(a) The licensee may use radioactive markers in wells only if the individual markers contain quantities of licensed radioactive material not exceeding those quantities specified in Chapter 217 Appendix B (relating to exempt quantities). The use of markers is subject only to the requirements of § 226.15 (relating to physical inventories).

(b) The licensee may use a uranium sinker bar in well logging only if it is legibly impressed with the words, "Caution—Radioactive—Depleted Uranium" and "Notify Civil Authorities (or name of company) if Found."

REQUIREMENTS FOR PERSONNEL SAFETY

§ 226.21. Training requirements.

(a) [No] A licensee or registrant may not permit an individual to act as a logging supervisor as defined in § 226.2 (relating to definitions) until the individual has:

* * * * *

(b) The demonstrated competence required under subsection (a)(1) and (2) shall be determined by the individual's successful completion of a written test. The demonstrated competence required under subsection(a)(3) shall be determined by the successful completion of a field evaluation of the individual.

[(b) No] (c) A licensee or registrant may not permit an individual to assist in the handling of radiation sources until the individual has:

(1) Read or received instruction in the licensee's or registrant's operating and emergency procedures, this chapter and applicable sections of Chapters 219 and 220 (relating to standards for protection against radiation; and notices, instructions and reports to workers) and demonstrated an understanding thereof.

* * * * *

(3) The demonstrated understanding required under paragraph (1) shall be determined by the individual's successful completion of a written or oral test. The demonstrated competence required under paragraph (2) shall be determined by the individual's successful demonstration by a field evaluation.

[(c)] (d) The licensee or registrant shall maintain employe training records for [5] 3 years following termination of employment or until the Department authorizes their disposal.

(e) The licensee shall provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.

§ 226.22. Operating and emergency procedures.

The licensee's or registrant's operating and emergency procedures shall include instructions in at least the following:

(1) Handling and use of radiation sources to be employed so that no individual is likely to be exposed to radiation doses in excess of the standards established in Chapter 219 (relating to standards for protection against

radiation) including handling and use of sealed sources in wells without surface casing for protecting fresh water aquifers, if appropriate.

(2) [Radiation surveying] Methods and occasions for conducting radiation surveys, including surveys for detecting contamination, as required under § 226.41 (relating to radiation surveys and contamination control).

* * * * *

(5) Transportation of radiation sources to field stations or temporary jobsites, packaging of radiation sources for transport in vehicles, placarding of vehicles when needed and physically securing radiation sources in transport vehicles during transportation to prevent accidental loss, tampering or unauthorized removal.

* * * * *

(8) Maintaining records, including those generated by logging personnel at temporary jobsites.

(9) Inspecting and maintaining sealed sources, source holders, logging tools, source handling tools, storage containers, transport containers, [and] injection tools and uranium sinker bars, as required under § 226.19 (relating to inspection and maintenance).

* * * * *

(11) Procedures to be used for picking up, receiving and opening packages containing radioactive material, under § 219.162 (relating to procedures for receiving and opening packages).

(12) Use of remote handling tools for handling sealed sources and radioactive tracers (except low activity calibration sources).

(13) Minimizing personnel exposure, including exposures from inhalation or ingestion of licensed tracer materials.

(14) Decontamination of the environment, equipment and personnel when using tracers.

(15) Actions to be taken if a sealed source is ruptured including actions to prevent the spread of contamination and minimize inhalation and ingestion of licensed materials and actions to obtain suitable radiation survey instruments as required by § 216.13 (relating to radiation survey instruments).

(16) Identifying and reporting to the Department defects and noncompliance as required by this article.

§ 226.23. Personnel monitoring.

(a) [No] A licensee or registrant may not permit an individual to act as a logging supervisor or to assist in the handling of radiation sources unless the individual wears either a film badge or a thermoluminescent dosimeter (TLD). The film badge or TLD shall be assigned to and worn by only one individual. A film badge shall be replaced at least monthly and TLDs replaced at least quarterly. After replacement, each film badge or TLD shall be promptly processed.

* * * * *

PRECAUTIONARY PROCEDURES IN WELL LOGGING [AND SUBSURFACE TRACER] OPERATIONS

§ 226.31. Security.

(a) During a well logging [or tracer application] operation, the logging supervisor or other designated employe shall maintain direct surveillance of the operation to protect against unauthorized and unnecessary entry into a restricted area.

(b) A logging supervisor shall be physically present at a temporary jobsite whenever radiation sources are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the jobsite to obtain assistance, such as if a source becomes lodged in a well or if a medical emergency arises.

§ 226.33. Subsurface tracer studies and use of sealed sources in wells without surface casings.

(a) Protective gloves and other appropriate protective clothing and equipment shall be used by personnel handling radioactive tracer material. Precautions shall be taken to avoid ingestion, inhalation or contamination [of] by radioactive material of personnel, field stations and temporary jobsites.

(b) [No] A licensee may not inject radioactive material into [potable] fresh water aquifers without prior written authorization from the Department and other responsible State or Federal [agency] agencies.

(c) The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure shall be approved by the Department under the conditions of the license or by the NRC or an agreement state.

§ 226.34. Particle accelerators.

(a) [No] A licensee or registrant may not permit aboveground testing of particle accelerators designed for use in well-logging which results in the production of radiation, except in areas or facilities controlled or shielded so that the requirements of § 219.51 (relating to dose limits for individual members of the public) [§§ 219.11 and 219.21 (relating to radiation dose to individuals and maximum permissible levels of radiation from external sources) protection programs; as applicable,] are met.

(b) The use of particle accelerators for well logging shall be conducted under the licensing provisions of Chapter 228 (relating to radiation safety requirements for particle accelerators).

RADIATION SURVEYS AND RECORDS

§ 226.41. Radiation surveys and contamination control.

(a) Radiation surveys shall be made and recorded for an area where radioactive materials are used and stored.

* * * * *

(e) [Records required under subsections (a)—(d) shall include the dates, the identification of individuals making the survey, the survey instrumentation used and an exact description of the location of the survey. Records of these surveys shall be maintained for 5 years after completion of the survey or until the Department authorizes their

disposal] If the licensee has reason to believe that, as a result of any operation involving a sealed source, the encapsulation of the sealed source could be damaged by the operation, the licensee shall conduct a radiation survey, including a contamination survey, during and after the operation.

(f) If the licensee detects evidence that a sealed source has ruptured or that radioactive materials have caused contamination, the licensee shall immediately initiate the emergency procedures required under § 226.22 (relating to operating and emergency procedures).

(g) If contamination results from the use of radioactive material in well logging operations, the licensee shall decontaminate all work areas, equipment and unrestricted areas. At a minimum, the decontamination efforts shall achieve the requirements of § 219.51 (relating to dose limits for individual members of the public).

(h) During efforts to recover a sealed source lodged in the well, the licensee shall continuously monitor, with an appropriate radiation detection instrument or a logging tool with a radiation detector, the circulating fluids from the well, if any, to check for contamination resulting from damage to the sealed source.

(i) Records required under subsections (a)—(g) shall include the dates, the identification of individuals making the survey, the survey instrumentation used and an exact description of the location of the survey. Records of these surveys shall be maintained for 3 years after completion of the survey or until the Department authorizes their disposal.

§ 226.42. Documents and records required at field stations.

A licensee or registrant shall maintain, for inspection by the Department, the following documents and records for the specific devices and sources used at the field station:

* * * * *

(6) [Quarterly] Physical inventories required under § 226.15 (relating to [quarterly] physical inventory).

* * * * *

(10) Training records required under § 226.21 (relating to training requirements).

§ 226.43. Documents and records required at temporary jobsites.

A licensee or registrant conducting operations at a temporary jobsite shall have the following documents and records available at that site for inspection by the Department:

(1) Operating and emergency procedures required under § 226.22 (relating to operating and emergency procedures).

(2) Survey records required under § 226.41 (relating to radiation surveys and contamination control) for the period of operation at the site.

* * * * *

(5) The shipping papers for the transportation of radioactive materials required under Chapter 230 (relating to packaging and transportation of radioactive material).

NOTIFICATION

§ 226.51. Notification of incidents, abandonment and lost sources.

* * * * *

(b) The licensee shall immediately notify the Department by telephone and subsequently by confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground [potable] fresh water source. The notice shall designate the well location and shall describe the [magniture] magnitude and extent of loss of radioactive material, [access] assess the consequences of the loss and explain efforts planned or being taken to mitigate these consequences.

(c) If a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

(1) Monitor at the surface for the presence of radioactive contamination with a radiation survey instrument or logging tool during logging tool recovery operations, as required under § 226.41 (relating to radiation surveys and contamination control).

(2) Notify the Department immediately by telephone if radioactive contamination is detected at the surface or if the source appears to be damaged, as required under § 226.41.

* * * * *

(e) If a sealed source containing radioactive material is abandoned downhole, the licensee shall provide a permanent plaque [—an example of a suggested plaque is shown in Appendix B—] for posting the well or well-bore. The plaque shall:

* * * * *

(2) Contain the following information engraved on its face:

* * * * *

(viii) An appropriate warning, depending on the specific circumstances of the abandonment. Appropriate warnings may include:

* * * * *

(C) "Do not re-enter the hole," followed by the words "before contacting the Pennsylvania Department of Environmental [Resources] Protection."

(3) Be at least 7 inches (17cm) square and 1/8-inch (3mm) thick.

[APPENDIX B] (Reserved)

(Editor's Note: As part of this proposal, the Board is proposing to delete Appendix B (relating to example of plaque for identifying wells containing radioactive material abandoned downhole) which appears at 25 Pa. Code page 226-15, serial page (203991).)

CHAPTER 230. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

Subchapter A. SCOPE AND DEFINITIONS

§ 230.2. Definitions.

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

* * * * *

A₂—The maximum activity of radioactive material, other than special form, [radioactive] LSA and SCO material, permitted in a Type A package. These values are either listed in Appendix A, Table I (relating to packaging and transportation of radioactive materials) or may be derived in accordance with the procedure prescribed in Appendix A.

* * * * *

[Closed transport vehicle—A transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be temporary or permanent, but shall limit access from the top, sides and ends. In the case of packaged materials, the enclosure may be of the see-through type.]

Containment system—The assembly of components of the packaging intended to retain the radioactive material during transport.

Conveyance—Any of the following:

(i) For transport by public highway or rail, transport vehicle or large freight container.

(ii) For transport by water, vessel or hold, compartment or defined deck area of a vessel including transport vehicle on board the vessel.

(iii) For transport by air, any aircraft.

Exclusive use—The sole use of a conveyance by a single consignor and for which initial, intermediate and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. [The term is used interchangeably with the terms "sole use" or "full load" in other regulations, such as 49 CFR (relating to transportation).] The consignor and the carrier shall ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor shall issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

Fissile material—[Special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium] Plutonium-238, plutonium-239, plutonium-241, uranium-233, [and] uranium-235 or a combination of these radionuclides. The term does not include unirradiated natural uranium [or] and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only. Department jurisdiction extends only to special nuclear material in quantities not sufficient to form a critical mass as defined in Chapter 215 (relating to general provisions).

[(i) Fissile Class I—A package which may be transported in unlimited numbers and in any arrangement, and which requires no nuclear criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear criticality safety but may be required because of external radiation levels.

(ii) Fissile Class II—A package which may be transported together with other packages in any

arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of 50. These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than 10.

Fissile material package—A fissile material packaging together with its fissile contents as presented for transport.]

* * * * *

Low specific activity material—[Includes one or more of the following:

(i) Uranium or thorium ores and physical or chemical concentrates of those ores.

(ii) Unirradiated natural or depleted uranium or unirradiated natural thorium.

(iii) Tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries (185 MBq) per milliliter.

(iv) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed one of the following:

(A) 0.0001 millicurie (3.7 kBq) of radionuclides for which the A_2 quantity in Appendix A of this part is not more than 0.05 curie (1.85 GBq).

(B) 0.005 millicurie (185 kBq) of radionuclides for which the A_2 quantity in Appendix A of this part is more than 0.05 curie (1.85 GBq) but not more than 1 curie (37 GBq).

(C) 0.3 millicurie (11.1 MBq) of radionuclides for which the A_2 quantity in Appendix A of this part is more than 1 curie (37 GBq).

(v) Objects of nonradioactive material externally contaminated with radioactive material, if the radioactive material is not readily dispersible, and the surface contamination, when averaged over an area of 1 square meter, does not exceed 0.0001 millicurie per square centimeter (3.7 kBq/cm²) of radionuclides for which the A_2 quantity in Appendix A is not more than 0.05 curie (1.85 GBq) or 0.001 millicurie per square centimeter (37 kBq/cm²) for other radionuclides.] Radioactive material with limited specific activity that satisfies the descriptions and limits as follows. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material shall be in one of three groups:

(i) LSA-I is any of the following:

(A) Ores containing only naturally occurring radionuclides, (for example, uranium, thorium) and uranium or thorium concentrates of these ores.

(B) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures.

(C) Radioactive material, other than fissile material, for which the A_2 value is unlimited.

(D) Mill tailings, contaminated earth, concrete, rubble, other debris and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10^{-6} A₂/g.

(ii) LSA-II is any of the following:

(A) Water with tritium concentration up to 0.8 TBq/liter (20.0 ci/liter).

(B) Material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10^{-4} A₂/g for solids and gases, and 10^{-5} A₂/g for liquids.

(iii) LSA-III solids (for example, consolidated wastes, activated materials) in which all of the following are met:

(A) The radioactive material is distributed throughout a solid or a collection of solid objects or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, and so forth).

(B) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, would not exceed 0.1 A₂.

(C) The average specific activity of the solid does not exceed 2,000 A₂/g.

Low toxicity alpha emitters—Natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

Maximum normal operating pressure—The maximum gauge pressure that would develop in the containment system in 1 year under the heat condition specified in 10 CFR 71.71(c)(1) (relating to normal conditions of transport) in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

Natural thorium—Thorium with the naturally occurring distribution of thorium isotopes—essentially 100 weight percent thorium-232.

* * * * *

Surface contaminated object—A solid object that itself is not classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO shall be in one of two groups with surface activity not exceeding the following limits:

(i) SCO-1—A solid object to which all of the following conditions apply:

(a) The nonfixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed 4 Bq/cm² (10^{-4} μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm² (10^{-5} μCi/cm²) for all other alpha emitters.

(B) The fixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed 4 x 10⁴ Bq/cm² (1 μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 4 x 10³ Bq/cm² (0.1 μCi/cm²) for all other alpha emitters.

(c) The nonfixed contamination plus the fixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed does not exceed 4 x 10⁴

Bq/cm² (1 μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 4 x 10³ Bq/cm² (0.1 μCi/cm²) for all other alpha emitters.

(ii) SCO-2—A solid object on which the limits FRO SCO-1 are exceeded and on which:

(a) The nonfixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed 400 Bq/cm² (10⁻² μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 40 Bq/cm² (10⁻³ μCi/cm²) for all other alpha emitters.

(B) The fixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed 8 x 10⁵ Bq/cm² (20 μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 μCi/cm²) for all other alpha emitters.

(c) The nonfixed contamination plus the fixed contamination on the accessible surface averaged over 300 cm²—or the area of the surface if less than 300 cm²—does not exceed 8 x 10⁵ Bq/cm² (20 μCi/cm²) for beta and gamma and low toxicity alpha emitters, or 8 x 10⁴ Bq/cm² (2 μCi/cm²) for all other alpha emitters.

* * * * *

Transport index—The dimensionless number, rounded up to the [first decimal place] next tenth, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. For nonfissile material packages, the transport index is the number expressing the maximum radiation level in mrem per hour at 1 meter from the external surface of the package or the maximum radiation level in millisievert per hour at 1 meter from the external surface of the package multiplied by 100.

* * * * *

Uranium (natural, depleted, enriched)—One of the following:

(i) *Natural uranium*—Uranium with the naturally occurring distribution of uranium isotopes—approximately 0.711 weight percent uranium-235, and the remainder by weight essentially.

(ii) *Depleted uranium*—Uranium containing less uranium-235 than the naturally occurring distribution of isotopes.

(iii) *Enriched uranium*—Uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

Subchapter B. GENERAL

§ 230.12. Exemptions.

* * * * *

(c) With the exception of §§ 230.13 and 230.42 (relating to transportation of licensed material; and preliminary determinations), a licensee is exempt from this chapter, with respect to shipment or carriage of one or more of the following:

* * * * *

(3) A package in which only the radioactive material is LSA material or SCO, if the external level at 3 meters from the unshielded material or objects does not exceed 10 mSv/hr (1 rem/hr).

(d) A licensee is exempt from the requirements of this chapter, other than §§ 230.13 and 230.44 (relating to transportation of licensed material; and air transport of plutonium), with respect to shipment or carriage of LSA material in group LSA-1, or SCO in group SCO-1.

Subchapter C. USE OF APPROVED PACKAGES

(Editor's Note: The Department is proposing to delete §§ 230.25 and 230.26 (relating to Type A Fissile Class II package; and restricted, Fissile Class II package) as they currently appear in the *Pennsylvania Code* at pages 230-9—230-11 (serial pages (204181)—(204183).

§ 230.25. (Reserved).

§ 230.26. (Reserved).

Subchapter D. OPERATING CONTROLS AND PROCEDURES

§ 230.41. [Fissile material: assumptions as to unknown properties] Applicability of operating controls and procedures.

[When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation or other pertinent property of fissile material in a package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum nuclear reactivity.] A licensee subject to this chapter, who, under a general or specific license, transports licensed material or delivers licensed material to a carrier for transport, shall comply with this subchapter, Subchapter B and Subchapter E (relating to general; and quality assurances).

§ 230.42. Preliminary determinations.

Prior to the first use of packaging for the shipment of radioactive material the licensee shall do the following:

* * * * *

(2) Test the containment system at an internal pressure at least 50% higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure, [where] if the maximum normal operating pressure will exceed [34.3] 35 kilopascal (5 psi) gauge.

* * * * *

§ 230.48. Opening instructions.

Before delivery of a package to a carrier for transport, the licensee shall ensure that special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use under § 219.162(e) (relating to procedures for receiving and opening packages).

APPENDIX A

DETERMINATION OF A₁ AND A₂

[I. Single Radionuclides.

1. For a single radionuclide of known identity, the values of A₁ and A₂ are taken from Table I if listed there. The values A₁ and A₂ in Table I are also applicable for the radionuclide contained in (alpha,n) or (gamma,n) neutron sources.

2. For any single radionuclide whose identity is known but which is not listed in Table I, the value of A_1 and A_2 are determined according to the following procedure:

(a) If the radionuclide emits only one type of radiation A_1 is determined according to the appropriate formula in paragraphs (1) through (4). For radionuclides emitting different kinds of radiation, A_1 is the most restrictive value of those determined for each kind of radiation. However, in either case, A_1 is restricted to a maximum of 1,000 curies (37 TBq). If a parent nuclide decays into a shorter lived daughter with a half-life not greater than 10 days, A_1 is calculated for both the parent and the daughter, and the more limiting of the two values is assigned to the parent nuclide.

(1) For gamma emitters, A_1 is determined by the expression:

$$A_1 = 9 \text{ curies}/\gamma$$

where γ is the gamma-ray constant, corresponding to the dose in roentgens per curie-hour at 1 meter, and the number 9 results from the choice of 1 rem per hour at a distance of 3 meters as the reference dose-equivalent rate.

(2) For x-ray emitters, A_1 is determined by the atomic number of the nuclide:

$$\text{for } Z \leq 55, A_1 = 1,000 \text{ Ci (37 TBq); and}$$

$$\text{for } Z > 55, A_1 = 200 \text{ Ci (7.4 TBq)}$$

where Z is the atomic number of the nuclide.

(3) For beta emitters, A_1 is determined by the maximum beta energy (E_{\max}) according to Table II; and

(4) For alpha emitters, A_1 is determined by the expression:

$$A_1 = 1,000 A_3$$

where A_3 is the value listed in Table III;

(b) A_2 is the more restrictive of the following two values:

(1) The corresponding A_1 ; and

(2) The value A_3 obtained from Table III.

3. For any single radionuclide whose identity is unknown, the value of A_1 is taken to be 2 Ci (74 GBq) and the value of A_2 is taken to be 0.002 Ci (74 MBq). However, if the atomic number of the radionuclide is known to be less than 82, the value of A_1 is taken to be 10 Ci (370 GBq) and the value of A_2 is taken to be 0.4 Ci (14.8 GBq).] Values of A_1 and A_2 for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations are given in Table A-1. The curie (Ci) values specified are obtained by converting from the terabecquerel (TBq) figure. The curie values are expressed to three significant figures to assure that the difference in the TBq and Ci quantities is 1/10 of 1% or less. Where values of A_1 or A_2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

II. [Mixtures of Radionuclides, Including Radioactive Decay Chains.

1. For mixed fission products, the activity limit may be assumed if a detailed analysis of the mixture is not carried out,

$$A_1 = 10 \text{ Ci (370 GBq)}$$

$$A_2 = 0.4 \text{ Ci (14.8 GBq)}$$

2. A single radioactive decay chain is considered to be a single radionuclide when the radionuclides are present in their naturally occurring proportions and no daughter nuclide has a half-life either longer than 10 days or longer than that of the parent nuclide. The activity to be taken into account and the A_1 or A_2 value from Table I to be applied are those corresponding to the parent nuclide of that chain. When calculating A_1 or A_2 values, radiation emitted by daughters must be considered. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than 10 days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides.

3. In the case of a mixture of different radionuclides, where the identity and activity of each radionuclide are known, the permissible activity of each radionuclide $R_1, R_2 \dots R_n$ is such that $F_1 + F_2 + \dots + F_n$ is not greater than unity, where:

$$F_1 = \text{Total activity of } R_1 / A_1(R_1)$$

$$F_2 = \text{Total activity of } R_2 / A_1(R_2)$$

$$F_n = \text{Total activity of } R_n / A_1(R_n) \text{ and}$$

$A_1 (R_1, R_2 \dots R_n)$ is the value of A_1 or A_2 as appropriate for the nuclide $R_1, R_2 \dots R_n$.

4. When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in paragraph 3. is applied to establish the values of A_1 or A_2 as appropriate. All the radionuclides whose individual activities are not known (their total activity will, however, be known) are classed in a single group and the most restrictive value of A_1 and A_2 applicable to any one of them is used as the value of A_1 or A_2 in the denominator of the fraction.

5. Where the identity of each radionuclide is known but the individual activity of none of the radionuclides is known, the most restrictive value of A_1 or A_2 applicable to any one of the radionuclides present is adopted as the applicable value.

6. When the identity of none of the nuclides is known, the value of A_1 is taken to be 2 Ci (74 GBq) and the value of A_2 is taken to be 0.002 Ci (74 MBq). However, if alpha emitters are known to be absent, the value of A_2 is taken to be 0.4 Ci (14.8 GBq).] For individual radionuclides whose identities are known, but which are not listed in Table A-1, the determination of the values of A_1 and A_2 requires Department approval, except that the values of A_1 and A_2 in Table A-2 may be used without Department approval.

III. In the calculations of A_1 and A_2 for a radionuclide not in Table A-1, a single radioactive decay chain, in which no daughter nuclides a half-life either longer than 10 days, or longer than that of the parent nuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied

shall be those corresponding to the parent nuclide of that chain. In the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than 10 days, or greater than that of the parent nuclide, the parent and those daughter nuclides shall be considered mixtures of different nuclides.

IV. For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

(a) For special form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_1 B(i)/A_1(i) \text{ less than or equal to } 1$$

(b) For normal form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_1 B(i)/A_2(i) \text{ less than or equal to } 1$$

where B(i) is the activity of radionuclide I and A₁(i) and A₂(i) are the A₁ and A₂ values for radionuclide I, respectively.

Alternatively, an A₁ value for mixtures of special

form material may be determined as follows:

$$A_1 \text{ for mixture} = 1/(\sum_1 F(i)/A_1(i))$$

where F(i) is the fraction of activity of nuclide I in the mixture and A₁(i) is the appropriate A₁ value for nuclide I.

An A₂ value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = 1/(\sum_1 F(i)/A_2(i))$$

where F(i) is the fraction of activity of nuclide I in the mixture and A₂(i) is the appropriate A₂ value for nuclide I.

V. When the identity of each radionuclide is known, but the individual activities of some radionuclides are not known, the radionuclides may be grouped and the lowest A₁ or A₂ value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph IV. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A₁ or A₂ values for the alpha emitters and beta/gamma emitters.

(Editor's Note: The Department is proposing to delete Tables I—IV as they currently appear in the *Pennsylvania Code* pages 230-21—230-30 (serial pages (204193)—(204202)) and replace them with new Tables A-1 and A-2).

TABLE A-1

A₁ and A₂ Values for Radionuclides

(See Footnotes at End of Table)

Note: Some of the values in Table A-1 are presented in the Computer "E" notation. In this notation a value of 6E-02 represents a value of 6 X 10⁻² or 0.06, 6E+2 represents 6 X 10² or 600, and 6E+0 represents 6 X 10⁰ or 6.

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)	A ₂ (TBq)	A ₂ (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
Ac-225	Actinium (89)	0.6	16.2	1E-2	0.270	2.1E+3	5.8E+4
Ac-227		40	1080	2E-5	5.41E-4	2.7	7.2E+1
Ac-228		0.6	16.2	0.4	10.8	8.4E+4	2.2E+6
Ag-105	Silver (47)	2	54.1	2	54.1	1.1E+3	3.0E+4
Ag-108m		0.6	16.2	0.6	16.2	9.7E-1	2.6E1
Ag-110m		0.4	10.8	0.4	10.8	1.8E+2	4.7E+3
Ag-111		0.6	16.2	0.5	13.5	5.8E+3	1.9E+5
Al-26	Aluminum (13)	0.4	10.8	0.4	10.8	7.0E-4	1.9E-2
Am-241	Americium (95)	2	54.1	2E-4	5.41E-3	1.3E-1	3.4
Am-242m		2	54.1	2E-4	5.41E-3	3.6E-1	1.0E+1
Am-243		2	54.1	2E-4	5.41E-3	7.4E-3	2.0E-1
Ar-37	Argon (18)	40	1080	40	1080	3.7E+3	9.9E+4
Ar-39		20	541	20	541	1.3	3.4E+1
Ar-41		0.6	16.2	0.6	16.2	1.5E+6	4.2E+7
Ar-42		0.2	5.41	0.2	5.41	9.6	2.6E+2
As-72	Arsenic (33)	0.2	5.41	0.2	5.41	6.2E+4	1.7E+6
As-73		40	1080	40	1080	8.2E+2	2.2E+4
As-74		1	27.0	0.5	13.5	3.7E+3	9.9E+4
As-76		0.2	5.41	0.2	5.41	5.8E+4	1.6E+6
As-77		20	541	0.5	13.5	3.9E+4	1.0E+6
At-211	Astatine (85)	30	811	2	54.1	7.6E+4	2.1E+6
Au-193	Gold (79)	6	162	6	162	3.4E+4	9.2E+5
Au-194		1	27.0	1	27.0	1.5E+4	4.1E+5
Au-195		10	270	10	270	1.4E+2	3.7E+3
Au-196		2	54.1	2	54.1	4.0E+3	1.1E+5
Au-198		3	81.1	0.5	13.5	9.0E+3	2.4E+5
Au-199		10	270	0.9	24.3	7.7E+3	2.1E+5
Ba-131	Barium (56)	2	54.1	2	54.1	3.1E+3	8.4E+4
Ba-133m		10	270	0.9	24.3	2.2E+4	6.1E+5
Ba-140		0.4	10.8	0.4	10.8	2.7E+3	7.3E+4
Be-7	Beryllium (4)	20	541	20	541	1.3E+4	3.5E+5

<i>Symbol of radionuclide</i>	<i>Element and atomic number</i>	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	<i>Specific activity</i> (TBq/g) (Ci/g)	
Be-10		20	541	0.5	13.5	8.3E-4	2.2E-2
Bi-205	Bismuth (83)	0.6	16.2	0.6	16.2	1.5E-3	4.2E+4
Bi-206		0.3	8.11	0.3	8.11	3.8E+3	1.0E+5
Bi-207		0.7	18.9	0.7	18.9	1.9	5.2E+1
Bi-210m		0.3	8.11	3E-2	0.811	2.1E-5	5.7e-4
Bi-212		0.3	8.11	0.3	8.11	5.4E+5	1.5E+7
Bk-247	Berkelium (97)	2	54.1	2E-4	5.41E-3	3.8E-2	1.0
Bk-249		40	1080	8E-2	2.16	6.1E+1	1.6E+3
Br-76	Bromine (76)	0.3	8.11	0.3	8.11	9.4E++4	2.5E+6
Br-77		3	81.1	3	81.1	2.4E+4	7.1E+5
Br-82		0.4	10.8	0.4	10.8	4.0E+4	1.1E+6
C-11	Carbon (6)	1	27	0.5	13.5	3.1E+7	8.4E+8
C-14		40	1080	2	54.1	1.6E-1	4.5
Ca-41	Calcium (20)	40	1080	40	1080	3.1E-3	8.5E-2
Ca-45		40	1080	0.9	24.3	6.6E+2	1.8E+4
Ca-47		0.9	24.3	0.5	13.5	2.3E+4	6.1E+5
Cd-109	Cadmium (48)	40	1080	1	27	9.6E+1	2.6E+3
Cd-113m		20	541	9E-2	2.43	8.3	2.2E+2
Cd-115m		0.3	8.11	0.3	8.11	9.4E+2	2.5E+4
Cd-115		4	108	0.5	13.5	1.9E+4	5.1E+5
Ce-139	Cerium (58)	6	162	6	162	2.5E+2	6.8E+3
Ce-141		10	270	0.5	13.5	1.1E+3	2.8E+4
Ce-143		0.6	16.2	0.5	13.5	2.5E+4	6.6E+5
Ce-144		0.2	5.41	0.2	5.41	1.2E+2	3.3E+3
Cf-248	Californium (98)	30	811	3E-3	8.11E-2	5.8E+1	1.6E+3
Cf-249		2	54.1	2E-4	5.41E-3	1.5E-1	4.1
Cf-250		5	135	5E-4	1.35E-2	4.0	1.1E+2
Cf-251		2	54.1	2E-4	5.41E-3	5.9E-2	1.6
Cf-252		0.1	2.70	1E-3	2.70E-2	2.0E+1	5.4E+2
Cf-253		40	1080	6E-2	1.62	1.1E+3	2.9E+4
Cf-254		3E-1	8.11E-2	6E-4	1.62E-2	3.1E+2	8.5E+3
Cl-36	Chlorine (36)	20	541	0.5	13.5	1.2E-3	3.3E-2
Cl-38		0.2	5.41	0.2	5.41	4.9E+6	1.3E+8
Cm-240	Curium (96)	40	1080	2E-2	0.541	7.5E+2	2.0E+4
Cm-241		2	54.1	0.9	24.3	6.1E+2	1.7E+4
Cm-242		40	1080	1E-2	0.270	1.2E+2	3.3E+3
Cm-243		3	81.1	3E-4	8.11E-3	1.9	5.2E+1
Cm-244		4	108	4E-4	1.08E-2	3.0	8.1E+1
Cm-245		2	54.1	2E-4	5.41E-3	6.4E-3	1.7E-1
Cm-246		2	54.1	2E-4	5.41E-3	1.1E-2	3.1E-1
Cm-247		2	54.1	2E-4	5.41E-3	3.4E-6	9.3E-5
Cm-248		4E-2	1.08	5E-3	1.35E-3	1.6E-4	4.2E-3
Co-55	Cobalt (27)	0.5	13.5	0.5	13.5	1.1E+5	3.1E+6
Co-56		0.3	8.11	0.3	8.11	1.1E+3	3.0E+4
Co-57		8	216	8	216	3.1E+2	8.4E+3
Co-58m		40	1080	40	1080	2.2E+5	5.9E+6
Co-58		1	27.0	1	27.0	1.2E+3	3.2E+4
Co-60		0.4	10.8	0.4	10.8	4.2E+1	1.1E+3
Cr-51	Chromium (24)	30	811	30	811	3.4E+3	9.2E+4
Cs-129	Cesium (55)	4	108	4	108	2.8E+4	7.6E+5
Cs-131		40	1080	40	1080	3.8E+3	1.0E+5
Cs-132		1	27.0	1	27.0	5.7E+3	1.5E+5
Cs-134m		40	1080	9	243	3.0E+5	8.0E+6
Cs-134		0.6	16.2	0.5	13.5	4.8E+1	1.3E+3
Cs-135		40	1080	0.9	24.3	4.3E-5	1.2E-2
Cs-136		0.5	13.5	0.5	13.5	2.7E+3	7.3E+4
Cs-137		2	54.1	0.5	13.5	3.2	8.7E+1
Cu-64	Copper (29)	5	135	0.9	24.3	1.4E+5	3.9E+6
Cu-67		9	243	0.9	24.3	2.8E+4	7.6E+5
Dy-159	Dysprosium (66)	20	541	20	541	2.1E+2	5.7E+3
Dy-165		0.6	16.2	0.5	13.5	3.0E+5	8.2E+6
Dy-166		0.3	8.11	0.3	8.11	8.6E+3	2.3E+5
Er-169	Erbium (68)	40	1080	0.9	24.3	3.1E+3	8.3E+4
Er-171		0.6	16.2	0.5	13.5	9.0E+4	2.4E+6
Es-253	Einsteinium (99)(a)	200	5400	2E-2	5.41E-1		
Es-254		30	811	3E-3	8.11E-2		
Es-254m		0.6	16.2	0.4	10.8		

<i>Symbol of radionuclide</i>	<i>Element and atomic number</i>	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	<i>Specific activity</i> (TBq/g) (Ci/g)	
Es-255							
Eu-147	Europium (63)	2	54.1	2	54.1	1.4E+3	3.7E+4
Eu-148		0.5	13.5	0.5	13.5	6.0E+2	1.6E+4
Eu-149		20	541	20	541	3.5E+2	9.4E+3
Eu-150		0.7	18.9	0.7	18.9	6.1E+4	1.6E+6
Eu-152m		0.6	16.2	0.5	13.5	8.2E+4	2.2E+6
Eu-152		0.9	24.3	0.9	24.3	6.5	1.8E+2
Eu-154		0.8	21.6	0.5	13.5	9.8	2.6E+2
Eu-155		20	541	2	54.1	1.8E+1	4.9E+2
Eu-156		0.6	16.2	0.5	13.5	2.0E+3	5.5E+4
F-18	Fluorine (9)	1	27.0	0.5	13.5	3.5E+6	9.5E+7
Fe-52	Iron (26)	0.2	5.41	0.2	5.41	2.7E+5	7.3E+6
Fe-55		40	1080	40	1080	8.8E+1	2.4E+3
Fe-59		0.8	21.6	0.8	21.6	1.8E+3	5.0E+4
Fe-60		40	1080	0.2	5.41	7.4E-4	2.0E-2
Fm-255	Fermium (100)(b)	40	1080	0.8	21.6		
Fm-257		10	270	8E-3	21.6E-1		
Ga-67	Gallium(31)	6	162	6	162	2.2E+4	6.0E+5
Ga-68		0.3	8.11	0.3	8.11	1.5E+6	4.1E+7
Ga-72		0.4	10.8	0.4	10.8	1.1E+5	3.1E+6
Gd-146	Gadolinium (64)	0.4	10.8	0.4	10.8	6.9E+2	1.9E+4
Gd-148		3	81.1	3E-4	8.11E-3	1.2	3.2E+1
Gd-153		10	270	5	135	1.3E+2	3.5E+3
Gd-159		4	108	0.5	13.5	3.9E+4	1.1E+6
Ge-68	Germanium (32)	0.3	8.11	0.3	8.11	2.6E+2	7.1E+3
Ge-71		40	1080	40	1080	5.8E+3	1.6E+5
Ge-77		0.3	8.11	0.3	8.11	1.3E+5	3.6E+6
H-3	Hydrogen (1)	See T-Tritium					
Hf-172	Hafnium (72)	0.5	13.5	0.3	8.11	4.1E+1	1.1E+3
Hf-175		3	81.1	3	81.1	3.9E+2	1.1E+4
Hf-181		2	54.1	0.9	24.3	6.3E+2	1.7E+4
Hf-182		4	108	3E-2	0.811	8.1E-6	2.2E-4
Hg-194	Mercury (80)	1	27.0	1	27.0	1.3E-1	3.5
Hg-195m		5	135	5	135	1.5E+4	4.0E+5
Hg-197m		10	270	0.9	24.3	2.5E+4	6.7E+5
Hg-197		10	270	10	270	9.2E+3	2.5E+5
Hg-203		4	108	0.9	24.3	5.1E+2	1.4E+4
Ho-163	Holmium (67)	40	1080	40	1080	2.7	7.6E-1
Ho-166m		0.6	16.2	0.3	8.11	6.6E-2	1.8
Ho-166		0.3	8.11	0.3	8.11	2.6E+4	7.0E+5
I-123	Iodine (53)	6	162	6	162	7.1E+4	1.9E+6
I-124		0.9	24.3	0.9	24.3	9.3E+3	2.5E+5
I-125		20	541	2	54.1	6.4E+2	1.7E+4
I-126		2	54.1	0.9	24.3	2.9E+3	8.0E+4
I-129			Unlimited		Unlimited	6.5E-6	1.8E-4
I-131		3	81.1	0.5	13.5	4.6E+3	1.2E+5
I-132		0.4	10.8	0.4	10.8	3.8E+5	1.0E+7
I-133		0.6	16.2	0.5	13.5	4.2E+4	1.1E+6
I-134		0.3	8.11	0.3	8.11	9.9E+5	2.7E+7
I-135		0.6	16.2	0.5	13.5	1.3E+5	3.5E+6
In-111	Indium (49)	2	54.1	2	54.1	1.5E+4	4.2E+5
In-113m		4	108	4	108	6.2E+5	1.7E+7
In-114m		0.3	8.11	0.3	8.11	8.6E+2	2.3E+4
In-115m		6	162	0.9	24.3	2.2E+5	6.1E+6
Ir-189	Iridium (77)	10	270	10	270	1.9E+3	5.2E+4
Ir-190		0.7	18.9	0.7	18.9	2.3E+3	6.2E+4
Ir-192		1	27.0	0.5	13.5	3.4E+2	9.2E+3
Ir-193m		10	270	10	270	2.4E+3	6.4E+4
Ir-194		0.2	5.41	0.2	5.41	3.1E+4	8.4E+5
K-40	Potassium (19)	0.6	16.2	0.6	16.2	2.4E-7	6.4E-6
K-42		0.2	5.41	0.2	5.41	2.2E+5	6.0E+6
K-43		1.0	27.0	0.5	13.5	1.2E+5	3.3E+6
Kr-81	Krypton (39)	40	1080	40	1080	7.8E-4	2.1E-2
Kr-85m		6	162	6	162	3.0E+5	8.2E+6
Kr-85		20	541	10	270	1.5E+1	3.9E+2
Kr-87		0.2	5.41	0.2	5.41	1.0E+6	2.8E+7
La-137	Lanthanum (57)	40	1080	2	54.1	1.6E-3	4.4E-2

PROPOSED RULEMAKING

<i>Symbol of radionuclide</i>	<i>Element and atomic number</i>	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	<i>Specific activity</i> (TBq/g) (Ci/g)	
La-140		0.4	10.8	0.4	10.8	2.1E+4	5.6E+5
Lu-172	Lutetium (71)	0.5	13.5	0.5	13.5	4.2E+3	1.1E+5
Lu-173		8	216	8	216	5.6E+1	1.5E+3
Lu-174m		20	541	8	216	2.0E+2	5.3E+3
Lu-174		8	216	4	108	2.3E+1	6.2E+2
Lu-177		30	811	0.9	24.3	4.1E+3	1.1E+5
MFP		For mixed fission products, use formulas for mixtures in Table A-2					
Mg-28	Magnesium (12)	0.2	54.1	0.2	54.1	2.0E+5	5.4E+6
Mn-52	Manganese (25)						
Mn-53			Unlimited		Unlimited	6.8E-5	1.8E-3
Mn-54		1	27.0	1	27.0	2.9E+2	7.7E+3
Mn-56		0.2	5.41	0.2	5.41	8.0E+5	2.2E+7
Mo-93	Molybdenum (42)	40	1080	7	189	4.1E-2	1.1
Mo-99		0.6	16.2	0.5	13.5(c)	1.8E+4	4.8E+5
N-13	Nitrogen (7)	0.6	16.2	0.5	13.5	5.4E+7	1.5E+9
Na-22	Sodium (22)	0.5	13.5	0.5	13.5	2.3E+2	6.3E+3
Na-24		0.2	5.41	0.2	5.41	3.2E+5	8.7E+6
Nb-92m	Niobium (41)	0.7	18.9	0.7	18.9	5.3E+3	1.4E+5
Nb-93m		40	1080	6	162	8.8	2.4E+2
Nb-94		0.6	16.2	0.6	16.2	6.9E-3	1.9E-1
Nb-95		1	27.0	1	27.0	1.5E+3	3.9E+4
Nb-97		0.6	16.2	0.5	13.5	9.9E+5	2.7E+7
Nd-147	Neodymium (60)	4	108	0.5	13.5	3.0E+3	8.1E+4
Nd-149		0.6	16.2	0.5	13.5	4.5E+5	1.2E+7
Ni-59	Nickel(28)	40	1080	40	1080	3.0E-3	8.0E-2
Ni-63		40	1080	30	811	2.1	5.7E+1
Ni-65		0.3	8.11	0.3	8.11	7.1E+5	1.9E+7
Np-235	Neptunium(93)	40	1080	40	1080	5.2E+1	1.4E+3
Np-236		7	189	1E-3	2.70E-2	4.7E-4	1.3E-2
Np-237		2	54.1	2E-4	5.41E-3	2.5E-5	7.1E-4
Np-239		6	162	0.5	13.5	8.6E+3	2.3E+5
Os-185	Osmium(76)	1	27.0	1	27.0	2.8E+2	7.5E+3
Os-191m		40	1080	40	1080	4.6E+4	1.3E+6
Os-191		10	270	0.9	24.3	1.6E+3	4.4E+4
Os-193		0.6	16.2	0.5	13.5	2.0E+4	5.3E+5
Os-194		0.2	5.41	0.2	5.41	1.1E+1	3.1E+2
P-32	Phosphorus(15)	0.3	8.11	0.3	8.11	1.1E+4	2.9E+5
P-33		40	1080	0.9	24.3	5.8E+3	1.6E+5
Pa-230	Protactinium (91)	2	54.1	0.1	2.70	1.2E+3	3.3E+4
Pa-231		0.6	16.2	6E-5	1.62E-3	1.7E-3	4.7E-2
Pa-233		5	135	0.9	24.3	7.7E+2	2.1E+4
Pb-201	Lead(82)	1	27.0	1	27.0	6.2E+4	1.7E+6
Pb-202		40	1080	2	54.1	1.4E-4	3.4E-3
Pb-203		3	81.1	3	81.1	1.1E+4	3.0E+5
Pb-205			Unlimited		Unlimited	4.5E-6	1.2E-4
Pb-210		0.6	16.2	9E-3	0.243	2.8	7.6E+1
Pb-212		0.3	8.11	0.3	8.11	5.1E+4	1.4E+6
Pd-103	Palladium(46)	40	1080	40	1080	2.8E+3	7.5E+4
Pd-107			Unlimited		Unlimited	1.9E-5	5.1E-4
Pd-109		0.6	16.2	0.5	13.5	7.9E+4	2.1E+6
Pm-143	Promethium(61)	3	81.1	3	81.1	1.3E+2	3.4E+3
Pm-144		0.6	16.2	0.6	16.2	9.2E+1	2.5E+3
Pm-145		30	811	7	189	5.2	1.4E+2
Pm-147		40	1080	0.9	24.3	3.4E+1	9.3E+2
Pm-148m		0.5	13.5	0.5	13.5	7.9E+2	2.1E+4
Pm-149		0.6	16.2	0.5	13.5	1.5E+4	4.0E+5
Pm-151		3	81.1	0.5	13.5	2.7E+4	7.3E+5
Po-208	Polonium(84)	40	1080	2E-2	0.541	2.2E+1	5.9E+2
Po-209		40	1080	2E-2	0.541	6.2E-1	1.7E+1
Po-210		40	1080	2E-2	0.541	1.7E+2	4.5E+3
Pr-142	Praseodymium(59)	0.2	5.41	0.2	5.41	4.3E+4	1.2E+6
Pr-143		4	108	0.5	13.5	2.5E+3	6.7E+4
Pt-188	Platinum(78)	0.6	16.2	0.6	16.2	2.5E+3	6.8E+4
Pt-191		3	81.1	3	81.1	8.7E+3	2.4E+5
Pt-191m		40	1080	9	243	5.8E+3	1.6E+5
Pt-193		40	1080	40	1080	1.4	3.7E+1
Pt-195m		10	270	2	54.1	6.2E+3	1.7E+5

<i>Symbol of radionuclide</i>	<i>Element and atomic number</i>	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	<i>Specific activity</i> (TBq/g) (Ci/g)	
Pt-197m		10	270	0.9	24.3	3.7E+5	1.0E+7
Pt-197		20	541	0.5	13.5	3.2E+4	8.7E+5
Pu-236	Plutonium(94)	7	189	7E-4	1.89E-2	2.0E+1	5.3E+2
Pu-237		20	541	20	541	4.5E+2	1.2E+4
Pu-238		2	54.1	2E-4	5.41E-3	6.3E-1	1.7E+1
Pu-239		2	54.1	2E-4	5.41E-3	2.3E-3	6.2E-2
Pu-240		2	54.1	2E-4	5.41E-3	8.4E-3	2.3E-1
Pu-241		40	1080	1E-2	0.270	3.8	1.0E+2
Pu-242		2	54.1	2E-4	5.41E-3	1.5E-4	3.9E-3
Pu-244		0.3	8.11	2E-4	5.41E-3	6.7E-7	1.8E-5
Ra-223	Radium(88)	0.6	16.2	3E-2	0.811	1.9E+3	5.1E+4
Ra-224		0.3	8.11	6E-2	1.62	5.9E+3	1.6E+5
Ra-225		0.6	16.2	2E-2	0.541	1.5E+3	3.9E+4
Ra-226		0.3	8.11	2E-2	0.541	3.7E-2	1.0
Ra-228		0.6	16.2	4E-2	1.08	1.0E+1	2.7E+2
Rb-81	Rubidium(37)	2	54.1	0.9	24.3	3.1E+5	8.4E+6
Rb-83		2	54.1	2	54.1	6.8E+2	1.8E+4
Rb-84		1	27.0	0.9	24.3	1.8E+3	4.7E+4
Rb-86		0.3	8.11	0.3	8.11	3.0E+3	8.1E+4
Rb-87			Unlimited		Unlimited	3.2E-9	8.6E-8
Rb(natural)			Unlimited		Unlimited	6.7E+6	1.8E+8
Re-183	Rhenium(75)	5	135	5	135	3.8E+2	1.0E+4
Re-184m		3	81.1	3	81.1	1.6E+2	4.3E+3
Re-184		1	27.0	1	27.0	6.9E+2	1.9E+4
Re-186		4	108	0.5	13.5	6.9E+3	1.9E+5
Re-187			Unlimited		Unlimited	1.4E-9	3.8E-8
Re-188		0.2	5.41	0.2	5.41	3.6E+4	9.8E+5
Re-189		4	108	0.5	13.5	2.5E+4	6.8E+5
Re(natural)			Unlimited		Unlimited		2.4E-8
Rh-99	Rhodium(45)	2	54.1	2	54.1	3.0E+3	8.2E+4
Rh-101		4	108	4	108	4.1E+1	1.1E+3
Rh-102m		2	54.1	0.9	24.3	2.3E+2	6.2E+3
Rh-102		0.5	13.5	0.5	13.5	4.5E+1	1.2E+3
Rh-103m		40	1080	40	1080	1.2E+6	3.3E+7
Rh-105		10	270	0.9	24.3	3.1E+4	8.4E+5
Rn-222	Radon(86)	0.2	5.41	4E-3	0.108	5.7E+3	1.5E+5
Ru-97	Ruthenium(44)	4	108	4	108	1.7E+4	4.6E+5
Ru-103		2	54.1	0.9	24.3	1.2E+3	3.2E+4
Ru-105		0.6	16.2	0.5	13.5	2.5E+5	6.7E+6
Ru-106		0.2	5.41	0.2	5.41	1.2E+2	3.3E+4
S-35	Sulfur(16)	40	1080	2	54.1	1.6E+3	4.3E+4
Sb-122	Antimony(51)	0.3	8.11	0.3	8.11	1.5E+4	4.0E+5
Sb-124		0.6	16.2	0.5	13.5	6.5E+2	1.7E+4
Sb-125		2	54.1	0.9	24.3	3.9E+1	1.0E+3
Sb-126		0.4	10.8	0.4	10.8	3.1E+3	8.4E+4
Sc-44	Scandium(21)	0.5	13.5	0.5	13.5	6.7E+5	1.8E+7
Sc-46		0.5	13.5	0.5	13.5	1.3E+3	3.4E+4
Sc-47		9	243	0.9	24.3	3.1E+4	8.3E+5
Sc-48		0.3	8.11	0.3	8.11	5.5E+4	1.5E+6
Se-75	Selenium(34)	3	81.1	3	81.1	5.4E+2	1.5E+4
Se-79		40	1080	2	54.1	2.6E-3	7.0E-2
Si-31	Silicon(14)	0.6	16.2	0.5	13.5	1.4E+6	3.9E+7
Si-32		40	1080	0.2	5.41	3.9	1.1E+2
Sm-145	Samarium(62)	20	541	20	541	9.8E+1	2.6E+3
Sm-147			Unlimited		Unlimited	8.5E-1	2.3E+1
Sm-151		40	1080	4	108	9.7E-1	2.6E+1
Sm-153		4	108	0.5	13.5	1.6E+4	4.4E+5
Sn-113	Tin(50)	4	108	4	108	3.7E+2	1.0E+4
Sn-117m		9	162	2	54.1	3.0E+3	8.2E+4
Sn-119m		40	1080	40	1080	1.4E+2	3.7E+3
Sn-121m		40	1080	0.9	24.3	2.0	5.4E+1
Sn-123		0.6	16.2	0.5	13.5	3.0E+2	8.2E+3
Sn-125		0.2	5.41	0.2	5.41	4.0E+3	1.1E+5
Sn-126		0.3	8.11	0.3	8.11	1.0E-3	2.8E-2
Sr-82	Strontium(38)	0.2	5.41	0.2	5.41	2.3E+3	6.2E+4
Sr-85m		5	135	5	135	1.2E+6	3.3E+7
Sr-85		2	54.1	2	54.1	8.8E+2	2.4E+4

PROPOSED RULEMAKING

<i>Symbol of radionuclide</i>	<i>Element and atomic number</i>	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	<i>Specific activity</i> (TBq/g) (Ci/g)	
Sr-87m		3	81.1	3	81.	4.8E+5	1.3E+7
Sr-89		0.6	16.2	0.5	13.5	1.1E+3	2.9E+4
Sr-90		0.2	5.41	0.1	2.70	5.1	1.4E+2
Sr-91		0.3	8.11	0.3	8.11	1.3E+5	3.6E+6
Sr-92		0.8	21.6	0.5	13.5	4.7E+5	1.3E+7
T	Tritium(1)	40	1080	40	1080	3.6E+2	9.7E+3
Ta-178	Tantalum(73)	1	27.0	1	27.0	4.2E+6	1.1E+8
Ta-179		30	811	30	811	4.1E+1	1.1E+3
Ta-182		0.8	21.6	0.5	13.5	2.3E+2	6.2E+3
Tb-157	Terbium(65)	40	1080	10	270	5.6E-1	1.5E+1
Tb-158		1	27.0	0.7	18.9	5.6E-1	1.5E+1
Tb-160		0.9	24.3	0.5	13.5	4.2E+2	1.1E+4
Tc-95m	Technetium(43)	2	54.1	2	54.1	8.3E+2	2.2E+4
Tc-96m		0.4	10.8	0.4	10.8	1.4E+6	3.8E+7
Tc-96		0.4	10.8	0.4	10.8	1.2E+4	3.2E+5
Tc-97m		40	1080	40	1080	5.6E+2	1.5E+4
Tc-97			Unlimited		Unlimited	5.2E-5	1.4E-3
Tc-98		0.7	18.9	0.7	18.9	3.2E-5	8.7E-4
Tc-99m		8	216	8	216	1.9E+5	5.3E+6
Tc-99		40	1080	0.9	24.3	6.3E-4	1.7E-2
Te-118	Tellurium(52)	0.2	5.41	0.2	5.41	6.8E+3	1.8E+5
Te-121m		5	135	5	135	2.6E+2	7.0E+3
Te-121		2	54.1	2	54.1	2.4E+3	6.4E+4
Te-123m		7	189	7	189	3.3E+2	8.9E+3
Te-125m		30	811	9	243	6.7E+2	1.8E+4
Te-127m		20	541	0.5	13.5	3.5E+2	9.4E+3
Te-127		20	541	0.5	13.5	9.8E+4	2.6E+6
Te-129m		0.6	16.2	0.5	13.5	1.1E+3	3.0E+4
Te-129		0.6	16.2	0.5	13.5	7.7E+5	2.1E+7
Te-131m		0.7	18.9	0.5	13.5	3.0E+4	8.0E+5
Te-132		0.4	10.8	0.4	10.8	1.1E+4	3.0E+5
Th-227	Thorium(90)	9	243	1E-2	0.270	1.1E+3	3.1E+4
Th-228		0.3	8.11	4E-4	1.08E-2	3.0E+1	8.2E+2
Th-229		0.3	8.11	3E-5	8.11E-4	7.9E-3	2.1E-1
Th-230		2	54.1	2E-4	5.41E-3	7.6E-4	2.1E-2
Th-231		40	1080	0.9	24.3	2.0E+4	5.3E+5
Th-232			Unlimited		Unlimited	4.0E-9	1.1E-7
Th-234		0.2	5.41	0.2	5.41	8.6E+2	2.3E+4
Th(natural)			Unlimited		Unlimited	8.1E-9	2.2E-7
Ti-44	Titanium(22)	0.5	13.5	0.2	5.41	6.4	1.7E+2
Tl-200	Thallium(81)	0.8	21.6	0.8	21.6	2.2E+4	6.0E+5
Tl-201		10	270	10	270	7.9E+3	2.1E+5
Tl-202		2	54.1	2	54.1	2.0E+3	5.3E+4
Tl-204		4	108	0.5	13.5	1.7E+1	4.6E+2
Tm-167	Thulium(69)	7	189	7	189	3.1E+3	8.5E+4
Tm-168		0.8	21.6	0.8	21.6	3.1E+2	8.3E+3
Tm-170		4	108	0.5	13.5	2.2E+2	6.0E+3
Tm-171		40	1080	10	270	4.0E+1	1.1E+3
U-230	Uranium(92)	40	1080	1E-2	0.270	1.0E+3	2.7E+4
U-232		3	81.1	3E-4	8.11E-3	8.3E-1	2.2E+1
U-233		10	270	1E-3	2.70E-2	3.6E-4	9.7E-3
U-234		10	270	1E-3	2.70E-2	2.3E-4	6.2E-3
U-235			Unlimited		Unlimited	8.0E-8	2.2E-6
U-236		10	270	1E-3	2.7E-2	2.4E-6	6.5E-5
U-238			Unlimited		Unlimited	1.2E-8	3.4E-7
U(natural)			Unlimited		Unlimited	2.6E-8	7.1E-7
U(enriched 5% or less)			Unlimited		Unlimited		(See Table A-e)
U(enriched more than 5%)		10	270	1E-3	2.7E-2		(See Table A-3)
U(depleted)			Unlimited		Unlimited		(See Table A-3)
V-48	Vanadium(23)	0.3	8.11	0.3	8.11	6.3E+3	1.7E+5
V-49		40	1080	40	1080	3.0E+2	8.1E+3
W-178	Tungsten(74)	1	27.0	1	27.0	1.3E+3	3.4E+4
W-181		30	811	30	811	2.2E+2	6.0E+3

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci)	A ₂ (TBq)	A ₂ (Ci)	Specific activity (TBq/g)	Specific activity (Ci/g)
W-185		40	1080	0.9	24.3	3.5E+2	9.4E+3
W-187		2	54.1	0.5	13.5	2.6E+4	7.0E+5
W-188		0.2	5.41	0.2	5.41	3.7E+2	1.0E+4
Xe-122	Xenon(54)	0.2	5.41	0.2	5.41	4.8E+4	1.3E+6
Xe-123		0.2	5.41	0.2	5.41	4.4E+5	1.2E+7
Xe-127		4	108	4	108	1.0E+3	2.8E+4
Xe-131m		40	1080	40	1080	3.1E+3	8.4E+4
Xe-133		20	541	20	541	6.9E+3	1.9E+5
Xe-135		4	108	4	108	9.5E+4	2.6E+6
Y-87	Yttrium(39)	2	54.1	2	54.1	1.7E+4	4.5E+5
Y-88		0.4	10.8	0.4	10.8	5.2E+2	1.4E+4
Y-90		0.2	5.41	0.2	5.41	2.0E+4	5.4E+5
Y-91m		2	54.1	2	54.1	1.5E+6	4.2E+7
Y-91		0.3	8.11	0.3	8.11	9.1E+2	2.5E+4
Y-92		0.2	5.41	0.2	5.41	3.6E+5	9.6E+6
Y-93		0.2	5.41	0.2	5.41	1.2E+5	3.3E+6
Yb-169	Ytterbium(70)	3	81.1	3	81.1	8.9E+2	2.4E+4
Yb-175		30	811	0.9	24.3	6.6E+3	1.8E+5
Zn-65	Zinc(30)	2	54.1	2	54.1	3.0E+2	8.2E+3
Zn-69m		2	54.1	0.5	13.5	1.2E+5	3.3E+6
Zn-69		4	108	0.5	13.5	1.8E+6	4.9E+7
Zr-88	Zirconium(40)	3	81.1	3	81.1	6.6E+2	1.8E+4
Zr-93		40	1080	0.2	5.41	9.3E-5	2.5E-3
Zr-95		1	27.0	0.9	24.3	7.9E+2	2.1E+4
Zr-97		0.3	8.11	0.3	8.11	7.1E+4	1.9E+6

(a) International shipments of Einsteinium require multilateral approval of A₁ and A₂ values.

(b) International shipments of Fermium require multilateral approval of A₁ and A₂ values.

(c) 20 Ci for Mo-99 for domestic use.

TABLE A-2
GENERAL VALUES FOR A₁ AND A₂

Contents	A ₁		A ₂	
	(TBq)	(Ci)	(TBq)	(Ci)
Only beta- or gamma-emitting nuclides are known to be present	0.20	5.00	0.02	0.5
Alpha-emitting nuclides are known to be present, or no relevant data are available	0.10	2.70	2x10 ⁻⁵	5.41x10 ⁻⁴

CHAPTER 232. LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

- Subch. A. GENERAL PROVISIONS
- B. SPECIFIC LICENSING REQUIREMENTS
- C. DESIGN AND PERFORMANCE REQUIREMENTS FOR IRRADIATORS
- D. OPERATION OF IRRADIATORS
- E. RECORDS

Subchapter A. GENERAL PROVISIONS

- Sec. 232.1 Purpose and scope.
- 232.2 Definitions.

§ 232.1. Purpose and scope.

(a) This chapter contains requirements for the issuance of a license authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate

objects or materials using gamma radiation. This chapter also contains radiation safety requirements for operating irradiators. The requirements of this chapter are in addition to other requirements of this article. Nothing in this chapter relieves the licensee from complying with other applicable Federal, State and local regulations governing the siting, zoning, land use and building code requirements for industrial facilities.

(b) The regulations in this chapter apply to panoramic irradiators that have either dry or wet storage of the radioactive sealed sources and to underwater irradiators in which both the source and the product being irradiated are under water. Irradiators whose dose rates exceed 5 Grays (500 rads) per hour at 1 meter from the radioactive sealed sources in air or in water, as applicable for the irradiator type, are covered by this chapter.

(c) The regulations in this chapter do not apply to self-contained dry-source-storage irradiators (those in which both the source and the area subject to irradiation are contained within a device and are not accessible by personnel), medical radiology or teletherapy, radiography (the irradiation of materials for nondestructive testing purposes), gauging or open-field (agricultural) irradiations.

§ 232.2. Definitions.

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

Annually—One of the following:

(i) At intervals not to exceed 1 year.

(ii) Once per year, at about the same time each year—plus or minus 1 month.

Doubly encapsulated sealed source—A sealed source in which the radioactive material is sealed within a capsule and that capsule is sealed within another capsule.

Irradiator—A facility that uses radioactive sealed sources for the irradiation of objects or materials and in

which radiation dose rates exceeding 5 Grays (500 rads) per hour exist at 1 meter from the sealed radioactive sources in air or water, as applicable for the irradiator type, but does not include irradiators in which both the sealed source and the area subject to irradiation are contained within a device and are not accessible to personnel.

Irradiator operator—An individual who has successfully completed the training and testing described in § 232.51 (relating to training) and is authorized by the terms of the license to operate the irradiator without a supervisor present.

Panoramic dry-source-storage irradiator—An irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored in shields made of solid materials. The term includes beam-type dry-source-storage irradiators in which only a narrow beam of radiation is produced for performing irradiations.

Panoramic irradiator—An irradiator in which the irradiations are done in air in areas potentially accessible to personnel. The term includes beam-type irradiators.

Panoramic wet-source-storage irradiator—An irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored under water in a storage pool.

Pool irradiator—An irradiator at which the sources are stored or used in a pool of water including panoramic wet-source-storage irradiators and underwater irradiators.

Product conveyor system—A system for moving the product to be irradiated to, from and within the area where irradiation takes place.

Radiation room—A shielded room in which irradiations take place. Underwater irradiators do not have radiation rooms.

Radiation safety officer—An individual with responsibility for the overall radiation safety program at the facility.

Sealed source—A byproduct material that is used as a source of radiation and is encased in a capsule designed to prevent leakage or escape of the byproduct material.

Seismic area—An area where the probability of a horizontal acceleration in rock of more than 0.3 times the acceleration of gravity in 250 years is greater than 10%, as designated by the United States Geological Survey.

Underwater irradiator—An irradiator in which the sources always remain shielded under water and humans do not have access to the sealed sources or the space subject to irradiation without entering the pool.

Subchapter B. SPECIFIC LICENSING REQUIREMENTS

Sec.	
232.11	Application for a specific license.
232.13	Specific licenses for irradiators.
232.15	Start of construction.
232.17	Applications for exemptions.
232.19	Request for written statements.

§ 232.11. Application for a specific license.

A person may file an application for a specific license authorizing the use of sealed sources in an irradiator as required under § 217.51 (relating to filing application for specific licenses).

§ 232.13. Specific licenses for irradiators.

The Department will approve an application for a specific license for the use of licensed material in an irradiator if the applicant meets the requirements contained in this section.

(1) The applicant shall satisfy the general requirements specified in §§ 217.51 and 217.52 (relating to filing application for specific licenses; and general requirements for the issuance of specific licenses) and this chapter.

(2) The application shall describe the training provided to irradiator operators including:

- (i) Classroom training.
- (ii) On-the-job or simulator training.
- (iii) Safety reviews.

(iv) The means employed by the applicant to test each operator's understanding of the Department's regulations and licensing requirements and the irradiator operating and emergency procedures.

(v) Minimum training and experience of personnel who may provide training.

(3) The application shall include an outline of the written operating and emergency procedures in § 232.53 (relating to operating and emergency procedures) that describes the radiation safety aspects of the procedures.

(4) The application shall describe the organizational structure for managing the irradiator, specifically the radiation safety responsibilities and authorities of the radiation safety officer and management personnel who have important radiation safety responsibilities or authorities. In particular, the application shall specify who, within the management structure, has the authority to stop unsafe operations. The application shall also describe the training and experience required for the position of radiation safety officer.

(5) The application shall include a description of the access control systems required by § 232.23 (relating to access control), the radiation monitors required by § 232.29 (relating to radiation monitors), the method of detecting leaking sources required by § 232.59 (relating to detection of leaking sources) including the sensitivity of the method and a diagram of the facility that shows the locations of all required interlocks and radiation monitors.

(6) If the applicant intends to perform leak testing of dry-source-storage sealed sources, the applicant shall establish procedures for leak testing and submit a description of these procedures to the Department. The description shall include the following:

- (i) Instruments to be used.
- (ii) Methods of performing the analysis.
- (iii) Pertinent experience of the individual who analyzes the samples.

(7) If licensee personnel are to load or unload sources, the applicant shall describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading shall be done by an organization specifically authorized by the Department, NRC or an agreement state to load or unload irradiator sources.

(8) The applicant shall describe the inspection and maintenance checks, including the frequency of the checks required by § 232.61 (relating to inspection and maintenance).

§ 232.15. Start of construction.

The applicant may not begin construction of a new irradiator prior to the submission to the Department of both an application for a license for the irradiator and the fee required by Chapter 218 (relating to fees). As used in this section, the term "construction" includes the construction of any portion of the permanent irradiator structure on the site but does not include: engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of this article.

§ 232.17. Applications for exemptions.

(a) The Department may, upon application of an interested person or upon its own initiative, grant exemptions from the requirements in this chapter that it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

(b) An application for a license or for amendment of a license authorizing use of a teletherapy-type unit for irradiation of materials or objects may include proposed alternatives for the requirements of this chapter. The Department will approve the proposed alternatives if the applicant provides adequate rationale for the proposed alternatives and demonstrates that they are likely to provide an adequate level of safety for workers and the public.

§ 232.19. Request for written statements.

(a) After the filing of the original application, the Department may request further information necessary to enable the Department to determine whether the application should be granted or denied.

(b) Each license is issued with the condition that the licensee will, at any time before expiration of the license, upon the Department's request, submit written statements to enable the Department to determine whether the license should be modified, suspended or revoked.

Subchapter C. DESIGN AND PERFORMANCE REQUIREMENTS FOR IRRADIATORS

Sec.	
232.21	Performance criteria for sealed sources.
232.23	Access control.
232.25	Shielding.
232.27	Fire protection.
232.29	Radiation monitors.
232.31	Control of source movement.
232.33	Irradiator pools.
232.35	Source rack protection.
232.37	Power failures.
232.39	Design requirements.
232.41	Construction monitoring and acceptance testing.

§ 232.21. Performance criteria for sealed sources.

(a) *After July 1, 1993.* Sealed sources installed after July 1, 1993, shall meet the following requirements:

- (1) Have a certificate of registration issued under 10 CFR 32.210 (relating to product information).
- (2) Be doubly encapsulated.
- (3) Use radioactive material that is as nondispersible as practical and that is as insoluble as practical if the source is used in a wet-source-storage or wet-source-change irradiator.

(4) Be encapsulated in a material resistant to general corrosion and to localized corrosion, such as 316L stainless steel or other material with equivalent resistance if the sources are for use in irradiator pools.

(5) In prototype testing of the sealed source, shall have been leak tested and found leak-free after each of the tests described in subsections (b)—(g).

(b) *Temperature.* The test source shall be held at -40°C for 20 minutes, 600°C for 1 hour, and then be subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds.

(c) *Pressure.* The test source shall be twice subjected for at least 5 minutes to an external pressure (absolute) of 2 million Newtons per square meter.

(d) *Impact.* A 2-kilogram steel weight, 2.5 centimeters in diameter, shall be dropped from a height of 1 meter onto the test source.

(e) *Vibration.* The test source shall be subjected three times for 10 minutes each to vibrations sweeping from 25 hertz to 500 Hertz with a peak amplitude of 5 times the acceleration of gravity. In addition, each test source shall be vibrated for 30 minutes at each resonant frequency found.

(f) *Puncture.* A 50-gram weight and pin, 0.3-centimeter pin diameter, shall be dropped from a height of 1 meter onto the test source.

(g) *Bend.* If the length of the source is more than 15 times larger than the minimum cross-sectional dimension, the test source shall be subjected to a force of 2,000 Newtons at its center equidistant from two support cylinders, the distance between which is 10 times the minimum cross-sectional dimension of the source.

§ 232.23. Access control.

(a) Each entrance to a radiation room at a panoramic irradiator shall have a door or other physical barrier to prevent inadvertent entry of personnel if the sources are not in the shielded position. Product conveyor systems may serve as barriers as long as they reliably and consistently function as a barrier. It shall be impossible to move the sources out of their shielded position if the door or barrier is open. Opening the door or barrier while the sources are exposed shall cause the sources to return promptly to their shielded position. The personnel entrance door or barrier shall have a lock that is operated by the same key used to move the sources. The doors and barriers may not prevent an individual in the radiation room from leaving.

(b) Each entrance to a radiation room at a panoramic irradiator shall have an independent backup access control to detect personnel entry while the sources are exposed. Detection of entry while the sources are exposed shall cause the sources to return to their fully shielded position and shall also activate a visible and audible alarm to make the individual entering the room aware of the hazard. The alarm shall also alert at least one other individual who is onsite of the entry. That individual shall be trained on how to respond to the alarm and prepared to promptly render or summon assistance promptly.

(c) A radiation monitor shall be provided to detect the presence of high radiation levels in the radiation room of a panoramic irradiator before personnel entry. The monitor shall be integrated with personnel access door locks to prevent room access when radiation levels are high. Attempted personnel entry while the monitor measures

high radiation levels, shall activate the alarm described in subsection (b). The monitor may be located in the entrance (normally referred to as the maze) but not in the direct radiation beam.

(d) Before the sources move from their shielded position in a panoramic irradiator, the source control shall automatically activate conspicuous visible and audible alarms to alert people in the radiation room that the sources will be moved from their shielded position. The alarms shall give individuals enough time to leave the room before the sources leave the shielded position.

(e) Each radiation room at a panoramic irradiator shall have a clearly visible and readily accessible control that would allow an individual in the room to make the sources return to their fully shielded position.

(f) Each radiation room of a panoramic irradiator shall contain a control that prevents the sources from moving from the shielded position unless the control has been activated and the door or barrier to the radiation room has been closed within a preset time after activation of the control.

(g) Each entrance to the radiation room of a panoramic irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator shall have a sign bearing the radiation symbol and the words, "Caution (or danger) radioactive material." Panoramic irradiators shall also have a sign stating "High radiation area," but the sign may be removed, covered or otherwise made inoperative when the sources are fully shielded.

(h) If the radiation room of a panoramic irradiator has roof plugs or other movable shielding, it shall be impossible to operate the irradiator unless the shielding is in its proper location. This requirement may be met by interlocks that prevent operation if shielding is not placed properly or by an operating procedure requiring inspection of shielding before operating.

(i) Underwater irradiators shall have a personnel access barrier around the pool which shall be locked to prevent access when the irradiator is not attended. Only operators and facility management may have access to keys to the personnel access barrier. There shall be an intrusion alarm to detect unauthorized entry when the personnel access barrier is locked. Activation of the intrusion alarm shall alert an individual (not necessarily onsite) who is prepared to respond or summon assistance.

§ 232.25. Shielding.

(a) The radiation dose rate in areas that are normally occupied during operation of a panoramic irradiator may not exceed 0.00002 Sv (2 mrem) per hour at any location 30 cm or more from the wall of the room when the sources are exposed. The dose rate shall be averaged over an area not to exceed 100 square centimeters having no linear dimension greater than 20 cm. Areas where the radiation dose rate exceeds 0.00002 Sv (2 mrem) per hour shall be locked, roped off or posted.

(b) The radiation dose at 30 cm over the edge of the pool of a pool irradiator may not exceed 0.0002 Sv (2 mrem) per hour when the sources are in the fully shielded position.

(c) The radiation dose rate at 1 meter from the shield of a dry-source-storage panoramic irradiator when the source is shielded may not exceed 0.00002 Sv (2 mrem) per hour and at 5 centimeters from the shield may not exceed 0.0002 Sv (20 mrem) per hour.

§ 232.27. Fire protection.

(a) The radiation room at a panoramic irradiator shall have heat and smoke detectors. The detectors shall activate an audible alarm. The alarm shall be capable of alerting a person who is prepared to summon assistance promptly. The sources shall automatically become fully shielded if a fire is detected.

(b) The radiation room at a panoramic irradiator shall be equipped with a fire extinguishing system capable of extinguishing a fire without the entry of personnel into the room. The system for the radiation room shall have a shut-off valve to control flooding into unrestricted areas.

§ 232.29. Radiation monitors.

(a) Irradiators with automatic product conveyor systems shall have a radiation monitor with an audible alarm located to detect loose radioactive sources that are carried toward the product exit. If the monitor detects a source, an alarm shall sound and product conveyors shall stop automatically. The alarm shall be capable of alerting an individual in the facility who is prepared to summon assistance. Underwater irradiators in which the product moves within an enclosed stationary tube are exempt from this paragraph.

(b) Underwater irradiators that are not in a shielded radiation room shall have a radiation monitor over the pool to detect abnormal radiation levels. The monitor shall have an audible alarm and a visible indicator at entrances to the personnel access barrier around the pool. The audible alarm may have a manual shut-off. The alarm shall be capable of alerting an individual who is prepared to respond promptly.

§ 232.31. Control of source movement.

(a) The mechanism that moves the sources of a panoramic irradiator shall require a key to actuate. Actuation of the mechanism shall cause an audible signal to indicate that the sources are leaving the shielded position. Only one key may be in use at any time, and only operators or facility management may possess it. The key shall be attached to a portable radiation survey meter by a chain or cable. The lock for source control shall be designed so that the key may not be removed if the sources are in an unshielded position. The door to the radiation room shall require the same key.

(b) The console of a panoramic irradiator shall have a source position indicator that indicates when the sources are in the fully shielded position, when they are in transit and when the sources are exposed.

(c) The control console of a panoramic irradiator shall have a control that promptly returns the sources to the shielded position.

(d) Each control for a panoramic irradiator shall be clearly marked as to its function.

§ 232.33. Irradiator pools.

(a) The licensee shall have a method to safely store the sources during repair of the pool. For licenses initially issued after July 1, 1993, irradiator pools shall meet one of the following:

(1) Have a water-tight stainless steel liner or a liner metallurgically compatible with other components in the pool.

(2) Be constructed so that there is a low likelihood of substantial leakage and have a surface designed to facilitate decontamination.

(b) For licenses initially issued after July 1, 1993, irradiator pools shall have no outlets more than 0.5 meter below the normal low water level that could allow water to drain out of the pool. Pipes that have intakes more than 0.5 meter below the normal low water level and that could act as siphons shall have siphon breakers to prevent the siphoning of pool water.

(c) A means shall be provided to replenish water losses from the pool.

(d) A visible indicator shall be provided in a clearly visible location to indicate if the pool water level is below the normal low water level or above the normal high water level.

(e) Irradiator pools shall be equipped with a purification system designed to be capable of maintaining the water during normal operation at a conductivity of 20 microsiemens per centimeter or less and with a clarity so that the sources can be seen clearly.

(f) A physical barrier, such as a railing or cover, shall be used around or over irradiator pools during normal operation to prevent personnel from accidentally falling into the pool. The barrier may be removed during maintenance, inspection and service operations.

(g) If long-handled tools or poles are used in irradiator pools, the radiation dose rate on the handling areas of the tools may not exceed 0.00002 Sv (2 mrem) per hour.

§ 232.35. Source rack protection.

If the product to be irradiated moves on a product conveyor system, the source rack and the mechanism that moves the rack shall be protected by a barrier or guides to prevent products and product carriers from hitting or touching the rack or mechanism.

§ 232.37. Power failures.

(a) If electrical power at a panoramic irradiator is lost for longer than 10 seconds, the sources shall automatically return to the shielded position.

(b) The lock on the door of the radiation room of a panoramic irradiator may not be deactivated by a power failure.

(c) During a power failure, the area of any irradiator where sources are located may be entered only when using an operable and calibrated radiation survey meter.

§ 232.39. Design requirements.

Irradiators whose construction begins after July 1, 1993, shall meet the design requirements of this section.

(1) *Shielding.* For panoramic irradiators, the licensee shall design shielding walls to meet generally accepted building code requirements for reinforced concrete and design the walls, wall penetrations and entranceways to meet the radiation shielding requirements of § 232.25 (relating to shielding). If the irradiator will use more than 2×10^{17} Bq (5 MCi) of activity, the licensee shall evaluate the effects of heating of the shielding walls by the irradiator sources.

(2) *Foundations.* For panoramic irradiators, the licensee shall design the foundation, with consideration given to soil characteristics, to ensure it is adequate to support the weight of the facility shield walls.

(3) *Pool integrity.* For pool irradiators, the licensee shall design the pool to assure that it is leak resistant, that it is strong enough to bear the weight of the pool water and shipping casks, that a dropped cask would not fall on sealed sources, that all outlets or pipes meet the

requirements of § 232.33(b) (relating to irradiator pools), and that metal components are metallurgically compatible with other components in the pool.

(4) *Water handling system.* For pool irradiators, the licensee shall verify that the design of the water purification system is adequate to meet the requirements of § 232.33(e) (relating to irradiator pools). The system shall be designed so that water leaking from the system does not drain to unrestricted areas without being monitored.

(5) *Radiation monitors.* For all irradiators, the licensee shall evaluate the location and sensitivity of the monitor to detect sources carried by the product conveyor system as required by § 232.29(a) (relating to radiation monitors). The licensee shall verify that the product conveyor is designed to stop before a source on the product conveyor would cause a radiation overexposure to any person. For pool irradiators, if the licensee uses radiation monitors to detect contamination under § 232.59(b) (relating to detection of leaking sources), the licensee shall verify that the design of radiation monitoring systems to detect pool contamination includes sensitive detectors located close to where contamination is likely to concentrate.

(6) *Source rack.* For pool irradiators, the licensee shall verify that there are no crevices on the source or between the source and source holder that would promote corrosion on a critical area of the source. For panoramic irradiators, the licensee shall determine that source rack drops due to loss of power will not damage the source rack and that source rack drops due to failure of cables (or alternate means of support) will not cause loss of integrity of sealed sources. For panoramic irradiators, the licensee shall review the design of the mechanism that moves the sources to assure that the likelihood of a stuck source is low and that, if the rack sticks, a means exists to free it with minimal risk to personnel.

(7) *Access control.* For panoramic irradiators, the licensee shall verify from the design and logic diagram that the access control system will meet the requirements of § 232.23 (relating to access control).

(8) *Fire protection.* For panoramic irradiators, the licensee shall verify that the number, location and spacing of the smoke and heat detectors are appropriate to detect fires and that the detectors are protected from mechanical and radiation damage. The licensee shall verify that the design of the fire extinguishing system provides the necessary discharge patterns, densities and flow characteristics for complete coverage of the radiation room and that the system is protected from mechanical and radiation damage.

(9) *Source return.* For panoramic irradiators, the licensee shall verify that the source rack will automatically return to the fully shielded position if offsite power is lost for more than 10 seconds.

(10) *Seismic.* For panoramic irradiators to be built in seismic areas, the licensee shall design the reinforced concrete radiation shields to retain their integrity in the event of an earthquake by designing to the seismic requirements of an appropriate source such as American Concrete Institute Standard ACI 318-89, "Building Code Requirements for Reinforced Concrete," Chapter 21, "Special Provisions for Seismic Design," or local building codes, if current.

(11) *Wiring.* For panoramic irradiators, the licensee shall verify that electrical wiring and electrical equipment in the radiation room are selected to minimize failures due to prolonged exposure to radiation.

§ 232.41. Construction monitoring and acceptance testing.

The requirements of this section shall be met for irradiators whose construction begins after July 1, 1993. The requirements shall be met prior to loading sources.

(1) *Shielding.* For panoramic irradiators, the licensee shall monitor the construction of the shielding to verify that its construction meets design specifications and generally accepted building code requirements for reinforced concrete.

(2) *Foundations.* For panoramic irradiators, the licensee shall monitor the construction of the foundations to verify that their construction meets design specifications.

(3) *Pool integrity.* For pool irradiators, the licensee shall verify that the pool meets design specifications and shall test the integrity of the pool. The licensee shall verify that outlets and pipes meet the requirements of § 232.33(b) (relating to irradiator pools).

(4) *Water handling system.* For pool irradiators, the licensee shall verify that the water purification system, the conductivity meter and the water level indicators operate properly.

(5) *Radiation monitors.* For all irradiators, the licensee shall verify the proper operation of the monitor to detect sources carried on the product conveyor system and the related alarms and interlocks required by § 232.29(a) (relating to radiation monitors). For pool irradiators, the licensee shall verify the proper operation of the radiation monitors and the related alarm if used to meet § 232.59(b) (relating to detection of leaking sources). For underwater irradiators, the licensee shall verify the proper operation of the over-the-pool monitor, alarms and interlocks required by § 232.29(b) (relating to radiation monitors).

(6) *Source rack.* For panoramic irradiators, the licensee shall test the movement of the source racks for proper operation prior to source loading. Testing shall include source rack lowering due to simulated loss of power. For all irradiators with product conveyor systems, the licensee shall observe and test the operation of the conveyor system to assure that the requirements in § 232.35 (relating to source rack protection) are met for protection of the source rack and the mechanism that moves the rack. Testing shall include tests of any limit switches and interlocks used to protect the source rack and mechanism that moves the rack from moving product carriers.

(7) *Access control.* For panoramic irradiators, the licensee shall test the completed access control system to assure that it functions as designed and that all alarms, controls and interlocks work properly.

(8) *Fire protection.* For panoramic irradiators, the licensee shall test the ability of the heat and smoke detectors to detect a fire, to activate alarms and to cause the source rack to automatically become fully shielded. The licensee shall test the operability of the fire extinguishing system.

(9) *Source return.* For panoramic irradiators, the licensee shall demonstrate that the source racks can be returned to their fully shielded positions without offsite power.

(10) *Computer systems.* For panoramic irradiators that use a computer system to control the access control system, the licensee shall verify that the access control system will operate properly if offsite power is lost and shall verify that the computer has security features that

prevent an irradiator operator from commanding the computer to override the access control system when it is required to be operable.

(11) *Wiring.* For panoramic irradiators, the licensee shall verify that the electrical wiring and electrical equipment that were installed meet the design specifications.

Subchapter D. OPERATION OF IRRADIATORS

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§ 232.51. Training.

(a) Before an individual is permitted to operate an irradiator without a supervisor present, the individual shall be instructed in the following:

(1) The fundamentals of radiation protection applied to irradiators including:

(i) The differences between external radiation and radioactive contamination.

(ii) Units of radiation dose.

(iii) Dose limits.

(iv) Why large radiation doses shall be avoided.

(v) How shielding and access controls prevent large doses.

(vi) How an irradiator is designed to prevent contamination.

(vii) The proper use of survey meters and personnel dosimeters.

(viii) Other radiation safety features of an irradiator, and the basic function of the irradiator).

(2) The requirements of this chapter and chapter 219 (relating to the standards for radiation protection) that are relevant to the irradiator.

(3) The operation of the irradiator.

(4) The operating and emergency procedures in § 232.53 (relating to operating and emergency procedures) that the individual is responsible for performing.

(5) Case histories of accidents or problems involving irradiators.

(b) Before an individual is permitted to operate an irradiator without a supervisor present, the individual shall pass a written test on the instruction received consisting primarily of questions based on the licensee's operating and emergency procedures that the individual is responsible for performing and other operations necessary to safely operate the irradiator without supervision.

(c) Before an individual is permitted to operate an irradiator without a supervisor present, the individual shall have received on-the-job training or simulator training in the use of the irradiator as described in the license application. The individual shall also demonstrate the ability to perform those portions of the operating and emergency procedures that he is to perform.

(d) The licensee shall conduct safety reviews for irradiator operators at least annually. The licensee shall give

each operator a brief written test on the information. Each safety review shall include, to the extent appropriate, each of the following:

- (1) Changes in operating and emergency procedures since the last review, if any.
- (2) Changes in regulations and license conditions since the last review, if any.
- (3) Reports on recent accidents, mistakes or problems that have occurred at irradiators, if any.
- (4) Relevant results of inspections of operator safety performance.
- (5) Relevant results of the facility's inspection and maintenance checks.
- (6) A drill to practice an emergency or abnormal event procedure.
- (e) The licensee shall evaluate the safety performance of each irradiator operator at least annually to ensure that regulations, license conditions and operating and emergency procedures are followed. The licensee shall discuss the results of the evaluation with the operator and shall instruct the operator on how to correct any mistakes or deficiencies observed.
- (f) Individuals who will be permitted unescorted access to the radiation room of the irradiator or the area around the pool of an underwater irradiator, but who have not received the training required for operators and the radiation safety officer, shall be instructed and tested in any precautions they should take to avoid radiation exposure, any procedures or parts of procedures in § 232.53 that they are expected to perform or comply with, and their proper response to alarms required in this chapter. Tests may be oral.

(g) Individuals who shall be prepared to respond to alarms required by §§ 232.23(b) and (i), 232.27(a), 232.29(a) and (b) and 232.59(b) shall be trained and tested on how to respond. Each individual shall be retested at least once a year. Tests may be oral.

§ 232.53. Operating and emergency procedures.

- (a) The licensee shall have and follow written operating procedures for the following:
- (1) Operation of the irradiator, including entering and leaving the radiation room.
 - (2) Use of personnel dosimeters.
 - (3) Surveying the shielding of panoramic irradiators.
 - (4) Monitoring pool water for contamination while the water is in the pool and before release of pool water to unrestricted areas.
 - (5) Leak testing of sources.
 - (6) Inspection and maintenance checks required by § 232.61 (relating to inspection and maintenance).
 - (7) Loading, unloading and repositioning sources, if the operations will be performed by the licensee.
 - (8) Inspection of movable shielding required by § 232.23(h) (relating to access control), if applicable.
- (b) The licensee shall have and follow emergency or abnormal event procedures, appropriate for the irradiator type, for the following:
- (1) Sources stuck in the unshielded position.
 - (2) Personnel overexposures.

(3) A radiation alarm from the product exit portal monitor or pool monitor.

(4) Detection of leaking sources, pool contamination or alarm caused by contamination of pool water.

(5) A low or high water level indicator, an abnormal water loss or leakage from the source storage pool.

(6) A prolonged loss of electrical power.

(7) A fire alarm or explosion in the radiation room.

(8) An alarm indicating unauthorized entry into the radiation room, area around pool or another alarmed area.

(9) Natural phenomena, including an earthquake, a tornado, flooding or other phenomena as appropriate for the geographical location of the facility.

(10) The jamming of automatic conveyor systems.

(c) The licensee may revise operating and emergency procedures without Department approval only if the following conditions are met:

- (1) The revisions do not reduce the safety of the facility.
- (2) The revisions are consistent with the outline or summary of procedures submitted with the license application.
- (3) The revisions have been reviewed and approved by the radiation safety officer.
- (4) The users or operators are instructed and tested on the revised procedures before they are put into use.

§ 232.55. Personnel monitoring.

(a) Irradiator operators shall wear either a film badge or a thermoluminescent (TLD) dosimeter while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The film badge or TLD processor shall be accredited by the National Voluntary Laboratory Accreditation Program for high energy photons in the normal and accident dose ranges. Each film badge or TLD shall be assigned to and worn by only one individual. Film badges shall be processed at least monthly, and TLDs shall be processed at least quarterly.

(b) Other individuals who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this subsection, a check of their response to radiation shall be done at least annually. Acceptable dosimeters shall read within $\pm 30\%$ of the true radiation dose.

§ 232.57. Radiation surveys.

(a) A radiation survey of the area outside the shielding of the radiation room of a panoramic irradiator shall be conducted with the sources in the exposed position before the facility starts to operate. A radiation survey of the area above the pool of pool irradiators shall be conducted after the sources are loaded but before the facility starts to operate. Additional radiation surveys of the shielding shall be performed at intervals not to exceed 3 years and before resuming operation after addition of new sources or any modification to the radiation room shielding or structure that might increase dose rates.

(b) If the radiation levels specified in § 232.25 (relating to shielding) are exceeded, the facility shall be modified to comply with § 232.25.

(c) Portable radiation survey meters shall be calibrated at least annually to an accuracy of $\pm 20\%$ for the gamma energy of the sources in use. The calibration shall be done at two points on each scale or, for digital instruments, at one point per decade over the range that will be used. Portable radiation survey meters shall be of a type that does not saturate and read zero at high radiation dose rates.

(d) Water from the irradiator pool, other potentially contaminated liquids, and sediments from pool vacuuming shall be monitored for radioactive contamination before release to unrestricted areas. Radioactive concentrations may not exceed those specified in Chapter 219, Appendix B Table 2, Column 2 or Table 3 of, "Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage."

(e) Before releasing resins for unrestricted use, they shall be monitored before release in an area with a background level less than 0.0005 mSv (0.05 mrem) per hour. The resins may be released only if the survey does not detect radiation levels above background radiation levels. The survey meter used shall be capable of detecting radiation levels of 0.0005 mSv (0.05 mrem) per hour.

§ 232.59. Detection of leaking sources.

(a) Each dry-source-storage sealed source shall be tested for leakage at intervals not to exceed 6 months using a leak test kit or method approved by the Department or an agreement state. In the absence of a certificate from a transferor that a test has been made within the 6 months before the transfer, the sealed source may not be used until tested. The test shall be capable of detecting the presence of 200 Bq (0.005 μ Ci) of radioactive material and shall be performed by a person approved by the Department, the NRC or an agreement state to perform the test.

(b) For pool irradiators, sources may not be put into the pool unless the licensee tests the sources for leaks or has a certificate from a transferor that a leak test has been done within the 6 months before the transfer. Water from the pool shall be checked for contamination each day the irradiator operates. The check may be done either by using a radiation monitor on a pool water circulating system or by analysis of a sample of pool water. If a check for contamination is done by analysis of a sample of pool water, the results of the analysis shall be available within 24 hours. If the licensee uses a radiation monitor on a pool water circulating system, the detection of above normal radiation levels shall activate an alarm. The alarm set-point shall be set as low as practical, but high enough to avoid false alarms. The licensee may reset the alarm set-point to a higher level if necessary to operate the pool water purification system to clean up contamination in the pool if specifically provided for in written emergency procedures.

(c) If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired or disposed of by a Department, the NRC or agreement state licensee that is authorized to perform these functions. The licensee shall promptly check its personnel, equipment, facilities and irradiated product for radioactive contamination. No product may be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee shall arrange to locate and survey that

product for contamination. If any personnel are found to be contaminated, decontamination shall be performed promptly. If contaminated equipment, facilities or products are found, the licensee shall arrange to have them decontaminated or disposed of by a Department, NRC or agreement state licensee that is authorized to perform these functions. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in 10 CFR Part 20, Appendix B, Table 2, Column 2. (See 10 CFR 30.50 (relating to reporting requirements) for reporting requirements.)

§ 232.61. Inspection and maintenance.

(a) The licensee shall perform inspection and maintenance checks at the frequency specified in the license or license application that include, as a minimum, each of the following:

(1) Operability of each aspect of the access control system required by § 232.23 (relating to access control).

(2) Functioning of the source position indicator required by § 232.31(b) (relating to control of source movement).

(3) Operability of the radiation monitor for radioactive contamination in pool water required by § 232.59(b) (relating to detection of leaking sources) using a radiation check source, if applicable.

(4) Operability of the over-pool radiation monitor at underwater irradiators as required by § 232.29(b) (relating to radiation monitors).

(5) Operability of the product exit monitor required by § 232.29(a).

(6) Operability of the emergency source return control required by § 232.31(c) (relating to control of source movement).

(7) Leak-tightness of systems through which pool water circulates (visual inspection).

(8) Operability of the heat and smoke detectors and extinguisher system required by § 232.27 (relating to fire protection)—but without turning extinguishers on.

(9) Operability of the means of pool water replenishment required by § 232.33(c) (relating to irradiator pools).

(10) Operability of the indicators of high and low pool water levels required by § 232.33(d).

(11) Operability of the intrusion alarm required by § 232.23(i) (relating to access control), if applicable.

(12) Functioning and wear of the system, mechanisms and cables used to raise and lower sources.

(13) Condition of the barrier to prevent products from hitting the sources or source mechanism as required by § 232.35 (relating to source rack protection).

(14) Amount of water added to the pool to determine if the pool is leaking.

(15) Electrical wiring on required safety systems for radiation damage.

(16) Pool water conductivity measurements and analysis as required by § 232.63(b) (relating to pool water purity).

(b) Malfunctions and defects found during inspection and maintenance checks shall be repaired without undue delay.

§ 232.63. Pool water purity.

(a) Pool water purification system shall be run sufficiently to maintain the conductivity of the pool water below 20 microsiemens per centimeter under normal circumstances. If pool water conductivity rises above 20 microsiemens per centimeter, the licensee shall take prompt actions to lower the pool water conductivity and shall take corrective actions to prevent future recurrences.

(b) The licensee shall measure the pool water conductivity frequently enough, but no less than weekly, to assure that the conductivity remains below 20 microsiemens per centimeter. Conductivity meters shall be calibrated at least annually.

§ 232.65. Attendance during operation.

(a) Both an irradiator operator and at least one other individual, who is trained on how to respond and prepared to promptly render or summon assistance if the access control alarm sounds, shall be present onsite as whenever:

(1) The irradiator is operated using an automatic product conveyor system.

(2) The product is moved into or out of the radiation room when the irradiator is operated in a batch mode.

(b) At a panoramic irradiator at which static irradiations (no movement of the product) are occurring, a person who has received the training on how to respond to alarms described in § 232.51(g) (relating to training) shall be onsite.

(c) At an underwater irradiator, an irradiator operator shall be present at the facility whenever the product is moved into or out of the pool. Individuals who move the product into or out of the pool of an underwater irradiator need not be qualified as irradiator operators. The operator shall have received the training described in § 232.51(f) and (g). Static irradiations may be performed without a person present at the facility.

§ 232.67. Entering and leaving the radiation room.

(a) Upon first entering the radiation room of a panoramic irradiator after an irradiation, the irradiator operator shall use a survey meter to determine that the source has returned to its fully shielded position. The operator shall check the functioning of the survey meter with a radiation check source prior to entry.

(b) Before exiting from and locking the door to the radiation room of a panoramic irradiator prior to a planned irradiation, the irradiator operator shall:

(1) Visually inspect the entire radiation room to verify that no one else is in it.

(2) Activate a control in the radiation room that permits the sources to be moved from the shielded position only if the door to the radiation room is locked within a preset time after setting the control.

(c) During a power failure, the area around the pool of an underwater irradiator may not be entered without using an operable and calibrated radiation survey meter unless the over-the-pool monitor required by § 232.29(b) (relating to radiation monitors) is operating with backup power.

§ 232.69. Irradiation of explosive or flammable materials.

(a) Irradiation of explosive material is prohibited unless the licensee has received prior written authorization

from the Department. Authorization will not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems or cause radiation overexposures of personnel.

(b) Irradiation of more than small quantities of flammable material (flash point below 140°F) is prohibited in panoramic irradiators unless the licensee has received prior written authorization from the Department. Authorization will not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposures of personnel.

Subchapter E. RECORDS

Sec.

232.81. Records and retention periods.

232.82. Reports.

§ 232.81. Records and retention periods.

The licensee shall maintain the following records at the irradiator for the periods specified:

(1) A copy of the license, license conditions, documents incorporated into a license by reference, and amendments thereto until superseded by new documents or until the Department terminates the license for documents not superseded.

(2) Records of each individual's training, tests and safety reviews provided to meet the requirements of § 232.51(a)—(d), (f) and (g) (relating to training) until 3 years after the individual terminates work.

(3) Records of the annual evaluations of the safety performance of irradiator operators required by § 232.51(e) for 3 years after the evaluation.

(4) A copy of the current operating and emergency procedures required by § 232.53 until superseded or the Department terminates the license. Records of the radiation safety officer's review and approval of changes in procedures as required by § 232.53(c)(3) retained for 3 years from the date of the change.

(5) Film badge and TLD results required by § 232.55 (relating to personnel monitoring) until the Department terminates the license.

(6) Records of radiation surveys required by § 232.57 (relating to radiation surveys) for 3 years from the date of the survey.

(7) Records of radiation survey meter calibrations required by § 232.57 and pool water conductivity meter calibrations required by § 232.63(b) (relating to pool water purity) until 3 years from the date of calibration.

(8) Records of the results of leak tests required by § 232.59(a) (relating to detection of leaking sources) and the results of contamination checks required by § 232.59(b) for 3 years from the date of each test.

(9) Records of inspection and maintenance checks required by § 232.61 (relating to inspection and maintenance) for 3 years.

(10) Records of major malfunctions, significant defects, operating difficulties or irregularities and major operating problems that involve required radiation safety equipment for 3 years after repairs are completed.

(11) Records of the receipt, transfer and disposal, of all licensed sealed sources as required by § 217.101 (relating to transfer of radioactive material).

(12) Records on the design checks required by § 232.39 (relating to design requirements) and the construction control checks as required by § 232.41 (relating to construction monitoring and acceptance testing) until the license is terminated. The records shall be signed and dated. The title or qualification of the person signing shall be included.

(13) Records related to decommissioning of the irradiator as required by § 217.58(g) (relating to financial assurance arrangements for reclaiming sites).

§ 232.83. Reports.

(a) In addition to the reporting requirements of this article, the licensee shall report the following events if not reported under other requirements of this article:

- (1) Source stuck in an unshielded position.
- (2) Any fire or explosion in a radiation room.
- (3) Damage to the source racks.
- (4) Failure of the cable or drive mechanism used to move the source racks.
- (5) Inoperability of the access control system.
- (6) Detection of radiation source by the product exit monitor.
- (7) Detection of radioactive contamination attributable to licensed radioactive material.
- (8) Structural damage to the pool liner or walls.
- (9) Abnormal water loss or leakage from the source storage pool.
- (10) Pool water conductivity exceeding 100 microsiemens per centimeter.

(b) The report shall include a telephone report within 24 hours. To the extent that the information is available at the time of notification, the information provided in these reports shall include:

- (1) The caller's name and call back number.
- (2) A description of the event including date and time.
- (3) The exact location of the event.
- (4) The isotopes, quantities and chemical and physical form of the licensed material involved.
- (5) Any personnel radiation exposure data available.

(c) A written follow-up report within 30 days of the initial report. Written reports prepared under other regulations may be submitted to fulfill this requirement if the reports contain the necessary information. The reports shall include the following:

- (1) A description of the event including the probable cause and the manufacturer and model number—if applicable—of any equipment that failed or malfunctioned.
- (2) The exact location of the event.
- (3) The isotopes, quantities, and chemical and physical form of the licensed material involved.
- (4) The date and time of the event.
- (5) Corrective actions taken or planned and the results of any evaluations or assessments.
- (6) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

[Pa.B. Doc. No. 98-287. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

Surface and Underground Coal Mining

The Environmental Quality Board (Board) by this order proposes to amend Chapter 86 (relating to surface and underground coal mining; general). The proposed amendments are the result of the Department of Environmental Protection's (Department) Regulatory Basics Initiative and Executive Order 1996-1, which directed the Department to revise regulations which are more stringent than Federal law, unless there is a compelling State interest; lack clarity; and which impose disproportionate costs on the regulated community.

This proposal was adopted by the Board at its meeting of October 21, 1997.

A. *Effective Date*

These proposed amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rule-making.

B. *Contact Persons*

For further information, contact David C. Hogeman, Chief, Division of Environmental Analysis and Support, Bureau of Mining and Reclamation, 5th floor, Rachel Carson State Office Building, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-4761, or Joseph Pizarchik, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P. O. Box 8464, 9th Floor, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I 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's Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

These amendments are proposed under the authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), section 4.2(a), 52 P. S. § 1396.4b(a), which provides general rulemaking authority, section 4.5, 52 P. S. § 1396.4e, which provides for the designation of an area as unsuitable for all or certain types of surface mining operations; and under the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), section 3.2(a), 52 P. S. § 30.53b(a), which authorizes the adoption of rules and regulations, section 6.1, 52 P. S. § 30.56a, which provides for the designation of an area as unsuitable for all or certain types of coal refuse disposal operations; and under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), section 5, 35 P. S. § 691.5, which authorizes the adoption of rules and regulations, section 315(h)—(o), 35 P. S. § 691.315(h)—(o), which provides for the designation of an area as unsuitable for all or certain types of surface mining operations; and under sections

1920-A and 1930-A of The Administrative Code of 1929 (71 P. S. §§ 510-20 and 510-30), which authorizes the adoption of regulations necessary for the Department to perform its work.

D. *Background and Purpose*

These proposed amendments are the result of the Department's Regulatory Basics Initiative, which was initiated in August 1995, and Governor Ridge's Executive Order 1996-1 dated February 6, 1996. Under both of these initiatives, the Department was directed to review its existing regulations to ensure that they were consistent with several rulemaking directives. The Department has solicited public input concerning its existing regulations. Comments received by the Department, and the Department's own review of its existing regulations, have identified a number of provisions which need to be revised. These are contained in this proposed rulemaking package.

In August of 1995, the Department began the Regulatory Basics Initiative to analyze regulations which were more stringent than Federal law and regulations, lacked clarity and imposed disproportionate costs on the regulated community. Regulations which are more stringent than Federal requirements are proposed for revision, unless justified by a compelling and articulable Pennsylvania interest or required by State law.

As a result of this review, the Department developed two alternative proposals for consideration and presented them to the Mining and Reclamation Advisory Board (MRAB) at its meeting of October 3, 1996.

The first of these alternatives, in addition to providing clarity and changing those regulations found to be more stringent than Federal requirements, would have changed the existing Board rulemaking process to a Department decision-making process. The existing rulemaking process involves substantial administrative and technical effort and requires 19 to 27 months to reach a final decision. This process does not allow a final regulatory decision on a designation to be made within 12 months. This adjudicatory version provided for a public hearing early in the petition review process, reduced the time necessary to make a final decision on the petition by approximately 1 year and would have subjected Department decisions to review by the Environmental Hearing Board.

The second alternative, which is the subject of this proposed rulemaking, would retain the existing Board rulemaking process. Although this process does require additional time to reach a final decision, it also provides a more significant level of public participation in decisions concerning the designation of areas as unsuitable for mining, in keeping with this administration's objective to improve public access to information and decisionmaking in the Department. Under this approach, the Department makes a final recommendation to the Board within 12 months of the receipt of a complete petition.

Numerous changes to the regulatory language in § 86.1 (relating to definitions) and §§ 86.101—86.130 are being proposed to provide clarity and to enhance the consistency with the language used in Federal regulations. Sections 86.102(9), 86.103(e) and 86.129 are being changed because they were found to be more stringent than Federal requirements. Metric equivalences have also been incorporated where appropriate.

Under the Regulatory Basics Initiative, the Department solicited public input through a notice in the *Pennsylvania Bulletin* at 25 Pa.B. 3343 (August 19, 1995) and the Department's Web site (<http://www.dep.state.pa.us>). The proposed amendments are the result of suggestions from the public and the Department's own review of its regulations.

The proposed amendments were discussed with the MRAB at its meeting of October 3, 1996. The MRAB recommended that the Board consider an adjudicatory decisionmaking process for proposed rulemaking.

E. *Summary of Amendments*

Numerous nonsubstantive changes have been made throughout these regulations to correct references to agency names, typographical errors and to clarify language and add metric equivalences where appropriate. Substantive changes are described as follows by section.

§ 86.1. *Definitions.*

The proposed changes would add a definition for "administratively complete application" as it is defined by Federal regulations in 30 CFR 701.5 (relating to permanent regulatory program: definitions) and would delete the definition for "complete application." This change will provide clarification of the mine permit application requirements consistent with the context in which the term is used in the Department's coal mining regulations.

The proposed changes would also replace the definition of "valid existing rights" with a reference to the term defined by Federal regulations in 30 CFR 761.5 (relating to areas unsuitable for mining). This change is consistent with State statutory requirements (52 P. S. § 1396.4e). The Office of Surface Mining Reclamation and Enforcement (OSMRE) is considering revisions to this definition in response to court rulings and a reference to the Federal requirements will avoid the need for future rulemaking if changes are implemented by OSMRE.

§ 86.101. *Definitions.*

The definitions of "fragile lands," "historic lands," "public building," "public park," "renewable resource lands," "significant recreational, timber, economic or other values incompatible with surface mining" and "surface mining operations" are proposed to be changed for clarification consistent with the language used in Federal regulations in 30 CFR 700.5, 701.5, 761.5 and 762.5 (relating to general: definitions; permanent regulatory program: definitions; areas unsuitable for mining: definitions; and criteria for designating areas as unsuitable for surface coal mining operations: definitions).

§ 86.102. *Areas where mining is prohibited or limited.*

Section 86.102(1) is proposed to be changed to be consistent with 30 CFR 761.11 (relating to areas where mining is prohibited or limited) by providing a prohibition of mining on Wild and Scenic Rivers or study river corridors established in any guidelines under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C.A § 1276(a)).

Section 86.102(3) is proposed to be changed to delete the prohibition of mining for sites which are eligible for listing, but not listed, on the National Register of Historic Places. This change is consistent with 30 CFR 761.11(c).

Section 86.102(4), (5) and (7) is proposed to be changed to add the Department of Conservation and Natural

Resources as approving authority for mine permit actions on certain Commonwealth property consistent with the responsibility assigned to that agency.

Section 86.102(9) was found to be more restrictive than Federal counterpart regulations in 30 CFR 761.11(e). The proposed changes would provide that a valid waiver of the mining restriction by a property owner would remain in effect against subsequent owners who had actual or constructive knowledge of the existing waiver. This change is consistent with the Federal requirements.

Section 86.102(11) is proposed to be changed to provide clarification that cemeteries, which serve as barriers to mining, may be moved in accordance with applicable law. The change is consistent with Federal requirements in 30 CFR 761.11(g).

§ 86.103. *Procedures.*

Section 86.103(d) is proposed to be changed in order to be consistent with the proposed changes concerning mining restrictions within 300 feet of an occupied dwelling in § 86.102(9) (relating to areas where mining is prohibited or limited).

Section 86.103(e) was found to be more stringent than Federal requirements concerning notification where proposed surface mining would adversely affect a publicly owned park. This proposed change will make the State requirement consistent with Federal requirements in 30 CFR 761.12(f) (relating to procedures).

§ 86.121. *Areas designated unsuitable for mining.*

This section is proposed to be clarified to be consistent with the Federal language in 30 CFR 762.13 (relating to land exempt from designation as unsuitable for surface coal mining operations).

§ 86.123. *Procedures: petitions.*

Section 86.123(c)(5) is proposed to be clarified to be consistent with Federal language in 30 CFR 764.13(a) (relating to petitions: right to petition) which requires a demonstration of an injury in fact to determine that a petitioner has an interest that could be adversely affected.

§ 86.124. *Procedures: initial processing, recordkeeping and notification requirements.*

Section 86.124(a)(2) is proposed to be changed to provide clarification that a frivolous petition is one in which the allegations of harm resulting from mining do not have serious merit. This proposed change is consistent with the language of Federal regulations in 30 CFR 764.15(a)(3) (relating to initial processing, recordkeeping and notification requirements).

Section 86.124(c) is proposed to be changed to include a requirement that intervenors describe how they are directly affected.

Section 86.124(f) is proposed to be changed to provide that the Department will prepare a recommendation within 12 months of the receipt of a complete petition.

§ 86.125. *Procedures: hearing requirements.*

§ 86.125 (a)—(i) is proposed to be changed to provide clarification that it is the Department's responsibility to conduct public hearings on petitions and to provide notice of the hearings to the public, the petitioner and intervenors.

Section 86.125 (j) proposes to provide clarification that within 60 days of the close of the public comment period on a petition, the Department will prepare a recommendation to the Board and will provide written notice of its recommendation to the petitioner and intervenors.

§ 86.126. Procedures: decision.

The proposed changes to this section would provide clarification of the decisionmaking process for those cases when the Board determines that an area under petition should not be designated as an area unsuitable for mining. These proposed changes are consistent with the Federal requirements in 30 CFR 764.17, 764.19, 764.23 and 764.25 (relating to hearing requirements; decision; public information; and regulatory authority responsibility for implementation).

§ 86.127. Database and inventory system requirements.

This section contains several proposed minor stylistic and format changes.

§ 86.128. Public information.

The purpose of the proposed changes to this section is to correct language format and agency citations.

§ 86.129. Coal exploration.

This section was found to be more stringent than Federal requirements because of restrictions on exploration activities within areas under petition for designation as unsuitable for mining, which are not contained in the Federal regulations. The proposed changes make this section consistent with the Federal requirements in 30 CFR 762.14 (relating to exploration on land designated as unsuitable for surface coal mining operations).

§ 86.130. Areas Designated as Unsuitable for Mining.

This section contains numerous proposed minor changes that provide metric measurements for existing designations.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of these proposed amendments.

Benefits

These amendments are proposed to reduce unnecessary requirements, provide clarity, eliminate redundant or outdated requirements or eliminate State requirements more stringent than their Federal counterparts, when there is no compelling State interest in being more stringent.

The coal mining industry, the public and State government could see savings in the form of reduced time necessary to read and interpret regulations.

Compliance

The proposed changes are procedural and administrative in nature. They will impose no additional compliance costs on the regulated community. The Department conducts public information workshops for persons or organizations who may be interested in having an area designated unsuitable for mining. These workshops will be modified to describe the changes to the designation process made by these proposed amendments.

Coal mine operators who may be affected by a request to designate an area as unsuitable for mining are identified by the Department when a petition is received and are notified of the regulatory requirements, in writing.

Costs

The proposed amendments will impose no additional costs or paperwork requirements on the regulated community. These proposed amendments may reduce the time necessary to read and interpret regulations resulting in potential savings to the regulated community and State government.

G. 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.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed amendments on February 2, 1998, to the Independent Regulatory Review Commission (IRRC) and 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' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the regulation.

I. Public Comments

Written Comments—Interested persons are invited to submit written 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 received by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by April 15, 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 April 15, 1998 (within 60 days of 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 regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@A.1.dep.state.pa.us and must also be received by the Board by April 15, 1998. A subject heading of the proposal and a return name and address, must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF
Chairperson

Fiscal Note: 7-331. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

§ 86.1. Definitions.

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

* * * * *

Administratively complete application—An application for a permit which contains completed forms, standard reports and information addressing each application requirement of the Department which have been properly signed and witnessed, a filing fee and proof of publication necessary for the Department to initiate processing and public review.

* * * * *

[**Complete application**—An application for a permit which contains an application form properly completed, signed and witnessed, a filing fee, proof of publication, the standard reports or forms required by the Department to process a permit and which demonstrates compliance with applicable statutes and regulations.]

* * * * *

Valid existing rights—[Includes the following:

(i) Except for haul roads and activities enumerated in subparagraph (iii), property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant to produce minerals by a surface mining operation. The person proposing to conduct surface mining operations on the lands shall hold current State and Federal permits necessary to conduct the operations on those lands and either have held those permits on August 3, 1977, or had made by that date a complete application for the permits, variances and approvals required by the Department.

(ii) For haul roads, the term includes:

(A) A recorded right-of-way, recorded easement, or a permit for a haul road recorded as of August 3, 1977.

(B) Another road in existence as of August 3, 1977.

(iii) Coal preparation activities, and their associated haul roads, which were not subject to this chapter and Chapters 87—90 prior to August 25, 1989, were in existence on or before July 6, 1984, and were operating in compliance with applicable laws prior to that date.

(iv) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based upon the usage and custom at the time

and place where it came into existence, and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right and that the document has been signed by the surface owner.

(v) The term does not include the mere expectation of a right to conduct surface mining operations or the right to conduct underground coal mining.]

Rights which exist under the definition of “valid existing rights” in 30 CFR 761.5 (relating to areas unsuitable for mining).

* * * * *

Subchapter D. AREAS UNSUITABLE FOR MINING
GENERAL PROVISIONS

§ 86.101. Definitions.

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

* * * * *

Fragile lands—Geographic areas containing natural, ecologic, scientific or esthetic resources that could be significantly damaged or destroyed by surface mining operations. Examples include, but are not limited to, valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, paleontological sites, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality and [**buffer zones adjacent to the boundaries of**] areas where surface mining operations are prohibited under section 4.5(h) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.4e(h)).

Historic lands—[**Historic or cultural districts, places, structures or objects, including archaeological and paleontological sites, National Historic Landmark sites, sites listed**] Areas containing historic, cultural or scientific resources. Examples of historic lands include archaeological sites, properties listed on or eligible for listing on a State or National Register of Historic Places, [**sites**] **National Historic Landmarks, properties** having religious or cultural significance to [**native**] Native Americans or religious groups [**or sites**], and **properties** for which historic designation is pending.

* * * * *

Public building—A structure that is owned [**by a public agency or used principally**] or leased and principally used by a government agency for public business [,] or meetings [**or other group gatherings**].

Public park—An area or portion of an area dedicated or designated by a Federal, State or local agency primarily for public recreational use, whether or not the use is limited to certain times or days, including land leased, reserved or held open to the public because of that use. [**For the purposes of this subchapter, local agency**

includes nonprofit organizations owning lands which are dedicated or designated for public recreational use.]

* * * * *

Renewable resource lands—[Aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands] Areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

Significant recreational, timber, economic or other values incompatible with surface mining operations—Significant values which could be damaged by, and are not capable of existing together with, surface mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on [offsite] other affected areas which could be affected by mining. Values to be evaluated for their importance include:

* * * * *

Surface mining operations—The extraction of coal from the earth or from waste or stock piles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip and auger mining, dredging, quarrying and leaching and surface activity connected with surface or underground coal mining, including, but not limited to, exploration, site preparation, entry, tunnel, slope, drift, shaft and borehole drilling and construction and activities related thereto, coal refuse disposal, coal processing and preparation facilities and activities involved in or related to underground coal mining which are conducted on the surface of the land, produce changes in the land surface, or disturbs the surface[, air] or water resources of the area.

§ 86.102. Areas where mining is prohibited or limited.

Subject to valid existing rights as defined in § 86.1 (relating to definitions), surface mining operations except those which existed on August 3, 1977, are not permitted:

(1) On lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic [River] Rivers Act (16 U.S.C.A. § 1276(a)) or study rivers or study river corridors as established in guidelines under that act and National Recreation Areas designated by act of Congress.

* * * * *

(3) Which will adversely affect a publicly-owned park or a place included [on or eligible for inclusion] on the National Register of Historic Places, unless approved jointly by the Department and the Federal, State or local governmental agency with jurisdiction over the park or places.

(4) On lands within the State park system. Surface mining operations may be permitted if the Department of Conservation and Natural Resources and the Department [finds] find that significant land and

water conservation benefits will result when re-mining of previously mined land is proposed.

(5) On lands within State forest picnic areas, State forest natural areas and State forest wild areas. Surface mining operations may be permitted on State forest lands other than picnic areas, natural areas and wild areas, if the Department of Conservation and Natural Resources and the Department [finds] find that one or more of the following apply:

* * * * *

(7) On lands within the authorized boundaries of Pennsylvania Scenic River Systems which have been legislatively designated as such under the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.21—820.29). Surface mining operations may be permitted if the Department of Conservation and Natural Resources and the Department [finds] find that significant land and water conservation benefits will result when re-mining of previously mined lands is proposed, [or when the Department finds] and that the surface mining operation is consistent with the Scenic Rivers System designation and will not adversely affect the values which the designation is designed to protect.

(8) Within 100 feet (30.48 meters) measured horizontally of the outside right-of-way line of a public road, except:

* * * * *

(ii) When the Department, with concurrence of the agency with jurisdiction over the road, allows the public road to be relocated or the area affected to be within 100 feet (30.48 meters) of the road, after the following:

* * * * *

(9) Within 300 feet (91.44 meters) measured horizontally from an occupied dwelling, unless one or more of the following apply:

(i) The only part of the surface mining operations which is within 300 feet (91.44 meters) of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling [or unless the current].

(ii) The owner thereof has provided a written waiver [consenting] by lease, deed or other conveyance clarifying that the owner and signatory had the legal right to deny surface mining operations and knowingly waived that right and consented to surface mining operations closer than 300 feet (91.44 meters) of the dwelling as specified. [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.]

(A) A valid waiver shall remain in effect against subsequent owners who had actual or constructive knowledge of the existing waiver at the time of purchase.

(B) Subsequent owners shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records or if the surface mining operations have proceeded to within the 300 foot (91.44 meters) limit prior to the date of purchase.

(10) Within 300 feet (91.44 meters) measured horizontally of a public building, school, church, community or institutional building or public park.

(11) Within 100 feet (30.48 meters) measured horizontally of a cemetery. **Cemeteries may be relocated under the act of April 18, 1877 (P. L. 54, No. 54) (9 P. S. §§ 41—52).**

(12) Within 100 feet (30.48 meters) measured horizontally of the bank of a perennial or intermittent stream. The Department may grant a variance from this distance requirement if the operator demonstrates beyond a reasonable doubt that there will be no adverse hydrologic impacts, water quality impacts or other environmental resources impacts as a result of the variance. The variance will be issued as a written order specifying the methods and techniques that shall be employed to prevent adverse impacts. Prior to granting a variance, the operator is required to give public notice of application thereof in two newspapers of general circulation in the area once a week for 2 successive weeks. If a person files an exception to the proposed variance within 20 days of the last publication thereof, the Department will conduct a public hearing with respect thereto. The Department will also consider information or comments submitted by the Fish and Boat Commission prior to taking action on a variance request.

§ 86.103. Procedures.

* * * * *

(c) If the proposed surface mining operations are to be conducted within 100 feet (30.48 meters) measured horizontally of the outside right-of-way line of a public road—except where mine access roads or haulage roads join the right-of-way line—or if the applicant proposes to relocate a public road, the Department will:

* * * * *

(d) When the proposed surface mining operations would be conducted within 300 feet (91.44 meters) measured horizontally of any occupied dwelling, the applicant shall submit with the application a written waiver [from the current owner of the dwelling, consenting to the surface mining operations within a closer distance of the dwelling] as specified in [the waiver. 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.] § 86.102(9) (relating to areas where mining is prohibited or limited).

(e) When the proposed surface mining operations [may] will adversely affect a [public] publicly owned park or a place included on the National Register of Historic Places, the Department will transmit to the Federal, State or local agencies with jurisdiction over, or a statutory or regulatory responsibility for, the park or [historic] place, a copy of the completed permit application containing the following:

* * * * *

(2) A notice to the appropriate agency that it shall respond within 30 days from receipt of the request.

(i) Upon request by the appropriate agency, a 30-day extension may be granted.

(ii) Failure to object within the comment period shall constitute an approval of the proposed permit by that agency.

* * * * *

CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING

§ 86.121. Areas [designated] exempt from designation as unsuitable for surface mining operations.

[(a) The requirements of this] This section and §§ 86.122—86.129 do not apply to [permit] areas on which [surface mining operations were being conducted under a permit issued under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), or if substantial legal and financial commitments as defined by the Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior under section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. § 1272) if the surface mining operations were in existence prior to January 4, 1977.

(b) Permits for surface mining operations will not be issued in areas designated unsuitable under this subchapter. The permits may be issued in areas where the applicant has prior substantial legal and financial commitments in a surface mining operation if the applicant establishes the existence of the commitments to the satisfaction of the Department. In considering the permit applications in designated areas, the Department will impose terms and conditions to preserve and protect the applicable values and uses of the area.]:

(1) Surface mining operations were being conducted on August 3, 1977.

(2) Surface mining operations have been authorized by a valid permit issued under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).

(3) A person establishes that substantial legal and financial commitments in surface mining operations were in existence prior to January 4, 1977.

§ 86.123. Procedures: petitions.

* * * * *

(c) The petitioner shall provide the following information [to the Department's Bureau of Mining and Reclamation (Bureau)] on forms developed by [that Bureau] the Department:

* * * * *

(5) Identification of the petitioner's interest which is or may be adversely affected. A person having an interest which is or may be adversely affected shall demonstrate an "injury in fact" by describing the injury to the specific affected interest and demonstrating how the person is among the injured.

* * * * *

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

(a) Within 30 days of receipt of a petition, the Department will notify the petitioner by certified mail whether or not the petition is complete as required by § 86.123 (relating to procedures: petitions). If the 30-day require-

ment of this subsection cannot be met due to the staff limitations of the Department, the Department may process the petition in accordance with the priority system authorized by subsection (b)(2). Within the 30-day period, the Department will also notify an applicant with pending surface mining permit applications in the area covered by the petition.

* * * * *

(2) The Department may reject petitions for designations or terminations of designations which are frivolous. **A frivolous petition is one in which the allegations of harm lack serious merit.** Once the requirements of § 86.123 are met, **no party may bear a burden of proof, but** each accepted petition will be considered and acted upon by the Department under the procedures of this part.

* * * * *

(c) Until 3 days before the **[EQB] Department** holds a hearing under § 86.125 (relating to procedures: hearing requirements), a person may become an intervenor in the proceeding by filing allegations of facts **describing how the designation determination directly affects the intervenor**, supporting evidence, a short statement identifying the petition to which the allegations pertain, a request for intervenor status [,] and **the name, address and telephone number.**

(d) Beginning immediately after a complete petition is filed, the Department will compile and maintain a record consisting of documents relating to the petition filed with or prepared by the Department. The Department will make the record available for public inspection [,] free of charge, and copying at reasonable cost, during normal business hours at the **[Bureau of Mining and Reclamation]** district **mining** office in the county or multicounty area in which the land petitioned is located, and at the main office of the Department.

* * * * *

(f) The Department will prepare a recommendation **[in the form of a proposed rulemaking]** on each complete petition received under this section and submit it to the EQB **[as a proposed regulation under this section]** **within 12 months of receipt of the complete petition.**

§ 86.125. Procedures: hearing requirements.

(a) Within 10 months of the receipt of a complete petition, the **[EQB] Department** will hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held.

(b) The hearing shall be legislative and fact-finding in nature, without cross examination of witnesses. **[The EQB will make a verbatim transcript of the hearing.]**

(c) **No person will bear the burden of proof or persuasion.**

(d) **A verbatim transcript of the hearing will be made and included in the public record.**

[(b)](e) The **[EQB] Department** will give notice of the date, time and location of the hearing **by first class mail postmarked not less than 30 days before the scheduled hearing to:**

* * * * *

(2) **[The petitioner and the intervenors.**

(3) A person with] Persons known to the Department to have an ownership or other interest [made known to the Department] in the area covered by the petition.

[(4) Notice of the hearing shall be sent by first class mail and postmarked not less than 30 days before the scheduled date of the hearing.]

(f) The Department will give notice of the date, time and location of the hearing by certified mail postmarked not less than 30 days before the scheduled hearing to the petitioner and to the intervenors.

[(c)](g) The **[EQB] Department** will notify the general public of the date, time and location of the hearing by placing a newspaper advertisement once a week for 2 consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement **[shall] will** begin between 4 and 5 weeks before the scheduled date of the public hearing.

[(d)](h) The **[EQB] Department** may consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

[(e)](i) [The EQB will receive and consider written] Written comments on the petition **will be received and considered 15 days after the conclusion of the public hearing or as otherwise established by the Department.** If a hearing will not be held on a petition, the comments may be received and considered for 45 days following publication of a notice that there will be no public hearing.

(j) Within 60 days of the close of the public comment period, the **[EQB] Department** will **[make a final written decision]** prepare a recommendation to the EQB, **including a statement of the reasons for the recommendation and provide written notice of its recommendation to the petitioner and intervenors.**

[(f)](k) If **[that]** all petitioners and intervenors so stipulate, the petition may be withdrawn from consideration prior to the hearing.

§ 86.126. Procedures: decision.

(a) In **[reaching its decision on the proposed rule]** **deciding whether to designate an area as unsuitable for surface mining operations,** the EQB will consider:

* * * * *

(b) **[A final written decision in the form of a regulation will be issued by the EQB within 60 days following the public hearing, including a statement of reasons for the decision.]** The EQB will promptly send the **regulatory** decision by certified mail to the petitioner, intervenors[,] and to the **[Regional Director of the]** Office of Surface Mining Reclamation and Enforcement, and will deposit and publish its **regulatory** decision as **[a regulation in the manner]** required by the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201—1208 and 1602); 45 Pa.C.S. §§ 501—907.

[; and sections 3 and 4 of the act of July 9, 1976 (P. L. 877, No. 160) (45 Pa.Sp. Pamph. 84 page 35).]

§ 86.127. [Data base] Database and inventory system requirements.

* * * * *

(b) The Department will include in the system information relevant to the criteria in § 86.122 (relating to criteria for designating lands as unsuitable), including, but not limited to, information received from the United States Fish and Wildlife Service, the State Historic Preservation Office, the Fish and Boat Commission, the Department of Conservation and Natural Resources' Scenic Rivers Program, the Game Commission, [the Department of Community and Economic Development,] private conservancies and the agency administering section 127 of the Clean Air Act (42 U.S.C.A. § 7470).

* * * * *

§ 86.128. Public information.

The Department will:

(1) Make the information and database system developed under § 86.127 (relating to [data base] database and inventory system requirements) available to the public for inspection free of charge and for copying at reasonable cost during established office hours.

* * * * *

§ 86.129. Coal exploration on areas designated as unsuitable for surface mining operations.

[The submission of a petition to designate an area unsuitable for all or certain types of surface mining operations or designation]

(a) Designation of an area as unsuitable for all or certain types of surface mining operations under this chapter does not prohibit coal exploration operations in the area.

(b) Coal exploration may [not] be conducted on an area designated as unsuitable for surface mining operations [or where a petition to designate an area unsuitable for surface mining operations has been received by the Department] in accordance with this chapter [unless the exploration is] if the following apply:

(1) The exploration is consistent with the designation [or the purposes of the submitted petition and will].

(2) The exploration will be conducted to preserve and protect the applicable values and uses of the area[.] under Subchapter E (relating to coal exploration), [Exploration may not be conducted unless] and the Department has [been notified in advance and has] issued written approval for the exploration. [under § 86.133(f) (relating to general requirements). Approval will not be issued unless the person seeking the approval has described the nature and extent of the proposed operation, and has described in detail the measures to be employed to prevent adverse effects.]

§ 86.130. Areas designated as unsuitable for mining.

* * * * *

(b) The following is a list of descriptions of areas which are unsuitable for all or certain types of surface mining operations and where all or certain types of surface mining operations will not be permitted:

(1) The tract of approximately 233 acres (approximately 94.29 hectares) in Blacklick Township, Cambria County, described as follows:

Beginning at the northwest corner of the land owned by the Griffithtown Water Association and proceeding to the southwest corner, then easterly towards the southeast corner of the property and continuing in the same easterly direction to a point located 100 feet horizontal distance west of the Lower Freeport outcrop; then continuing in a southerly direction, remaining 100 feet (30.48 meters) from and paralleling the Lower Freeport outcrop as the outcrop proceeds easterly to intersect the 2,040 foot (621.79 meter) elevation contour; then along a straight line extending in a northeasterly direction intersecting the 2,282-foot (695.55 meter) elevation point and continuing to US 422; then west along US 422 to an intersection formed by a road, driveway or farmlane approaching US 422 from the north and located approximately 1.86 miles east (approximately 2.99 kilometers) of the junction of US 422 and Pa. Route 271 in Belsano; then continuing southwesterly in a straight line to the northwest corner of the Griffithtown Water Association property.

(2) The surface area overlying surface mineable coal reserves in a tract of approximately 11,200 acres (approximately 4,532 hectares) in Rush Township, Centre County, which tract is described as follows:

The surface water drainage basin of Cold Stream upstream from the mouth of Tomtit Run, including the surface water drainage basins of all tributaries to Cold Stream upstream from and including Tomtit Run except for the surface water drainage of a tributary known locally as Big Spring Run that enters Cold Stream from the west approximately 500 feet (approximately 152.4 meters) upstream from the Stony Point Road (Township Road 600) bridge over Cold Stream.

(3) The tract of approximately 119 acres (approximately 48.16 hectares) in Logan Township, Blair County and Gallitzin Township, Cambria County within the Mill Run watershed, that is underlain by surface mineable coal reserves, and that has not been previously disturbed by surface or deep mining. The tract is more particularly described as follows:

Beginning at the summit of a hill in the northwest corner of the Mill Run-Little Laurel Run watershed divide, southwest of the village of Buckhorn on or near the Cambria-Blair County line, and being at the eastern edge of the previously surface mined area; then along the watershed divide in a northeasterly direction for a distance of approximately 2,500 feet (approximately 762 meters) to the point of intersection of the watershed divide with the Mercer coal seam outcrop; then proceeding in a southeasterly and southerly direction along the Mercer coal outcrop, and running roughly parallel to and 100 to 200 feet (30.48 to 60.96 meters) easterly of the old Loudon deep mine railroad grade, for a distance of approximately 5,500 feet (approximately 1.68 kilometers) to the northern terminus of the Loudon deep mine, then proceeding westerly and northwesterly along the edge of the Loudon deep mine, exclusive of an approximately 2-acre (approximately 0.81 hect-

ares) ungraded surface mine, to its intersection with the toe of spoil of the previously surface mined area; then in a northwesterly direction along the spoil banks remaining from previous surface mining activity a distance of approximately 3,800 feet (**approximately 1.16 kilometers**) to the summit of the hill, being the place of beginning.

(4) The surface mineable coal reserves in a tract of approximately 5,600 acres (**approximately 2,266.32 hectares**) in Rush Township, Centre County, which tract is the surface water drainage basin of Black Bear Run.

* * * * *

(9) The tract of approximately 525 acres (**approximately 212.46 hectares**) in Elder Township, Cambria County, described as follows:

Beginning at the northern edge of a raw water storage tank located approximately 2,000 feet (**approximately 609.60 meters**) south of Township Route 551 and 2,150 feet (**655.32 meters**) west of State Route 36; then proceeding in a northeasterly direction, intersecting the Borough of Hastings Water Authority access road at a point approximately 1,450 feet (**approximately 441.96 meters**) from the access road's junction with Township Route 551; then continuing due north, intersecting Township Route 551 at a property, fence or tree line located approximately 1,250 feet (**approximately 381 meters**) west of the junction of Township Route 551 and State Route 36; then north along the property, fence or tree line to a point located on Legislative Route 221 approximately 1,100 feet (**approximately 335.28 meters**) west of State Route 36 in St. Boniface; then continuing in a southeasterly direction to the junction of State Route 36 and Legislative Route 11056; then along Legislative Route 11056 to a point approximately 1,300 feet (**approximately 396.24 meters**) east of State Route 36; then continuing south along a property, fence or tree line to another property, fence or tree line that is approximately 475 feet (**approximately 144.78 meters**) south of Legislative Route 11056; then 575 feet (**175.26 meters**) due west along this property, fence or tree line to a point located approximately 350 feet (**approximately 106.68 meters**) east of State Route 36; then due south to meet State Route 36 at its junction with a private road, driveway or farm lane approaching State Route 36 from the east, located approximately 950 feet (**approximately 289.56 meters**) south of the junction of Township Route 551 and State Route 36; then south along State Route 36 for approximately 900 feet (**approximately 274.32 meters**) to a tree, fence or property line; then along the line, intersecting the Laurel Hill anticline axis at a point approximately 1,575 feet (**approximately 480.06 meters**) due east of State Route 36; then south along the anticlinal axis (which trends approximately N 40° E) intersecting State Route 36 approximately 625 feet (**approximately 190.5 meters**) north of the junction of Legislative Routes 221 and 11077 and intersecting Legislative Route 11076 approximately 600 feet (**approximately 182.88 meters**) north of its junction with Legislative Routes 221 and 11067 for 6,800 feet (**2,072.64 meters**) to a point approximating the edge of an Upper Kittanning underground coal mine complex known as the Pardee No. 29; then continuing in the same southwesterly direction to a point located 200 feet (**60.96 meters**) horizontal distance southwest of the Pardee No. 29 Mine complex; then proceeding in

a northerly direction remaining 200 feet (**60.96 meters**) from and paralleling the edge of the Pardee No. 29 Mine complex for approximately 4,250 feet (**approximately 1,295.4 meters**) to a point that is approximately 200 feet (**approximately 61.96 meters**) horizontal distance west of the Upper Kittanning coal outcrop (intersecting an unnamed tributary to a farm pond located approximately 3,300 feet (**approximately 1,005.84 meters**) due south of Township Route 551 and 3,300 feet (**1,005.84 meters**) due west of State Route 36); then continuing north, remaining 200 feet (**60.96 meters**) from and parallel to the coal outcrop to a property, fence or tree line located approximately 1,820 feet (**approximately 554.74 meters**) south of Township Route 551; then due east along the line to the northwest corner of the land owned by the Borough of Hastings; then returning to the point of origin.

(10) The tract of 527 acres (**213.28 hectares**) of surface mineable coal reserves in the southern surface water drainage basin of North Fork Tangascootack Creek watershed. The 527 acres (**213.28 hectares**) encompass the Mercer coal crop line to the southern watershed divide of the North Fork Tangascootack Creek watershed, which tract is located in Bald Eagle, Grugan and Beech Creek Townships, Clinton County.

* * * * *

(12) The surface mineable coal reserves in the surface water drainage basins of Rankin Hollow Run and the East Fork Brewster Hollow Run, tributaries of Sixmile Run, upstream of the water supplies for the Coaldale Borough-Six Mile Run Area Water Corporation. The two tracts, totaling approximately 525 acres (**approximately 212.47 hectares**), are located in Broad Top Township, Bedford County.

(13) The surface mineable coal reserves of the Lower Kittanning, Clarion and Mercer coals in the surface water drainage basin of Bells Gap Run, which tract is located in Antis and Logan Townships, Blair County and Dean and Reade Townships, Cambria County; except that the surface mineable coal reserves of the three designated seams are not designated unsuitable for surface mining operations in the following areas:

(i) A tract of approximately 41 acres (**approximately 16.59 hectares**) of abandoned mine lands located northwest of the town of Highland Fling, said tract being described as follows:

Beginning at the point where Township Route 502 intersects the surface water drainage divide between Tubb Run and Brubaker Run approximately 750 feet (**approximately 228.6 meters**) northwest of the intersection of Township Route 502 and State Route 1016; then proceeding due east, to a point on State Route 1016 approximately 475 feet (**approximately 144.78 meters**) north-northeast of the intersection of State Route 1016 and Township Route 502; then continuing to a point approximately 2,250 feet (**approximately 685.8 meters**) north along State Route 1016; then due west to a point on the surface water drainage divide between Tubb Run and Brubaker Run approximately 2,800 feet (**approximately 853.44 meters**) north-northwest of the intersection of Township Route 502 and State Route 1016; then in a southerly direction along the said surface water drainage divide to the point of origin.

(ii) The permit areas of Cambria Coal Company SMP #11783035, Cambria Coal Company SMP #11823006,

Swistock Associates Coal Corp. MDP #4278BC10, E. P. Bender Coal Co. SMP #11793025, and Benjamin Coal Company MDP #4278SM2, in accordance with § 86.121(a) **(relating to areas exempt from designation as unsuitable for surface mining operations).**

(14) The surface mineable coal reserves within the Goss Run watershed upstream of the Brisbin Dam, including a small tract of land within the watershed of the West Tributary to Goss Run, a total of approximately 555 acres **(approximately 224.61 hectares)**, are designated unsuitable for all types of surface mining operations. This includes a land area beginning at the breast of the Brisbin Dam, thence due southwest to Pa. Route 153, thence north along the centerline of Pa. Route 153 to the intersection of Pa. Route 153 with township route T-657, thence north along the watershed divide between the Brisbin Dam drainage and the West Tributary drainage to a point at the intersection of the Goss Run and Little Beaver Run watershed divide, thence southwest along the Goss Run and Little Beaver Run watershed divide to a point at the intersection of the Brisbin Dam drainage divide, thence southwest along the Brisbin Dam drainage divide to the point of beginning; except that the surface mineable coal reserves are not designated unsuitable for surface mining operations in the following areas:

The permit areas of the James I. Cowfer Contracting, Inc. SMP 17663037 and James I. Cowfer Contracting, Inc. SMP 17820152, in accordance with § 86.121(a).

* * * * *

(17) All types of surface mining operations within a tract of 450 acres **(182.12 hectares)** located in Slippery Rock and Wayne Townships, Lawrence County described as follows:

Beginning at the intersection of Township Road T-347 and Township Road T-472; then in a northerly direction following Township Road T-472 for a distance of approximately 4,800 feet **(approximately 1,643.04 meters)** to the Wayne Township and Slippery Rock Township boundary line; then in a westerly direction following the township line for a distance of approximately 800 feet

(approximately 243.84 meters) to the southwest corner of a land parcel owned, or formerly owned, by Edris Ann Thalgott; then in a northerly direction following the Edris Ann Thalgott property line for a distance of approximately 2,050 feet **(approximately 624.84 meters)** to the southwest corner of a land parcel owned, or formerly owned, by Lois Mackey; then following the Lois Mackey property line in a northerly direction for a distance of approximately 950 feet **(approximately 289.56 meters)** to the intersection of the Lois Mackey property line with State Road SR2024; then in an easterly direction following State Road SR 2024 for a distance of approximately 2,100 feet **(approximately 640.08 meters)** to the intersection with the southwest corner of a land parcel owned, or formerly owned, by Dale Mackey; then in a northerly direction following the Dale Mackey property line for a distance of approximately 1,650 feet **(approximately 502.92 meters)** to the northwest corner of the Dale Mackey property; then in an easterly direction following the Dale Mackey property line for a distance of approximately 600 feet **(approximately 182.88 meters)** to the northeast corner of the Dale Mackey property; then following the Dale Mackey property line in a southerly direction for a distance of approximately 1,250 feet **(approximately 381.00 meters)** to the Dale Mackey property line intersection with the northeast corner of a land parcel owned, or formerly owned by Richard E. Michaels; then following the Richard E. Michaels property line in a southerly direction for a distance of approximately 250 feet **(approximately 76.20 meters)** to the Richard E. Michaels property line intersection with State Road SR 2024; then following Township Road T-478 in a southerly direction for a distance of approximately 7,200 feet **(approximately 2,194.56 meters)** to the intersection of Township Road T-478 with Township Road T-347; then in a westerly direction following Township Road T-347 for a distance of approximately 2,000 feet **(approximately 609.60 meters)** to the point of origin.

[Pa.B. Doc. No. 98-288. Filed for public inspection February 13, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 3680, 3710, 3760, 3800, 3810, 5310 AND 6400]

Child Residential and Day Treatment Facilities

The Department of Public Welfare (Department), under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1080) proposes to adopt amendments to read set forth in Annex A.

Background

The purpose of the proposed amendments is to establish requirements that will protect the health, safety and well-being of children who receive residential care or day treatment within this Commonwealth.

The amendments being proposed represent an effort on behalf of the Department to eliminate or reduce duplication and inconsistencies within licensing regulations, strengthen health and safety requirements, consolidate chapters of regulations when appropriate and relocate items currently in regulations that go beyond minimum health and safety to more appropriate locations such as contract standards, training and technical assistance programs and voluntary accreditation.

This regulatory reform effort is an initiative of the Cross-Systems Licensing Project (Project) which is a cross-agency work group of licensing professionals within the Department and the Departments of Aging and Health. The group represents all human service disciplines, including mental retardation, mental health, drug and alcohol, child welfare, child care, personal care and adult daily living. The Project was created during the Spring of 1995 in response to concerns raised by consumers and providers of human services regarding the status of licensing functions within this Commonwealth.

The charge of the Project was to: 1) examine the Commonwealth's multiple licensing functions to identify problems experienced by staff both in the field and in Harrisburg and to survey consumers and providers to better understand their concerns; 2) inventory National trends, state-of-the-art licensing practices, and successes/failures of other states' licensing functions; and 3) develop substantive and feasible solutions.

Although ambitious, the following agenda is recognized by external stakeholders as very necessary to improve consumer protection, streamline administrative functions and make government user-friendly for affected parties: 1) strengthen enforcement by passing new comprehensive licensing Legislation; 2) review and revise human service licensing regulations; 3) automate licensing functions across agencies; 4) coordinate rule development, application and enforcement across agencies; 5) utilize "inferential" inspection techniques; and 6) implement a training program for new and veteran licensing staff.

The Project has solicited input from various external stakeholders across all programs to suggest areas for regulation consolidation. The first priority for the regulation revisions effort is the child residential and day treatment facility licensing regulations, which includes

consolidation of eight chapters or portions of chapters of regulations into one comprehensive chapter of licensing regulations.

Regulatory Development Process

A work plan describing the process and time frames that would be followed leading to final promulgation of Chapter 3800 was completed in January 1997. The plan provided for regular consultation with many external advocacy, consumer and provider organizations.

In February and March 1997, individual meetings were held with Statewide provider, advocacy and consumer organizations. The meetings were convened to give briefings on the scope of the new chapter and to obtain input on major issues of particular concern to the different organizations.

To allow for dialogue and to obtain specific feedback from those most directly affected by the proposed amendments, a 3 day meeting was convened in May 1997. Prior to the meeting, invited participants were sent a preliminary draft of the proposed amendments. They were asked to review the document, submit written comments and come to the meeting prepared to make suggestions to improve the proposed amendments. Fifty people were invited to attend the meeting. They represented service providers, advocacy organizations, consumer groups, experts in related fields and licensing professionals.

Based on group recommendations, the proposed amendments were revised and sent back to the work group for written comment. Written comments were considered and further regulation revisions were made prior to submission of this document as proposed rulemaking. A 1-day briefing meeting was held in July 1997 to update the work group on revisions made and to respond to comments received.

Scope

These proposed amendments are intended to apply to a diverse variety of residential program types currently operating within this Commonwealth, including both profit and nonprofit facilities. The proposed amendments will apply to facilities currently governed by Chapter 3810 (relating to residential child care facility), including, but not limited to, facilities and programs such as group homes generally serving no more than 12 children in a small, home-like setting; residential treatment facilities serving children with mental illness or serious emotional disturbance in a short-term specialized mental health treatment environment; and nonsecure residential facilities serving both dependent and delinquent children in various sizes and types of physical structures and diverse program models ranging from the more traditional residential settings to alternative programs and settings such as boot camps, outdoor wilderness programs, mobile programs and transitional living located in large settings. There are about 450 residential facilities licensed under Chapter 3810.

The proposed amendments will also apply to non-State operated, secure residential facilities currently licensed under Chapter 3680 (relating to administration and operation of a children and youth social service agency) and previously governed by requirements for training schools (formerly uncodified Title 6500) in which the building itself is kept locked or there is secure fencing around the perimeter of the building, or both. There are fewer than 20 secure residential facilities currently licensed in this

Commonwealth. The proposed amendments also govern 23 secure detention facilities currently licensed in accordance with Chapter 3760 (relating to secure detention facility), where children are held temporarily awaiting court disposition, in which the facility is locked or the perimeter is fenced.

Also included within the scope of these proposed amendments are maternity homes, which are currently licensed in accordance with Chapter 3710 (relating to maternity homes serving an average of 5 expectant or new mothers who are under 18 years of age. There are only 11 maternity homes) currently licensed in this Commonwealth. The Department has been transitioning to license these maternity homes in accordance with Chapter 3810 because Chapter 3810 is more appropriate for this population.

These proposed amendments also will apply to community residential mental retardation facilities serving exclusively children. There are approximately 40 facilities currently licensed under Chapter 6400 (relating to community homes for individuals with mental retardation). These facilities provide specialized care for children with mental retardation.

The proposed amendments will also apply to approximately 45 community mental health residential facilities serving exclusively children currently licensed under Chapter 5310 (relating to community residential rehabilitation facilities). The mental health children's facilities are residential care facilities providing community care for children with mental illness.

In addition to the various types of residential programs that the proposed amendments govern, the proposed amendments also apply to approximately 75 child part-day service facilities currently licensed under Chapter 3680. These are full-day and extended-day alternative education and service programs for children who are transitioning from a more intense residential program back to their families or who need special services for the child to remain at home and avoid more intensive residential placement.

The decision to develop a single set of regulations to apply to a variety of program models and settings was made to eliminate or reduce duplication and inconsistency among chapters of regulations that are intended to care for children who are exposed to similar health and safety risks.

Three groups of children, which may appear to be similarly situated are not included within the applicability of these proposed amendments. The first group of children are those receiving care in State-operated facilities for delinquent children. The facilities provide both secure and nonsecure care. While State Youth Development Centers and Youth Forestry Camps will not receive a license based on compliance with these proposed amendments, it is the Department's intent to apply the proposed amendments to the extent possible in our operation of these facilities.

A second group of facilities serving children that are not included are facilities that provide drug and alcohol treatment. These facilities are excluded because of the specialized treatment focus of the programs geared to serving children with drug and alcohol related problems. The majority of licensed drug and alcohol programs serve both children and adults, rather than serving children exclusively.

The third group of children's facilities that are excluded, are residential schools which are licensed by the

Department of Education. To avoid duplication with licensing activity already occurring within the Department of Education, these facilities are not included in the scope of the proposed amendments.

Format

Chapter 3800 is written to be applied to a variety of facilities. The various types of facilities have different program approaches to the care and supervision of children and they operate in varied types of physical site settings. The document contains regulations in §§ 3800.1—3800.245 that are written to be generally applied to all facilities governed by the chapter. In §§ 3800.251—3800.312, exceptions or additional requirements for special facility types such as outdoor programs, secure facilities or transitional living are addressed. In these sections, some individual regulations are written to exempt a facility from generally applied regulations that appear in earlier sections. In other cases, the proposed amendments are written to add additional requirements that special types of facilities must meet.

Need for Amendments

Children, who are not under the direct care and supervision of responsible parents or family members, are exposed to health and safety risks. The children can not reasonably be expected to have the resources necessary to fully protect themselves while receiving care in a facility. The regulatory requirements as proposed in Chapter 3800 will protect the health, safety and well-being of these children until the parents can reassume parenting responsibility.

Privately-operated secure facilities are being established in several locations throughout this Commonwealth. These facilities will provide care and supervision to adjudicated delinquent children. These proposed amendments will provide that the children receive care in a safe manner.

General Requirements

Unusual Incidents § 3800.16

This is a new proposed section that is intended to protect child health and safety by requiring that notice be provided to authorities outside the facility when serious incidents occur affecting a child. These incidents are referred to as unusual incidents and include the death of a child; an action taken by a child to commit suicide; an injury, trauma or illness of a child requiring inpatient or outpatient treatment at a hospital; a violation of a child's rights; intimate sexual contact between children; an assault of a staff person by a child that requires medical treatment for the staff person; outbreak of a serious communicable disease; an incident requiring the services of the fire or police department; and any incident that results in the closure of the facility.

The facility shall complete a written unusual incident report and send it to the appropriate regional office of children, youth and families and the funding agency within 24 hours of the incident. The facility shall initiate an investigation of an unusual incident immediately following the filing of a report.

Waivers § 3800.20.

The proposed amendments permit requests for waivers and require that waiver requests be submitted on forms provided by the Department. The Department may only grant waivers when all of the following conditions are met: there is no significant danger to the children; there is an alternative for providing an equivalent level of

health, safety and well-being protection for the children; and the benefit of waiving the regulation outweighs any risk to the healthy, safety and well-being of the children.

Waivers to the regulations are not permitted regarding the scope, definitions or applicability of the regulations.

Child Rights

§§ 3800.31—3800.34.

There are new proposed sections of regulations. Specific child rights are listed. The child's family and the child, while being served by a facility governed by these regulations can expect the listed rights will be protected. A grievance procedure is established. The procedure will be applied if the child or the child's family believe a right is being violated.

Staffing

§§ 3800.51—3800.57.

Regulations relating to staff education and experience are similar to existing Chapter 3810. Staff to child ratio and supervisor to staff ratio are also very similar to existing regulations.

These sections were reformatted to make them easier to read and apply.

Physical Site

§§ 3800.81—3800.105.

The proposed physical site sections are strengthened to reflect current health and safety issues. Greater detail was added and greater emphasis was placed on assuring that the child's physical environment is conducive to protecting health and safety.

Fire Safety

§§ 3800.121—3800.132.

Firesafety regulations are strengthened and formatted in a somewhat different manner. Strengthened requirements include:

1. A means of egress in the event of a fire must be free of obstruction and doors may not be equipped with any locking device that would interfere with occupants being able to immediately exit the facility.
2. Unsafe heating devices are prohibited.
3. A more clear description of the required use of smoke detectors and fire extinguisher is provided.

Child Health

§§ 3800.141—3800.147.

A two-step process is established to assure that child health is protected from the point of admission. First, a written health and safety assessment must be completed on each child within 24 hours of admission. This assessment is completed, signed and dated by medical personnel or a staff person who has been trained by medical personnel. Children for whom the assessment indicates a health or safety risk must have a written plan to respond to the risk that is developed and implemented within 24 hours.

The second step in the process requires that children shall have complete physical examinations within 15 days of admission and annually thereafter. Provision is made to accept the transfer of an existing physical examination if the child had the examination within the past 12 months.

The use of tobacco is prohibited for both children and staff persons. The prohibition applies on the premises of the facility and during transportation that is provided by the facility.

Staff Health

§§ 3800.151—3800.152.

Staff shall have a statement signed and dated by a physician, a nurse practitioner or a physician's assistant stating that the person is free from serious communicable disease that could be spread through casual contact.

Medications

§§ 3800.181—3800.189.

The proposed amendments require the maintenance of a medication log. In addition to information about the medication, the log also keeps a record of medication administered, dosage, date, time and name of person administering.

Persons who may administer medication are specified. In addition to medical personnel, medications may be administered by staff who have completed and passed a Department approved medications administrations course.

Behavior Intervention Procedure

§§ 3800.201—3800.213.

The time when a child's health and safety is most at risk is during a time of crisis behavior. The method of intervention applied by staff to manage a behavior event can help a child return quickly to stable and safe functioning. The choice of an excessively restrictive or dehumanizing procedure can escalate the event and has the potential to bring harm to the child and staff who are involved.

Activities relating to managing these situations are central to how agencies maintain orderly functioning of their programs. Comments received during the drafting phase of these amendments were numerous. Child advocates argued for more stringent requirements. Advocates believe more structured and restrictive requirements would better protect child health and safety. Some service providers argued for greater flexibility when dealing with crisis behavior. From their point of view, each situation that they handle is very unique. These service providers feel that if they are not allowed a reasonable degree of flexibility in dealing with each incident, the end result will be more behavior events spiraling out of control.

The Department reviewed the literature regarding this topic and considered other regulations that are being applied to similar services.

The Department has considered both perspectives and the literature and regulations review. What is described in these proposed amendments is considered to be a balanced response to this sensitive issue. The proposed amendments will protect child health and safety, while allowing agency staff the flexibility they require to manage an orderly program.

In nonsecure care, crisis intervention procedures include the use of exclusion, manual restraint and chemical restraint. Exclusion means removing a child from the child's immediate environment and restricting the child alone to a room or area. Manual restraint is a physical hands on technique that lasts more than a minute and restricts the movement or function of a child. Chemical restraint involves using drugs to control episodic behavior.

In addition to the crisis intervention procedures permitted in nonsecure care, secure care facilities are permitted to employ mechanical restraints and seclusion when dealing with children in a state of crisis. A mechanical restraint is a device that restricts the movement of a child or a portion of a child's body. Seclusion is placing a child in a locked room. Facilities are required to have child specific plans for managing crisis behavior events.

Specifically prohibited procedures when responding to a crisis behavior are aversive conditioning and pressure points techniques. Aversive conditioning means the application of startling, painful or noxious stimuli. Pressure point prohibition involves applying pressure at certain points of the body known to cause pain.

Each staff person who administers a crisis intervention procedure shall have completed a Department approved training program within the past year on the use of crisis intervention procedures. A summary of the content that must be included in the training is specified in the proposed amendments.

Services

§§ 3800.221—3800.226.

The content of the Individual Service Plan (ISP) was somewhat reorganized, but the basic content was primarily maintained.

Other areas that could be considered as service related include child discipline, visitation, communication and continuing care. While some detail regarding how these service provisions should be applied by facilities was removed from the regulations, the main protection which these sections were intended to provide were not omitted. The protection was shifted into the category of child rights. Their inclusion involves less detail, while maintaining the basic intent of the requirements. The manner in which service provisions are addressed is intended to offer more flexibility to service providers and at least equal protection to the children being served.

Child Records

§§ 3800.241—3800.245.

Modification to the child records sections is minor. The section was reformatted for the purpose of clarity and streamlining the document.

Facilities Serving Nine or More Children

§§ 3800.251—3800.257.

Large facilities require additional physical site protection to assure that child health and safety are protected. This regulatory protection is already being routinely followed by larger facilities. No comments were heard in opposition to these large facility specific provisions during the regulation drafting process.

Secure Care

§§ 3800.271—3800.273.

The children served in secure care facilities require a more intense level of care and supervision. The children must be directly supervised at all times and one staff person must be present for every six children during awake hours. A minimum of two child care workers shall be present in the facility at all times. No more than two children may share a bedroom. The site must be furnished in a manner that is sensitive to the possibility of suicide attempts. While mechanical restraints and seclusion are authorized as a means of dealing with crisis

situations in secure care facilities, the proposed amendments establish specific limits on the use of the techniques.

Secure Detention

§§ 3800.281—3800.283.

The requirements and exceptions for secure care also apply for secure detention.

In addition to serving children who are experiencing more severe problems, the children in secure detention are in a more transitory setting. For this reason, all the requirements of secure care apply and some additional regulations are established. No more than one child may occupy a bedroom. No more than 12 children may be in a group at any one time. The child safety assessment must be completed within 1 hour of admission. The physical examination must be completed with 96 hours of admission.

Transitional Living

§§ 3800.291—3800.293.

A transitional living residence is a home or living unit for less than five children, who are 16 years of age or older, with or without their own children, who are able to live in a semi-independent living setting. For the purpose of these proposed amendments, transitional living facilities include only those facilities where more than one living residence is in the same building. If only one living residence is in a building, the facility is not within the applicability of these regulations.

For a child to be considered eligible to live in a transitional living residence, the child must have completed a Department approved training program and demonstrate competency in the following life areas:

- (1) Health, general safety and firesafety practices.
- (2) Money management.
- (3) Transportation skills.
- (4) Child health and safety, child development and parenting skills, if the child has a child living with him at the residence.

Since children in these facilities are living in a semi-independent status, staffing and supervisory requirements are somewhat relaxed.

Outdoor and Mobile Programs

§§ 3800.301—3800.303.

Outdoor programs are residential programs where children sleep outdoors or in structures intended for an outdoor experience. Mobile programs are residential programs that provide services in a variety of nonstationary sites.

Exceptions and additional requirements for these two types of facility are included. The proposed amendments make a distinction between two types of outdoor settings; those which are operated from a stationary site such as cabins and tepees and those which are offered as a mobile activity. Programs offered from a mobile setting include covered wagons or services offered from a ship.

Day Treatment

§§ 3800.311 and 3800.312.

A child day treatment facility is a premise that is operated for a portion of a 24-hour day in which alternative education, intervention or support programs are provided to one or more children to prevent the child's

placement in a more restrictive setting or to facilitate the child's reunification with his family. Child day treatment does not include:

- (1) Mental health outpatient or partial hospitalization facilities.
- (2) Drug and alcohol outpatient facilities.
- (3) Facilities that provide only aftercare services provided after regular hours of education.

Physical site requirements are less demanding than the facility situations where children live on a 24 hour a day basis. The supervisor to staff ratio is also less demanding than for other facilities to which Chapter 3800 applies.

Affected Individuals and Organizations

Chapter 3800 will affect children and the families of children, who are referred for placement in child residential facilities and day treatment centers. The providers of these facility based services will also be affected. The proposed amendments will affect public children and youth agencies that refer children for placement in these facilities. Providers of mental health and mental retardation services will also be affected. Juvenile courts and law enforcement officials will be affected by the proposed amendments.

Rescinded Regulations

When these proposed amendments are promulgated as final, the following chapters or parts thereof, will be deleted. The chapters to be deleted in whole include the following:

1. Chapter 3810.
2. Chapter 3710.
3. Chapter 3760.
4. Training School Requirements (Formerly referred to as Chapter 6500) While these requirements are not officially promulgated regulation, the requirements have been used in the past to monitor facilities.
5. Secure Care Requirements (Referred to as Chapter 3820) While these requirements are not officially promulgated regulations, the requirements are used to monitor facilities.

The chapters to be deleted in part include the following:

1. Chapter 3680. This chapter is deleted in part, as it applies to facilities that are regulated under the new Chapter 3800.
2. Chapter 6400. This chapter is deleted in part, as it applies to facilities serving exclusively children.
3. Chapter 5310. This chapter is deleted in part, as it applies to facilities serving exclusively children, with the exception of host homes.

Fiscal Impact

In drafting these proposed amendments careful consideration was given to the effect the regulations will have on the cost of providing care. The issues that will have potential to most influence the cost of implementing Chapter 3800 are the following:

1. *Staffing.* Staff cost considerations include the staff to child ratio and the qualifications of staff members.
2. *Physical site.* Square footage requirements and water safety are significant.
3. *Staff training.* The amount of training required and the frequency of training has a direct effect on the cost of providing care.

4. *Administration and paperwork requirements.* Administrative and paperwork costs can have an impact on almost all aspects of providing care.

Each of these four cost issues will be considered as follows. The cost of implementing the proposed amendments will be compared to the cost of continuing to implement existing Chapter 3810. The manner in which costs could be effected is described.

1. *Staffing.* Proposed Chapter 3800 will not change current regulatory requirements relating to staffing ratios for children who are 6 years of age or older. For children under 6 years of age, the staffing requirements are made less stringent than current Residential Child Care Facility regulations. Since small numbers of preschool age children are served by the regulated facilities, only limited cost savings are anticipated.

Staff qualifications were changed slightly. Current Chapter 3810 requires 50% of supervisory staff to have at least 4 years of college or 4 years of experience working with children or an equivalent combination of the two. The proposed amendments eliminate the 50% provision. The proposed amendments authorize facilities to appoint supervisors with a bachelor's degree and 1 year work experience or an associate degree and 3 years of child work experience.

Current regulations require 50% of direct care staff to have 2 years of college and 2 years experience working with children. Proposed amendments mandate that child care staff have a high school diploma or a general education development certificate.

Elimination of the 50% provision and acceptance of the staff qualification standards being proposed is expected to eliminate cumbersome administrative problems created by the 50% provision. The direct care staff qualifications proposed are less stringent than current regulations and therefore less costly.

The proposed amendments are not anticipated to increase the cost of staffing a facility. Some facilities may realize a cost savings.

2. *Physical site.* The minimum square footage requirement for individual bedrooms was reduced from 74 to 70 feet. The requirement that facilities have a minimum of 300 square feet of overall indoor living space for each child in residence was deleted. The proposed amendments separate indoor activity space for activities such as studying and recreation. Since square footage requirements are reduced, this will be a decreased financial burden to service providers.

With regard to water safety, a new requirement was added. The new requirement mandates, that above-ground and in-ground pools as well as lakes and ponds on the premise of the facility, shall be fenced with a gate that is locked when the water site is not in use. A few facilities may exist with lakes, ponds or pools on their premises. For these facilities the cost of fencing could be somewhat significant. Information is currently not available on the number of facilities or the size of water areas in these facilities that would be affected by these proposed amendments. The safety risk for drowning, however, is high when children have regular access to unprotected water areas. The overall benefit of preventing water accidents and injuries outweighs potential costs involved.

The Department will consider requests for waivers regarding fencing around water areas if alternative safety measures are assured.

3. *Training.* Current child care facility regulations do not specify the amount of training time that a new employe must have prior to working alone with children. Current regulations do specify training content areas that must be covered in an orientation for new employes. Current regulations do specify that in addition to the orientation, a new employe must receive 40 hours of training during the first year of employment.

The proposed amendments specify that in addition to orientation, new employes shall have at least 30 hours of training before working alone with children. The content of the training is specified and less training time is required for part-time and temporary staff. After the 30-hour orientation requirement is met, no additional training is required for employes during their initial year of employment.

After the first year of employment, both the current and proposed amendments require 40 hours of training annually.

Some facilities have raised a concern that the proposed amendments will result in increased costs associated with training. Their concern is that current regulations specify that up to 20 hours of the required training may be provided through supervisory conferences. The interpretation of the concerned facilities is that all of the required 40 hours of annual training must be offered outside the scope of supervisory conferences. This interpretation is not accurate. The proposed amendments do not prohibit supervisory conferences as an acceptable training source.

The cost of training is expected to be comparable to what agencies are currently spending. If staff are expected to be able to respond in a manner that will routinely protect child health, safety and well-being, it is important that the staff who are in direct contact with children are adequately trained and that their training is current at all times. The two training courses that the Department must specifically approve are medication administration and crisis intervention procedures.

4. *Administration Requirements*

Private agencies governed by residential child care facility regulations currently must also meet the administrative requirements in Chapter 3680. With the deletion of Chapter 3680, administrative costs such as independent audits, hiring practices, personnel recording, and the like are no longer required. For example, in § 3680.23, each legal entity is required to maintain written personnel policy covering eight specific topic areas such as salaries or wages, duties for each job classification, grievance and discipline procedures, and the like. These requirements will no longer be applied.

Also administrative requirements relating to hiring practices, personnel records and program requirements relating to criteria for admission of children have been deleted. These deletions will result in a cost reduction to facilities.

It is difficult to anticipate the level of savings that will be realized through the reduction in administrative requirements. Clearly however cost savings will be realized by the affected facilities.

Summary of Fiscal Note

Overall the Department can conclude, with a reasonable degree of certainty, that the first three cost areas discussed; staffing, physical site requirements and staff training will at a minimum be cost neutral. It is possible that the cost of providing care will be somewhat less than

could be expected if the current residential child care facility regulations were to remain in effect.

More significant cost reduction is expected in the area of administrative costs.

Paperwork Requirements

The Department will develop a form to be completed by facilities to report any unusual incidents. What constitutes an unusual incident is defined in § 3800.16. Child abuse must be reported in the manner as prescribed in Chapter 3490 (relating to child protective services) and 23 Pa.C.S. §§ 6301—6385 (relating to Child Protective Services Law).

Facilities must notify local fire officials in writing of the address of the facility, the location of bedrooms and assistance needed to evacuate the building.

Facilities must complete a child health and safety assessment within 24 hours of a child entering a facility. Depending upon the results of the assessment a health and safety plan may be needed for a child. The requirements relating to the assessment and the plan are contained in §§ 3800.141 and 3800.142 (relating to child health and safety assessment; and health safety plan).

Facilities are required to maintain a log of all dispensed medicines. The requirements pertaining to the maintenance of the log are contained in § 3800.184 (relating to medication log).

Each child receiving care must have an ISP. This plan continues to contain the basic content as required in the current Chapter 3810. When a crisis intervention procedure is determined to be necessary, the procedure is included in the ISP.

These paperwork requirements are significantly less than those required in Chapter 3810.

Effective Date

The Chapter 3800 work plan projects January 1999 as the date when the new Chapter 3800 will take effect.

Sunset Date

No sunset date has been established for these proposed amendments.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the Department of Public Welfare, Robert L. Gioffre, P. O. Box 2675, Harrisburg PA 17105-2675, phone (717) 787-7756, fax (717) 787-0414 within 30-calendar days after the date of publication in the *Pennsylvania Bulletin*. Comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-day comment period will be considered for any subsequent revisions of these proposed amendments.

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 1998, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Welfare and the Senate Committee on Public Aging and Youth. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with

Executive Order 1996-1. 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 review, prior to final publication of the final-form regulations of objections raised, by the Department, the General Assembly and the Governor.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-442. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 55. PUBLIC WELFARE
PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL
Subpart E. RESIDENTIAL AGENCIES, FACILITIES
AND SERVICES
ARTICLE I. LICENSING/APPROVAL
CHAPTER 3680. ADMINISTRATION AND
OPERATION OF A CHILDREN AND YOUTH
SOCIAL SERVICE AGENCY
GENERAL PROVISIONS

§ 3680.1. Applicability.

(a) With **[three] four** exceptions, this chapter applies to the administration and operation of an agency, whether public or private, for profit or not-for-profit, which provides the social services specified in subsection (c). This chapter does not govern the administration or operation of probation offices; county children and youth social service agencies governed by Chapter 3130 (relating to administration of county children and youth services programs); **child residential and day treatment facilities governed by Chapter 3800 (relating to child residential and day treatment facilities);** or child day care facilities governed by Chapters 3270, 3280 and 3290 (relating to child day care centers; group day care homes; and family day care homes) **[and Chapter II, Section 8E of the Social Services Manual to be codified at Chapter 3620]**.

(b) **[Agency licensure or approval under this chapter is required—regardless of whether or not the social services provided are subject to licensure or approval under other chapters promulgated by the Department as are listed by example in subsection (c), because this chapter establishes the administrative requirements under which agencies identified in subsection (a) shall operate.**

(c) **[Social services provided for a child by an agency subject to [the requirements of] this chapter include[, but are not limited to,] the following:**

- (1) **[Secure or nonsecure group residential child care.**
- (2) **[Foster family care.**
- [(3) Maternity care.**
- (4) **Part-day services, such as day treatment.]**
- [(5)] (2) Adoption services.**

[(6) Alternative programs or services.]

[(d)] (c) An agency that operated solely to provide services to children in their own homes as defined in § 3680.4 (relating to definitions) is not subject to **[the requirements of]**this chapter.

(Editor's Note: The Department proposes to deleted the follow chapters.

Chapter 3710, pages 3710-1 to 3710-19, serial pages (88817) to (88818), (98009) to (98010), (88821) to (88823), (98011) to (98012) and (168977).

Chapter 3760, pages 3760-1 to 3760-34, serial pages (114615) to (114617), (90823) to (90844), (96187) to (96188), (90847) to (90852) and (16979) to (16980).

CHAPTER 3710. (Reserved)

CHAPTER 3780. (Reserved)

CHAPTER 3800. CHILD RESIDENTIAL AND DAY TREATMENT FACILITIES

GENERAL PROVISIONS

Sec.	Purpose.
3800.1.	Applicability.
3800.2.	Definitions.
3800.3.	

GENERAL REQUIREMENTS

3800.11.	Licensure or approval of facilities.
3800.12.	Appeals.
3800.13.	Maximum capacity.
3800.14.	Firesafety approval.
3800.15.	Child abuse reporting.
3800.16.	Unusual incidents.
3800.17.	Incident record.
3800.18.	Consent to treatment.
3800.19.	Applicable health and safety laws.
3800.20.	Waivers.

CHILD RIGHTS

3800.31.	Notification of rights.
3800.32.	Specific rights.
3800.33.	Prohibition against deprivation of rights.
3800.34.	Grievance procedures.

STAFFING

3800.51.	Child abuse and criminal history check.
3800.52.	Staff hiring, retention and utilization.
3800.53.	Director.
3800.54.	Child care supervisor.
3800.55.	Child care worker.
3800.56.	Supervision.
3800.57.	Staff training.

PHYSICAL SITE

3800.81.	Physical accommodations and equipment.
3800.82.	Poisons.
3800.83.	Heat sources.
3800.84.	Sanitation.
3800.85.	Ventilation.
3800.86.	Lighting.
3800.87.	Surfaces.
3800.88.	Water.
3800.89.	Temperature.
3800.90.	Communication system.
3800.91.	Emergency numbers.
3800.92.	Screens.
3800.93.	Handrails and railings.
3800.94.	Landings and stairs.
3800.95.	Furniture and equipment.
3800.96.	First aid supplies.
3800.97.	Elevators.
3800.98.	Indoor activity space.
3800.99.	Recreation space.
3800.100.	Exterior conditions.
3800.101.	Firearms and weapons.
3800.102.	Child bedrooms.
3800.103.	Bathrooms.
3800.104.	Kitchen areas.
3800.105.	Laundry.
3800.106.	Water areas.

FIRE SAFETY

- 3800.121. Unobstructed egress.
- 3800.122. Exits.
- 3800.123. Evacuation procedures.
- 3800.124. Notification of local fire officials.
- 3800.125. Flammable and combustible materials.
- 3800.126. Furnaces.
- 3800.127. Portable space heaters.
- 3800.128. Wood and coal burning stoves.
- 3800.129. Fireplaces.
- 3800.130. Smoke detectors and fire alarms.
- 3800.131. Fire extinguishers.
- 3800.132. Fire drills.

CHILD HEALTH

- 3800.141. Child health and safety assessment.
- 3800.142. Health and safety plan.
- 3800.143. Child physical examination.
- 3800.144. Dental care.
- 3800.145. Tobacco prohibited.
- 3800.146. Health services.
- 3800.147. Emergency medical plan.

STAFF HEALTH

- 3800.151. Staff health statement.
- 3800.152. Serious communicable diseases.

NUTRITION

- 3800.161. Three meals a day.
- 3800.162. Quantity of food.
- 3800.163. Food groups.
- 3800.164. Withholding or forcing of food prohibited.

TRANSPORTATION

- 3800.171. Safe transportation.

MEDICATIONS

- 3800.181. Storage of medications.
- 3800.182. Labeling of medications.
- 3800.183. Use of prescription medications.
- 3800.184. Medications log.
- 3800.185. Medication errors.
- 3800.186. Adverse reaction.
- 3800.187. Administration.
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- 3800.189. Self-administration of medications.

BEHAVIOR INTERVENTION PROCEDURES

- 3800.201. Behavior intervention procedure.
- 3800.202. Appropriate use of behavior intervention procedures.
- 3800.203. Behavior intervention procedure plan.
- 3800.204. Unanticipated use.
- 3800.205. Staff training.
- 3800.206. Seclusion.
- 3800.207. Aversive conditioning.
- 3800.208. Pressure points.
- 3800.209. Chemical restraints.
- 3800.210. Mechanical restraints.
- 3800.211. Manual restraints.
- 3800.212. Exclusion.
- 3800.213. Behavior intervention procedure records.

SERVICES

- 3800.221. Development of ISP.
- 3800.222. Review, revision and rewrite of the ISP.
- 3800.223. Content of the ISP.
- 3800.224. Implementation of the ISP.
- 3800.225. Copies of the ISP.
- 3800.226. Education.

CHILD RECORDS

- 3800.241. Emergency information.
- 3800.242. Child records.
- 3800.243. Content of records.
- 3800.244. Record retention.
- 3800.245. Locked records.

FACILITIES SERVING NINE OR MORE CHILDREN

- 3800.251. Additional requirements for facilities serving nine or more children.
- 3800.252. Sewage system approval.
- 3800.253. Evacuation procedures.
- 3800.254. Exit signs.
- 3800.255. Laundry.
- 3800.256. Dishwashing.
- 3800.257. Bedrooms.

SECURE CARE

- 3800.271. Criteria.
- 3800.272. Exceptions.
- 3800.273. Additional requirements.

SECURE DETENTION

- 3800.281. Requirements for secure detention.
- 3800.282. Exception for secure detention.
- 3800.283. Additional requirements.

TRANSITIONAL LIVING

- 3800.291. Criteria.
- 3800.292. Exceptions for transitional living.
- 3800.293. Additional requirements.

OUTDOOR AND MOBILE PROGRAMS

- 3800.301. Applicability.
- 3800.302. Exceptions for outdoor and mobile programs.
- 3800.303. Additional requirements for outdoor and mobile programs.

DAY TREATMENT

- 3800.311. Exceptions for day treatment.
- 3800.312. Additional requirements.

GENERAL**§ 3800.1. Purpose.**

The purpose of this chapter is to protect the health, safety and well-being of children receiving care in a child residential facility through the formulation, application and enforcement of minimum licensing requirements.

§ 3800.2. Applicability.

(a) This chapter applies to child residential facilities and child day treatment centers, except as provided in subsection (g).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance to provide child residential care or child day treatment in this Commonwealth.

(c) This chapter applies equally to profit, nonprofit, publicly funded, privately funded, church operated and nonchurch operated facilities.

(d) Each facility to which this chapter applies shall be individually inspected at least once a year, unless otherwise specified by statute.

(e) A separate certificate of compliance shall be issued for each physical structure that qualifies for a certificate.

(f) This chapter applies to the following:

(1) Any premise or part thereof, operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator, except as provided in subsection (g).

(2) Child residential facilities that are either secure or nonsecure settings, including child detention centers.

(3) Child residential facilities that are either located in a fixed structure, that are mobile or any combination of fixed and mobile settings.

(4) Child day treatment centers.

(5) Transitional living facilities with more than one transitional living residence in the same building.

(6) Facilities serving children with disabilities, that serve exclusively children.

(g) This chapter does not apply to the following:

(1) Child residential and child day treatment facilities operated directly by the Department.

(2) Transitional living residences which are located in freestanding private residences.

(3) Residential camps for children who are enrolled in a grade or educational level higher than kindergarten which operate for fewer than 90 days per year.

(4) Residential children's schools which are licensed and operated solely as private academic schools or registered and operated solely as nonpublic nonlicensed schools by the Department of Education.

(5) Foster care homes that are licensed in accordance with Chapter 3700 (relating to foster family care agency).

(6) Family living homes for children with mental retardation that are licensed under Chapter 6500 (relating to family living homes).

(7) Community homes for individuals with mental retardation who provide care to both children and adults in the same facility and that are licensed under Chapter 6400 (relating to community homes for individuals with mental retardation).

(8) Community residences for individuals with mental illness who provide care to both children and adults in the same facility or community residential host homes for individuals with mental illness that are certified under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill).

(9) Drug and alcohol residential facilities who provide care to children, that are licensed under 28 Pa. Code Chapters 701, 704 and 709 (relating to general provisions staffing requirements for drug and alcohol treatment facilities; and standards for licensure of freestanding treatment facilities).

(10) Child day care facilities certified or registered in accordance with Chapter 3270, 3280 or 3290 (relating to child day care centers; group child day care; and family child day care).

(11) Private homes of persons providing care to a relative, except for children who are not living with a relative and who have their own children unless the home is a transitional living residence that is exempt from this chapter under paragraph (2).

§ 3800.3. Definitions.

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

Child—An individual who is under 18 years of age or under 21 years of age with one of the following circumstances:

(i) Committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.

(ii) Adjudicated dependent before reaching 18 years of age, while engaged in instruction and treatment, if the child through counsel requests the court to retain jurisdiction until the instruction and treatment is completed.

(iii) Has mental retardation, mental illness or a serious emotional disturbance, with a transfer plan to move to an adult setting by 21 years of age.

Child day treatment center (facility)—A premise or part thereof, operated for a portion of a 24 hour day in which alternative education, intervention or support programs are provided to one or more children in order to prevent the child's placement in a more restrictive setting or to facilitate the child's reunification with his family. A child day treatment center does not include:

(i) Mental health outpatient or partial hospitalization facilities.

(ii) Drug and alcohol outpatient facilities.

(iii) Facilities that provide only aftercare services provided after regular hours of education.

Child residential facility (facility)—A premise or part thereof, operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator, except as provided in § 3800.3 (g) (relating to applicability).

Department—The Department of Public Welfare of the Commonwealth.

Firesafety expert—A local fire Department, fire protection engineer, Commonwealth certified fire protection instructor, college instructor in fire science, a county or Commonwealth fire school, volunteer person trained and certified by a county or Commonwealth fire school or an insurance company loss control representative.

ISP—Individual Service Plan.

Mobile program—A residential program that provides services in a variety of moving settings that do not occupy a stationary site.

Outdoor program—A residential program where children sleep outdoors or in structures intended for an outdoor experience, where the primary program focus is on outdoor experiences.

Relative—A parent, child, stepparent, stepchild, grandparent, grandchild, sibling, half-sibling, aunt, uncle, niece, nephew or spouse.

Secure care—Residential care provided in a setting in which voluntary egress is prohibited through one of the following mechanisms:

(i) Egress from the building is prohibited through internal locks within the building or exterior locks.

(ii) Egress from the premises is prohibited through secure fencing around the perimeter of the building.

Secure detention—A type of secure care located in a temporary residential setting, in which one or more children are detained, generally in a preadjudication status.

Transitional living residence—A home or living unit for less than five children, who are 16 years of age or older, with or without their own children, who are all able to live in a semi-independent living setting. A child's own children are counted to determine the maximum number of four children per transitional living residence.

GENERAL REQUIREMENTS

§ 3800.11. Licensure or approval of facilities.

The requirements of Chapter 20 (relating to licensure or approval of facilities) shall be met.

§ 3800.12. Appeals.

Appeals related to the Department's licensure or approval shall be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 3800.13. Maximum capacity.

(a) The maximum capacity specified on the certificate of compliance shall be based on available bedroom square footage and the number of toilets and sinks.

(b) The maximum capacity specified on the certificate of compliance may not be exceeded.

§ 3800.14. Firesafety approval.

(a) If the facility is located outside Philadelphia, Pittsburgh and Scranton and serves four or more children or if the facility is located in a multiple family dwelling, the facility shall have a valid firesafety approval listing the type of occupancy from the Department of Labor and Industry or the Department of Health.

(b) If the facility is located in Philadelphia, Pittsburgh or Scranton, the facility shall have a valid firesafety approval listing the type of occupancy from the Department of Licensing and Inspection of the city of Philadelphia, the Department of Public Safety of the city of Pittsburgh or the Department of Community Development of the city of Scranton or from the Department of Health, if required by law, regulation or local codes.

(c) If the firesafety approval is withdrawn or restricted, the facility shall notify the Department orally within 24 hours and in writing within 48 hours.

(d) If a building is structurally renovated or altered after the initial fire safety approval is issued, the facility shall submit the new firesafety approval or written certification that a new firesafety approval is not required, from the appropriate department specified in subsections (a) and (b).

§ 3800.15. Child abuse reporting.

The facility shall immediately report abuse or suspected abuse of a child in accordance with Chapter 3490 (relating to child protective services) and 23 Pa.C.S. §§ 6301—6305 (relating to Child Protective Services Law).

§ 3800.16. Unusual incidents.

(a) An unusual incident is a death of a child; an action taken by a child to commit suicide; an injury, trauma or illness of a child requiring inpatient or outpatient treatment at a hospital; a violation of a child's rights; intimate sexual contact between children, consensual or otherwise; an assault on a staff person by a child that requires medical treatment for the staff person; a child who leaves the premises of the facility for 30 minutes or more without the approval of staff persons; abuse or misuse of a child's funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to reportable diseases); an incident requiring the services of the fire or police Departments; and any condition which results in closure of the facility.

(b) The facility shall develop written policies and procedures on the prevention, reporting, investigation and management of unusual incidents.

(c) The facility's policies and procedures shall require staff persons to immediately report unusual incidents.

(d) The facility shall complete a written unusual incident report on a form prescribed by the Department and send it to the appropriate regional office of children, youth and families and the funding agency, within 24 hours.

(e) The facility shall initiate an investigation of an unusual incident immediately following the report of the unusual incident.

(f) The facility shall submit a final unusual incident report to the agencies specified in subsection (d) immediately following the conclusion of the facility's investigation.

(g) A copy of unusual incident reports shall be kept.

(h) The facility shall immediately notify the child's parent, guardian or custodian immediately following an unusual incident relating to a specific child, unless restricted by applicable confidentiality laws, regulations and court orders.

§ 3800.17. Incident record.

The facility shall maintain a record of all medication errors; seizures; suicidal gestures; property damage of more than \$500; a child who leaves the premises of the facility for less than 30 minutes without the approval of staff persons; and injuries, traumas and illnesses of children that do not require inpatient hospitalization, which occur at the facility.

§ 3800.18. Consent to treatment.

Consent for treatment is required under 42 Pa.C.S. §§ 6301—6365 (relating to Juvenile Act), the Mental Health Procedures Act (50 P.S. §§ 7101—7503), other applicable laws and the act of February 13, 1970 (P. L. 19, No. 10) (35 P.S. §§ 10101—10105).

§ 3800.19. Applicable health and safety laws.

The facility shall have a valid certificate or approval document from the appropriate State or Federal agency relating to health and safety protections for children required by another applicable law, not to include local zoning ordinances.

§ 3800.20. Waivers.

(a) The facility may submit a written request for a waiver on a form prescribed by the Department and the Department may grant a waiver, of a specific section of this chapter if following conditions exist:

- (1) There is no significant jeopardy to the children.
- (2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the children.
- (3) The benefit of waiving the regulation outweighs any risk to the health, safety and well-being of the children.

(b) The scope, definitions or applicability of this chapter may not be waived.

CHILD RIGHTS**§ 3800.31. Notification of rights.**

(a) Upon admission, each child and available parent, guardian or custodian, unless court ordered otherwise, shall be informed of the child rights and the right to lodge grievances.

(b) A statement signed by the child and parent, guardian or custodian acknowledging receipt of the information on rights and grievance procedures, or documentation of efforts made to obtain the signature, shall be kept.

§ 3800.32. Specific rights.

(a) A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.

(b) A child may not be abused, mistreated, threatened, harassed or subject to corporal punishment.

(c) A child has the right to be treated with fairness, dignity and respect.

(d) A child has the right to be informed of the rules of the facility.

(e) A child has the right to communicate with others by visit, telephone and mail subject to reasonable facility

policy and written instructions from the funding agency or court if applicable, regarding circumstances, frequency, time, payment and privacy.

(f) A child shall have the opportunity to visit with family at least once every 2 weeks, unless visits are restricted by court order.

(g) A child has the right to be protected from unreasonable search and seizure. A facility may conduct search and seizure procedures, subject to reasonable facility policy.

(h) A child has the right to practice the religion or faith of choice.

(i) A child has the right to appropriate medical and dental treatment.

(j) A child has the right to rehabilitation and treatment.

(k) A child has the right to be free from excessive medication.

§ 3800.33. Prohibition against deprivation of rights.

A child may not be deprived of specific or civil rights.

§ 3800.34. Grievance procedures.

(a) A child has the right to lodge a grievance against the facility for an alleged violation of the specific or civil rights.

(b) The facility shall develop and implement written grievance procedures for the child, the child's family and staff persons to assure the investigation and resolution of grievances regarding alleged violation of child rights.

STAFFING

§ 3800.51. Child abuse and criminal history checks.

Child abuse and criminal history checks shall be completed in accordance with Chapter 3490 (relating to child protective services) and 23 Pa.C.S. §§ 6301—6385 (relating to Child Protective Services Law).

§ 3800.52. Staff hiring, retention and utilization.

Staff hiring retention and utilization shall be in accordance with Chapter 3490 (relating to child protective services) and 23 Pa.C.S. §§ 6301—6385 (relating to Child Protective Services Law).

§ 3800.53. Director.

(a) There shall be one director responsible for the facility. A director may be responsible for more than one facility.

(b) The director shall be responsible for administration and management of the facility, including the safety and protection of the children, implementation of policies and procedures and compliance with this chapter.

(c) A director of a facility shall have one of the following:

(1) A master's degree from an accredited college or university and 2 years work experience in administration or human services.

(2) A bachelor's degree from an accredited college or university and 4 years work experience in administration or human services.

§ 3800.54. Child care supervisor.

(a) There shall be one child care supervisor available either onsite or by telephone at all times children are at the facility.

(b) For facilities serving 24 or more children, whenever 24 or more children are present at the facility during awake hours, there shall be at least one child care supervisor present at the facility.

(c) The child care supervisor shall be responsible for developing and implementing the program and schedule for the children and supervision of child care workers.

(d) The child care supervisor shall have one of the following:

(1) A bachelor's degree from an accredited college or university and 1 year work experience with children.

(2) An associate's degree or 60 credit hours from an accredited college or university and 3 years work experience with children.

§ 3800.55. Child care worker.

(a) There shall be one child care worker present with the children for every eight children who are 6 years of age or older, during awake hours.

(b) There shall be one child care worker present with the children for every 16 children who are 6 years of age and older, during sleeping hours.

(c) There shall be one child care worker present with children for every four children who are under 6 years of age, during awake hours.

(d) There shall be one child care worker present with children for every eight children who are under 6 years of age, during sleeping hours.

(e) If there are children who are under 6 years of age and 6 years of age and older in the same group, the ratios specified in subsections (c) and (d) apply.

(f) The child care worker shall be responsible for implementing daily activities and supervision of the children.

(g) The child care worker shall have a high school diploma or general education development certificate.

(h) A child care worker who is counted in the worker to child ratio shall be 21 years of age or older.

§ 3800.56. Supervision.

(a) While children are at the facility, children shall be supervised during awake and sleeping hours by conducting observational checks of each child at least every hour.

(b) Observational checks of children specified in subsection (a) shall include actual viewing of each child.

(c) Staff persons may not sleep while being counted in the staff/child ratios.

(d) The requirements in subsections (a)—(c) regarding supervision of children during sleeping hours do not apply if the facility serves 12 or fewer children, there are no children in an adjudicated delinquency status at the facility and one of the following is met:

(1) Each of the children have lived at any facility within the legal entity for at least 6 months and each child's health and safety assessment indicates there are no high risk behaviors during sleeping hours.

(2) There are live-in staff persons at the facility.

§ 3800.57. Staff training.

(a) Prior to working with children, each staff person who will have direct contact with children, including part-time and temporary staff person and volunteer, shall have an orientation to their specific duties and responsibilities and the policies and procedures of the facility,

including unusual incident reporting, discipline, care and management of children, medications administration and use of crisis intervention procedures.

(b) Prior to working alone with children and within 60-calendar days after date of hire, each full-time staff person who will have direct contact with children and the director, shall have at least 30 hours of training to include at least the following areas:

- (1) The requirements of this chapter.
 - (2) The Child Protective Services Law, 23 Pa.C.S. §§ 6301—6385.
 - (3) Fire safety.
 - (4) First aid, Heimlich techniques and cardiopulmonary resuscitation.
 - (5) Crisis intervention and suicide prevention.
 - (6) Health issues affecting the population.
- (c) Prior to working alone with children and within 120-calendar days after date of hire, each part-time and temporary staff person who will have direct contact with children, shall have at least 10 hours of training to include at least the areas specified in subsection (b).
- (d) If a staff person has completed the training required in subsection (b) or (c) within 12 months prior to the staff person's date of hire, the requirement for training in subsection (b) or (c) does not apply.

(e) After initial training, each full-time staff person, who will have direct contact with children including the director, shall have at least 40 hours of training annually relating to the care and management of children. This requirement for annual training does not apply for the initial year of employment.

(f) After initial training, each part-time and temporary staff person who will have direct contact with children and works more than 10 days annually, shall have at least 20 hours of training annually relating to the care and management of children. This requirement for annual training does not apply for the initial year of employment.

(g) Each staff person who will have direct contact with children, shall complete training in first aid, Heimlich techniques and cardiopulmonary resuscitation at least every year.

(h) Training in first aid, Heimlich techniques and cardiopulmonary resuscitation shall be completed by each staff by an individual certified as a trainer by a hospital or other recognized health care organization.

(i) Training in firesafety shall be completed by a firesafety expert or in facilities serving 20 or fewer children by a staff person trained by a firesafety expert. Video tapes prepared by a firesafety expert are acceptable for the training if accompanied by an onsite staff person trained by a firesafety expert.

(j) A record of training shall be kept including the person trained, date, source, content, length of each course and copies of any certificates received.

PHYSICAL SITE

§ 3800.81. Physical accommodations and equipment.

If the facility serves a child with a physical disability, blindness, a visual impairment, deafness or a hearing impairment, there shall be physical site accommodations

and equipment necessary to ensure the child's safety and reasonable access for the child to enter, exit and move within the facility.

§ 3800.82. Poisons.

(a) Poisonous materials shall be kept locked and inaccessible to children.

(b) Poisonous materials shall be stored in their original, labeled containers.

(c) Poisonous materials shall be kept separate from food, food preparation surfaces and dining surfaces.

§ 3800.83. Heat sources.

Heat sources, such as hot water pipes, fixed space heaters, hot water heaters and radiators, exceeding 120° F that are accessible to children, shall be equipped with protective guards or insulation to prevent children from coming in contact with the heat source.

§ 3800.84. Sanitation.

(a) Sanitary conditions shall be maintained.

(b) There may be no evidence of infestation of insects or rodents in the facility.

(c) Trash shall be removed from the premises at least once a week.

(d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.

(e) Trash outside the facility shall be kept in closed receptacles that prevent the penetration of insects and rodents.

§ 3800.85. Ventilation.

Living areas, recreation areas, dining areas, bathrooms, bedrooms and kitchens shall be ventilated by at least one operable window or mechanical ventilation.

§ 3800.86. Lighting.

Rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps and fire escapes shall be lighted to avoid accidents.

§ 3800.87. Surfaces.

(a) Floors, walls, ceilings, windows, doors and other surfaces shall be free of hazards.

(b) If the facility was constructed before 1978 and serves one or more children who are 2 years of age or younger or who are likely to ingest inedible substances, the facility shall test all layers of interior paint in the facility and exterior paint and soil accessible in the play and recreation areas, for lead content. If lead content exceeds .06% in wet paint, .5% in a paint chip sample or 400 ppm in the soil, lead remediation activity is required based on recommendations of the Department of Health. Documentation of lead testing, results and corrections made shall be kept.

(c) The facility may not use asbestos products for any renovations or new construction.

§ 3800.88. Water.

(a) The facility shall have hot and cold water under pressure.

(b) Hot water temperature in areas accessible to children may not exceed 120° F.

(c) A facility that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection

certified laboratory stating that the water is safe for drinking. Documentation of the certification shall be kept.

§ 3800.89. Temperature.

(a) Indoor temperature shall be at least 65° F during awake hours when children are present in the facility.

(b) Indoor temperature may not be less than 58° F during sleeping hours.

(c) When indoor temperature exceeds 90° F, mechanical ventilation such as fans or air conditioning shall be used.

§ 3800.90. Communication system.

(a) The facility shall have a working, noncoin-operated, telephone with an outside line that is accessible to staff persons in emergencies.

(b) The facility shall have a communication system to allow staff persons to contact other staff persons in the facility for assistance in an emergency.

§ 3800.91. Emergency numbers.

Telephone numbers for the nearest hospital, police department, fire department, ambulance and poison control center shall be posted on or by each telephone with an outside line.

§ 3800.92. Screens.

Windows, including windows in doors, shall be securely screened when doors or windows are open.

§ 3800.93. Handrails and railings.

(a) Each ramp, interior stairway and outside steps exceeding two steps shall have a well secured handrail.

(b) Each porch that has over an 18 inch drop shall have a well secured railing.

§ 3800.94. Landings and stairs.

(a) There shall be a landing which is at least as wide as the doorway, beyond each interior and exterior door which opens directly into a stairway.

(b) Interior stairs shall have nonskid surfaces.

§ 3800.95. Furniture and equipment.

(a) Furniture and equipment shall be free of hazards.

(b) There shall be enough furniture to accommodate the largest group of children that may routinely congregate in a room any given time.

(c) Power equipment shall be kept in safe condition.

(d) Power equipment, excluding normal household appliances, shall be stored in a place that is inaccessible to children.

(e) Power equipment excluding normal household appliances, may not be used by children except under supervision of a staff person.

§ 3800.96. First aid supplies.

The facility shall have a first aid manual, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, tape, scissors and syrup of Ipecac that are stored together.

§ 3800.97. Elevators.

Each elevator shall have a valid certificate of operation from the Department of Labor and Industry.

§ 3800.98. Indoor activity space.

The facility shall have separate indoor activity space for activities such as studying, recreation and group activities.

§ 3800.99. Recreation space.

The facility shall have regular access to outdoor or large indoor, recreation space and equipment.

§ 3800.100. Exterior conditions.

(a) The exterior of the building and the building grounds or yard shall be free of hazards.

(b) Outside walkways shall be free of ice, snow and obstruction.

§ 3800.101. Firearms and weapons.

Firearms, weapons and ammunition are not permitted in the facility or on the facility grounds, except for those carried by law enforcement personnel.

§ 3800.102. Child bedrooms.

(a) Each single bedroom shall have at least 70 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(b) Each shared bedroom shall have at least 60 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(c) No more than four children may share a bedroom.

(d) Ceiling height in each bedroom shall be at least an average of 7 1/2 feet.

(e) Each bedroom shall have a window with a source of natural light.

(f) Each child shall have the following in the bedroom:

(1) A bed with solid foundation and fire retardant mattress in good repair.

(2) A pillow and bedding appropriate for the temperature in the facility.

(3) A storage area for clothing.

(g) Cots or portable beds are not permitted. This prohibition does not apply for the first 30 days of a child's placement if a facility is given 7 days or less notice of the placement.

(h) Bunk beds shall allow enough space in between each bed and the ceiling to allow the child to sit up in bed.

(i) Bunk beds shall be equipped with securely attached ladders capable of supporting a staff person.

(j) The top bunk of bunk beds shall be equipped with a secure safety rail on each open side and open end of the bunk.

(k) A bedroom may not be used as a means of egress or access to another part of the facility.

§ 3800.103. Bathrooms.

(a) There shall be at least one flush toilet for every six children.

(b) There shall be at least one sink for every six children.

(c) There shall be at least one bathtub or shower for every six children.

(d) There shall be slip-resistant surfaces in all bathtubs and showers.

(e) Privacy shall be provided for toilets, showers and bathtubs by partitions or doors.

(f) There shall be at least one wall mirror for every six children.

(g) Individual towels and washcloths shall be provided for each child.

(h) Bar soap is not permitted unless there is a separate bar clearly labeled for each child.

(i) Toiletry items including toothbrush, hairbrush, comb, toothpaste, shampoo, deodorant and soap shall be provided for each child.

§ 3800.104. Kitchen areas.

(a) A facility shall have a kitchen area with a refrigerator, sink, cooking equipment and cabinets for storage.

(b) Utensils for eating, drinking and food serving and preparation shall be washed and rinsed after each use.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Uneaten food from a person's dish may not be served again or used in the preparation of other dishes.

(e) Cold food shall be kept at or below 40° F. Hot food shall be kept at or above 140° F. Frozen food shall be kept at or below 0° F.

§ 3800.105. Laundry.

Bed linens, towels, washcloths and clothing shall be laundered at least weekly.

§ 3800.106. Water areas.

(a) Aboveground pools, in-ground outdoor pools, ponds and lakes located on the premises, shall be fenced with a gate that is locked when the water area is not in use.

(b) Indoor pools shall be made inaccessible to children when not in use.

(c) A certified lifeguard shall be present with the children at all times children are using the water areas.

(d) The certified lifeguard specified in subsection (c) may not be counted in the staff person to child ratios specified in §§ 3800.54 and 3800.55 (relating to child care supervisor; and child care worker).

FIRE SAFETY

§ 3800.121. Unobstructed egress.

(a) Stairways, hallways, doorways, passageways and egress routes from rooms and from the building shall be unlocked and unobstructed, unless the firesafety approval specified in § 3800.14 (relating to firesafety approval) permits locking of certain means of egress.

(b) Doors used for egress routes from rooms and from the building may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of children from the building.

§ 3800.122. Exits.

If more than four children sleep above the ground floor, there shall be a minimum of two interior or exterior exits from each floor. If a fire escape is used as a means of egress, it shall be permanently installed.

§ 3800.123. Evacuation procedures.

There shall be written emergency evacuation procedures that include staff responsibilities, means of transportation and emergency location.

§ 3800.124. Notification of local fire officials.

The facility shall notify local fire officials in writing of the address of the facility, location of bedrooms and

assistance needed to evacuate in an emergency. The notification shall be kept current.

§ 3800.125. Flammable and combustible materials.

(a) Combustible materials may not be located near heat sources.

(b) Flammable materials shall be used safely, stored away from heat sources and inaccessible to children.

§ 3800.126. Furnaces.

Furnaces shall be inspected and cleaned at least annually by a professional furnace cleaning company or trained maintenance staff persons. Documentation of the inspection and cleaning shall be kept.

§ 3800.127. Portable space heaters.

Portable space heaters, defined as heaters that are not permanently mounted or installed, are not permitted in the facility.

§ 3800.128. Wood and coal burning stoves.

The use of wood and coal burning stoves is not permitted.

§ 3800.129. Fireplaces.

The use of wood burning fireplaces is not permitted.

§ 3800.130. Smoke detectors and fire alarms.

(a) A facility shall have a minimum of one operable automatic smoke detector on each floor, including the basement and attic.

(b) There shall be an operable automatic smoke detector located within 15 feet of each bedroom door.

(c) The smoke detectors specified in subsections (a) and (b) shall be located in common areas or hallways.

(d) Smoke detectors and fire alarms shall be of a type approved by the Department of Labor and Industry or listed by Underwriters Laboratories.

(e) If the facility serves four or more children or if the facility has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the facility or an automatic fire alarm system that is audible throughout the facility.

(f) If one or more children or staff persons are not able to hear the smoke detector or fire alarm system, all smoke detectors and fire alarms shall be equipped so that each person with a hearing impairment will be alerted in the event of a fire.

(g) If a smoke detector or fire alarm is inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

(h) There shall be a written procedure for firesafety monitoring in the event the smoke detector or fire alarm is inoperative.

§ 3800.131. Fire extinguishers.

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen. The kitchen extinguisher meets the requirements for one floor as required in subsection (a).

(d) Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers shall be accessible to staff persons. Fire extinguishers may be kept locked if access to the extinguisher by a child may cause a safety risk for the child. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a firesafety expert. The date of the inspection shall be on the extinguisher.

§ 3800.132. Fire drills.

(a) An unannounced fire drill shall be held at least once a month.

(b) Fire drills shall be held during normal staffing conditions and not when additional staff persons are present.

(c) A written fire drill record shall be kept of the date, time, the amount of time it took for evacuation, the exit route used, the number of children in the facility at the time of the drill, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Children shall be able to evacuate the entire building or to a fire safe area designated in writing within the past year by a firesafety expert, within 2 1/2 minutes or within the period of time specified in writing within the past year by a firesafety expert. The firesafety expert may not be an employe of the facility.

(e) A fire drill shall be held during sleeping hours at least every 6 months.

(f) Alternate exit routes shall be used during fire drills.

(g) Fire drills shall be held on different days of the week, at different times of the day and night and on different staffing shifts.

(h) Children shall evacuate to a designated meeting place outside the building or within the fire safe area during each fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

CHILD HEALTH

§ 3800.141. Child health and safety assessment.

(a) A child shall have a written health and safety assessment within 24 hours of admission.

(b) The assessment shall be completed or coordinated, signed and dated by medical personnel or staff persons trained by medical personnel.

(c) The assessment shall include the following:

(1) Medical information and health concerns such as allergies; medications; immunization history; illnesses; injuries; dental, mental or emotional problems; body positioning and movement stimulation for children with disabilities, if applicable; and ongoing medical care needs.

(2) Known or suspected suicide or self-injury attempts or gestures and emotional history which may indicate a predisposition for self-injury or suicide.

(3) Known incidents of aggressive or violent behavior.

(4) Substance abuse history.

(5) Sexual history or behavior patterns that may place the child or other children at a health or safety risk.

(d) A copy of the assessment shall be kept in the child's record.

§ 3800.142. Health and safety plan.

If the health and safety assessment in § 3800.141 (relating to health and safety assessment) identifies a health or safety risk, a written plan to protect the child shall be developed and implemented within 24 hours after the assessment is completed.

§ 3800.143. Child physical examination.

(a) A child shall have a physical examination within 15 days after admission and thereafter in accordance with the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," available from 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois, 60009-0927.

(b) If the child had a physical examination prior to admission that meets the requirements of subsection (e) within the periodicity schedule specified in subsection (a), an initial examination within 15 days after admission is not required. The next examination shall be required within the periodicity schedule specified in subsection (a).

(c) If the child will participate in a program that requires significant physical exertion, a physical examination shall be completed before the child participates in the physical exertion portion of the program.

(d) The physical examination shall be completed, signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

(e) The physical examination shall include:

(1) A comprehensive health and developmental history.

(2) A complete, unclothed physical examination.

(3) Immunizations, screening tests and laboratory tests for children 17 years of age or younger, as recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision."

(4) A gynecological examination including a breast examination and a Pap test if recommended by medical personnel.

(5) Communicable disease detection if recommended by medical personnel based on the child's health status and with required written consent in accordance with applicable laws.

(6) Specific precautions to be taken if the child has a communicable disease, to prevent spread of the disease to other children.

(7) An assessment of the child's health maintenance needs, medication regimen and the need for blood work at recommended intervals.

(8) Special health or dietary needs of the child.

(9) Allergies or contraindicated medications.

(10) Medical information pertinent to diagnosis and treatment in case of an emergency.

(11) Physical or mental disabilities of the child, if any.

(12) Health education.

(f) Immunizations, screening tests and laboratory tests may be completed, signed and dated by a registered nurse

or licensed practical nurse instead of a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

§ 3800.144. Dental care.

(a) A child who is 3 years of age or older shall have a dental examination performed by a licensed dentist and teeth cleaning performed by a licensed dental technician, at least semiannually.

(b) A written record of the dental examination, including the date of the examination, the dentist's name, procedures completed and follow-up treatment recommended, shall be kept.

(c) Follow-up dental work indicated by the examination, such as treatment of cavities, shall be provided in accordance with recommendations by the licensed dentist.

§ 3800.145. Tobacco prohibited.

Use or possession of tobacco products by children and staff persons is prohibited in the facility, on the premises of the facility and during transportation provided by the facility.

§ 3800.146. Health services.

(a) The facility shall arrange for or provide medical treatment for acute and chronic conditions of a child.

(b) Medically necessary health services, such as medical, nursing, pharmaceutical, dental, dietary and psychological services that are planned or prescribed for the child shall be arranged for or provided.

§ 3800.147. Emergency medical plan.

The facility shall have a written emergency medical plan listing the following:

- (1) The hospital or source of health care that will be used in an emergency.
- (2) The method of transportation to be used.
- (3) An emergency staffing plan.

STAFF HEALTH

§ 3800.151. Staff health statement.

A staff person or volunteer who comes into direct contact with the children or who prepares or serves food, shall have a statement signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant, within 12 months prior to working with children or food service and every 2 years thereafter, stating the person is free of serious communicable disease that may be spread through casual contact or that the staff person has a serious communicable disease that may be spread through casual contact but is able to work in the facility if specific precautions are taken that will prevent the spread of the disease to children.

§ 3800.152. Serious communicable diseases.

(a) If a staff person or volunteer has a serious communicable disease that may be spread through casual contact, written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant is required for the person to be present at the facility.

(b) Written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant shall include a statement that the person will not pose a serious threat to the health of the children and specific instructions and precautions to be taken for the protection of the children.

(c) The written instructions and precautions specified in subsection (b) shall be followed.

NUTRITION

§ 3800.161. Three meals a day.

At least three meals and one snack a day shall be provided to the children.

§ 3800.162. Quantity of food.

(a) The quantity of food served shall meet minimum daily requirements as recommended by the United States Department of Agriculture, unless otherwise recommended in writing by a licensed physician for a specific child.

(b) Additional portions of snacks and meals shall be available for the children.

§ 3800.163. Food groups.

Each meal shall contain at least one item from the dairy, protein, fruits and vegetables and grain food groups, unless otherwise recommended in writing by a licensed physician for a specific child.

§ 3800.164. Withholding or forcing of food prohibited.

(a) A facility may not withhold food or drink, including snack and dessert, as punishment.

(b) A child may not be forced to eat food.

TRANSPORTATION

§ 3800.171. Safe transportation.

The following requirements apply whenever the facility, facility staff persons or facility volunteers provide transportation for the children. These requirements do not apply if transportation is provided by a source other than the facility.

(1) The child care worker ratios specified in § 3800.55 (relating to child care worker) apply.

(2) Each child shall be in an individual, age and size appropriate, safety restraint at all times the vehicle is in motion.

(3) The crisis intervention procedures specified in §§ 3800.201—3800.213 (relating to crisis intervention procedures) apply.

(4) The driver of a vehicle shall be 21 years of age or older.

MEDICATIONS

§ 3800.181. Storage of medications.

(a) Prescription and over-the-counter medications shall be kept in their original containers.

(b) Prescription and potentially poisonous over-the-counter medications shall be kept in an area or container that is locked.

(c) Prescription and potentially poisonous over-the-counter medications stored in a refrigerator shall be kept in a separate locked container.

(d) Oral and topical prescription and over-the-counter medications shall be stored separately.

(e) Prescription and over-the-counter medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

(f) Discontinued and expired medications, and prescription medications for children who are no longer served at the facility, shall be disposed of in a safe manner.

§ 3800.182. Labeling of medications.

(a) The original container for prescription medications shall be labeled with a pharmaceutical label that includes the child's name, the name of the medication, the date the prescription was issued, the prescribed dosage and the name of the prescribing physician.

(b) Over-the-counter medications shall be labeled with the original label.

§ 3800.183. Use of prescription medications.

Prescription medications shall only be used by the child for whom the medication was prescribed.

§ 3800.184. Medication log.

(a) A medication log shall be kept to include the following for each child:

- (1) A list of prescription medications.
- (2) The prescribed dosage.
- (3) Possible side effects.
- (4) Contraindicated medications.
- (5) Specific administration instructions, if applicable.
- (6) The name of the prescribing physician.

(b) For each prescription and over-the-counter medication including insulin administered or self-administered, documentation in the log shall include the medication that was administered, dosage, date, time and name of person who administered or self-administered the medication.

(c) The information in subsection (b) shall be logged immediately after each dosage of medication is administered or self-administered.

§ 3800.185. Medication errors.

Documentation of medication errors and follow-up action taken to prevent future medication errors shall be kept.

§ 3800.186. Adverse reaction.

If a child has a suspected adverse reaction to a medication, the facility shall notify the prescribing physician immediately. Documentation of adverse reactions and the physician's response shall be kept.

§ 3800.187. Administration.

(a) Prescription medications and injections of any substance shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.

(4) A staff person who meets the criteria in § 3800.188 (relating to medications administration training) for the administration of oral, topical and eye and ear drop prescriptions, insulin injections and epinephrine injections for insect bites.

(5) A child who meet the requirements in § 3800.189 (relating to self administration of medications).

(b) Prescription medications and injections shall be administered according to the directions specified by a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

§ 3800.188. Medications administration training.

(a) A staff person who has completed and passed a Department approved medications administration course within the past 2 years is permitted to administer oral, topical and eye and ear drop prescription medications and epinephrine injections for insect bites.

(b) A staff person who has completed and passed a Department approved medications administration course and who has completed and passed a diabetes patient education program within the past 12 months that meets the National Standards for Diabetes Patient Education Programs of the National Diabetes Advisory Board, 7550 Wisconsin Avenue, Bethesda, Maryland 20205, is permitted to administer insulin injections.

(c) A record of the training shall be kept including person trained, date, source, name of trainer, content and length of training.

§ 3800.189. Self-administration of medications.

A child is permitted to self-administer medications, insulin injections and epinephrine injections for insect bites, if the following requirements are met:

(1) The child is 13 years of age or older.

(2) A person who meets the qualifications of § 3800.187(a)(1)—(4) (relating to administration) is physically present observing the administration and immediately records the administration in accordance with § 3800.184 (relating to medication log).

(3) The child recognizes and distinguishes the medication and knows the condition or illness for which the medication is prescribed, the correct dosage and when the medication is to be taken.

BEHAVIOR INTERVENTION PROCEDURES**§ 3800.201. Behavior intervention procedure.**

A behavior intervention procedure includes chemical restraint, exclusion and manual restraint and for secure care mechanical restraint and seclusion.

§ 3800.202. Appropriate use of behavior intervention procedures.

(a) A behavior intervention procedure may not be used in a punitive manner or for the convenience of staff persons.

(b) A behavior intervention procedure, with the exception of exclusion as specified in § 3800.212 (relating to exclusion), may be used only to prevent a child from injuring himself.

(c) For each incident in which use of a behavior intervention procedure is considered:

(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than behavior intervention procedures.

(2) A behavior intervention procedure may not be used unless less intrusive techniques and resources appropriate to the behavior have been tried but have failed.

(3) A behavior intervention procedure shall be discontinued when the child demonstrates he has regained self-control.

§ 3800.203. Behavior intervention procedure plan.

(a) For each child for whom behavior intervention procedures will be used beyond unanticipated use specified in § 3800.204 (relating to unanticipated use), a behavior intervention plan shall be written and included in the ISP specified in § 3800.223 (relating to content of the ISP), prior to use of behavior intervention procedures.

(b) The plan shall be developed and revised with the participation of the child, parent, guardian or custodian if available, child care staff persons, funding agency representative and other appropriate professionals.

(c) The plan shall be reviewed every 6 months and revised as needed.

(d) The plan shall be reviewed, approved, signed and dated by persons involved in the development and revision of the plan, prior to the use of a behavior intervention procedure, whenever the plan is revised and at least every 6 months.

(e) The plan shall include:

(1) The specific behavior to be addressed, observable signals that occur prior to the behavior and the suspected reason for the behavior.

(2) The single behavioral outcome desired stated in measurable terms.

(3) The methods for modifying or eliminating the behavior, such as changes in the child's physical and social environment, changes in the child's routine, improving communications, teaching skills and reinforcing appropriate behavior.

(4) The types of procedures that may be used and the circumstances under which the procedures may be used.

(5) The amount of time the procedure may be applied, not to exceed the maximum time periods specified in this chapter.

(6) Health conditions that may be affected by the use of specific procedures.

(7) The name of the staff person responsible for monitoring and documenting progress with the plan.

(f) The plan shall be implemented as written.

(g) Copies of the plan shall be kept in the child's record.

§ 3800.204. Unanticipated use.

If behavior intervention procedures are used on an unanticipated basis, § 3800.203 (relating to behavior intervention procedure plan) does not apply until after a behavior intervention procedure is used four times for the same child in any 3-month period.

§ 3800.205. Staff training.

(a) If behavior intervention procedures are used, each staff person who administers a behavior intervention procedure shall have completed and passed a Department approved training program within the past year in the use of behavior intervention procedures.

(b) Training shall include:

(1) The use of de-escalation techniques and alternative nonrestrictive strategies and addressing the child's feelings after use of a behavior intervention procedure.

(2) Child development principles appropriate for the age of the children served, to understand normal behavior reactions to stress at various ages.

(3) The proper use of the specific techniques or procedures that may be used.

(4) Techniques and procedures appropriate for the age and weight of the children served.

(5) Experience of use of the specific procedures directly on themselves and demonstration of use of the procedure.

(6) Health risks for the child associated with use of specific procedures.

(7) A testing process to demonstrate understanding of and ability to apply specific procedures.

(c) A record of the training including person trained, date, source, name of trainer and length of training shall be kept.

§ 3800.206. Seclusion.

Seclusion, defined as placing a child in a locked room, is prohibited. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock or physically holding the door shut.

§ 3800.207. Aversive conditioning.

The use of aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.

§ 3800.208. Pressure points.

The application of pain through pressure point techniques or pain compliance is prohibited.

§ 3800.209. Chemical restraints.

(a) A chemical restraint is a drug used to control acute, episodic behavior that restricts the movement or function of a child. A drug ordered by a licensed physician as part of ongoing medical treatment is not a chemical restraint.

(b) Administration of a chemical restraint is prohibited except for the administration of drugs ordered by a licensed physician and administered by licensed/certified/registered medical personnel on an emergency basis.

(c) If a chemical restraint is administered as specified in subsection (b), the following apply:

(1) Immediately prior to each incidence of administering a drug on an emergency basis, a licensed physician shall have examined the child and given a written order to administer the drug.

(2) Immediately prior to each readministration of a drug on an emergency basis, a licensed physician shall have examined the child and ordered readministration of the drug.

(d) If a chemical restraint is administered as specified in subsection (c), the following apply:

(1) The child's vital signs shall be monitored at least once each hour.

(2) The physical needs of the child shall be met promptly.

(e) A Pro Re Nata (PRN) order for controlling acute, episodic behavior is prohibited.

(f) A drug ordered by a licensed physician as pretreatment prior to medical or dental examination or treatment is not a chemical restraint.

(g) Documentation of compliance with subsections (b)—(f) shall be kept.

§ 3800.210. Mechanical restraints.

(a) A mechanical restraint is a device that restricts the movement or function of a child or portion of a child's body. Examples of mechanical restraints include hand-cuffs, anklets, wristlets, camisoles, helmets with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, restraining sheets and similar devices.

(b) The use of a mechanical restraint is prohibited.

(c) A device used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet for prevention of injury during seizure activity, are not considered mechanical restraints.

§ 3800.211. Manual restraints.

(a) A manual restraint is a physical hands-on technique that lasts more than 1 minute, that restricts the movement or function of a child or portion of a child's body. A manual restraint does not include a manual assist of any duration for a child during which the child does not physically resist or a therapeutic hold for a child who is 8 years of age or younger for less than 10 minutes during which the child does not physically resist.

(b) Manual restraints that apply pressure or weight on the child's respiratory system are prohibited.

(c) Prone position manual restraints are not permitted for girls who are pregnant.

(d) The position of the manual restraint or the staff person applying a manual restraint, shall be changed at least every 10-consecutive minutes of applying the manual restraint.

(e) A staff person who is not applying the restraint shall complete observation and documentation of the physical and emotional condition of the child, at least every 10 minutes the manual restraint is applied.

§ 3800.212. Exclusion.

(a) Exclusion is the removal of a child from the child's immediate environment and restricting the child alone to a room or area. If a staff person remains in the exclusion area with the child, it is not exclusion.

(b) Exclusion may not be used for more than 60 minutes, consecutive or otherwise, within a 2-hour period.

(c) Exclusion may not be used for a child more than 4 times within a 24-hour period.

(d) A staff person shall observe a child in exclusion at least every 5 minutes.

(e) A room or area used for exclusion shall have the following:

- (1) At least 40 square feet of indoor floor space.
- (2) A minimum ceiling height of 7 feet.
- (3) An open door or a window for observation.
- (4) Lighting and ventilation.
- (5) Absence of any items that might injure a child.

§ 3800.213. Behavior intervention procedure records.

A record of each use of a behavior intervention procedure, including the emergency use of a behavior intervention procedure, shall be kept and shall include the following:

- (1) The specific behavior addressed.
- (2) The methods of intervention used to address the behavior less intrusive than the procedure used.
- (3) The date and time the procedure was used.
- (4) The specific procedure used.
- (5) The staff person who used the procedure.
- (6) The duration of the procedure.
- (7) The staff person who observed the child.
- (8) The child's condition following the removal of the procedure.

SERVICES**§ 3800.221. Development of ISP.**

(a) An ISP shall be developed for each child within 30-calendar days of the child's admission.

(b) The ISP shall be developed by the child, parent, guardian or custodian if available, child care staff persons, funding agency representative and other appropriate professionals.

(c) Reasonable effort shall be made to involve the child and parent, guardian or custodian in the development of the plan ISP.

(d) Persons who participated in the development of the ISP shall sign and date the ISP.

§ 3800.222. Review, revision and rewrite of the ISP.

(a) A review of each child's progress on the ISP and a revision of the ISP, if necessary, shall be completed at least every 6 months.

(b) The ISP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

(c) Persons completing the revision shall sign and date the revised ISP.

§ 3800.223. Content of the ISP.

An ISP shall include:

- (1) Goals and time-limited objectives for the child.
- (2) Evaluation of the child's skill level for each goal.
- (3) Services that meet the child's needs.
- (4) A behavior intervention procedure plan, if appropriate.
- (5) A component addressing family involvement.
- (6) A plan to teach the child health and safety, if the child has a child living with them at the facility.
- (7) The anticipated duration of stay at the facility.
- (8) A discharge or transfer plan, if applicable.
- (9) The name of the person responsible for coordinating the implementation of the ISP.

§ 3800.224. Implementation of the ISP.

An ISP shall be implemented as written.

§ 3800.225. Copies of the ISP.

(a) Copies of ISPs and revisions to the plan shall be provided to the parent, guardian or custodian if available, the funding agency and persons who participated in the development and revisions of the ISP.

(b) Copies of ISPs and revisions to the ISP shall be kept in the child's record.

§ 3800.226. Education.

Each child who is of compulsory school age shall participate in a Department of Education approved school program or an educational program under contract with the local public school district.

CHILD RECORDS**§ 3800.241. Emergency information.**

(a) Emergency information for children shall be easily accessible at the facility.

(b) Emergency information for each child shall include the following:

(1) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.

(2) The name, address and telephone number of the child's physician or source of health care.

(3) The name, address and telephone number of the person able to give consent for emergency medical treatment, if applicable.

(4) A copy of the child's most recent annual physical examination.

§ 3800.242. Child records.

(a) A separate record shall be kept for each child.

(b) Entries in a child's record shall be legible, dated and signed by the person making the entry.

§ 3800.243. Content of records.

Each child's record shall include:

(1) Personal information including:

(i) Name, sex, admission date, birth date and Social Security Number.

(ii) Race, height, weight, color of hair, color of eyes and identifying marks.

(iii) Dated photograph of the child taken within the past year.

(iv) Language or means of communication spoken and understood by the child and the primary language used by the child's family, if other than English.

(v) Religious affiliation.

(vi) Name, address and telephone number of the relative or person to be contacted in the event of an emergency.

(2) Physical examinations.

(3) Dental examinations.

(4) Health and safety assessments.

(5) ISPs.

(6) Behavior intervention procedure plans.

(7) Behavior intervention procedure records relating to the child.

(8) Reports of unusual incidents.

(9) Consent for treatment.

(10) Court order, if applicable.

§ 3800.244. Record retention.

(a) Information in the child's record shall be kept for at least 4 years or until any audit or litigation is resolved.

(b) A child's record shall be kept for at least 4 years following the child's departure or until any audit or litigation is resolved.

§ 3800.245. Locked records.

A child's record shall be kept locked when unattended.

FACILITIES SERVING NINE OR MORE CHILDREN**§ 3800.251. Additional requirements for facilities serving nine or more children.**

This section and §§ 3800.252—3800.257 apply to facilities serving nine or more children. These provisions are in addition to the other provisions of this chapter.

§ 3800.252. Sewage system approval.

A facility that is not connected to a public sewer system shall have a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the facility is located.

§ 3800.253. Evacuation procedures.

Written emergency evacuation procedures and an evacuation diagram specifying directions for egress in the event of an emergency, shall be posted in a conspicuous place.

§ 3800.254. Exit signs.

(a) Signs bearing the word "EXIT" in plain legible letters shall be placed at exits.

(b) If the exit or way to reach the exit is not immediately visible, access to exits shall be marked with readily visible signs indicating the direction of travel.

(c) Exit sign letters shall be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

§ 3800.255. Laundry.

(a) There shall be a laundry area which is separate from kitchen, dining and other living areas.

(b) The laundry area shall have an entrance that does not require transportation of soiled linen through food preparation and food storage areas or soiled linen shall be covered while being transported through food preparation and food storage areas.

§ 3800.256. Dishwashing.

(a) Utensils used for eating, drinking, preparation and serving of food or drink shall be washed, rinsed and sanitized after each use by a mechanical dishwasher or by a method approved by the Department of Agriculture.

(b) A mechanical dishwasher shall use hot water temperatures exceeding 140°F in the wash cycle and 180°F in the final rinse cycle or shall be of a chemical sanitizing type approved by the National Sanitation Foundation.

(c) A mechanical dishwasher shall be operated in accordance with the manufacturer's instructions.

§ 3800.257. Bedrooms.

A child's bedroom may not be more than 200 feet from a bathtub or shower and a toilet.

SECURE CARE**§ 3800.271. Criteria.**

Secure care is permitted only for children who are court ordered to a secure facility.

§ 3800.272. Exceptions.

The following requirements do not apply to facilities in which secure care is provided:

(1) Section 3800.55 (a)—(d) (relating to child care worker).

(2) Section 3800.56 (d) (relating to supervision).

(3) Section 3800.102 (c) (relating child bedrooms).

(4) Section 3800.103 (f) (relating to bathrooms).

(5) Section 3800.171(1) (relating to safe transportation).

(6) Section 3800.206 (relating to seclusion).

(7) Section 3800.210 (relating to mechanical restraints).

§ 3800.273. Additional requirements.

The following additional requirements apply to facilities in which secure care is provided:

(1) The facility shall have a valid C-5 firesafety occupancy approval from the Department of Labor and Industry or a firesafety occupancy approval appropriate for locked facilities from the Department of Licensing and Inspection of the city of Philadelphia, the Department of Public Safety of the city of Pittsburgh or the Department of Community Development of the city of Scranton.

(2) An unusual incident as specified in § 3800.16(a) (relating to unusual incidents) includes a child who is absent without leave for any period of time.

(3) Children shall be directly supervised at all times during awake hours.

(4) A minimum of two child care workers shall be present in the facility at all times.

(5) There shall be one child care worker present with the children for every six children during awake hours.

(6) There shall be one child care worker present with the children for every 12 children during sleeping hours.

(7) Children shall be supervised by conducting observational checks of each child within 15 minute intervals during sleeping hours.

(8) Observational checks of children during sleeping hours shall include actual viewing of each child.

(9) Observational checks of children during sleeping hours shall be recorded in writing noting the date, time, person making the check and any unusual circumstances observed.

(10) The driver and at least one additional staff person shall be present in the vehicle at all times one or more children are being transported. There shall be one child care worker present with the children for every three children during transportation of children either by the facility or another transportation source. The driver of the vehicle may not be counted in the staffing ratio.

(11) No more than two children may share a bedroom.

(12) The following physical site requirements apply:

(i) Glass windows, windows in doors, shower doors and light fixtures and other glass surfaces shall be protected with a secure, nonbreakable covering or composed of shatterproof glass.

(ii) Glass mirrors are not permitted.

(iii) Furnishings or other items such as drapery cords, electrical outlets, shower curtains, shoe strings and noncollapsing clothing hooks, that may create a risk for self-injury or suicide may not be accessible to the children.

(13) The following requirements apply to the use of mechanical restraints:

(i) Handcuffs behind the back, leg restraints and locking transportation waist belts with handcuffs in front of the child used during transportation, are the only types of mechanical restraints that are permitted.

(ii) A child may not be handcuffed to an object or another person.

(iii) Oral or written authorization by supervisory staff is required prior to each use of a mechanical restraint, except for those restraints used during transportation.

(iv) The use of handcuffs and leg restraints, except for those used during transportation, may not exceed 6 hours, unless a licensed physician, licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of the restraint. Reexamination and new written orders are required for each 6-hour period the restraint is continued. If a restraint is removed for any purpose other than for movement and reused within 24 hours after the initial use of the restraint, it is considered continuation of the initial restraint.

(v) The restraint shall be checked for proper fit by a staff person at least every 15 minutes.

(vi) The physical needs of the child shall be met promptly.

(vii) Handcuffs and leg restraints, except for those used during transportation, shall be removed completely for at least 10 minutes during every 2 hours the restraint is used.

(viii) Handcuffs and leg restraints, except those used during transportation, shall be checked and observed by a supervisory staff person who is not administering the restraint, at least every 2 hours the restraint is used.

(14) The following requirements apply to the use of seclusion:

(i) Oral or written authorization by supervisory staff is required prior to each use of seclusion.

(ii) The use of seclusion may not exceed 6 hours, unless a licensed physician, licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of seclusion. Reexamination and new written orders are required for each 6-hour period the seclusion is continued. If seclusion is interrupted for any purpose and reused within 24 hours after the initial use of seclusion, it is considered continuation of the initial seclusion period.

(iii) A staff person shall observe a child in seclusion at least every 5 minutes.

(iv) The physical needs of the child shall be met promptly.

(v) A child in seclusion shall be checked and observed by a supervisory staff person who is not continually observing the child as required in subparagraph (iii), at least every 2 hours the seclusion is used.

(vi) The use of seclusion may not exceed 12 hours in any 48-hour period without a written court order.

(15) Documentation of compliance with paragraphs (6) and (7) shall be kept.

SECURE DETENTION

§ 3800.281. Requirements for secure detention.

The requirements and exceptions for secure care apply for secure detention.

§ 3800.282. Exception for secure detention.

The following requirements do not apply for secure detention:

(1) Section 3800.143(b) (relating to child physical examination).

(2) Sections 3800.221—3800.225.

§ 3800.283. Additional requirements.

The following additional requirements apply to facilities in which secure detention is provided:

(1) No more than one child may occupy a bedroom.

(2) No more than 12 children may be in a group at any one time.

(3) No more than 12 children may occupy a sleeping unit or area.

(4) The child health and safety assessment required in § 3800.141 (relating to child health and safety assessment) shall be completed within 1 hour of admission.

(5) The child physical examination as required in § 3800.143 (relating to child physical examination) shall be completed within 96 hours after admission.

TRANSITIONAL LIVING**§ 3800.291. Criteria.**

A child shall complete a Department-approved training program and demonstrate competency in the following areas to be eligible for transitional living:

(1) Health, general safety and firesafety practices.

(2) Money management.

(3) Transportation skills.

(4) Child health and safety, child development and parenting skills, if the child has a child living with them at the residence.

§ 3800.292. Exceptions for transitional living.

The following requirements do not apply for transitional living:

(1) Section 3800.2(d) (relating to applicability). Each building in which transitional living is provided shall be inspected at least once a year. Annual inspection of each individual transitional living residence is not required.

(2) An incident specified in § 3800.17 (relating to incident records) does not include a child who leaves the premises of the facility for any period of time without the approval of staff persons, but does include a child whose whereabouts is unknown for more than 24 hours.

(3) Sections 3800.55 and 3800.56 (relating to child care worker; and supervision).

(4) Sections 3800.82, 3800.83 and 3800.88(b) (relating to poisons; heat sources; and water), unless infants or toddlers live at the residence.

(5) Section 3800.90 (relating to communication systems).

(6) Sections 3800.98 and 3800.99 (relating to space; and recreation space).

§ 3800.293. Additional requirements.

(a) There shall be one child care worker present on the premises for every 12 children during awake hours. A child's own children present at the residence shall be counted in the staffing ratio.

(b) There shall be one child care worker present on the premises for every 24 children during sleeping hours. A child's own children present at the residence shall be counted in the staffing ratio.

(c) If there are 8 or fewer children present on the premises at any one time, one child care worker may be available by telephone instead of physically present on the premises.

OUTDOOR AND MOBILE PROGRAMS**§ 3800.301. Applicability.**

The exceptions for outdoor and mobile programs specified in §§ 3800.302 and 3800.303 (relating to exceptions for outdoor and mobile programs; and additional requirements for outdoor and mobile programs) apply during the time in which children receive services in outdoor or mobile settings.

§ 3800.302. Exceptions for outdoor and mobile programs.

(a) The following requirements do not apply for mobile and outdoor programs that operate from nonstationary settings.

(1) Section 3800.13(a) (relating to maximum capacity).

(2) Section 3800.14 (relating to firesafety approval).

(3) Section 3800.56 (relating to supervision), for outdoor programs.

(4) Section 3800.83 (relating to heat sources).

(5) Sections 3800.84(b)—(e) (relating to sanitation).

(6) Section 3800.84—3800.88.

(7) Section 3800.90(a) (relating to communication system).

(8) Sections 3800.91—3800.93 (relating to emergency numbers; screens; and handrails and railings) physical site).

(9) Sections 3800.96—3800.99.

(10) Sections 3800.101—3800.105.

(11) Section 3800.124 (relating to notification of local fire officials).

(12) Section 3800.130 (relating to smoke detectors and fire alarms).

(13) Section 3800.131 (relating to fire extinguishers) for outdoor programs.

(14) Section 3800.132 (relating to fire drills).

(15) Sections 3800.251—3800.257 (relating to facilities serving nine or more children).

(b) The following requirements do not apply for mobile and outdoor programs that operate from stationary settings such as tepees and cabins:

(1) Section 3800.13(a).

(2) Section 3800.56 for outdoor programs.

(3) Section 3800.84(b) (relating to sanitation).

(4) Section 3800.84—3800.86 (relating to sanitation; ventilation and lighting)

(5) Sections 3800.88 and 3800.89 (relating to water; and temperature).

(6) Section 3800.90(a).

(7) Sections 3800.91—3800.94.

(8) Sections 3800.97—3800.100.

- (9) Sections 3800.101—3800.106.
- (10) Section 3800.124.
- (11) Sections 3800.251—3800.257.

§ 3800.303. Additional requirements for outdoor and mobile programs.

(a) The following additional requirements apply for outdoor and mobile programs:

(1) There shall be a supply of food and water for drinking, cleaning and bathing for the number of days until the program will reach the next supply of water and food.

(2) Potable drinking water shall be available to children at all times.

(3) There shall be an opportunity for children to bathe at least once a week and wash their hands and brush their teeth once a day.

(4) There shall be a communication system such as a CB radio to communicate with public emergency sources in the event of a medical, police, fire or other emergency.

(5) There shall be a source for routine weather information for advance warning of severe or dangerous weather conditions.

(6) There shall be a written emergency transportation and staffing plan and equipment such as a litter to transport a child in a medical emergency.

(7) There shall be a written plan for conducting a search for a missing child and requesting assistance from local authorities.

(8) Each staff person shall have a map of the area.

(9) Each staff person shall have a written anticipated schedule of the dates, times and estimated locations for the next 7 days.

(10) Each child shall wear footwear, that is well-constructed, in good condition and appropriate for the activity being conducted.

(b) The following additional requirements apply for outdoor programs:

(1) Each child shall have personal hygiene supplies, shelter such as a fire retardant tent or tarpaulin, a fire retardant sleeping bag or other sleeping equipment, bedding appropriate to the temperature and at least one change of clothing.

(2) While the child is engaged in an activity away from a stationary site, each child shall have a daily water supply and a whistle for use in emergencies.

(3) Safe and well-maintained equipment shall be provided for activities.

(4) Staff persons responsible for teaching children high-risk activities such as boating, biking, horseback riding, swimming and climbing shall be trained by an appropriate, recognized source in safe practices regarding these activities. Documentation of the training shall be kept.

(5) At least one staff person shall be present with the children at all times who has current certification from a hospital or other recognized health care organization in first aid, Heimlich techniques and cardiopulmonary resuscitation.

(c) The following additional requirement applies for mobile and outdoor programs that operate from stationary settings such as tepees and cabins: The maximum

capacity specified on the certificate of compliance shall be based on 30 square feet per child, including measurement of all floor space.

DAY TREATMENT

§ 3800.311. Exceptions for day treatment.

The following requirements do not apply for child day treatment centers:

- (1) Section 3800.13(a) (relating to maximum capacity).
- (2) Section 3800.14(a) (relating to fire safety approval).
- (3) Section 3800.32(f), (g) and (i) (relating to specific rights).
- (4) Section 3800.54(a) and (b) (relating to child care supervisor).
- (5) Section 3800.56 (relating to supervision).
- (6) Section 3800.98 (relating to indoor activity space).
- (7) Section 3800.102 (relating to child bedrooms).
- (8) Sections 3800.103(a)—(e), (g), (h) and (j) (relating to bathrooms).
- (9) Section 3800.104(a) (relating to kitchen areas).
- (10) Section 3800.105 (relating to laundry).
- (11) Section 3800.124 (relating to notification of local fire officials).
- (12) Section 3800.130(b) and (e) (relating to smoke detectors and fire alarms).
- (13) Section 3800.144 (relating to dental care).
- (14) Section 3800.161 (relating to three meals a day).
- (15) Section 3800.171(1) (relating to safe transportation).
- (16) Section 3800.255 (relating to laundry).
- (17) Section 3800.257 (relating to bedrooms).

§ 3800.312. Additional requirements.

The following additional requirements apply for child day treatment centers:

- (1) The maximum capacity specified on the certificate of compliance shall be based on the available indoor square footage and the number of sinks and toilets.
- (2) If the facility is located outside Philadelphia, Pittsburgh and Scranton, the facility shall have a valid firesafety approval listing the type of occupancy from the Department of Labor and Industry.
- (3) There shall be one child care supervisor present at the facility for every 36 children, whenever children are present at the facility.
- (4) Children shall be directly supervised at all times.
- (5) The facility shall have at least 50 square feet of indoor activity space per child, measured wall to wall including space occupied by furniture. Indoor activity space includes areas accessible to children such as dining areas, recreation areas and other general living areas. Indoor activity space does not include kitchens, bathrooms, counseling rooms, offices or hallways.
- (6) There shall be at least one flush toilet for every 18 children.
- (7) There shall be at least one sink for every 24 children.
- (8) A meal shall be provided to the children at least every 5 hours they are at the facility.

(9) An evening snack shall be provided to children who are at the facility more than 3 hours beyond the evening meal.

(10) Certified teachers may be substituted for a child care supervisor to meet the requirements of paragraph (3).

CHAPTER 3810. (Reserved)

(Editor's Note: The Department proposes to delete Chapter 3810, pages 3810-1 to 3810-31, serial pages (109569) to (109572), (168981) to (168982), (109575) to (109598) and (168983).)

CHAPTER 5310. COMMUNITY RESIDENTIAL REHABILITATION SERVICES FOR THE MENTALLY ILL

Subchapter A. GENERAL PROVISIONS

§ 5310.3. Applicability.

(a) This chapter applies to providers of full-care or partial-care community residential rehabilitation services, or both, as defined in § 5310.6 (relating to definitions).

(b) **This chapter does not apply to child residential facilities which serve exclusively children, with the exception of host homes, governed by Chapter 3800 (relating to child residential and day treatment facilities).**

§ 5310.6. Definitions.

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

* * * * *

[*Group home for children*—A single dwelling or apartment in the community, which is staffed by the provider and owned, held, leased or controlled by the provider or a provider-affiliate. Each group home cares for one group of four to eight children.]

* * * * *

**Subchapter C. CHILDREN SERVICES
GENERAL PROVISIONS**

§ 5310.92. Applicability.

(a) This subchapter applies to all community residential rehabilitation services (CRRS) that provide full-care

for children **in host home settings**. Persons under 18 years of age, with the exception of emancipated minors, may not be cared for in partial-care CRRS nor in a CRRS site in which adults are served.

* * * * *

PHYSICAL FACILITY STANDARDS

§ 5310.161. [Group homes] (Reserved).

[**The requirements of §§ 5310.71—5310.73 (relating to physical facilities standards) apply to community residential rehabilitation service (CRRS) group homes for children. The following also applies:**

(1) **Space must be provided for the care of ill children who require separation from the group.**

(2) **All electrical equipment must be in good repair. Equipment such as washers and garbage disposals must have protective safety devices which prevent use when open. All electric power tools must be locked in a cabinet, closet or storage room when not in use and must be used only by staff. Electrical kitchen equipment may be operated by children only when under direct supervision of staff.]**

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH MENTAL RETARDATION

§ 6400.3. Applicability.

* * * * *

(f) This chapter does not apply to the following:

* * * * *

(8) **Child residential facilities which serve exclusively children, regulated under Chapter 3800 (relating to child residential and day treatment facilities).**

* * * * *

[Pa.B. Doc. No. 98-289. Filed for public inspection February 13, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 71—73, 75—77, 79, 83 AND 85]

Cigarette Tax

The Department of Revenue (Department), under the authority in section 6 of The Fiscal Code (FC) (72 P. S. § 6); section 1291 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 8291); and sections 209-A, 214-A, 215-A and 227-A of the act of April 9, 1929 (P. L. 343, No. 176) (72 P. S. §§ 209-A, 214-A, 215-A and 227-A), by this order adopts amendments to Part I, Subpart B, Article III (relating to cigarette and beverage taxes) to read as set forth in Annex A.

Purpose of Amendments

As a result of the act of July 2, 1993 (P. L. 250, No. 46) (act) known as The Cigarette Sales and Licensing Act (code), which amended the FC by adding Article II-A (relating to cigarette sales and licensing) and repealing various provisions of Article XII (relating to cigarette tax) of the TRC, the Department is deleting the existing text of Article III (relating to cigarette and beverage taxes) and replacing it with regulations that are consistent with the act. The Department is also deleting provisions that were not helpful or that simply reiterated statutory provisions such as The Administrative Code of 1929.

Explanation of Regulatory Requirements

Chapter 71. General Provisions

Section 71.4 (relating to definitions) defines terms used in Article III. Section 71.5 (relating to cigarette tax stamps) provides for the method of purchase of, payment for and affixation of cigarette tax stamps. Section 71.6 (relating to refunds or credits for cigarette tax stamps) describes the refund or credit process for affixed and unaffixed tax stamps. Section 71.7 (relating to exemptions from tax) describes when a cigarette stamping agent may sell cigarettes to purchasers who qualify for tax exempt status.

Section 71.8 (relating to sample cigarettes) specifies when a sample package of cigarettes may be unstamped and when it must have tax stamps affixed. Section 71.9 (relating to cigarette stamping agent report requirements) describes the report due date and penalties. Section 71.10 (relating to cigarette dealer record requirements) describes the types of records that cigarette dealers are required to keep, the retention period of the records and the fine provisions for violation of the record requirements.

Section 71.11 (relating to examination of records, equipment and premises) provides that all dealers provide the Department the means, facilities and opportunity to examine books, records, cigarette inventory, premises and equipment to determine compliance with the FC and code. Section 71.11 also sets forth the fine provisions for any person who prevents or hinders the Department in its examinations.

Chapter 72. Cigarette Dealer Licenses

Section 72.1 (relating to licensing of dealers) describes the licensing requirements of cigarette stamping agents, wholesalers and retailers. Section 72.2 (relating to posting

of license) explains that all dealers shall conspicuously display their licenses at the locations for which issued; this section also sets forth the fine provisions for violations thereof. Section 72.3 (relating to assignment of license) states that a dealer's license is not assignable and that any attempt to do so will result in the cancellation of the license. Section 72.4 (relating to timing of application for renewal of existing license) describes the deadlines for the renewal process.

When the Department denies a license application or request for renewal, § 72.5(a) (relating to denials, revocations and suspensions) describes where the notice will be mailed, what the notice will contain, the hearing process and the continued operation of the dealer after receiving the notice. Section 72.5(b) explains the process relating to the revocation or suspension of a license. Section 72.6 (relating to change in status of cigarette dealer's business) describes certain specific circumstances which require Department notification. Section 72.7 (relating to cigarette vending machines) details requirements for dealers who operate cigarette vending machines. Section 72.7 also describes the circumstances under which dealers may relocate vending machines and obtain extra vending machine decals.

Chapter 73. Imposition, Method of Payment and Refunds of Tax

The Department is deleting Subchapters A—C, and the heading for Subchapter D. However, the text of the Subchapter D is being retained.

Chapter 76. Unfair Sales of Cigarettes

Section 76.1 (relating to dealer's cost of doing business) describes the cost of doing business for a cigarette stamping agent, wholesaler and retailer. The section also provides for an application to lower a dealer's cost of doing business and what the application shall contain. The Department's review and determination regarding the dealer's application is explained along with an example which shows how the determination is made. Section 76.2 (relating to combination sales and inducements) places certain restrictions on the contemporaneous sale of cigarette and noncigarette items.

Section 76.3 (relating to promotional sales plans) provides that only cigarette manufacturers may sponsor or initiate a promotional sales plan that lowers the price of cigarettes below the cost of the dealer. The section also details promotional sales plans that involve the affixation of coupons to cigarettes and retailer redemption of manufacturer-issued coupons. Finally, the section provides that a dealer may sponsor or initiate a promotional sales plan if the plan does not result in the sale of cigarettes at a price below the cost of that dealer.

To bring Article III into conformity with current statutory provisions, this rulemaking deletes the following chapters: Chapter 71; Chapter 75; Chapter 77; Chapter 79 and Chapter 83. With the adoption of comprehensive cigarette tax regulations, § 85.1 (relating to definitions) is deemed unnecessary and is therefore deleted.

Affected Parties

There are approximately 20,000 cigarette stamping agent, wholesale and retail licensees who will be affected by this rulemaking.

Comment and Response Summary

Notice of proposed rulemaking was published at 27 Pa.B. 3790 (August 2, 1997). This rulemaking is being adopted with changes to the proposed rulemaking to read as set forth in Annex A.

The Department received comments from the public and the Independent Regulatory Review Commission (IRRC). No comments were received from the House Finance Committee or the Senate Finance Committee.

Public comments indicated approval of the rulemaking as proposed and requested that the rulemaking be adopted at the earliest opportunity to enable enforcement of the code.

The amendments to the proposed rulemaking in response to comments from IRRC are as follows:

(1) In §§ 71.9(a)(2), 72.7(b) and 76.1(d)(2)(iii), the Department proposed language that would require the submission of other information as the Department may require. IRRC made the comment that if the Department is aware that additional information could be required, the specifics regarding the information should be set forth in this rulemaking and the general language removed. The Department agreed to the removal of the general language and has amended the sections accordingly. In addition, proposed § 71.9(a)(1) is amended to delete the listing of information in subparagraphs (i) and (ii) because the information listed is addressed in the cigarette tax report which the cigarette stamping agent is required to file with the Department.

IRRC also suggested that the language in § 71.9(b) contained a vague requirement for reporting because it is based upon an undefined volume of business or number of vending machines. The subsection also requires a report to contain information that was not specified in the regulation. The Department agreed that the reporting requirement was vague and unnecessary; therefore, the subsection was deleted.

(2) IRRC suggested that Chapter 72, did not clearly establish the categories or the requirements associated with the various licenses for dealers, stamping agents, wholesalers and retailers and that provisions should be added to Chapter 72 to establish and set forth the requirements for the different licenses. The Department has incorporated this suggestion by adding specific provisions regarding the different licenses to § 72.1.

(3) In § 76.1(e)(4), IRRC expressed a concern with the clarity of the provision and questioned how it will be implemented. In addition, IRRC suggested the Department define who would be considered a "similarly-licensed dealer"; how a lower cost of doing business would be applied to similarly-licensed dealers and how the other dealers will be notified of the new lower cost of doing business. In response to IRRC's concerns, the Department has deleted the term "similarly-licensed" and has added a phrase so that the paragraph reads in part, "... will apply to all dealers throughout this Commonwealth holding the same licenses as referenced in § 72.1 (relating to licensing of dealers)."

With regard to the notification of the new lower cost of doing business, section 227-A(a) of the FC specifically provides that, "Authorization to sell below the presumptive minimum prices shall be in writing published in the *Pennsylvania Bulletin* and otherwise in conformance with the requirements of this article and shall contain a statement that the authorization is effective forty-five days after the issuance of the writing and is valid for twelve months therefrom."

(4) Section 71.5(b)(3) allowed cigarette stamping agents to pay for cigarette tax stamps by using cigarette tax credits issued by the Department. IRRC suggested that the Department explain what these tax credits are, how the mechanism works procedurally and if the credits are limited to those referenced in § 71.6, then § 71.6 should be referenced in § 71.5(b)(3). The tax credits are limited to cigarette tax credits and § 71.5(b)(3) has been amended to reference § 71.6. Information regarding how the mechanism works procedurally relates to internal Departmental procedure and can be ascertained by contacting the Miscellaneous Tax Division of the Bureau of Business Trust Fund Taxes.

(5) Clarity recommendations from IRRC are as follows:

- The proposed rulemaking made no reference to the deletion of the current title of Chapter 71 "General Provisions," it simply stated the title in the Department's proposal "Cigarette Tax." After consideration, the Department notes that the original title is more applicable, therefore, the proposed title has been deleted and the original title "General Provisions" has been added.

- The definition of "code" in § 71.4 in the proposed rulemaking incorrectly referenced only three sections of Article II-A. The Department has corrected the typographical error in the final-form regulations.

- IRRC identified several definitions that were used throughout the proposed rulemaking but were not defined in § 71.4, including "cigarette," "cigarette vending machine," "Department," "retailer," "sale" and "wholesaler." The Department's rationale for not including the terms in the proposal was that the terms are adequately defined in the FC and a regulation should not simply reiterate the statute. However, to provide guidance to taxpayers, the definitions have been added to § 71.4, with the exception of the term "Department," which is currently defined in § 1.1 (relating to definitions).

In addition, the term "stamping agent" in § 71.4 has been changed to "cigarette stamping agent" to more closely track the statute. The change has been made when the term appears throughout this rulemaking.

- The Department incorporated IRRC's suggestion to delete the phrase "... or destroying same." in § 71.5(c)(3) and replaced it with the phrase, "or by destroying the improperly stamped cigarettes."

- Section 71.7 provided an application process for exemptions from tax; however, the section did not set forth a time period in which the Department will respond to the applicant. In accordance with IRRC's suggestion that a time frame be added, the Department has amended the section to provide that the Department will evaluate the request for an exemption certificate within 90 days of receipt.

- In § 72.7(a), IRRC stated that the regulation provided that, "In addition to requirements stated under the code . . . ;" however, the text is directly from the code and there is no addition to the code. IRRC suggested deleting the introductory phrase and replacing it the requirements for the name and address of the owner and the operator as required by 72 P. S. § 231-A. The Department agreed with IRRC's suggestion and has amended the section accordingly.

- IRRC indicated that § 76.2(2) references § 71.6; however, the correct reference is § 71.8. The typographical error has been corrected in the final-form regulations.

Revisions the Department has made as a result of its internal review of the proposed rulemaking:

(1) Section 71.6(a) has been amended to clarify that a credit will not be granted for cigarette tax paid upon stamped cigarettes that have been stolen.

(2) A revision to the section and subsection titles for § 71.9 was made to more appropriately reflect the content of the section and subsection.

(3) Section 72.1(a)(1)(iii)(A) and (b)(1)(ii)(B) has been amended to clarify that the applicant shall provide the Department with current financial statements that are prepared in accordance with generally accepted accounting principles.

(4) Section 76.1(e)(2) has been amended to clarify that the Department's approval of a dealer's application to sell at less than the presumptive cost of doing business is valid for 12 months from the effective date of the approval or until the effective date of the approval of a subsequent dealer's application, whichever occurs first.

Comments that did not result in amendments to the proposed rulemaking are as follows:

(1) IRRC indicated that the definition of "cost of the stamping agent" in § 71.4 varied significantly from the statutory definition and suggested that the Department expand the definition to include more detail from the statutory definition. The Department did not believe a change to the definition was necessary because the inclusion of the entire definition from the statute would create confusion and would be redundant. The statutory definition contains information that is addressed in other areas of the regulations and therefore does not need to be reiterated in this definition.

(2) The definition of "cost of doing business" in § 71.4 used wording that is not used in the act and IRRC recommended that the wording be reviewed for consistency with the act. The Department has reviewed its wording and believes that it is consistent with the statute and provides the public with a clearer definition.

(3) IRRC suggested that the Department amend § 71.6(b)(1) to specifically state the time period referenced in 72 P. S. § 8253 instead of simply referencing the statutory citation. The Department believes referring to the statutory citation is appropriate in this situation because if the statutory provision is amended, which it was since the drafting of this proposal, the regulatory language would be inaccurate and misleading to the public.

Fiscal Impact

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

Paperwork

The amendments will not generate additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The amendments will become effective upon final publication in the *Pennsylvania Bulletin*. The amendments are scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the final-form regulations is Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 23, 1997, the Department submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 3790, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of comments received, as well as other documentation.

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

These final-form regulations were deemed approved by the Senate and House Committees on December 22, 1997. IRRC met on January 13, 1998, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department finds that:

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

(2) The final-form regulations are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Department, 61 Pa. Code Chapters 71—73, 75—77, 79, 83 and 85, are amended by adding §§ 71.4—71.11, 72.1—72.7 and 76.1—76.3 and by deleting §§ 71.1, 71.3, 73.1—73.8, 73.21—73.28, 73.30, 73.31, 73.41—73.44, 75.1—75.10, 75.21—75.26, 74.31—75.35, 75.41, 75.61, 75.62, 77.1—77.3, 77.11, 79.1, 79.2, 79.11, 83.1, 83.2, 83.11—83.17, 83.31—83.33, 83.41, 83.42, 83.51—83.55, 83.71, 83.72, 83.81, 83.91, 83.92, 83.101—83.114, 83.121—83.124, 83.131, 83.141, 83.151, 83.161—83.163 and 85.1 to read as set forth in Annex A.

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

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

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

ROBERT A. JUDGE, Sr.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 588 (January 31, 1998).)

Fiscal Note: Fiscal Note 15-349 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE III. CIGARETTE AND BEVERAGE TAXES

CHAPTER 71. GENERAL PROVISIONS

§ 71.1. (Reserved).

§ 71.3. (Reserved).

§ 71.4. Definitions.

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

Act—The Cigarette Tax Act, Article XII of the TRC (72 P. S. §§ 8201—8297).

Basic cost of cigarettes—The gross price of cigarettes from the manufacturer to a dealer in the quantities stated including freight and handling charges and the full face value of any tax which may be required by law.

Cigarette stamping agent—A person who is licensed as such by the Department for the purpose of affixing cigarette tax stamps to packages of cigarettes and transmitting the proper tax to the Commonwealth.

Cigarettes—Any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not the tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. The term does not include cigars.

Cigarette vending machine—A mechanical or electrical device from which cigarettes are dispensed for a consideration.

Code—The Cigarette Sales and Licensing Act, Article II-A of the FC (72 P. S. §§ 201-A—230-A).

Cost of doing business—The dealer's aggregate costs for its previous 12-month reporting period, as determined by accounting principles regularly employed in the determination of costs for the purpose of Federal income tax reporting, including direct and indirect costs, such as product costs, freight charges, labor costs, costs of equipment, rental and maintenance expenses, cigarette licenses, preopening expenses, management fees, rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, all types of license fees, all types of taxes, insurance, advertising costs and any central and regional administrative expenses.

Cost of the retailer—The basic cost of cigarettes to a retailer, which includes the cost of the wholesaler and cigarette stamping agent, plus a markup to cover the retailer's cost of doing business, which cost of doing business, in the absence of satisfactory proof of a lesser cost, is presumed to be 6% of the basic cost of cigarettes to the retailer.

Cost of the stamping agent—The basic cost of cigarettes to a cigarette stamping agent.

Cost of the wholesaler—The basic cost of cigarettes to a wholesaler, which includes the cost of the stamping agent, plus a markup to cover the wholesaler's cost of doing business, which cost of doing business, in the absence of satisfactory proof of a lesser cost, is presumed to be 4% of the basic cost of cigarettes to the wholesaler.

Dealer—A Pennsylvania-licensed cigarette stamping agent, wholesaler or retailer.

Operating expenses—A dealer's cost of doing business decreased by the dealer's cost of goods sold.

Promotional sales plan—The placement upon the premises of a dealer of literature, premiums, displays, goods, wares, merchandise or other material designed to stimulate, encourage or induce the purchase of cigarettes by the consumer, or a marketing plan that involves a price reduction or gift offered in conjunction with the sale of cigarettes that causes a dealer to be in violation of the code or act.

Retailer—

(i) A person who, in the usual course of business, purchases or receives cigarettes from any source whatsoever for the purpose of sale to the ultimate consumer.

(ii) A person who, in the usual course of business, owns, leases or otherwise operates one or more vending machines for the purpose of sale of cigarettes to the ultimate consumer.

(iii) A person who buys, sells, transfers or deals in cigarettes for profit and is not licensed as a cigarette stamping agent or wholesaler.

Sale—A transfer for a consideration, in exchange, as barter, as a gift, as an offer for sale or in distribution, in any manner or by any means whatsoever.

Wholesaler—

(i) A person who, in the usual course of business, purchases cigarettes from a cigarette stamping agent or other wholesaler and receives, stores, sells and distributes within this Commonwealth at least 75% of all the cigarettes purchased by him to retail dealers or wholesale dealers or any combination who shall buy the cigarettes from him for the purpose of resale to the ultimate consumer, if the person maintains an established place of business for the receiving, storage and distribution of cigarettes.

(ii) A person who is engaged in the business of distributing cigarettes through vending machines to the ultimate consumer by means of placing the cigarette vending machines, owned or leased by him, in various outlets within this Commonwealth and who pays to the owner or lessee of the premises a commission or rental for the use of the premises, if the vending machine operator operates at least ten vending machines. In addition, the vending machine operator shall meet the other requirements for licensing of wholesalers under this article, including maintaining an established place of business for the receiving, storage and distribution of cigarettes.

(iii) A person, including a franchisee, who owns and operates at least five retail outlets in this Commonwealth, having 100% common ownership, who purchases cigarettes from a cigarette stamping agency or another wholesaler for resale to the ultimate consumer. In addition, the person shall maintain complete and accurate records of all purchases and sales in his main office and also in the retail outlet.

§ 71.5. Cigarette tax stamps.

(a) *Method of purchase.* A cigarette stamping agent shall purchase cigarette tax stamps by presenting to the Department or one of its authorized agents, Form Rev-1043, Cigarette Stamping Agency Purchase Order, listing the cigarette stamping agent's name, license number, address, telephone number and the amount of tax stamps desired for purchase.

(b) *Method of payment.* Cigarette stamping agents may pay for cigarette tax stamps in exchange for any combination of the following:

(1) Cash.

(2) Approved credit up to the face amount of the security filed with and approved by the Department as required by section 1215 of the act (72 P. S. § 8215).

(i) Payment for tax stamps purchased on credit is due by the 15th of the month following the month in which the cigarette stamping agent purchased the tax stamps.

(ii) If a licensed cigarette stamping agent who purchases cigarette tax stamps on credit fails to remit full payment for accumulated cigarette tax stamps purchased on credit by the due date, the credit privileges may be suspended or revoked by the Department.

(3) Cigarette tax credits issued by the Department under § 71.6 (relating to refunds or credits for cigarette tax stamps), which shall be presented to the Department at the time the purchase order for cigarette tax stamps is placed.

(c) *Affixation of tax stamps.*

(1) Tax stamps shall be affixed to each individual pack of cigarettes in an aggregate denomination equal to the amount of tax imposed upon the number of cigarettes contained therein.

(2) Tax stamps shall be affixed to the bottom of each pack of cigarettes so that they are clearly visible to subsequent purchasers. Stamps shall be canceled in ink with the licensed cigarette stamping agent's identification number.

(3) Improperly stamped cigarettes shall be treated as unstamped cigarettes and shall be subject to confiscation and forfeiture under the act. The Department will dispose of cigarettes forfeited under the act by either selling the cigarettes to a licensed cigarette stamping agent or a cigarette manufacturer, or by destroying the improperly stamped cigarettes.

§ 71.6. Refunds or credits for cigarette tax stamps.

(a) *Affixed tax stamps.* A refund or credit for cigarette tax stamps purchased by a cigarette stamping agent which have been affixed to packages of cigarettes will be made to the agent upon satisfactory proof presented to the Department that the tax-stamped cigarettes have been withdrawn from the market because they are unsaleable, sold to persons exempt from the tax under the act, or lost or destroyed by fire, casualty or Act of God. A refund or credit will not be granted for cigarette tax paid upon stamped cigarettes that have been stolen.

(1) A cigarette stamping agent's refund or credit shall be based upon the face value of the stamps, less commissions allowed the cigarette stamping agent under the act.

(2) If the cigarettes are returned to the manufacturer, the cigarette stamping agent shall give to the Department a sworn statement by the manufacturer certifying receipt of the returned cigarettes.

(b) *Unaffixed tax stamps.* The Department may issue a refund or a credit to present or former cigarette stamping agents for previously-purchased, unaffixed tax stamps when the Department deems a refund or credit appropriate such as when a cigarette stamping agent is no longer qualified to affix tax stamps, when a cigarette stamping agent is in liquidation, when a cigarette stamping agent possesses damaged tax stamps that are unfit for use or

when a cigarette stamping agent possesses stamps that have been superseded by stamps of a newer design or denomination.

(1) The Department will issue a refund or credit for unaffixed tax stamps for the actual amount of cigarette tax paid for the stamps if satisfactory proof is presented to the Department within the time permitted under section 1253 of the act (72 P. S. § 8253). A claim for a refund or credit may not be filed when cigarette tax stamps have not been paid for in full. The Department will determine whether the cigarette stamping agent is entitled to either a refund or credit and the method of payment.

(2) Unaffixed stamps shall accompany the claim, which shall be sent to the Department by registered mail or other method approved by the Department.

§ 71.7. Exemptions from tax.

A cigarette stamping agent may sell cigarettes to purchasers who qualify for tax exempt status as enumerated in section 1209 of the act (72 P. S. § 8209) if the Department approves the purchaser's request for an exemption certificate. The Department will evaluate the request for an exemption certificate within 90 days of receipt. To obtain an exemption certificate, a purchaser shall file an application that shall state the purchaser's basis for exemption. Upon receipt and approval of the application by the Department, the Department will issue an exemption certificate to the purchaser. An exemption certificate shall be valid until surrendered by the purchaser or revoked by the Department for violating a provision listed in the act or the code.

§ 71.8. Sample cigarettes.

(a) Packages of sample cigarettes containing five or fewer cigarettes, which are to be furnished to consumers free of charge as provided in the act, shall be unstamped and prominently identified as "Sample Cigarettes Not for Sale—All Applicable State Taxes Paid."

(b) Packages of sample cigarettes containing six or more cigarettes shall be affixed with Pennsylvania cigarette tax stamps in accordance with the act and code.

§ 71.9. Cigarette stamping agent report requirements.

(a) *Report due date.* Every licensed cigarette stamping agent shall establish a fiscal or calendar monthly reporting period. The cigarette stamping agent shall file with the Department on or before the 20th day following the end of each fiscal or calendar month a cigarette tax report covering the preceding month on a form prescribed by the Department.

(b) *Penalties.* A cigarette stamping agent who violates this section shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 71.10. Cigarette dealer record requirements.

(a) Each dealer shall:

(1) Obtain invoices covering all purchases of cigarettes whether tax stamped or unstamped.

(2) Maintain receiving records of cigarettes which include the following:

(i) The date.

(ii) The invoice number.

(iii) The quantity.

- (iv) The brand.
- (v) The supplier name.
- (3) Except for retailers, maintain records on the sale of cigarettes, including:
 - (i) The name and address of the purchaser.
 - (ii) The amount of cigarettes sold.
 - (iii) The charge for cigarettes sold.
- (4) Retain invoices covering all purchases of Pennsylvania cigarette tax stamps.
- (5) Except for retailers, maintain a record of names and addresses of all other cigarette dealers to whom cigarettes are sold.
- (6) Prepare credit memoranda with the date the following transactions were completed:
 - (i) For wholesalers, transactions involving cigarettes returned by customers to a wholesaler's stock.
 - (ii) For cigarette stamping agents, transactions involving unstamped and stamped cigarettes returned to manufacturers.
 - (b) Dealers shall keep and maintain the records mentioned under subsection (a) for 4 years at the location for which the license is issued.
 - (c) A dealer who violates subsection (b) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 71.11. Examination of records, equipment and premises.

- (a) Dealers shall provide the Department and its authorized agents the means, facilities and opportunity to examine the dealers' books, records, cigarette inventory, premises and equipment to determine compliance with the act and code.
- (b) A person who prevents or hinders the Department or designated agent from examining the items stated in subsection (a) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

CHAPTER 72. CIGARETTE DEALER LICENSES

§ 72.1. Licensing of dealers.

- (a) *Licensing of cigarette stamping agents.*
 - (1) The Department may license as its agent for a 1-year period and may renew the license for further periods of 1 year if the agent is and remains of good moral character who meets the requirements imposed by the following provisions for the privilege of operating as a cigarette stamping agent:
 - (i) The applicant is a wholesale dealer licensed by the Commonwealth.
 - (ii) The applicant maintains warehousing facilities, adequate to protect the revenue, for the purpose of receiving, storing and distributing cigarettes and conducting business.
 - (iii) The applicant is a person of good moral character and of reasonable financial stability and is reasonably experienced in the wholesale cigarette business. To satisfy this requirement, an applicant shall provide the Department with:
 - (A) A detailed description of the applicant's business activities, including a history of the applicant's experience

in the wholesale cigarette business. An applicant seeking a renewal of a license need not follow this requirement.

(B) Current financial statements prepared in accordance with generally accepted accounting principles.

(iv) The applicant, or any shareholder controlling more than 10% of the stock if the applicant is a corporation or any officer or director if the applicant is a corporation has not been convicted of any crime involving moral turpitude.

(v) The applicant has filed required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to an authorized deferred payment plan.

(2) The cigarette stamping agency license is valid for one specific location only.

(3) The Department may reject an application for a new or renewal license if it finds that any of the requirements in paragraph (1) or (2) have not been met or finds that applicant or licensee has:

- (i) Failed to disclose material information required.
- (ii) Made a material false statement in his application.
- (iii) Violated any provisions of the code, the act or this article.
- (4) For purposes of this section, a person convicted of committing any felony, any infamous crime or any crime involving moral turpitude is not a person of good moral character and will not be licensed as a cigarette stamping agent.

(b) *Licensing of wholesalers.*

(1) Applicants for a wholesale license or renewal thereof shall meet the following requirements:

(i) The premises on which the applicant proposes to conduct business are adequate to protect the revenue.

(ii) The applicant is a person of reasonable financial stability and reasonable business experience. To satisfy this requirement, an applicant shall provide the Department with:

(A) A detailed description of the applicant's business activities, including a history of the applicant's experience in the wholesale cigarette business. An applicant seeking a renewal of a license is not required to follow this requirement.

(B) Current financial statements prepared in accordance with generally accepted accounting principles.

(iii) The applicant, or any shareholder controlling more than 10% of the stock if the applicant is a corporation or any officer or director if the applicant is a corporation, has not been convicted of any crime involving moral turpitude.

(iv) The applicant has not failed to disclose any material information required by the Department, including information that the applicant has complied with this article by providing a signed statement, under penalty of perjury, of adherence to State presumptive minimum prices or written approval from the Department to sell at a specific different price.

(v) The applicant has not made a material false statement in his application.

(vi) The applicant has not violated any provision of the code, the act or this article.

(vii) The applicant has filed the required State tax reports and paid any State taxes not subject to a timely

perfected administrative or judicial appeal or subject to an authorized deferred payment plan.

(2) The wholesale dealer's license is valid for one specific location only.

(c) *Licensing of retailers.* An applicant for a retail license or renewal thereof shall meet the following requirements:

(1) The premises in which the applicant proposes to conduct business are adequate to protect the revenues.

(2) The applicant has not failed to disclose any material information required by the Department, including information that the applicant has complied with this article by providing a signed statement, under penalty of perjury, of adherence to State presumptive minimum prices or written approval from the Department to sell at a specific different price.

(3) The applicant has not made any material false statement in the application.

(4) The applicant has not violated any provision of the act, the code or this article.

(5) The applicant has filed the required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to an authorized deferred payment plan.

§ 72.2. Posting of license.

(a) Dealers shall conspicuously display their licenses at the locations for which issued. Dealers operating vending machines shall post their licenses at their business headquarters as listed in their license application.

(b) A dealer who violates subsection (a) shall be subject to a \$100 fine for the first offense, a \$200 fine for the second offense and a \$300 fine for the third and any further offense.

§ 72.3. Assignment of license.

A dealer's license is not assignable. An attempt to assign a dealer's license shall immediately result in the cancellation of the license.

§ 72.4. Timing of application for renewal of existing license.

(a) A dealer shall apply for a renewal of its license by January 15 of the year in which its license expires.

(b) A dealer who files an application for renewal of its license after January 15 of the year in which its license expires is not permitted to operate under the existing license after the last day of February of that same year. In this instance, the Department will treat the application for renewal as an application for a new license and the dealer shall be prohibited from stamping or selling cigarettes until its application is approved by the Department.

§ 72.5. Denials, revocations and suspensions.

(a) *Denial of license application and requests for renewal.*

(1) Whenever the Department denies a license application or request for renewal, the Department will send a notice by registered or certified mail at the last known address of the applicant or dealer. The notice will set forth the basis of the Department's denial and inform the applicant or dealer that the Department's actions may be protested through a hearing process. To avail itself of the hearing process, the applicant or dealer shall file a complaint with the Department's Cigarette Licensing,

Marketing and Control Board within 30 days after the mailing date in the notice under section 207-A of the code (72 P. S. § 207-A).

(2) A dealer may continue to operate under its license for a 30-day period following the mailing date in the denial notice. If the dealer files an appeal with the Cigarette Licensing, Marketing and Control Board, the dealer may continue to operate under its license during the period of administrative appeal before the Board.

(b) *Revocation or suspension of license.* Whenever the Department determines that a dealer has committed a violation of the act or the code that would result in the suspension or revocation of that dealer's license, the Department will file a complaint with the Cigarette Licensing, Marketing and Control Board under the procedures in section 207-A of the code. Within 30 days after the termination of a hearing, the Board shall recommend its decision to the Secretary. If the Secretary's decision results in the suspension or revocation of the dealer's license, the dealer shall immediately surrender its license to the Department, notwithstanding the dealer's right of further administrative or judicial appeal.

§ 72.6. Change in status of cigarette dealer's business.

A cigarette dealer shall immediately inform the Department, in writing, prior to or immediately after:

(1) Taking actions that would change any information on the dealer's license application or as last reported to the Department, including a change of name or, if the dealer is a corporation or partnership, a change in the dealer's officers, directors or partners.

(2) Filing a certificate of dissolution with the Department of State or filing a similar document in another jurisdiction.

(3) Filing a voluntary petition in bankruptcy or receivership or receiving notice of an involuntary bankruptcy petition.

(4) Merging or consolidating with another business.

(5) Terminating business activities.

(6) If the dealer is a corporation, the acquisition by any person or entity of 10% or more of the number of shares of voting stock of the corporation.

§ 72.7. Cigarette vending machines.

(a) *Licenses.*

(1) Each cigarette vending machine shall have a current license, evidenced by a decal issued by the Department, which shall be affixed by its adhesive to and conspicuously displayed on each machine. Each cigarette vending machine shall also have the name and address of the owner and the name and address of the operator conspicuously and visibly displayed on each machine.

(2) Each dealer, at the time of the dealer's application for a license or request for renewal, shall provide the Department with a list identifying the location of each vending machine in this Commonwealth from which cigarettes will be sold, specifying the establishment, address and county.

(b) *Notification of business relocation.* A dealer that relocates vending machines shall notify the Department in writing within 10 days after the relocation. The notification to the Department shall include:

(1) The dealer's name.

(2) The dealer's license number.

(3) The location of the vending machine, specifying the establishment, address and county.

(c) *Extra cigarette vending machine decals.* A dealer may subsequently request extra decals for new vending machines which will be placed in additional locations without identifying the actual locations. These requests for decals are limited to no more than ten or 10% of the listed locations previously on file with the Department, whichever is greater. Once the new vending machines are placed in operation, the dealer shall, within 10 business days, notify the Department of the locations of the additional vending machines, specifying the establishment, address and county. The Department will revoke additional decals if the dealer fails to notify the Department of the locations of the additional vending machines.

CHAPTER 73. IMPOSITION, METHOD OF PAYMENT AND REFUNDS OF TAX

(*Editor's Note:* Subchapters A—C and the heading for Subchapter D are deleted. However, the text of Subchapter D, §§ 73.51—73.57 is retained.)

§§ 73.1—73.8. (Reserved)

§§ 73.21—73.31. (Reserved).

§§ 73.41—73.44. (Reserved).

CHAPTER 75. (Reserved)

CHAPTER 76. UNFAIR SALES OF CIGARETTES

§ 76.1. Dealer's cost of doing business.

(a) *Cigarette stamping agent.*

(1) The cost of doing business for a cigarette stamping agent is presumed to be the basic cost of cigarettes to the cigarette stamping agent for sales to wholesalers.

(2) Except as provided in subsection (e), a cigarette stamping agent may not sell cigarettes to a wholesaler at less than the cost of the stamping agent.

(b) *Wholesaler.*

(1) The cost of doing business for a wholesaler is presumed to be 4% of the basic cost of cigarettes to the wholesaler for sales to retailers.

(2) Except as provided in subsection (e), a wholesaler may not sell cigarettes to a retailer at less than the cost of the wholesaler.

(c) *Retailer.*

(1) The cost of doing business for a retailer is presumed to be 6% of the basic cost of cigarettes to the retailer for sales to the ultimate consumer.

(2) Except as provided in subsection (e), a retailer may not sell cigarettes to the ultimate consumer at less than the cost of the retailer.

(d) *Application to lower dealer's cost of doing business.*

(1) A dealer who wishes to lower its cost of doing business shall submit an application to the Department.

(2) An application for permission to sell at less than a dealer's presumed cost of doing business shall contain:

(i) A copy of the dealer's most recently filed Federal and State Income Tax return forms, including all associated schedules and attachments.

(ii) A nonrefundable fee of \$200 to cover the Department's costs of administering the application, including the review and audit of the petitioning dealer's financial statements. If the Department determines that a field audit is necessary to approve or disapprove a request, an

hourly rate, as established by the Department, will be charged to the dealer requesting approval for time spent in preparing the field audit. This amount will be in addition to the \$200 nonrefundable fee.

(e) *Review and determination.*

(1) The Department will review and evaluate the information provided by the cigarette dealer and will determine whether the dealer's cost of doing business is lower than the presumed cost of doing business in effect at that time.

(2) The Department's approval of a dealer's application to sell at less than the presumptive cost of doing business is valid for 12 months from the effective date of the approval or until the effective date of the approval of a subsequent dealer's application, whichever occurs first.

(3) If a dealer with permission to sell at less than the presumptive cost of doing business fails to submit a new application that is approved by the Department by the expiration of the 12-month period, the permission previously given to the dealer will be automatically revoked on the last day of the 12-month period.

(4) The Department's approval of a petitioning cigarette stamping agent, wholesaler or retailer's lower cost of doing business will apply to all dealers throughout this Commonwealth holding the same licenses as referenced in § 72.1 (relating to licensing of dealers). For example, if the Department approves a particular retailer's request to lower the presumptive 6% cost of doing business to 5%, all Pennsylvania retailers would also be permitted to use 5% as their cost of doing business.

(5) In determining whether an applicant/dealer's cost of doing business is lower than the presumed cost of doing business for that particular type of dealer, the Department will divide the applicant's operating expenses for the applicable 12-month period by the applicant's total cost of doing business for that same period.

Example. Wholesaler is in the business of selling cigarettes, candy and various food items to retailers throughout the United States. In its application to sell cigarettes to retailers at a price lower than the 4% presumptive cost of doing business markup, Wholesaler provides the following financial information for the year ending 12/31/XX:

Total cost of goods sold	\$ 575 million
Total cost of doing business	\$ 650 million

The Wholesaler's operating expenses equal \$75 million, which is its total cost of doing business less its total cost of goods sold. This amount is then divided by Wholesaler's total cost of doing business (\$75 million/\$650 million), which equals approximately 11.53%. This percentage represents the wholesaler's actual percentage cost of doing business. Because this percentage is greater than the 4% presumptive cost of doing business markup, the Wholesaler is unable to show that it can sell its cigarettes at a lower cost of doing business and the Department would deny its application.

(6) In determining a dealer's actual cost of doing business, the Department will determine the amount of the constructive cost of property or services upon which the dealer's actual cost of doing business is calculated when the Department determines that the dealer's financial records are not indicative of the true value of property or services received by the dealer.

(i) The constructive cost of the dealer's receipt of property or services shall be the cost which would be charged in an arms-length transaction.

(ii) If the purchase of property or services occurs between a parent and a subsidiary, affiliate or controlled corporation, there shall be a refutable presumption that because of the common interest the transaction was not at arms-length.

§ 76.2. Combination sales and inducements.

Except for in § 76.3 (relating to promotional sales plans), a dealer may not:

(1) Sell cigarettes in combination with other noncigarette merchandise if the total sales price for the cigarettes and all other noncigarette items included in the sale is less than the sum of the cost to the dealer of the cigarettes and noncigarette items. The dealer's invoice shall contain a description of the cigarette and noncigarette merchandise, including its selling price or its wholesale value.

(2) Give cigarettes free of charge, except in the case of specially-packaged manufacturers' samples that are designated on the package as not to be sold in accordance with § 71.8 (relating to sample cigarettes).

(3) Make a rebate, advertising allowance or other concession in connection with the sale of cigarettes whereby the cigarettes are in effect sold below their cost to the dealer.

(4) Make secret extensions to certain purchasers of special services or privileges in connection with the sale of cigarettes that are not extended to all purchasers upon like terms and conditions.

§ 76.3. Promotional sales plans.

(a) Only cigarette manufacturers may sponsor or initiate a promotional sales plan that lowers the price of cigarettes below the cost of the dealer.

(b) Every dealer on whose premises a manufacturer's promotional sales plan is being conducted shall obtain a written statement from the manufacturer which describes the promotional sales plan and indicates the plan's duration.

(c) When a manufacturer's promotional sales plan involves the affixation of coupons to a retailer's inventory of cigarettes, the retailer shall receive payment from the manufacturer representing the value of the coupons prior to the retailer's customers' purchase of the coupon-affixed cigarettes. The retailer shall also retain documentation showing the manufacturer's payment of the coupons' value. For example, if the cost of the retailer for a package of cigarettes is \$2 and a 50¢ coupon is affixed to the package, the retailer may accept the coupon, sell the package of cigarettes for \$1.50 and be in compliance with the act and the code only if the retailer possesses evidence that the manufacturer prepaid the value of the 50¢ coupon to the retailer prior to the retailer's sale of the package of cigarettes.

(d) Retailers may redeem manufacturer-issued coupons issued to the general public that reduce the retail purchase price of cigarettes below the cost of the retailer as long as the manufacturer reimburses the retailer for the

redeemed coupon and the retailer maintains documentation showing the sale of the cigarettes to its customers and the manufacturer's subsequent reimbursement. For example, if the cost of the retailer is \$18 per carton of cigarettes and the retailer sells the carton for \$18, the retailer may accept a \$1 coupon that reduces the cost of the retailer to \$17 and not be in violation of the code or act. However, the retailer may not sell the carton at \$17 unless the retail customer tenders a valid \$1 manufacturer coupon.

(e) A dealer participating in a manufacturer's promotional sales plan which is not evidenced by a coupon and which occurs subsequent to the dealer's purchase of cigarettes from that manufacturer is in violation of the code.

(f) A dealer may sponsor or initiate a promotional sales plan if the plan does not result in the sale of cigarettes at a price below the cost of that dealer.

CHAPTER 77. (Reserved).

§§ 77.1—77.3. (Reserved).

§ 77.11. (Reserved).

CHAPTER 79. (Reserved)

§ 79.1. (Reserved).

§ 79.2. (Reserved).

§ 79.11. (Reserved)

CHAPTER 83. (Reserved)

§ 83.1. (Reserved).

§ 83.2. (Reserved).

§§ 83.11—83.17. (Reserved).

§§ 83.31—83.33. (Reserved).

§ 83.41. (Reserved).

§ 83.42. (Reserved).

§§ 83.51—83.55. (Reserved).

§ 83.71. (Reserved).

§ 83.72. (Reserved).

§ 83.81. (Reserved).

§ 83.91. (Reserved).

§ 83.92. (Reserved).

§§ 83.101—83.114. (Reserved).

§§ 83.121—83.124. (Reserved).

§ 83.131. (Reserved).

§ 83.141. (Reserved).

§ 83.151. (Reserved).

§§ 83.161—83.163. (Reserved).

CHAPTER 85. (Reserved)

§ 85.1. (Reserved).

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