

# PENNSYLVANIA BULLETIN

Volume 30

Number 28

Saturday, July 8, 2000 • Harrisburg, Pa.

Pages 3413—3554

**Agencies in this issue:**

The General Assembly  
The Courts  
Commission on Crime and Delinquency  
Department of Aging  
Department of Banking  
Department of Community and Economic  
Development  
Department of Education  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Deputy Sheriffs' Education and Training Board  
Executive Board  
Fish and Boat Commission  
Health Care Cost Containment Council  
Human Relations Commission  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board  
State Ethics Commission  
State Tax Equalization Board

**Detailed list of contents appears inside.**

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

**No. 308, July 2000**

---

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

FRY COMMUNICATIONS  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
(800) 334-1429 ext. 2340 (toll free, out-of-State)  
(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198

Copyright © 2000 Commonwealth of Pennsylvania  
ISBN 0-8182-0004-9

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# Contents

## THE GENERAL ASSEMBLY

Recent actions during the 2000 regular session of the General Assembly ..... 3422

## THE COURTS

### LOCAL COURT RULES

#### York County

Amendment of Rules 212, 1915.1, 1915.3(b), 1920, 6018, 6031, 6034 and 6300 et seq.; no. 00MI 00269 ..... 3430

### RULES OF APPELLATE PROCEDURE

Amendments to business of the Superior Court and Superior Court internal operating procedures ..... 3429

## EXECUTIVE AGENCIES

### COMMISSION ON CRIME AND DELINQUENCY

#### Statements of Policy

Basic training and continuing education ..... 3472

#### Notices

Basic training and continuing education ..... 3474

### DEPARTMENT OF AGING

#### Notices

Public hearings ..... 3474

### DEPARTMENT OF BANKING

#### Notices

Action on applications ..... 3475

### DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

#### Notices

Land Use Planning and Technical Assistance Program ..... 3476

### DEPARTMENT OF EDUCATION

#### Proposed Rulemaking

Charter school services and programs for children with disabilities ..... 3463

#### Notices

Approved courses of study under New Economy Technology Scholarship Act; public comment period ..... 3476

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Rules and Regulations

Corrective amendment to 25 Pa. Code § 89.67(b) .... 3439

### Notices

Applications, actions and special notices ..... 3477  
 Mining and Reclamation Advisory Board ..... 3511  
 Proposed recommendations to designate areas under the Clean Air Act ..... 3511  
 Small Water Systems Technical Assistance Center Advisory Board special committee meeting ..... 3512  
 Water Resources Advisory Committee cancellation of meeting ..... 3512

### DEPARTMENT OF GENERAL SERVICES

#### Notices

Construction manager; request for proposal ..... 3512  
 Contract awards ..... 3553  
 State contracts information ..... 3545

### DEPARTMENT OF HEALTH

#### Notices

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee public meeting ..... 3513  
 Laboratories approved to determine blood alcohol content ..... 3513

### DEPARTMENT OF PUBLIC WELFARE

#### Notices

Inpatient hospitals qualifying for Medical Assistance (MA) disproportionate share payments for the period July 1, 1999 through June 30, 2000 ..... 3520  
 Public hearing on declining resident population at Selinsgrove Center ..... 3525

### DEPARTMENT OF REVENUE

#### Rules and Regulations

Sales and Use Tax; commercial motion pictures ..... 3459

### DEPARTMENT OF TRANSPORTATION

#### Notices

Retention of engineering firms ..... 3526

### DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD

#### Statements of Policy

Basic training and continuing education ..... 3472

#### Notices

Basic training and continuing education ..... 3474

### EXECUTIVE BOARD

#### Statements of Policy

Reorganization of the Department of Conservation and Natural Resources ..... 3469  
 Reorganization of the Board of Probation and Parole ..... 3469

### FISH AND BOAT COMMISSION

#### Notices

Temporary changes to fishing regulations and proposed designations of waters subject to special fishing regulations ..... 3534

---

**Now Available Online at <http://www.pabulletin.com>**

---

**HEALTH CARE COST CONTAINMENT COUNCIL****Notices**

Meetings scheduled . . . . . 3534

**HUMAN RELATIONS COMMISSION****Rules and Regulations**

Housing accommodations/commercial property . . . . . 3434

**INDEPENDENT REGULATORY REVIEW  
COMMISSION****Notices**

Actions taken by the Commission . . . . . 3534

**INSURANCE DEPARTMENT****Notices**

Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield; Access Care II community rated group rate increase; filing no. 464-ACII-CR-10/1/2000 . . . . . 3538

Capital Blue Cross; Security 65, plans A, B, C and H rate increase; filing no. 00-M . . . . . 3538

Keystone Health Plan West; group size rating factor for association pool rating methodology; rating factor for association group size one; filing no. 2-SGR-00-KHPW . . . . . 3538

Pennsylvania 1999 private passenger automobile data call (Act 6 data call) . . . . . 3539

Review procedure hearings; cancellation or refusal of insurance . . . . . 3539

United American Insurance Company requesting authority to increase rates for individual standardized Medicare supplement plans A, B, C and D; policy form numbers MSA, MSB, MSC and MSD . . . . . 3539

**LIQUOR CONTROL BOARD****Notices**

Expiration of leases . . . . . 3540

**PENNSYLVANIA PUBLIC UTILITY COMMISSION****Rules and Regulations**

Competitive safeguards for the electric industry . . . . 3445

Ensuring customer consent to a change of natural gas supplier . . . . . 3451

Passenger carrier insurance coverage requirements . 3439

Recovery of natural gas costs and fixed rate option . 3441

**Notices**

Fuel surcharge order . . . . . 3540

Petition of TCG Pittsburgh, Inc., d/b/a AT&amp;T, for designation as an eligible telecommunications carrier under section 214(e) of the Telecommunications Act of 1996 and CFR 54.101, 2301-207; doc. no. P-00001797 . . . . . 3541

**Railroad**

Department of Transportation . . . . . 3541

Penn Eastern Lines, Inc. . . . . 3541

Service of notice of motor carrier applications . . . . 3542

Shangri-La Sewer Company; transfer of assets . . . . 3542

**PUBLIC SCHOOL EMPLOYEES' RETIREMENT  
BOARD****Notices**

Hearings scheduled . . . . . 3543

**STATE ETHICS COMMISSION****Proposed Rulemaking**

Procedure . . . . . 3467

**STATE TAX EQUALIZATION BOARD****Notices**

Common level ratios . . . . . 3543

# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

**SUBSCRIPTION INFORMATION: (717) 766-0211  
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2000.

<b>4 Pa. Code (Administration)</b>			
<b>Adopted Rules</b>			
1 .....	8		
<b>Proposed Rulemaking</b>			
177 .....	1255		
401 .....	3179		
402 .....	3179		
403 .....	3179		
405 .....	3179		
<b>Statements of Policy</b>			
5 .....	1469		
9 .....	44, 649, 902, 1556, 1760, 1876, 2380, 3081, 3469		
<b>7 Pa. Code (Agriculture)</b>			
<b>Proposed Rulemaking</b>			
3 .....	768, 1255		
7 .....	768, 1255		
110 .....	636		
138h .....	638		
138i .....	771, 1255		
138j .....	776, 1255		
138k .....	781, 1255		
<b>Statements of Policy</b>			
3a .....	2482		
<b>12 Pa. Code (Community and Economic Development)</b>			
<b>Adopted Rules</b>			
33 .....	3035		
<b>16 Pa. Code (Community Affairs)</b>			
<b>Adopted Rules</b>			
45 .....	3434		
81 .....	3168		
83 .....	3168		
85 .....	3168		
87 .....	3168		
91 .....	3168		
<b>22 Pa. Code (Education)</b>			
<b>Proposed Rulemaking</b>			
507 .....	1378		
711 .....	3463		
<b>25 Pa. Code (Environmental Protection)</b>			
<b>Adopted Rules</b>			
89 .....	3439		
91 .....	521		
93 .....	3036		
97 .....	521		
101 .....	521		
111 (with correction) .....	111, 232		
121 .....	1370, 2995		
123 .....	1370		
129 .....	2995		
139 .....	533, 2995		
<b>Proposed Rulemaking</b>			
78 .....	3065		
88 .....	3053		
90 .....	3053		
123 .....	399, 1135		
145 .....	399, 1135		
210 .....	2768		
211 .....	2768		
261a .....	1136		
266b .....	1136		
268a .....	1136		
270a .....	1136		
1021 .....	2766		
<b>Proposed Statements of Policy</b>			
23 .....	1766		
<b>28 Pa. Code (Health and Safety)</b>			
<b>Proposed Rulemaking</b>			
27 .....	2715		
1101 .....	873		
1103 .....	873		
1105 .....	873		
1107 .....	873		
1113 .....	873		
<b>31 Pa. Code (Insurance)</b>			
<b>Adopted Rules</b>			
35 .....	1542		
84c .....	2228		
89 .....	2229		
113 .....	310		
123 .....	1542		
124 .....	1542		
154 .....	1453		
301 .....	1453		
<b>Proposed Rulemaking</b>			
84c (with correction) .....	23, 312		
86 .....	886		
118 .....	1377		
<b>37 Pa. Code (Law)</b>			
<b>Adopted Rules</b>			
93 .....	1252		
95 (with correction) .....	866, 1129		
309 .....	763		
<b>Proposed Rulemaking</b>			
199 .....	1871		
<b>Statements of Policy</b>			
421 .....	3472		
<b>49 Pa. Code (Professional and Vocational Standards)</b>			
<b>Adopted Rules</b>			
16 .....	2474		
21 .....	3040		
23 (with correction) .....	2355, 2475		
25 .....	533		
31 .....	2357, 2583, 3044		
33 .....	2359, 3046		
35 .....	228, 2586		
37 .....	2589		
40 .....	2592		
41 .....	536, 2593		
42 .....	2597, 2599		
47 .....	3049		

**Proposed Rulemaking**

1 ..... 2264  
 7 ..... 3266  
 9 ..... 2481  
 11 ..... 888, 1271, 2376  
 21 ..... 2265  
 31 ..... 2378  
 35 ..... 641

**51 Pa. Code (Public Officers)**

**Proposed Rulemaking**

17 ..... 3467  
 21 ..... 3467

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

32 ..... 3439  
 53 ..... 3441  
 54 ..... 3445  
 57 (with correction) ..... 1129, 1254  
 59 ..... 3172, 3451  
 64 ..... 2028  
 69 ..... 634

**Proposed Rulemaking**

3 ..... 3073  
 59 ..... 37  
 62 ..... 893, 897, 2605, 3073  
 63 ..... 539, 1379, 1549, 2376

**Proposed Statements of Policy**

69 ..... 2911

**Statements of Policy**

69 ..... 1959  
 Unclassified ..... 1764, 3081

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

140 ..... 15  
 168 ..... 1743  
 1163 ..... 2130  
 3040 ..... 1743

**Proposed Rulemaking**

4225 ..... 2785  
 4226 ..... 2785

**Statements of Policy**

3800 ..... 545

**58 Pa. Code (Recreation)**

**Adopted Rules**

51 ..... 634  
 53 ..... 870  
 61 ..... 870  
 63 ..... 870  
 65 ..... 870, 872  
 93 ..... 870  
 97 ..... 870  
 117 ..... 1652  
 139 ..... 2366  
 141 (with correction) ..... 765, 2601, 2907  
 143 ..... 765, 2475  
 147 ..... 765, 2477, 2479

**Proposed Rulemaking**

1 ..... 2611  
 3 ..... 2611  
 5 ..... 2611  
 9 ..... 2611

11 ..... 2611  
 13 ..... 2611  
 21 ..... 2611  
 23 ..... 2611  
 25 ..... 2611  
 27 ..... 2611  
 31 ..... 2611  
 33 ..... 2611  
 51 ..... 1755  
 53 ..... 1755  
 61 ..... 1755  
 63 ..... 2373  
 65 ..... 2373  
 91 ..... 1874  
 93 ..... 1755  
 97 ..... 1755  
 111 ..... 2373  
 135 ..... 2908  
 139 ..... 1257  
 141 ..... 1262, 2908  
 143 ..... 1267, 2375  
 147 ..... 1268, 1269

**61 Pa. Code (Revenue)**

**Adopted Rules**

31 ..... 1654  
 32 ..... 3459  
 48 ..... 1654  
 60 ..... 3459

**Proposed Rulemaking**

31 ..... 784  
 101 ..... 2236, 2371  
 899 ..... 1755

**Statements of Policy**

60 ..... 233

**64 Pa. Code (Securities)**

**Adopted Rules**

202 ..... 18  
 203 ..... 18  
 204 ..... 18  
 205 ..... 18  
 207 ..... 18  
 209 ..... 18  
 211 ..... 18  
 504 ..... 18  
 513 ..... 18  
 603 ..... 18  
 606 ..... 18  
 609 ..... 18

**Proposed Rulemaking**

202 ..... 2237  
 203 ..... 2237  
 205 ..... 2237  
 206 ..... 2237  
 301 ..... 2237  
 302 ..... 2237  
 303 ..... 2237  
 304 ..... 2237  
 305 ..... 2237  
 404 ..... 2237  
 602 ..... 2237  
 603 ..... 2237

**67 Pa. Code (Transportation)**

**Adopted Rules**

179 ..... 3051  
 601 ..... 3175



**101 Pa. Code (General Assembly)**

**Adopted Rules**  
 501 ..... 3152  
 521 ..... 3152  
 551 ..... 3152

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**  
 82 ..... 2350  
 83 ..... 865, 1357  
 207 ..... 865

**Proposed Rulemaking**

71 ..... 2900  
 83 ..... 1124, 1126  
 85 ..... 1127  
 89 ..... 1127

**207 Pa. Code (Judicial Conduct)**

**Adopted Rules**  
 1 ..... 619  
 5 ..... 619  
 33 ..... 2125

**210 Pa. Code (Appellate Procedure)**

**Adopted Rules**  
 35 ..... 3429  
 63 ..... 519  
 65 ..... 3429  
 67 ..... 11

**225 Pa. Code (Rules of Evidence)**

**Adopted Rules**  
 Art I ..... 1639  
 Art IV ..... 1639, 1642  
 Art VI ..... 1643  
 Art VIII ..... 1639, 1645

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**  
 200 ..... 519  
 1900 ..... 1646, 3027  
 1910 ..... 1646, 3155  
 1915 ..... 1646  
 1920 ..... 1646, 3155  
 1930 ..... 1646, 3155

**Proposed Rulemaking**

200 ..... 619, 620, 2350  
 400 ..... 620  
 1000 ..... 621, 2127  
 1500 ..... 2127  
 1900 ..... 1357  
 1910 ..... 1357  
 1915 ..... 2210  
 1930 ..... 1357  
 Part II ..... 1476

**234 Pa. Code (Rules of Criminal Procedure)**

**Adopted Rules**  
 1 ..... 1477, 2211  
 2 ..... 1477  
 3 ..... 1477  
 4 ..... 1477  
 5 ..... 1477, 2211  
 6 ..... 1477, 1955, 2211  
 7 ..... 1477  
 8 ..... 1477  
 9 ..... 1477  
 10 ..... 1477  
 11 ..... 1477  
 20 ..... 1477, 2211  
 30 ..... 1477  
 50 ..... 1477, 1508  
 100 ..... 1477  
 200 ..... 1477  
 300 ..... 1477, 2211  
 350 ..... 1477  
 1100 ..... 1477, 1955, 2211  
 1400 ..... 1477  
 1500 ..... 622, 1477  
 1600 ..... 1477  
 1700 ..... 1477  
 2000 ..... 1477  
 4000 ..... 1477, 2211  
 6000 ..... 1477  
 9000 ..... 1477

**Proposed Rulemaking**

1 ..... 2573  
 9 ..... 2575  
 20 ..... 1360  
 1500 ..... 2575

**237 Pa. Code (Juvenile Rules)**

**Statements of Policy**  
 301 (with correction) ..... 1762, 1960

**246 Pa. Code (Minor Court Civil Rules)**

**Proposed Rulemaking**  
 100 ..... 3265

**249 Pa. Code (Philadelphia Rules)**

Unclassified ..... 13, 198, 201, 1362, 1649,  
 1740, 1741, 1957, 2128, 2129, 2472,  
 2763, 2900

**252 Pa. Code (Allegheny County Rules)**

Unclassified ..... 2579

**255 Pa. Code (Local Court Rules)**

Unclassified ..... 14, 201, 202, 225, 226, 307, 624,  
 762, 1120, 1251, 1369, 1509, 1511,  
 1651, 1741, 1870, 2222, 2351, 2352,  
 2353, 2581, 2763, 2764, 2765, 2904  
 3027, 3028, 2039, 3030, 3166, 3430

# THE GENERAL ASSEMBLY

## Recent Actions During the 2000 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2000 Regular Session.

### 2000 Acts—Acts 24 through 68 numerical

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-24	May 26	SB1077	PN1932	60 days	Crimes Code (18 Pa.C.S.)—unlawful use of computer
2000-25	June 13	SB262	PN1945	60 days	Crimes Code (18 Pa.C.S.)—sexual material transmission via electronic communication
2000-26	June 13	HB2088	PN3339	Immediately	Conveyance—Commonwealth property in Snyder County
2000-27#	June 22	SB1439	PN2065	Immediately	Capital Budget Debt Authorization and Project Itemization Act of 2000-2001—omnibus amendments
2000-28	June 22	SB497	PN2013	Immediately	Hotel Room Rental Tax Act—enactment
2000-29	June 22	HB2083	PN3748	Immediately	Job Enhancement Act—family savings account program
2000-30	June 22	HB2463	PN3343	Immediately	Conveyance—Commonwealth property in Montgomery County
2000-31	June 22	HB2503	PN3498	60 days	Police Officer Daniel Faulkner Memorial Highway—designation
2000-32	June 22	HB728	PN3092	60 days	Downtown Location Law—enactment
2000-33	June 22	HB1153	PN1796	60 days	Third Class City Code, The—annual budget, filing, uniform forms and annual reports
2000-34	June 22	HB1155	PN3737	60 days	Borough Code, The—omnibus amendments
2000-35	June 22	HB1157	PN3714	60 days	Second Class Township Code, The—school crossing guards, annual budget regulations and uniform report forms

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-36	June 22	HB1635	PN2000	60 days	Judicial Code (42 Pa.C.S.)—courts of common pleas clerks authorization to increase certain fees and impose automation fees
2000-37	June 22	HB1962	PN3206	60 days	Political subdivisions and authorities—voluntary early severance plan authorization
2000-38	June 22	HB1158	PN3736	60 days	First Class Township Code, The—school crossing guards, budget forms, filing copies and uniform forms, etc.
2000-39	June 22	HB122	PN3686	60 days	Infant Crib Safety Act—enactment
2000-40	June 22	HB30	PN2687	60 days	Military and Veterans Code (51 Pa.C.S.)—veterans' homes halls of fame
2000-41	June 22	HB28	PN3716	60 days	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—omnibus amendments
2000-42	June 22	HB2092	PN2706	Immediately	Pennsylvania Conservation Corps Act—expiration extension
2000-43	June 22	HB368	PN3741	Immediately	Associations Code (15 Pa.C.S.) and Names (54 Pa.C.S.)—omnibus amendments
2000-44	June 22	HB1423	PN1677	60 days	Third Class County Assessment Board Law—assessed valuation changes on improved property
2000-45	June 22	HB1684	PN2071	Immediately	Ford City Veterans Bridge—designation
2000-46	June 22	HB1856	PN3665	60 days	Unused Property Market Act—enactment
2000-47	June 22	HB2220	PN3707	Immediately	Real Estate Licensing and Registration Act—omnibus amendments

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-48	June 22	HB1601	PN3664	60 days	Funeral Director Law—limited licenses and continuing education requirements
2000-49	June 22	HB1370	PN3118	Immediately*	Workers' Compensation Security Fund Act—contributions, regulations and custody and management of fund
2000-50	June 22	HB2287	PN3028	60 days	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—bad checks and action for charges
2000-51	June 22	HB2351	PN3698	July 1, 2000	New Economy Technology Scholarship Act—omnibus amendments
2000-52	June 22	SB1225	PN1558	Immediately	Conveyance—release of restrictions in Northampton County
2000-53	June 22	SB1244	PN2019	60 days	Workers' Compensation Act—assessments, payment of claims for benefits and rights and obligations of Department of Labor and Industry
2000-54	June 22	SB1243	PN2020	Immediately	Tobacco Settlement Agreement Act—enactment
2000-55	June 22	SB369	PN2037	Immediately	Second Class Township Code, The—conservation district appropriations and procedure for assessment
2000-56	June 22	SB598	PN2050	60 days	Albert Boscov Commemorative Highway, Korean War Veterans Memorial Highway, "Big Six" Christy Mathewson Memorial Highway and Representative Marion L. Munley and Police Chief Donald Munley exit—designations

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-57	June 22	SB936	PN1997	July 1, 2000	Library Code, The—State aid to local libraries and library systems
2000-58	June 22	SB8	PN1996	60 days	Tuition Account Program and College Savings Bond Act—expanding scope of act and establishing scholarship programs, etc.
2000-59	June 22	SB1275	PN2042	Immediately*	Domestic Relations Code (23 Pa.C.S.)—persons qualified to solemnize marriages and standby guardian designation, etc.
2000-60	June 22	SB1183	PN2040	Immediately	Conveyance—Commonwealth property in Wayne, Warren and Delaware counties
2000-61	June 22	SB1130	PN2051	Immediately*	Sergeant Archibald Mathies, Colonel Mitchell Paige, Corporal Alfred L. Wilson, Captain Reginald Desiderio and Colonel Walter J. Marm, Jr. interchanges; Point Marion Area Veterans' Memorial Bridge and Charles Houck Road—designations
2000-62	June 22	SB1003	PN1201	Immediately	Insurance Department Act of 1921, The—health organizations capital requirements
2000-63	June 22	SB849	PN2059	Immediately*	Judiciary Code (42 Pa.C.S.)—ignition interlock systems and restitution for identity theft
2000-64	June 22	SB255	PN2061	Immediately*	Crimes Code (18 Pa.C.S.)—alcoholic beverages restriction and operation of motor vehicle not equipped with ignition interlock, etc.

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-65	June 22	SB1417	PN2039	Immediately	Drought, Orchard and Nursery Indemnity and Flood Relief Act—drought relief grant criteria
2000-66	June 22	HB2262	PN3697	Immediately	Volunteer Fire Company and Volunteer Ambulance Service Grant Act—enactment
2000-67	June 22	HB14	PN3711	60 days	Pennsylvania Municipalities Planning Code—intergovernmental cooperative planning and implementation agreements, etc.
2000-68	June 22	SB300	PN2058	60 days	Pennsylvania Municipalities Planning Code—omnibus amendments

**2000 Appropriations—22A through 41A  
(numerical)**

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-22A	June 22	HB2394	PN3438	July 1, 2000	Thomas Jefferson University—instruction, maintenance, student aid, College of Allied Health Sciences, Children's Heart Hospital and Tay-Sachs disease program
2000-23A	June 22	HB2374	PN3577	July 1, 2000	Franklin Institute Science Museum—maintenance
2000-24A	June 22	HB2375	PN3578	July 1, 2000	Mercer Museum—operation, maintenance and purchases
2000-25A	June 22	HB2376	PN3579	July 1, 2000	Whitaker Center for Science and the Arts—operation, maintenance and purchases
2000-26A	June 22	HB2395	PN3439	July 1, 2000	University of the Arts—instruction and student aid
2000-27A	June 22	HB2397	PN3580	July 1, 2000	Berean Training and Industrial School—operation and maintenance

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-28A	June 22	HB2398	PN3442	July 1, 2000	Johnson Technical Institute—operation and maintenance
2000-29A	June 22	HB2399	PN3443	July 1, 2000	Williamson Free School of Mechanical Trades—operation and maintenance
2000-30A	June 22	HB2400	PN3581	July 1, 2000	University of Pittsburgh—operation, instruction and research, etc.
2000-31A	June 22	HB2401	PN3582	July 1, 2000	Temple University—operation, instruction and research, etc.
2000-32A	June 22	HB2402	PN3599	July 1, 2000	Pennsylvania State University—operation, instruction and research, etc.
2000-33A	June 22	HB2403	PN3584	July 1, 2000	Lincoln University—operation and instruction, etc.
2000-34A	June 22	HB2370	PN3574	July 1, 2000	Everhart Museum—operation, maintenance and purchases
2000-35A	June 22	HB2371	PN3575	July 1, 2000	African-American Museum—operation, maintenance and purchases
2000-36A	June 22	HB2372	PN3576	July 1, 2000	Academy of Natural Sciences—maintenance
2000-37A	June 22	HB2362	PN3154	July 1, 2000	Bureau of Professional and Occupational Affairs—operation of professional licensure boards
2000-38A	June 22	HB2364	PN3418	July 1, 2000	Department of Labor and Industry and Department of Community and Economic Development—workers' compensation, occupational diseases and Office of Small Business Advocate
2000-39A	June 22	HB2369	PN3573	July 1, 2000	Carnegie Museums of Pittsburgh—planetarium and institute operation, maintenance and purchases

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-40A	June 22	SB1352	PN2055	July 1, 2000	Pennsylvania Public Utility Commission— operation
2000-41A	June 22	SB1358	PN1999	July 1, 2000	Bureau of Workers' Compensation— operation

\* with exceptions  
# line item veto/changes

#### Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

#### Advance Copies of Statutes

Section 1106 of Title 1 of the Pennsylvania Consolidated Statutes provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

CARL L. MEASE,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 00-1154. Filed for public inspection July 7, 2000, 9:00 a.m.]



# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 35 AND 65]

#### Amendments to Business of the Superior Court and Superior Court Internal Operating Proce- dures

*Rules of Appellate Procedure, Business of the Superior Court*

The Superior Court of Pennsylvania has adopted procedures by which requests that a decision of the Court be published are made. This policy is reflected in the Pennsylvania Rules of Appellate Procedure—Business of the Superior Court, with the adoption of Rule 3519, appearing in 210 Pa. Code Chapter 35.

*Superior Court Internal Operating Procedures*

The Superior Court of Pennsylvania has adopted procedures by which requests that a decision of the Court be published are made. This policy is reflected in the Superior Court Internal Operating Procedures with the amendments to 210 Pa. Code § 65.37.

These changes become effective July 1, 2000.

MITCH GRUNER,  
*Executive Administrator  
to the Superior Court of Pennsylvania*

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE III. MISCELLANEOUS PROVISIONS

#### CHAPTER 35. BUSINESS OF THE SUPERIOR COURT

#### APPEALS AND ARGUMENT LISTS

#### Rule 3519. Requests for Publication.

(a) *Briefs of the Parties.* The brief of the appellant or the appellee may include, in addition to those matters enumerated in Rule 2111, a request for the publication of the Superior Court's disposition with respect to the issues on appeal. The request shall be separately and distinctly entitled and shall set forth the reasons why publication as an opinion is being sought. Such reasons may include (1) that the Court of Common Pleas has decided a question of substance not previously determined by the Superior Court or the Supreme Court; (2) the Court of Common Pleas has rendered a decision in conflict with the decision of another Court of Common Pleas on the same question; or (3) the question involves an issue of substantial public importance.

(b) After an unpublished memorandum decision has been filed, the panel may sua sponte, or on the motion of any party to the appeal, or on request by the trial judge convert the memorandum to a published opinion. In the case of a motion, such request must be filed within 14 days after the entry of the judgment or other order

involved. As before, the decision to publish is solely within the discretion of the panel.

### PART II. INTERNAL OPERATING PROCEDURES

#### CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

#### DECISIONAL PROCEDURES

#### § 65.37. Unpublished Memoranda Decisions.

A. An unpublished memorandum decision shall not be relied upon or cited by a Court or a party in any other action or proceeding, except that such a memorandum decision may be relied upon or cited (1) when it is relevant under the doctrine of law of the case, res judicata, or collateral estoppel, and (2) when the memorandum is relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding. When an unpublished memorandum is relied upon pursuant to this rule, a copy of the memorandum must be furnished to the other party to the Court.

B. After an unpublished memorandum decision has been filed, the panel may sua sponte, or on the motion of any party to the appeal, or on request by the trial judge convert the memorandum to a published opinion. In the case of a motion, such request must be filed within 14 days after the entry of judgment or other order involved. As before, the decision to publish is solely within the discretion of the panel.

C. The publication of a decision is within the panel's discretion, however, a decision generally should be published when it:

1. Is by a Court en banc, provided that a majority of the voting members of the panel may vote to refrain from publication and to decide the appeal by memorandum;
2. Establishes a new rule of law;
3. Applies an existing rule of law to facts significantly different than those stated in prior decisions;
4. Modifies or criticizes an existing rule of law;
5. Resolves an apparent conflict of authority;
6. Involves a legal issue of continuing public interest; or
7. Constitutes a significant, non-duplicative contribution to law because it contains:
  - a. An historical review of the law,
  - b. A review of legislative history,
  - c. A review of conflicting decisions among the courts or other jurisdictions.

D. A judgment order, without separate memorandum decision, may be used to decide an appeal where the decision is unanimous and requires minimal explanation because it is mandated by established and unquestioned precedential decision, statute or principle of law or is based on findings of fact which are fully supported by the evidence.

[Pa.B. Doc. No. 00-1155. Filed for public inspection July 7, 2000, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## YORK COUNTY

Amendment of Rules 212, 1915.1, 1915.3(b), 1920, 6018, 6031, 6034 and 6300 Et Seq; No. 00MI 00269

### Administrative Order

And Now, To Wit, this 7th day of June, 2000, it is Ordered that Rule 212, Pre-Trial Conference; Rule 1915.1 Child Custody Actions, Scope; Rule 1915.3(b), Divorce and Annulment of Marriage, Reference to the Conciliator; Rule 1920.1, Divorce and Annulment of Marriage, Definitions, Conformity to Civil Action; Rule 6018, Agency Board; Rule 6031, Procedure in One Judge Matters; Rule 6034, Procedure in Motions Court Matters; and Rule 6300, Et Seq., Cases Eligible for Civil and Family Law Mediation are added, amended, and deleted as follows:

Rule 212, Pre-Trial Conference is modified and amended as set forth in the text filed herewith:

#### Rule 212. Pre-Trial Conference.

(a) When an action is at issue, any party thereto, who desires to proceed to trial shall list the action for a pre-trial conference by filing a Praecipe requesting a pre-trial conference and noting whether the proposed trial is a jury or non-jury trial.

(b) All actions listed for a pre-trial conference shall be placed by the District Court Administrator on a pre-trial conference list and assigned by him, under the direction of the President Judge, to a judge for a Pre-trial conference. The pre-trial conference shall be scheduled after the issuance of an Order Preliminary to Pre-Trial conference and compliance therewith.

Rule 1915.1, Scope is modified and amended as set forth in the text filed herewith:

### CHILD CUSTODY ACTIONS

#### Rule 1915.1. Scope.

The rules set forth in this section shall govern and practice and procedure in all actions for custody, partial custody and visitation of minor children, including Habeas Corpus proceedings and claims for custody, partial custody or visitation asserted in an action of divorce or support. These local rules shall be viewed as supplementing the Pennsylvania Rules of Civil Procedure governing custody as set forth in Pa. R. C. P. 1915.1 et seq.

Matters raised by petition, or motion prior to trial, which require consideration by the Court, and which are not otherwise provided for in these rules, shall proceed as set forth in Local Rules 6030 et seq.

Rule 1915.3 (b) is amended as set forth in the text filed herewith:

### CHILD CUSTODY ACTIONS

#### Rule 1915.3 (b). Reference to the Conciliator.

*Administrative Fee.* The conciliator shall be compensated at the rate of \$125.00 for each conference actually conducted.

The remainder of Rule 1915.3 (b) 5. remains the same.

Rule 1920.1, Definitions, Conformity to Civil Action is modified and amended as set forth in the text filed herewith:

### DIVORCE AND ANNULMENT OF MARRIAGE

#### Rule 1920.1. Definitions Conformity to Civil Action.

Matters raised by petition or motion prior to trial, which require consideration by the Court, and which are not otherwise provided for in these rules, shall proceed as set forth in Local Rules 6030 et seq.

Rule 6018. Agency Board is modified and amended as set forth in the text filed herewith:

#### Rule 6018. Agency Board.

(a) *Petition for review.* Appellant shall serve upon the government agency, together with the Petition for Review as set forth in Rule 6017, a notice shall state that a true and complete copy of the entire record of the proceedings before the government agency which is the subject matter of the appeal, including any transcript of testimony in existence and available to the government agency, must be certified and filed by the government agency with the Prothonotary within the time period required under the applicable law, or if no such time period has been established, within twenty (20) days of receipt of such notice. Rule 6018(a) shall not apply to zoning appeals, as the same are governed by Section 101 of the Pennsylvania Municipalities Planning Code, 53 P. S. Section 11001-A.

(b) *Failure to file record.* In the event any political subdivision or municipal or other local authority, of the officers or agency of any political subdivision or local authority, whose decision, adjudication or order is the subject of an appeal to the Court, fails to certify or file with the Prothonotary the record of the hearing held by such agency in the subject action within the time period required under the applicable law, and where the procedures for compliance therewith are not otherwise provided for in such applicable law, any party to the appeal may forthwith petition the Court for relief. In response to such petition or on its own motion, the Court may remand the proceedings to the local agency for the purpose of making a full and complete record or completing the transcription and filing the certification of the record to the Prothonotary, as the case may be, within a stated period of time, or for further disposition in accordance with the order of the Court. Provided, however, that no appeal brought before the Court pursuant to Sections 10916.1 or 10913.3 of the Pennsylvania Municipalities Planning Code shall be remanded for further hearings before any such local agency. In its order in final disposition of the appeal, the Court shall assess against such local agency or such other party as the Court shall determine, the costs and reasonable expenses and attorney's fees incurred as a result of any such remand.

*Note:* The term "local agency" is used pursuant to the definitions contained in 2 Pa.C.S.A. Sections 101 et seq. The last sentence of Rule 6018(b) is primarily intended as a remedy for cases where the record is simply not timely filed by the local agency, and may include appropriate interest and delay damages where applicable.

Rule 6031(a)(1)(v) is deleted in its entirety and replaced with the following while Rule 6031(a)(1)(vi) is simply deleted:

#### Rule 6031. Procedure in One-Judge Matters.

(a) Matters other than motions for post-trial relief.

(1) Filing and Service of briefs.

(v) Unless the time for filing and serving briefs has been extended by the Court for cause shown, where briefs

have not been timely filed and served as required by this rule, the Court may, upon request of a party:

1. Deny the relief requested by dismissing the motion without prejudice, where the moving party has failed to comply;
2. Deny the relief requested upon the merits where the moving party has failed to comply;
3. Grant the relief requested upon the merits, where the responding party has failed to comply;
4. Permit oral argument, but only by the complying party, and thereafter issue a decision upon the merits;
5. Grant such other relief or impose such other sanctions, as the Court shall deem proper.

Rule 6034 is amended as set forth in the text filed herewith:

**Rule 6034. Procedure in Motions' Court Matters.**

(b) *Notice Requirements.* Counsel and unrepresented parties must notify opposing counsel or unrepresented parties of their intention to present a motion or petition to the motions judge three full business days in advance of the specific business session at which it will be presented. Counsel and unrepresented parties must also provide opposing counsel or unrepresented parties with a copy of the motion or petition to be presented three full business days in advance of the specific business session at which it will be presented. For purposes of this rule only, service on opposing counsel or unrepresented parties by facsimile transmission shall constitute appropriate service. Service by facsimile transmission later than 12:00 p.m. shall be deemed service as of 9:00 a.m. the next full business day. The motions judge must receive a copy of any motion or petition at least twenty-four hours in advance of the business session at which it will be presented.

(k) *Content of Motion.* All motions to be disposed of by the motions Judge, either in motions Court or in chambers shall include:

A brief statement of all prior determinations of the Court;

A brief statement of all pending matters before the Court;

A brief statement of all related cases pending in any Court.

Rules 6300, 6301, 6302, and 6303 are deleted in their entirety and replaced with the following:

**Rule 6300. Cases Eligible for Civil and Family Law Mediation.**

(a) *Civil Cases.* Civil cases which shall be eligible for mediation shall be those civil cases filed with the York County Court of Common Pleas which, if not settled, would be heard and decided by a Board of Arbitrators, a jury, or a Judge, and which do not involve issues of divorce, equitable distribution, alimony or alimony pendente lite, support or custody.

(b) *Family Law Cases.* Family law cases which shall be eligible for mediation shall be those Family Law cases filed with the York County Court of Common Pleas which, if not settled, would be heard and decided by a Judge or Master, and which involve equitable distribution, alimony, alimony pendente lite, counsel fees, costs, expenses and such other related issues as the parties and mediator

agree. Pursuant to these rules, no request for mediation shall be filed until ninety (90) days after the filing of the divorce complaint.

Any case where either party is or has been a subject of domestic violence or child abuse at any time during the pendency of an action under this section or within twenty-four (24) months preceding the filing of an action under this section shall not be eligible for mediation under this section.

**Rule 6301. Selection of Mediators.**

(a) The York County Bar Association shall present to the President Judge a list of attorneys authorized to practice before the York County Court of Common Pleas who have agreed to serve as mediators for cases eligible for mediation under Rule 6300(a). The President Judge may strike names from the list and, within ten (10) business days from the receipt of the list, shall forward the final list of mediators to the Civil Motions Court Judge and the York County Bar Association. The list of proposed mediators shall be presented to the President Judge by the York County Bar Association annually, but not later than the tenth business day in January.

(b) The York County Bar Association Family Law Section shall present to the Administrative Judge of the Family Division a list of attorneys authorized to practice before the York County Court of Common Pleas who have agreed to serve as mediators for cases eligible for mediation under Rule 6300(b). The Administrative Judge of the Family Division may strike the names from the list and, within ten (10) business days from the receipt of the list, shall forward the final list of mediators to the York County Bar Association. The list of proposed mediators shall be presented to the Administrative judge of the Family Division by the York County Bar Association annually, not later than the tenth business day in January.

(c) **Mediation Training Requirements:**

(1) Attorneys selected by the Bar Association and approved by the President Judge as mediators for cases submitted under Rule 6300(a) shall be certified as professional mediators, or shall have at least four (4) hours of mediation training. Attorneys who are not certified mediators must attend a one (1) hour training or review course pertaining to mediation at least annually.

(2) Persons selected as mediators for cases submitted under Rule 6300(b) must have fulfilled the requirements of a general member of the Academy of Family Mediators (which includes at least forty (40) hours of approved training in Family Law Mediation), or have received thirty (30) hours of Custody Mediation Training approved by the York County Family Court Division, plus be a practicing Family Law Attorney.

(d) No person shall serve as a mediator in a case where the mediator or any member of his or her firm:

- (1) Previously or currently represents one or more parties (or their insurers, if applicable to the case); or
- (2) Is personally acquainted with or related to one or more of the parties; or
- (3) Has personal knowledge or familiarity with the case; or
- (4) Has been or may be called as a witness in the case.

**Rule 6302. Motion for Mediation.**

(a) An attorney for any party, or any unrepresented party, in any civil case or family law case eligible for

mediation may file a motion and proposed order for mediation of the case. Any Judge involved in any motion, petition, trial or other proceeding in a civil case or family law case eligible for mediation may issue an order directing that the case be mediated.

(b) A motion for mediation may be made at any stage in the proceedings, so long as the case is pending in the Court of Common Pleas of York County. The motion for mediation shall not affect or delay other proceedings in the case. For Family Law cases, no request for mediation shall be filed until ninety days after the filing of the Divorce complaint.

(c) The motion for mediation of cases submitted under Rule 6300(a) shall be presented to the Civil Motions Court Judge in chambers for his or her signature for an order for mediation.

(d) The motion for mediation of cases submitted under Rule 6300(b) shall be presented to the Family Law Judge in chambers for his or her signature for an order for mediation.

(e) The motion shall contain the following information:

(1) The Caption of the Case;

(2) The names, addresses and telephone numbers of each attorney and unrepresented party in the case; in the case of the attorneys, the motion shall identify the party represented by the attorney;

(3) If the parties have agreed upon a mediator from the list of mediators approved by the Court, the motion shall identify the mediator;

(4) A request for referral of the case to a mediator;

(5) In Family law cases, an averment that no party or child subject to these proceedings is or has been a subject of domestic violence or child abuse at any time during the pendency of this action or within twenty-four months (24) preceding the filing of this action;

(6) An averment that the opposing parties consent to the mediation, or if consent is not given, that all opposing parties have been given three full business days notice of the presentation of the motion.

(f) Upon receipt of the signed order from the Court, the moving party shall file motion and order with the Prothonotary and serve the motion and order in accordance with the applicable rules for service of motions, and the moving party shall serve the motion and order upon the assigned mediator.

(g) The first motion for mediation by a party shall not require the consent of opposing counsel or opposing parties. Second and subsequent motions for mediation shall be presented at current business except when all parties concur with the motion.

(h) Upon receipt of a motion for mediation, the Court shall assign a mediator to the case, unless the parties have agreed upon a mediator.

**Rule 6303. Mediation Conference.**

(a) All mediation conferences shall be scheduled by the mediator. The conferences shall be scheduled to last two (2) hours.

(b) In Family Law cases, mediators shall screen each party in advance of the mediation, using the Tolman Screening Model and shall not conduct mediation in those cases where the mediator determines, in his or her sole discretion, that mediation is not appropriate due to domestic violence, substance abuse, mental illness or

other reasons under the Tolman Screening Model. The mediator shall notify the parties that he or she has determined that the case is not appropriate for mediation but shall not specify the reason for the rejection.

(c) All parties shall attend the mediation conference. Counsel may attend upon request of the mediator, or upon request of a party, provided advance notice to the mediator and all other parties have been given. If a party is insured for the claim which is the subject of the mediation, a representative of insurer and counsel shall attend the mediation conference and shall have full settlement authority.

(d) Prior to the mediation conference, the Prothonotary shall permit the mediator to receive the file for the case for review and for reference during the mediation conference. The mediator shall return the file to the Prothonotary no later than the third business day following the mediation conference.

(e) The mediator may request the parties to submit a list of issues and a brief summary of the parties' position on each issue.

(f) At the time of the mediation conference, the mediator shall begin the conference by explaining the conference procedure. Counsel and/or the parties shall be prepared to discuss all of the issues pertaining to the case.

(g) All discussions during the mediation conference shall be deemed to be for settlement purposes only and no statement by any party or counsel or by the mediator may be used as an admission or as evidence or otherwise in any proceeding in the case. All mediation communications and mediation documents shall be privileged to the extent provided by 42 Pa.C.S.A. § 5949. The mediator shall not be called as a witness in any proceeding in the case where the subject of the mediator's testimony would reveal anything pertaining to the matters discussed or addressed in the mediation conference.

**Rule 6304. Duties and Compensation of the Mediator.**

(a) Within ten (10) days of service of the order for mediation, the mediator shall contact each of the parties to the dispute and shall schedule the date of mediation. The date of the mediation shall be not less than twenty (20) days nor more than sixty (60) days from the date of the order. If a scheduling conflict arises, it is the responsibility of counsel or unrepresented party with the scheduling conflict to contact the mediator and all opposing counsel or parties to reschedule the mediation.

(b) At least five (5) business days prior to the scheduled date of the mediation, each party shall pay to the mediator the sum of \$150.00 as the mediator's fee for the scheduling and attendance at the mediation conference. Parties authorized to proceed in forma pauperis shall be exempt from payment of this fee, and the mediator will not be paid for this portion of the mediation.

(c) At the conclusion of the mediation conference, the mediator shall file a report with the Prothonotary, setting forth the caption of the case, the identity of counsel, and the identity of any unrepresented parties. The report shall further indicate the date on which a mediation conference was held, or the date on which the mediation was scheduled but at which one or more parties failed to participate. This report shall be filed for the purpose of establishing compliance or lack of compliance with the Court order pertaining to mediation.

(d) At the conclusion of the mediation conference, if appropriate, the mediator shall prepare a Memorandum of Understanding, summarizing any agreements reached by the parties, and shall provide copies of the memorandum to the parties and their counsel of record. The parties and their counsel shall be responsible for converting the Memorandum of Understanding into a contract, stipulation, or proposed order, and for taking the steps necessary to implement such documents and agreements.

**Rule 6305. Sanctions for Failing to Participate in Mediation.**

(a) In the event that any party has been ordered to participate in mediation pursuant to these rules and fails to cooperate in the scheduling of a time for mediation conference, or fails to attend the scheduled mediation conference, or fails to pay the mediator pursuant to the requirements of Rule 6304(b), such party shall be subject to the following sanctions:

(1) Payment of \$150.00 to the mediator as reimbursement for the mediator's time in attempting to schedule and attend the mediation conference, except where the party has paid the mediator's fee;

(2) Payment of reasonable attorney's fees and costs incurred by other parties to the mediation during the mediation process.

(b) The Court shall have the authority to impose alternative sanctions in the event it can be established that the party failing to cooperate with the mediation did so due to events beyond the party's control, or that the party's conduct was otherwise justified.

(c) The sanctions permitted by this rule shall be in addition to and not in lieu of other sanctions or penalties which may be imposed by the Court pursuant to law or rule of court.

*It Is Further Ordered* that in accordance with Pa.R.C.P. 239 the District Court Administrator shall;

(a) File 7 certified copies hereof with the Administrative Office of Pennsylvania Courts.

(b) Distribute 2 certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File 1 certified copy hereof with the Civil Procedural Rules Committee established by the Supreme Court of the Commonwealth of Pennsylvania.

(d) File 1 certified copy hereof with the Domestic Relations Committee established by the Supreme Court of the Commonwealth of Pennsylvania.

(e) Cause a copy hereof to be published one time in the *York Legal Record* at the expense of the County of York.

(f) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

*By the Court*

JOHN C. UHLER,  
*President Judge*

[Pa.B. Doc. No. 00-1156. Filed for public inspection July 7, 2000, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 16—COMMUNITY AFFAIRS

### HUMAN RELATIONS COMMISSION

[16 PA. CODE CH. 45]

#### Housing Accommodations/Commercial Property

The Human Relations Commission (Commission) has adopted amendments to Chapter 45 (relating to housing accommodations), pertaining to advertising, to read as set forth in Annex A. In compliance with and under the authority of the act of June 25, 1997 (P. L. 326, No. 34) (Act 34), guidelines and a statement of policy were published earlier.

##### *Purpose and Background*

The purpose of this rulemaking is to advise the public of words, phrases, symbols and the like which are impermissible under the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) (act) when used in housing advertisements. In addition, it is a guide to advertisers and publishers in their efforts to insure that any housing advertisements published or caused to be published by them do not violate the act. The list of words in § 45.182 (relating to words to be avoided) does not contain every possible word and phrase that may violate the act. Its purpose is to provide as complete a list as possible. For example, while many nationalities, types of disabilities and races are mentioned, the list is not inclusive. Words indicating ancestry, race, color, religion or disability are equally prohibited in the context of real estate advertisements. The list will provide guidance on how to recognize the type of language that may be violative of the act. When the context of the word or phrase is key to its possible unlawful meaning, that will be noted.

This rulemaking also contains examples of types of conduct which constitute reasonable efforts to comply with the advertising provisions of the act so that a finding of knowing and willful violation of those portions of the PHRA is precluded.

##### *Notice, Comments and Commission Responses*

Notice of the proposed rulemaking was published at 29 Pa.B. 3895 (July 24, 1999) with a 60 day public review and comment period. As a result of this publication, the Commission received two public comments, one from the Pennsylvania Association of Realtors (PAR) and one from the Pennsylvania Newspaper's Association (PNA). In addition to the public comments, the Independent Regulatory Review Commission (IRRC) and the House State Government Committee made a number of comments. The Senate Labor and Industry Committee allowed its 20-day comment period to pass without comment or objection to the proposed rulemaking. The comments from IRRC and the House State Government Committee involved some of the same areas of concern raised by PAR and PNA. The Commission's responses to the various comments, from all sources, are set forth as follows.

##### 1. *Section 45.171—Race/Color/National Origin.*

a) IRRC and PNA requested further clarification regarding whether a reference to a property located in an area recognized as a community landmark, such as, "Chinatown" or "Little Italy" is prohibited. The Commission believes that as long as the named area is in fact a

recognized broad geographical landmark, and not simply a term being used for exclusionary purposes, its use is not unlawful. This has been added to the appropriate section.

b) IRRC and PNA questioned whether ethnic terms can be used to describe a property's unique features, such as Oriental garden and Kosher restaurant. If the description is used in connection with the property that is being sold and not as a landmark for other property, that description is acceptable. This has been included in the final rulemaking.

c) IRRC and PNA requested guidance on the term "code words." While it is a difficult term to further define as codes are by definition unique to each usage, further definition has been added to the appropriate section.

##### 2. *Section 45.172—Familial Status/Age.*

IRRC suggested that a typographical error existed in subsection (a)(3), in that the word "The" which appears before "listing" needed to be deleted. This has been done. Further review indicated that the second use of the word "against" in the first sentence was confusing and was removed.

##### 3. *Section 45.181—List.*

IRRC commented that the language in this section was nonregulatory, and should either be changed or placed in the purpose section. The language has been moved to the purpose section.

##### 4. *Section 45.182—Words to be Avoided (now adopted as § 45.181).*

a) IRRC commented that information is repeated from § 45.181 and should be removed. This was done.

b) IRRC also commented that the explanatory language after "senior" is confusing and should mirror the structure of the explanatory language that follows "adult." This has been done.

##### 5. *Section 45.191—Advertisements.*

IRRC and PNA sought clarification as to the legality of advertisements for out-of-State property published in Pennsylvania newspapers. Section 45.191(c) was added to the regulations to make it clear that the advertisements in Pennsylvania newspapers are covered by the act, regardless of where the property advertised is located.

##### 6. *Section 45.192—Affirmative Defenses.*

a) IRRC commented that the term "housing advertiser" should be replaced with "advertiser" since this was the defined term. This has been done.

b) IRRC commented that the affirmative defense, and the good faith effort provision in § 45.193 should be clarified by outlining the process by which advertising advisories are obtained. This has been done.

##### 7. *Section 45.193—Good Faith Efforts.*

IRRC suggested cross referencing the housing for older persons exemption to the Federal Fair Housing Act (42 U.S.C.A. §§ 3601—3619). This has been done.

8. Both IRRC and the House State Government Committee commented that Act 34 nullified § 45.8(a) and 45.13(f) (relating to advertisements; and to exemptions) of the current regulations. The Commission has thus deleted both subsections in this final-form regulations.

9. The PNA commented that the word "student" has been determined to be a word to avoid because it could indicate a preference for young persons to the exclusion of older persons or families with children. The Commission believes that the use of the word "student" is not discriminatory in that students come in all protected classes. If a realtor or landlord is discriminating against a protected class, that action will be unlawful even though the advertisement itself may not be. Therefore, we have not added the word "student" to the list.

10. The PNA and the House State Government Committee recommended that the word list be updated on a regular basis or on a 6-month basis. The Commission does not believe that it will be necessary to do a formal review of the list every 6 months. The Commission has done and will continue to do internal reviews, and over the past 2 years, it has not found any significant changes. If the Commission finds that new phrases or words are being used that should be included on our list, the Commission would immediately begin the regulatory process to add these words to the current list.

11. The PNA and the House State Government Committee both commented on the need for clarification of shared housing advertisements. The PNA stated that it was unclear whether an advertiser may lawfully describe the circumstances of the shared housing arrangement. For example, "female and child looking for female roommate," "female and son looking for female roommate" and "female and teenager looking for roommate" have all been approved by the Commission. With respect to discrimination based on sex, the advertising provisions of the Commission do not apply to one's personal residence. The advertisements focus primarily on the sex of the head of household. Any possible discriminatory effect on the basis of familial status or age is de minimis. The Commission therefore believes that the advertising phrases cited previously do not violate the act. Thus, the Commission has chosen to leave the section as originally proposed.

12. The PNA commented that there should be a regulation on human model advertisements. This has been added in § 45.191(c).

13. The PNA commented that the right of advertisers to note a preference in an ad for a nonsmoker or nonpet owner should be included in this rulemaking. They also commented that the Commission should state whether an ad might discriminate on the basis of a nonprotected classification. This rulemaking is intended as a basis for determining unlawful advertisements. The Commission believes that to begin to include words and phrases that are legal would create a document more cumbersome than already exists and has therefore chosen to maintain current language.

14. The PAR commented that it supports the rulemaking if after a written advisory of approval by the Commission is received, the advertisement is found in violation of the proposed rule, the realtor is not liable and therefore not subject to any penalty. First, it must be pointed out that the rulemaking only binds the Commission and has no effect whatsoever on the Department of Housing and Urban Development's (HUD) enforcement of Federal fair housing law. Title VIII of the Federal Fair Housing Act covers the same areas as the act and HUD may enforce the Federal act as it sees fit. It is correct that compliance with a written advisory of the Commission will preclude a finding by the Commission of a knowing and willful violation of the advertising provisions of the act.

*Paperwork Requirements:*

No additional routine paperwork will be required by this final-form rulemaking.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), of July 13, 1999, the Commission submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 3895 to IRRC and to the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Commission has considered all comments from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5(d)), on April 12, 2000, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 11, 2000, and approved the final-form regulations.

*Fiscal Impact*

The Commission believes that the final-form regulations will not result in additional cost to the Commission or to the general public. Additional costs which arise were created by the Commission and not these final-form regulations.

*Effective Date*

The final-form regulations shall take effect upon publication in the *Pennsylvania Bulletin*.

*Order*

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

(a) The regulations of the Commission, 16 Pa. Code Chapter 45, are amended by:

(1) Deleting §§ 45.101—45.103, 45.121—45.126, 45.141, 45.142 and 45.151—45.154;

(2) Amending §§ 45.8 and 45.13; and

(3) Adding §§ 45.161—45.163, 45.171—45.175, 45.181 and 45.191—45.194 to read as set forth in Annex A.

(*Editor's Note:* Sections 45.8 and 45.13 were not published with the proposed rulemaking.)

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

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

(d) The regulations shall take effect upon publication in the *Pennsylvania Bulletin*.

HOMER C. FLOYD,  
*Executive Director*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2688 (May 27, 2000).)

**Fiscal Note:** Fiscal Note 52-10 remains valid for the final adoption of the subject regulations.

## Annex A

## TITLE 16. COMMUNITY AFFAIRS

## PART II. GOVERNOR'S OFFICE

## Subpart A. HUMAN RELATIONS COMMISSION

CHAPTER 45. HOUSING  
ACCOMMODATIONS/COMMERCIAL PROPERTY

## Subpart A. REGULATIONS

## § 45.8. Advertisements.

(a) It is unlawful for a person to indicate in advertising that the housing that the person is offering for sale or lease is exempt from the act or to offer a preference, limitation or discrimination in the advertising of that exempt property.

(b) This section does not restrict the inclusion of applicable age and familial status requirements in advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute housing for older persons as defined by § 45.4 (relating to definitions).

## § 45.13. Exemptions.

(a) Section 5(h) of the act (43 P. S. § 955(h)) does not prohibit the following:

(1) A religious or denominational institution or organization, or a charitable or educational organization which is operated, supervised or controlled by or in conjunction with a religious organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose, to persons of the same religion or denomination, or from giving preference to these persons, unless membership in the religion is restricted because of race, color or national origin.

(2) A private club or fraternal organization, not in fact open to the public, which, incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(b) Nothing in section 5(h) of the housing provisions of the act, regarding age or familial status, applies with respect to housing for older persons.

(c) With the exception of the exemption for dwellings which constitute housing for older persons as defined by § 45.4(f) (relating to definitions), the exemptions to the act are not applicable to real estate firms, brokers, agents, sales people or an individual employed by any of them, when acting on behalf of them.

(d) The exemption for housing for older persons in which the housing is solely occupied by persons 62 years of age or older shall be met if all of the occupants are 62 years of age or older.

(e) In determining whether the exemption for housing for older persons in which the housing is provided under a Federal or State program is met, the Commission will adopt the finding of the Secretary of the Department of Housing and Urban Development as to whether the housing is designed or operated to assist elderly persons.

§§ 45.101—45.103. (Reserved).

§§ 45.121—45.126. (Reserved).

§ 45.141. (Reserved).

§ 45.142. (Reserved).

§§ 45.151—45.154. (Reserved).

## GENERAL

## § 45.161. Purpose.

(a) The list of words in § 45.181 (relating to words to be avoided) does not contain every possible word and phrase that may violate the act. The purpose of this section is to provide as complete a list as possible.

(1) For example, while many nationalities, types of disabilities and races are mentioned, the list is not inclusive. Any word indicating ancestry, race, color, religion or disability is equally prohibited in the context of the real estate advertisements.

(2) The list will provide guidance on how to recognize the type of language that may be violative of the act.

(3) When the context of the word or phrase is key to its possible unlawful meaning that will be noted.

(b) The purpose of this subchapter is to insure that advertisements for housing and commercial property do not include words, phrases, symbols, and the like, which violate the advertising provisions of the act.

(c) Section 45.192 (relating to affirmative defenses) contains affirmative defenses which will preclude a finding of a willful and knowing violation of the advertising provisions of the act.

(d) This subchapter implements the statutory mandate of section 9.1(b) of the act (43 P. S. § 959.1(b)).

## § 45.162. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, which are identical to those found in section 4 of the act (43 P. S. § 954):

*Act*—The Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

*Advertisement* or *advertising*—See 43 P. S. § 954(3).

*Advertiser*—See 43 P. S. § 954(aa).

*Housing accommodation*—See 43 P. S. § 954(i).

*Housing for older persons*—See 43 P. S. § 954(w).

*Person*—See 43 P. S. § 954(a).

*Personal residence*—See 43 P. S. § 954(k). This term applies to any person as defined in this section.

## § 45.163. General rules.

The prohibited words and phrases in § 45.181 (relating to words to be avoided) are unlawful when used in housing advertisements. In addition to those words and phrases, a word or phrase that is commonly understood to be offensive to a group of people in a protected class also violates the act.

## PROHIBITED USAGES

## § 45.171. Race/color/national origin.

It is unlawful to advertise a limitation, preference or discrimination on account of race, color or national origin. Examples include the use of:

(1) Any color to describe a group of people for example, white, brown, red, black or yellow.



(2) Any nationality or race to describe a group of people for example, Caucasian, Negroid, Chinese, Asian Immigrant, French Hawaiian, Arab, Oriental, African-American, Irish, and the like.

(3) Landmarks or organizational locations which are indicative of a particular nationality or race, unless all of the landmarks in the area are noted—for example, if proximity to a specific place associated with a particular ethnic group is noted as a directional landmark, reference should be made to all other nearby comparable facilities of interest to other groups.

(4) Code words which are recognizable in a particular neighborhood as connoting neighborhoods that restrict certain races or ethnic groups. Code words are facially neutral words and phrases which are used in a particular circumstance which are understood to mean an illegal preference.

(5) Neighborhood and geographical landmarks such as "chinatown" and "little Italy" are acceptable terms if the description is used in connection with the property being sold or rented and not for exclusionary purposes.

(6) Phrases such as "oriental garden" and "kosher restaurant" are acceptable when used as a description of the property being sold or rented, not as a landmark for other property.

**§ 45.172. Familial status/age.**

(a) It is unlawful to advertise a preference, limitation or discrimination against families with children in the household or against persons 40 years of age or older. Examples include, the following:

(1) The use of any phrase which notes a preference, limitation or discrimination for adults, couples or singles or families without children for example—"adult atmosphere," "mature adults preferred," "great for retired couple or couple just starting out," "adult/family sections," "no kids/pets okay," "couples only," "ideal for singles," "adult community" or "suitable for one or two adults."

(2) The use of any colloquialisms which imply the same as those in subsection (a)(1) for example—"empty nesters," "honeymooners" or "swinging singles."

(3) The listing the number of children allowed.

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful to:

(1) List the size and number of rooms or bedrooms.

(2) Indicate that the housing meets the requirements for "housing for older persons" as defined in section 4 of the act (43 P.S. § 954). A publisher may rely on the advertisers written representations of such, unless the publisher has reason to believe otherwise.

(3) Advertise a preference against children and advertise age restrictions when the housing accommodation qualifies as "housing for older persons" as defined in section 4 of the act.

**§ 45.173. Disability.**

(a) It is unlawful to advertise a preference, limitation or discrimination against persons with disabilities or to advertise that the property is not accessible.

(b) It is not unlawful to describe housing as accessible to persons with disabilities.

**§ 45.174. Religion.**

(a) It is unlawful to advertise a preference, limitation or discrimination on the basis of religion. Examples include the following:

(1) The use of any religious denomination—for example, Christian, Jew, Muslim or Buddhist.

(2) Phrases such as "surround yourself with Christians."

(3) The use of a particular landmark or location which is indicative of a particular religion.

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful for any religious or denominational institution or organization or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization to advertise:

(1) A preference to persons of the same religion or denomination or to members of the private or fraternal organization.

(2) That the making of the selection is calculated by the organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained.

**§ 45.175. Sex.**

(a) It is unlawful to advertise any preference, limitation or discrimination on the basis of sex. Examples include "males only need apply," "professional male preferred" or "perfect for single female."

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful to advertise a preference based on sex in the rental or leasing of housing accommodations as follows:

(1) In single-sex dormitory.

(2) For rooms in one's personal residence in which common living areas are shared.

**LIST OF WORDS OR PHRASES TO AVOID**

**§ 45.181. Words to be avoided.**

(a) It is unlawful to use the following words or phrases in housing advertisements unless used in a clearly non-discriminatory context such as "white cabinets" or "french doors." The list is neither intended nor reasonably able to be all inclusive. It is also unlawful to use words or phrases not appearing on the list, but which are used in a context which may reasonably be interpreted as indicating an unlawful discriminatory intent.

*Able-bodied adult*—If the housing is "housing for older persons" as defined by the Federal Fair Housing Act (42 U.S.C.A. §§ 3601—3619) and the act, it is appropriate to say so.

(i) A newspaper/publisher may publish an advertisement for housing, and be held harmless for liability for an advertisement which uses the terms "senior housing," "senior community," "retirement community," if the advertiser provides a statement formally, in writing, to the newspaper/publisher that the property being advertised meets the requirements for "housing for older persons" as defined in the act.

(ii) Equivalent phrases referring to persons 55 and 62 and older such as "adult community," "55 and over," "adult community," "62 and over," "adult 55+," "adult 62+" to describe housing for older persons, will also be acceptable.

(iii) The term "adult" alone or with terms that do not meet housing for older persons requirements will remain unlawful terms as a description of housing for older persons.

African-American  
 Asian  
 American  
 Ancestry (any)  
 Black  
 Blind  
 Buddhist  
 Catholic  
 Caucasian  
 Chicano/Chicana  
 Child/children—Restrictions, unless housing for older persons  
 Chinese  
 Christian  
 Church, near  
 Color (any when used to describe persons)  
 Colored  
 Couple  
 Crippled  
 Deaf  
 Disability (any)—It is acceptable to describe housing as accessible to persons with disabilities. It is not acceptable to attempt to limit the housing to certain persons by stating that it is not accessible.  
 Disabled  
 Empty nester  
 Ethnic neighborhood  
 Ethnic group (any)  
 Foreigners  
 Handicapped  
 Hindi  
 Hispanic  
 Ideal for . . . (a type of person)  
 Immigrants  
 Independently, capable of living  
 Indian  
 Integrated  
 Interracial  
 Irish  
 Jew/Jewish  
 Latino/Latina  
 Mentally handicapped, ill, retarded  
 Mexican-American  
 Middle Eastern(er)  
 Minority  
 Mixed community  
 Mormon  
 Moslem  
 Mosque, near  
 Muslim  
 Nationality (any)  
 Newlyweds  
 Parish, near  
 Perfect for (a type of person)  
 Polish  
 Prefer Protestant  
 Puerto Rican  
 Race (any, when used to describe a person)  
 Religion (any, when used to describe persons)  
 Retarded  
 Retired persons, retirees—If it is “housing for older persons,” as defined by the Federal Fair Housing Act and the act, use that phrase, as many people who are retired may not qualify for housing for older persons while many people still working may in fact be eligible for housing for older persons.  
 Segregated  
 Senior Use—“housing for older persons,” as defined by the Federal Fair Housing Act and the act. See note under “adult” and “retired persons.” Many people who do not

consider themselves senior may be eligible for housing for older persons.

Suitable for  
 Synagogue, near  
 Temple, near  
 White  
 Young  
 Youthful

(b) Any of the words in subsection (a) may be used if they are part of an address. For example, Poplar Church Road, Lutheran Street, Churchville, Black Ridge or Indian Hills, and the like, are permissible.

#### ADDITIONAL REQUIREMENTS

##### § 45.191. Advertisements.

(a) Advertisements published within this Commonwealth are covered by this chapter regardless of the locality of the property or financial institution.

(b) Except to the extent allowed by §§ 45.172(b), 45.174(b) and 45.175(b) (relating to familial status/age; religion; and sex), it is unlawful to advertise any discriminatory preference or limitation, even if the property is otherwise exempt from coverage under the act.

(c) When an advertising campaign includes pictures of individuals or families, the advertiser has the responsibility to alternate the picture from time to time to include a variety of protected classes in the advertisement.

##### § 45.192. Affirmative defenses.

It shall be an affirmative defense precluding a finding that an advertiser has knowingly and willfully violated the act and this subchapter if the advertiser has complied with one of the following:

(1) Attempted, in good faith, to comply with the list and specific examples of impermissible housing advertisements described in this subchapter.

(2) A written advisory of the Commission concerning what constitutes appropriate housing advertisements. The Commission will maintain the written advisory on file and provide a copy of the advisory to the advertiser. To obtain an advisory, the advertiser shall telephone the Commission Housing Division at (717) 787-4055 or write to the Commission, 101 S. Second Street, Suite 300, P. O. Box 3145, Harrisburg, Pennsylvania 17105-3145, Attn: Housing Division, and indicate the language of the advertisement in question. Appropriate Commission housing staff will inform the advertiser of its decision on the ad and follow-up with a written advisory within 10 working days.

(3) Made reasonable efforts in good faith to comply with the act.

##### § 45.193. Good faith efforts.

An advertiser will be deemed to have acted in good faith if the advertiser complies with one or more of the following:

(1) As to an advertisement for “housing for older persons,” as defined by the Federal Fair Housing Act (42 U.S.C.A. §§ 3601—3619) and the act, if the advertiser produces a signed written statement by a housing provider which states that the facility or community complies with the requirements of the housing for older persons exemption and the advertiser has no actual knowledge that the facility or community is not actually eligible for the exemption.

(2) If the word or phrase complained of is in compliance with the list in § 45.182 (relating to words to be

avoided) and is not, on its face, discriminatory within the context of the advertisement.

(3) If the advertiser produces a written Commission advisory, obtained by use of the procedure in § 45.192(2) (relating to affirmative defenses), that the language complained of is legal, within the same context in which the advertiser requested the opinion from the Commission.

**§ 45.194. Federal regulations.**

Federal regulations published by the Department of Housing and Urban Development, regarding housing advertisements in areas of concurrent jurisdiction, preempt anything to the contrary in this subchapter.

[Pa.B. Doc. No. 00-1157. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Title 25—ENVIRONMENTAL PROTECTION**

**DEPARTMENT OF ENVIRONMENT PROTECTION**

**[25 PA. CODE CH. 89]**

**Corrective Amendment to 25 Pa. Code § 89.67(b)**

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 89.67(b) (relating to support facilities) as deposited with the Legislative Reference Bureau and as published at 28 Pa.B. 2761, 2783, (June 13, 1998) and the official text as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 301) and as currently appearing in the *Pennsylvania Code*. An amendment to § 89.67(b), adopted at 28 Pa.B. 2761, 2783, was subsequently incorrectly codified due to a corrective amendment to subsection (a) of the section.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 89.67(b). The corrective amendment to 25 Pa. Code § 89.67(b) is effective as of October 16, 1999, the date the defective corrective amendment was published in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 89.67 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 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES**

**Subchapter B. OPERATIONS PERFORMANCE STANDARDS**

**§ 89.67. Support facilities.**

(a) Support facilities required for, or used incidentally to, the operation of the underground mine, including, but not limited to, mine buildings, coal loading facilities at or near the mine site, coal storage facilities, equipment storage facilities, fan buildings, hoist buildings, prepara-

tion plants, sheds, shops and other buildings, shall be located, maintained and used in a manner that does the following:

(1) Prevents or controls erosion and siltation, water pollution and damage to public or private property.

(2) To the extent possible using the best technology currently available:

(i) Minimizes damage to fish, wildlife and related environmental values.

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Contributions may not be in excess of limitations of State or Federal law.

(b) Surface mining activities associated with an underground mine shall be conducted in a manner which minimizes damage, destruction or disruption of services provided by oil, gas and water wells; oil, gas and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under or through a permit area, unless otherwise approved by the owner of those surface facilities and the Department.

[Pa.B. Doc. No. 00-1158. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Title 52—PUBLIC UTILITIES**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**[52 PA. CODE CH. 32]**

[L-00970124]

**Passenger Carrier Insurance Coverage Requirements**

The Pennsylvania Public Utility Commission (Commission) on May 11, 2000, adopted a final rulemaking to clarify § 32.11 (relating to passenger carrier insurance) that the amount of minimum third party coverage refers to split coverage. The contact person is Rhonda Daviston, Law Bureau, (717) 787-6166.

*Executive Summary*

In 1994, the Commission issued a policy statement in an attempt to quiet confusion in the passenger carrier industry concerning the minimum requirements under the Commission's regulation regarding insurance coverage for passenger carriers. Since then, it has become apparent that the policy statement did not meet the intended goal. In an effort to formalize the Commission's intent and clarify the language of the regulations, the Commission has amended § 32.11(b).

Section 32.11(b) has been amended to clarify that the amount of minimum third party coverage refers to split coverage.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 28, 1998, the Commission submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 2146 (May 9, 1998), to IRRC and to the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as

well as other documents when requested. In preparing this final-form regulation, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on June 7, 2000, this final-form regulation was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 8, 2000, and approved the final-form regulation.

*Commissioners present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Aaron Wilson, Jr., Statement attached; Terrence J. Fitzpatrick

Public meeting held  
May 11, 2000

### Final Rulemaking Order

*By the Commission:*

By order adopted October 28, 1994, Docket No. L-940087, we issued a final policy statement interpreting the minimum insurance requirements for passenger carriers transporting fewer than 16 passengers. The final policy statement was published at 25 Pa.B. 681 (February 25, 1995) see § 41.21 (relating to insurance coverage for common or contract carriers of less than 16 passengers—statement of policy).

The issuance of the policy statement was the culmination of a request to issue a declaratory order in *Petition of Damone Clayter*, Docket No. P-00930722. In *Damone Clayter*, petitioner was a passenger in a taxi owned by Jenny Cab Company and said cab was involved in a motor vehicle accident. Clayter was injured in the accident and was at risk of losing rights to underinsured motorist coverage because of a controversy as to the amount of liability coverage required by § 32.11 of the Commission's regulations. Clayter petitioned this Commission requesting a declaratory order which detailed the third party insurance limits that a cab company must maintain in Pennsylvania and approved as valid the liability policy of Jenny Cab Company. In response to Clayter's petition, the Commission ordered an investigation into insurance claims, state liability coverage requirements and driver safety records.

At the conclusion of the investigation, the Commission issued a policy statement detailing its interpretation of § 32.11. In issuing the policy statement, it was this Commission's intent to put to rest any confusion or controversy regarding third party insurance coverage as required by § 32.11(b).<sup>1</sup>

Unfortunately, as evidenced by the recent Federal case *Adams v. Clarendon*, confusion and controversy remains. *Adams v. Clarendon*, Civil Action No. 95-6392 (U.S. District Ct. (E.D. Pa.)). Adams, who was injured in a Philadelphia taxicab insured by Clarendon Insurance Co., filed a class action suit against Clarendon charging, inter alia, that Clarendon had issued policies at less than the minimum amounts required by § 32.11(b). The Courts have found that insurance carriers may be liable for more than the policy limits if the carrier issued insurance at less than the minimum amount required by law. *Metro Transp. Co. v. North Star Reinsurance Co.*, 912 F.2d 672 (3rd. Cir. 1990).

Adams argued that § 32.11(b) requires a minimum of \$35,000 in third-party liability coverage for each indi-

<sup>1</sup> Specifically not addressed in the policy statement was any interpretation of first party benefits.

vidual passenger/pedestrian injured in a taxicab accident, regardless of the number of individuals injured in a particular accident or of the aggregate required minimum amount of insurance coverage.<sup>2</sup> Such an interpretation is at odds with our interpretation as set forth in the policy statement in § 41.21.

To avoid future controversies regarding the minimum amount of insurance required by this Commission, we proposed to amend the existing regulation covering motor vehicles capable of carrying fewer than 16 passengers in an attempt to remove doubt as to the required minimum amount of insurance coverage and how it is applied. By amending the existing regulation, we will formalize our intent as expressed in the policy statement.

The proposed rulemaking was published at 28 Pa.B. 2146 (May 9, 1998). Following publication, the Commission received one formal comment from IRRC which raised two questions. In its comment, IRRC noted that the required coverage may be inadequate when considering that the minimum \$35,000 per accident could conceivably need to provide coverage for up to 15 passengers.

In responding to this comment, the Commission notes that in addition to ensuring that the public is adequately covered in the event of an accident, the Commission must also take into consideration the high cost of insurance for taxicab companies. We are mindful that our goal is not to make getting and maintaining insurance an insurmountable burden on taxicab companies. We must balance the interest of protecting the public with the interests of making it financially feasible for taxicab companies to continue providing adequate, safe and reasonable service to the public. To that end, we do not believe that raising the established minimum requirements is in the best interest of all parties concerned.

IRRC also raised a clarification concern. IRRC noted that the first sentence in § 32.11(b) makes reference to "liability insurance maintained by a common carrier of passengers." However, the existing text in § 32.11(b) references "liability insurance maintained by a common or contract carrier of persons." The omission of the word "contract" is a typographical error. The subsection has been corrected to include the word "contract" in the first sentence of § 32.11(b).

The purpose of this rulemaking is to clarify the Commission's intent that third-party benefits refer to "split" coverage. That is, the \$35,000 minimum amount of coverage required for bodily injury, death or property damage must be split in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident.

We believe that the changes will promote ease of application as well as fairness while greatly reducing the confusion evidenced in the recent *Adams* lawsuit.

Accordingly, under sections 501 and 512 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 512, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201 et seq.) and the regulations promulgated thereunder, we hereby amend § 32.11; *Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 32, are amended consistent with this order by amending the reporting requirements in § 32.11 as set forth in Annex A.

<sup>2</sup> Although the Federal suit settled, Clarendon Insurance Co. has petitioned the Commonwealth Court of Pennsylvania for a declaratory judgment as to the proper interpretation of our regulation at 52 Pa. Code § 32.11(b). *Clarendon v. Pa.P.U.C.*, 359 M. D. 1997 (Pa.Cmwlth. Ct.).

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

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

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

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

6. A copy of this order and Annex A shall be served upon the Pennsylvania Insurance Department, the Pennsylvania Taxicab & Paratransit Association, the Delaware Valley Limo Association, the Northeastern Limo Association, the Western Pennsylvania Limousine Association, and the Radio Associations in the Commonwealth.

JAMES J. MCNULTY,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 3239 (June 24, 2000).)*

**Fiscal Note:** Fiscal Note 57-189 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Subpart B. CARRIERS OF PASSENGERS OR PROPERTY**

**CHAPTER 32. MOTOR CARRIER INSURANCE**

**Subchapter B. INSURANCE REQUIREMENTS**

**§ 32.11. Passenger carrier insurance.**

(a) A common carrier or contract carrier of passengers may not engage in intrastate commerce and a certificate or permit will not be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law).

First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(e) The limits in subsections (b)—(d) do not include the insurance of cargo.

[Pa.B. Doc. No. 00-1159. Filed for public inspection July 7, 2000, 9:00 a.m.]

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**[52 PA. CODE CH. 53]**

[L-00990143]

**Recovery of Natural Gas Costs and the Fixed Rate Option**

The Pennsylvania Public Utility Commission (Commission) on May 11, 2000, adopted a final rulemaking implementing changes in requirements mandated in the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201—2211 (act) for natural gas distribution companies (NGDC) regarding recovery of natural gas costs.

*Executive Summary*

On June 22, 1999, Governor Thomas J. Ridge signed into law the act. Under 66 Pa.C.S. § 1307(f)(1)(II) (relating to sliding scale of rate adjustments), a natural gas distribution company may file a tariff to establish a mechanism by which its rates for natural gas sales may be adjusted on a regular basis but no more frequently than monthly. This monthly adjustment is to reflect actual or projected changes in natural gas costs currently reflected in rates. In the event that the NGDC adjusts rates more frequently than quarterly, it shall also offer retail gas customers a fixed rate option which recovers natural gas costs over a 12-month period.

This rulemaking concerns the following: 1) the reconciliation mechanism and period; 2) the contract period and customer sign-up procedures; and 3) applicability to Chapter 56 (relating to standards and billing practices for residential utility service) regarding the Commission's standards and billing practices for residential utility service.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 1999, the Commission submitted a copy of the final-form rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer

Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing this final-form rulemaking, the Commission has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form rulemaking was approved by the House Committee on Consumer Affairs and was approved by the Senate Committee on Consumer Protection and Professional Licensure. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 8, 2000, and approved the final-form rulemaking.

*Commissioners present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Aaron Wilson, Jr.; and Terrance J. Fitzpatrick

Public meeting held  
May 11, 2000

### Final Rulemaking Order

*By the Commission:*

On June 22, 1999, Governor Thomas J. Ridge signed into law the act. Under the act, retail customers will have the ability to choose their natural gas supplier.

With regard to service for customers who continue to purchase gas from their natural gas distribution company (NGDC), the act provides that each company may file a tariff which would permit it to adjust its gas cost rates on a regular basis, as frequently as once a month. See section 1307(f)(1)(ii) of the act. Prior to the act, utilities were limited to making these adjustments no more frequently than once per quarter.

Now under the act should an NGDC choose to adjust its rates more frequently than quarterly, it must offer its retail customers a fixed rate option which recovers natural gas costs over a 12-month period subject to annual reconciliation. See section 1307(f)(1)(ii) of the act.

On August 13, 1999, the Commission entered a proposed rulemaking order, published at 29 Pa.B. 5098 (October 2, 1999) which set forth for comment proposed regulations which would apply to each NGDC offering a fixed rate option. Comments were received from the Office of Trial Staff (OTS), the Pennsylvania Gas Association (PGA), the Office of the Consumer Advocate of Pennsylvania (OCA), and the Independent Regulatory Review Commission (IRRC).

#### DISCUSSION

##### A. Application

###### 1. Position of the Parties

IRRC and the OCA commented that the act limits the applicability of a fixed rate option to NGDCs with gross intrastate operating revenues in excess of \$40 million. The OCA Comments, p.2; IRRC Comments, p.1. These parties note that section 1307(f)(1)(ii) of the act does not apply to other natural gas distribution companies that employ a gas cost rate established under section 1307(a)—(e).

###### 2. Resolution

We agree. The language of the act places the \$40 million limit on the applicability of the fixed rate option. See section 1307(f)(1) of the act. The fixed rate option regulations shall apply only to those NGDCs with gross

intrastate operating annual revenues in excess of \$40 million whose natural gas costs are recovered through section 1307(f) of the act.

##### B. § 53.69(a)

###### 1. Position of the Parties

This section of the proposed regulations sets forth the gas costs covered by the fixed rate option and would allow the fixed rate option to apply either for the heating season or another time period which is not to exceed 12 months.

The OCA submitted that a fixed rate option for less than a 12-month period, such as the heating season, was not contemplated by the General Assembly. The OCA comments, p. 4. The OCA argued that it did not believe that it was advisable at this time to implement such an option even if the statute could be interpreted to allow for it. The OCA stated that it anticipated that most competitive gas supply offers would be for a 12-month period and not vary by season. The OCA further argued that the intent of the act concerning the fixed rate option was to provide a stable option for the entire year rather than a price that fluctuated by season.

IRRC stated that the proposal to allow a fixed rate option for either the heating season or another time period appeared to be in direct conflict with the act. IRRC Comments, p.1. IRRC believes that the General Assembly did not contemplate allowing a distribution company to offer the fixed rate option for time periods shorter than 12 months. IRRC cited specific language in section 1307(f)(1)(ii) of the act that refers to the recovery of "natural gas costs over a 12-month period." IRRC also cites references to 12-month periods in section 1307(f)(3) and (5) of the act.

###### 2. Resolution

While the Commission believes that the act may be interpreted to allow the implementation of a fixed rate option covering a heating season with section 1307(f) of the act type rates covering the balance of the 12-month period, we are persuaded by the arguments of the OCA concerning the need to establish a stable option to the anticipated 12-month service offers by competitive natural gas suppliers. We will, therefore, amend this section of the proposed regulations to delete references to the heating season or another time period.

##### C. § 53.69(b)

###### 1. Position of the Parties

This section of the proposed regulations sets forth the reconciliation of the fixed rate option sales, revenues and costs.

The OCA submitted that the fixed rate option should be designed to recover an annual level of gas costs, reconciled on an annual basis and should not be separately reconciled from the gas costs for non-fixed rate option customers. Moreover, customers should be permitted to select the fixed rate option or switch to the fixed rate option with minimal limitations. The OCA Comments, pp. 3-5. The OCA stated that the statutory language contemplated a fixed rate for gas supply for a 12-month period with an annual reconciliation. The OCA argued that this procedure was to give customers a more stable option than the option provided for those companies with section 1307 adjustment procedures which impose changes more frequently than once per quarter. The OCA stated that the fixed rate option was designed to provide customers with a choice as to the level of stability of the gas prices

and was not intended to provide customers with a separate gas supply with a different underlying amount of costs.

The OCA believes that to utilize separate gas supply assets to serve fixed rate option customers, as compared to monthly-reconciled customers, would be a quantitatively different service offering. The OCA submits that the fixed rate option is not contract rate, but a tariff rate that should be equally available to customers as a more frequently adjusted rate and should have no limitation on its availability. Finally, the OCA criticized the "no reconciliation" procedure because it states a reconciliation procedure is mandated by the act and must be utilized.

IRRC stated that the Commission does not have the statutory authority to allow the fixed rate option proceedings with no reconciliation. IRRC Comments, pp.1-2; citing section 1307(f)(1)(ii) of the act.

The OTS recommended that the reconciliation period under the fixed rate option coincide with the section 1307(f) reconciliation period and that annual filings be made in connection with the annual section 1307(f) filing. OTS Comments, pp.1-3. The OTS stated that this would enable all parties to the proceeding to verify and review the companies' direct assignments and/or allocations of gas costs to the traditional section 1307(f) customers and the fixed rate option customers. The OTS supported a separate fixed rate option reconciliation calculation to prevent cross subsidization between customers. The OTS stated that the separate reconciliation implies the development of separate E-factor over/under collection for section 1307(f) and fixed rate option customers. The OTS stated that this was its preferred option in the initial year of restructuring. The OTS also stated it supported a fixed rate option without reconciliation. The OTS believes that this would be consistent with a gradual movement toward incentive regulation and would reflect a movement toward deregulating the merchant function to promote competition for natural gas commodity sales. However, the OTS believes that the "no reconciliation" option should be requested by the NGDCs in connection with a base rate proceeding so that any base rate implications could be addressed.

The PGA stated that reconciliation of the fixed and variable rate options separately must be rejected as unwarranted and unworkable. PGA Comments, pp.1-3. The PGA submits that section 1307(f) natural gas costs should be reconciled on a consolidated basis with no segregation of natural gas costs incurred to provide service under the fixed rate option. The PGA argued that all customers are equally exposed to price fluctuations and the effects of these fluctuations should be resolved through the section 1307(f) reconciliation process. The PGA believed that a consolidated reconciliation would entail fewer administrative burdens and would lessen the customers' incentives to migrate from fixed to variable service or vice versa depending on the relative difference between the reconciliation adjustments. Furthermore, the PGA argued that, if separate reconciliations were required, there would be a need to implement a second set of migration riders to account for the cost effects of customers switching between fixed rate and variable rate service. The PGA recommended that the Commission refrain from mandating a particular reconciliation methodology and allow the NGDCs to develop and advance specific proposals in individual section 1307(f) filings. The PGA believes that the "no reconciliation" concept may be worth exploring.

## 2. Resolution

We believe that competitive natural gas suppliers will offer customers natural gas supplies for fixed price for 12-month period without a reconciliation process similar to that employed under section 1307(f) of the act. This was the underlying reason the Commission requested comments on the "no reconciliation" alternative. Upon review of the parties' comments the Commission believes that it may lack sufficient jurisdiction under the act to implement a "no reconciliation" alternative. Therefore, the Commission shall not employ such a reconciliation option under the proposed fixed rate option regulations.

We acknowledge that separate reconciliations for fixed rate option customers and variable rate customers will add to the complexities and administrative burdens of the section 1307(f) process. However, the ability to vary natural gas charges on a monthly basis also adds to the NGDC's administrative burdens while offsetting cash working capital requirements due to undercollections of gas costs.

We are not persuaded by the arguments raised against separate reconciliations of the gas costs for fixed rate option customers as opposed to variable rate option customers. We believe that the OTS correctly notes the potential for cross subsidization. We believe that variable rate option customers would be called upon to pay unrecovered gas costs incurred by service to the fixed rate option customers. Variable rate option customers may see their gas costs fluctuate monthly. This should enable the NGDCs to match their monthly charges with their actual costs. The Commission believes that it is reasonable to assume that fixed rate option customers actual gas costs will vary more frequently from the fixed rate option charges and, therefore, the amount of unrecovered gas costs may be greater for a fixed rate option customer. Therefore, we will retain the requirement in the proposed regulation that a separate reconciliation calculation be performed for the fixed rate option service.

We do not believe that the requirement for a separate reconciliation necessitates the creation of an additional migration rider. A fixed rate option customer may be required to remain under the fixed rate option for a 12-month period. Any subsequent E-factor could be applied to the next year's fixed rate option customers. One annual E-factor would apply to all fixed rate option customers.

We recognize that requiring a fixed rate option customer to remain under this option for a 12-month period certainly limits the customer's ability to switch to the NGDC's variable rate. However, the fixed rate option customers should not be limited in their ability to switch to the services of a competitive natural gas supplier. We believe that issues of switching among services and the implementation of additional migration riders may be more appropriately addressed in the section 1307(f) proceedings which established a fixed rate option for a NGDC.

### D. § 53.69(c)

#### 1. Position of the Parties

This provision sets forth a time period during which a customer may elect to take service under a fixed rate option.

The PGA stated that if the fixed rate option is reconciled, a 3-month sign up period is feasible. PGA Comments, p.2. The PGA noted that a change in service to a fixed rate option should take effect on a meter read date so that the customer will not be billed two different rates in a single billing period. The PGA stated that, if the

fixed rate option was not reconciled, then an enrollment period could not exceed 30 days because any period longer than 30 days would expose the NGDC to an unacceptable level of risk associated with potential gas cost increases.

IRRC requested that the Commission clarify this section and specified the timeframe for the enrollment in the Commission's final regulations. IRRC Comments, p.2.

## 2. Resolution

We are concerned that an annual enrollment period should be of sufficient length to allow consumers to make informed choices. However, the Commission realizes that the NGDCs may have some difficulty in proposing reasonable fixed price options if the enrollment periods are too long. In view of the fact that the Commission no longer considers the "no reconciliation" mechanism viable for a fixed rate option, the NGDCs would be exposed to a lesser level of risk. The Commission believes that to the greatest extent possible, the section 1307(f) process should be utilized for the implementation and reconciliation of a fixed rate option.

We appreciate the PGA's concerns over partial rate billings, the additional administrative costs in preparing such billings, and the inevitable customer confusion concerning the rates applicable for their service. Therefore, we will consider a fixed rate option plan, which allows the initiation of service to coincide with the customer's first meter reading following the initiation of the new annual section 1307(f) rates.

We believe that the proposed 3-month enrollment timeframe is reasonable. Customers would begin service under the fixed rate option on the first day of the individual customer's billing cycle in which the annual section 1307(f) rate becomes effective.

## E. Customer Application

### 1. Position of the Parties

IRRC noted that section E of the August 13, 1999 Order included a list of particular items that could be included in the customer's application form for a fixed rate option. IRRC Comments, p.2. Section E, page 8, lists the following information that could be included on the application, at a minimum: 1) customer name; 2) account number; 3) address; 4) billing address, if different; 5) a clear description of the fixed rate option program, including what components of the bill will be fixed; 6) the price per unit and; 7) any other information deemed relevant to provide a clear understanding of the fixed rate option program offering. IRRC recommended that these requirements should be included in a new proposed regulation.

### 2. Resolution

We will decline to adopt IRRC's recommendation. The information we listed in section E of the August 13, 1999 Order was very basic information. We believe that the details of any fixed rate option program can be addressed within each NGDC's section 1307(f) proceedings. This will give all interested parties an opportunity to comment on the specific elements of each individual fixed rate option program.

Accordingly, under sections 501, 1301, 1307 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 1301, 1307 and 1501, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201 et seq.), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.4, we propose to amend our regulations by adding § 53.69, as noted and as set forth in Annex A;

Therefore,

*It Is Ordered that:*

(1) The regulations of the Commission, 52 Pa. Code Chapter 53, are amended by adding § 53.69 to read as set forth in Annex A.

(2) The Secretary shall submit this order and Annex A for review by the designated standing committees of the General Assembly, and for review by IRRC.

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

(4) The Secretary shall submit a copy of this order and Annex A to the Governor's Budget Office for review of fiscal impact.

(5) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. This regulation shall become effective upon final publication in the *Pennsylvania Bulletin*.

(6) The contact persons for this matter are Robert Bennett, Fixed Utility Services, (717) 787-5553, bennettr@puc.state.pa.us, and Lawrence F. Barth, Assistant Counsel, Law Bureau, (717) 772-8579, barth@puc.state.pa.us. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

JAMES J. MCNULTY,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 3239 (June 24, 2000).)

**Fiscal Note:** Fiscal Note 57-207 remains valid for the final adoption of the subject regulation.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

##### RECOVERY OF FUEL COSTS BY GAS UTILITIES

#### § 53.69. Fixed rate option.

(a) Components of the fixed rate option shall include all gas costs as defined in 66 Pa.C.S. 1307(f) (relating to sliding to scale of rates; adjustments). The natural gas distribution company may offer a fixed rate option to collect these costs over a 12-month period.

(b) Natural gas distribution companies adjusting rates for natural gas sales on a regular, less than quarterly but not more frequent than monthly, basis shall submit a separate reconciliation calculation of the fixed rate option service, consistent with the company's response to § 53.64(i) (relating to filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million).

(1) The reconciliation shall present the fixed rate option sales, revenues and costs, separated from the reconciliation of other retail sales.

(2) The reconciliation period of fixed rate option sales shall be the same period used to reconcile the company's other retail sales as presented in compliance with 66 Pa.C.S. § 1307(f)(3).



(c) Eligible customers may sign up for the fixed rate option during the 3-month period which ends when the annual section 1307(f) rates become effective, service under the fixed rate option starts on the first day of the customer's billing cycle in which the annual section 1307(f) rates become effective.

(d) Chapter 56 (relating to standards and billing practices for residential utility service) is applicable to all fixed rate option sales to residential customers.

[Pa.B. Doc. No. 00-1160. Filed for public inspection July 7, 2000, 9:00 a.m.]

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**[52 PA. CODE CH. 54]**

[L-00980132]

**Competitive Safeguards for the Electric Industry**

The Pennsylvania Public Utility Commission (Commission) on April 27, 2000, adopted a final-form rulemaking order establishing competitive safeguards for interaction between electric distribution companies, electric generation suppliers and customers in the competitive electric industry. The contact person is John Levin, Law Bureau, (717) 787-5978.

*Executive Summary*

With the passage of the Electricity Generation Customer Choice and Competition Act (act), 66 Pa.C.S. §§ 2801—2812 the General Assembly amended 66 Pa.C.S. (relating to Public Utility Code) (code) and established a comprehensive scheme for the restructuring of this Commonwealth's electric industry. This rulemaking establishes competitive safeguards for interaction between electric distribution companies, electric generation suppliers and customers in furtherance of the act's provisions directing the establishment of a new, vibrant and effective competitive retail market in electricity generation in this Commonwealth by January 1, 2001.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 28, 1998, the Commission submitted a copy of the proposed rulemaking published at 28 Pa.B. 2139 (May 9, 1998) to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided 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 approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 8, 2000, and approved the final-form regulations.

Public meeting held  
 April 27, 2000

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Terrance J. Fitzpatrick; Nora Mead Brownell; Aaron Wilson, Jr.

**Final Rulemaking Order**

*By the Commission:*

This final-form rulemaking order establishes competitive safeguards in furtherance of the act. On February 13, 1998, we entered a notice of proposed rulemaking, published at 28 Pa.B. 2139 proposing competitive safeguards for the restructured electric power industry, and intended to assure the provision of direct access to all Commonwealth retail electric generation market participants at comparable rates, terms and conditions as well as to forestall the exercise of unlawful market power which would have the effect of inhibiting the development and continuation of that market. We invited comments from the public to be filed on or before June 8, 1998.

Comments were received from West Penn Power Company t/d/b/a/ Allegheny Power (WPP), joint comments from the Associated Builders and Contractors Inc. and the Pennsylvania Petroleum Association (ABC), the Office of the Consumer Advocate of Pennsylvania (OCA), Enron Energy Services, Inc. (Enron), the Clean Air Council, Environmental Defense Fund and the Pennsylvania Campaign for Clean Affordable Energy (an ad hoc group calling itself the Environmentalists), Electric Clearinghouse, Inc. (ECI), Horizon Energy Company (Horizon, an affiliate of PECO Energy Company), IRRC, the Honorable William R. Lloyd, Jr., formerly member of the Pennsylvania House of Representatives, the Mid-Atlantic Power Supply Association (MAPSA), NEV East, LLC (NEV), the Pennsylvania Electric Association (PEA), the Pennsylvania Gas Association (PGA), PP&L Inc. (PP&L), and the Pennsylvania Rural Electric Association jointly with Allegheny Electric Cooperative, Inc. (PREA).

The 15 sets of comments, by interest, include representation from local electric distribution companies and their generation affiliates (4), independent power marketers (5), LDC competitors in alternate and nonfuel markets (2), electric cooperatives (1), other governmental agencies (2), environmental interests (1) and elected representatives (1).

Additionally, a number of other jurisdictions have considered or promulgated code of conduct provisions similar to those proposed at this docket. To the extent relevant here, those provisions are discussed here.

The form and structure of these rules is as follows:

§ 54.121 outlines the purpose of these provisions.

§ 54.122(1) prohibits an electric distribution company from giving any electric generation supplier any preference or advantage in processing requests for retail electric service.

§ 54.122(2) requires fair dissemination of nonprivate customer information by distribution companies to generation suppliers.

§ 54.122(3) prohibits false or deceptive advertising.

§ 54.122(4) establishes dispute resolution procedures.

§ 54.122(5) prohibits illegal tying of any goods or services or limitations on dealing as a requirement for obtaining electric distribution service.

§ 54.122(6) prohibits distribution companies from providing any preference or advantage to any generation supplier in the provision of information about the operational status and availability of the distribution system.

§ 54.122(7) requires distribution companies to supply all regulated services and apply all tariffs on a nondiscriminatory manner.

§ 54.122(8) requires formal adoption of these rules by distribution companies and affiliated or divisional generation suppliers, and to train and instruct employees in them.

§ 54.122(9) requires that customer requests for information about generation suppliers made to distribution companies be handled fairly and impartially.

§ 54.122(10) forbids misrepresentation by a distribution company, affiliate or division that generation service bundled with the distribution service of the distribution company is superior solely on the basis of affiliation. It also requires that advertising by these affiliated companies contain a suitable disclaimer.

§ 54.122(11) requires functional separation of affiliated or divisional generation, distribution and transmission functions.

§ 54.122(12) provides that substantial, good faith compliance with these provisions will constitute a substantial factor in mitigation of any penalties that might otherwise be applied for a violation.

#### *Comments and Discussion*

As noted, 15 sets of comments were received from the public and from representatives of government entities. It should be observed that members of the same industry do not always agree with each other, and where significant disagreement occurs in the comments, it is noted.

Additionally, and as we noted in our notice of proposed rulemaking in 1998, the first ten provisions of this rulemaking, § 54.122(1)—(10) were the product of a consensus based Competitive Safeguards Working Group, which made its report to the Commission on October 5, 1997. We have made some modifications to these consensus provisions,<sup>1</sup> in response to the comments and our experience with interim settlement Code of Conduct provisions. Most of the comments submitted on the proposed rules involved generalized policy considerations or focussed on the provisions proposed in § 54.122(11) and (12).

The most significant changes in the “consensus” provisions are as follows: § 54.122(4) was revised to prescribe a uniform Statewide mediation procedure to address grievances. Section 54.122(10) was revised to provide for standard disclaimer language when an electric distribution company engages in joint marketing with a divisional or affiliated electric generation supplier.

With respect to paragraphs (11) and (12), dealing with functional separation of affiliated generation and nongeneration lines of business by regulated utilities, we have made some modifications to simplify paragraph (11) and have deleted paragraph (12) in response to comments.

#### *General Comments*

Horizon Energy Company, a generation marketing affiliate of PECO Energy Company, observes that some restrictions on joint marketing may be appropriate, but that all market participants should be subject to the same rules (that is, that nonaffiliated generation suppliers should also be prohibited from engaging in the same kind of joint marketing). Horizon asserts that market share evaluations are not necessary, that separation of genera-

tion, distribution and transmission functions is not required under Pennsylvania law and should not be considered by the Commission, and that an “emergency suspension” provision should be considered.<sup>2</sup>

ABC represents a coalition of a trade association of builders and contractors engaged in the construction and the installation and maintenance of “electrical and mechanical systems,” and the Pennsylvania Petroleum Association, which is a trade association of marketers of oil, gas, propane and related equipment. ABC asks that we extend our competitive safeguards to protect industries other than the electric generation supply industry. We note that while the code gives us broad authority with respect to the regulation of the supply of electric generation and distribution services, we have no express authority with regard to other industries. To the extent that utilities engage, through a division or separate affiliate, in nonjurisdictional lines of business, the General Assembly has not given us authority to oversee the competitive health of these nonutility lines of business, nor have we the expertise or resources to so extend our supervision. To the extent that utilities enter nonutility businesses, they are subject to all existing regulations, including the competitive laws and regulations of the United States and this Commonwealth which apply to existing participants. We continue to enforce the ratemaking laws of the Commonwealth, including laws and rules against forcing utility ratepayers to subsidize nonutility enterprises through cross-subsidization.

The Environmentalists urge the need for publicly available market share studies performed by an unbiased consultant to be hired by the Commission, as well as consideration of changing the method of evaluating stranded costs and including the issues of competitive safeguards in the ongoing Statewide education campaign.

We intend to require that information regarding these safeguards be included in customer education programs. As to the Environmentalists’ other suggestions, they are outside the scope of this rulemaking.

#### *Section 54.121*

This provision sets forth the general purpose of this rulemaking. IRRC suggests that open access be better defined. “Open access” is the same concept as “direct access” prescribed by statute. To avoid confusion, we have changed the wording to “direct” access.

The PREA suggests language changes which would, in its opinion, clarify the broad statement of principles to more clearly establish the goals of the Code of Conduct. We decline to adopt most of these proposed language changes as they primarily involve matters of form or emphasis, rather than substance.

#### *Section 54.122*

The PEA submitted comments on behalf of seven of its members (Allegheny Power, Duquesne Light Company, GPU Energy, PP&L, Inc., Pennsylvania Power Company, PECO Energy Company and UGI Utilities, Inc.). It also submitted comments by Alfred E. Kahn, a Nationally known economist and former regulator who held posts in New York State and in the Federal Government under the administration of President Jimmy Carter. The PEA states that it generally supports the paragraphs (1)—(10), inasmuch as they were derived from the 1997 consensus working group process in which the PEA participated. The proffered commentators of Dr. Kahn also support

<sup>2</sup> While we are not amending the proposed rules to include such a provision, we call the public’s attention to 52 Pa. Code §§ 3.1—3.12 which provides for the issuance of ex parte emergency orders by the Commission.

<sup>1</sup> Modifications have been made to § 54.122(4) and (10).

those provisions. In general, the local distribution company commentators likewise support these principles.

PP&L echoes many of the comments offered by the PEA. It supports paragraphs (1)–(10).

Enron, an independent electric generation supplier, urges the Commission both to adopt the “consensus” rules (paragraphs (1)–(10)), but also to go beyond them in five respects.

First, Enron recommends that the Commission create “virtual” subsidiaries with no sharing of operational or managerial personnel, facilities and information and adopt detailed cost allocation rules for common costs shared between these “virtual” subsidiaries. We decline to take that step. We believe that the provisions of paragraph (11) as amended, provide sufficient direction against affiliate abuses. As to cross subsidization, local distribution utilities continue to be subject to negotiated or statutory rate caps, under section 2804(c) of the act (relating to standards for restructuring of electric industry). It appears unlikely that any of our jurisdictional local distribution companies will file a major rate case with us for several years. In the event that we discover that existing accounting and ratemaking rules and procedures are insufficient to deter cross subsidization, we may choose to revisit this topic.

Second, Enron suggests that we establish detailed rules to govern the use of generation assets by an affiliated distribution company. With the advent of competition not merely in this Commonwealth, but in neighboring states as well, the need for these rules seems less urgent than when Enron’s comments were filed in 1998. With the exception of West Penn Power (presently trading and doing business as Allegheny Power), Duquesne Light and Penn Power, this Commonwealth utilities are members of a well formed independent system operator, PJM, Inc. LLC, which has established a strong self governance process, market rules and a market monitoring unit capable of investigating and deterring attempted exercises of market power by generation asset owners. We anticipate that the three Pennsylvania utilities which are not members of an ISO at present will be in compliance by the close of 2001 with the provisions of FERC Order 2000 requiring formation or membership in a regional transmission organization with identical or similar functions and other protections for market participants and end users. It is apparent to us that a combination of self governed regional transmission organizations, market rules and monitoring by an independent RTO market monitor should be superior in deterring the sort of anticompetitive behavior Enron asks us to address through prescriptive Pennsylvania-only rules.

Third, Enron urges us to prohibit joint marketing between an electric distribution company and its affiliated or divisional electric generation supplier. This issue was raised and extensively discussed in the Competitive Safeguards Working Group and rejected. While we are willing to revisit this issue in the future in the event that joint marketing is conducted in a manner that is deceptive or injurious to the public interest in a way that cannot be addressed on an ad hoc basis, we are unwilling to adopt this proposal at present. However, we will amend these proposed regulations to improve affiliation disclosure requirements in paragraph (10).

Fourth, Enron urges us to prohibit an electric distribution company-affiliated generation supplier from using the utility name or logo, or in the alternative, to impose disclosure requirements to properly inform customers

about affiliation. Again, we are unwilling to flatly prohibit use of utility name or logo. While it may be that there is some initial customer confusion concerning retail competition and the role of utilities, their affiliates and competitors, we have adopted a strong and ongoing customer education program that we believe has been successful in acquainting the people of this Commonwealth with their retail options. This Commonwealth continues to have one of the highest retail electric generation shopping rates in the Nation. However, we do accept Enron’s suggestion that we include disclosure language such as that adopted in the PECO settlement and have modified paragraph (10) accordingly.

Fifth, we are urged to permit customers who have signed long-term contracts with a utility to “opt out” of such contracts and switch to a competitive energy supplier without incurring contractual penalties. This is assertedly necessary to permit customers locked into long-term generation contracts to take advantage of retail competition, which commenced in 1998. We decline to do that. Retail competition has been discussed in public forums at least since 1994. Those signing long-term contracts are, in general, reasonably sophisticated large commercial or industrial customers who have been aware of the changing nature of the market. We are generally reluctant to interfere in the provisions of these contracts, absent a convincing demonstration that the provisions were obtained by misrepresentation, fraud, coercion or other duress. A blanket cancellation of these contracts is therefore not warranted, especially since many of them will have already expired or will shortly expire.

Finally, Enron urges us to change the proposed regulations to conform in several respects to the language of the PECO settlement code of conduct<sup>3</sup> with respect to replacing the term “comparable” with “equal and nondiscriminatory,” to replace the term “unlawful discrimination” with “undue discrimination” or simply “discrimination,” to replace the term “unlawful cross-subsidization” with “cross subsidization.” We agree that these proposed changes are appropriate and are in better accord with the intent of the act. In any complaint under this code of conduct, we would in any event necessarily be called upon to determine whether a specific arrangement offered to an electric generation supplier was equal and nondiscriminatory. While we do not interpret “equal” to mean “identical” in every situation, the term “comparable” is overly ambiguous and does not sufficiently address the issues.

Several of IRRC’s comments suggest that portions of these rules dealing with requirements to be imposed on electric generation suppliers (specifically, portions of § 54.122(3), (8) and (11)) are already covered in § 54.43 (relating to standards of conduct and disclosure for licensees). IRRC appears to misunderstand the different scope of those provisions. Section 54.43 deals with consumer protection issues, that is, the relationship and communications between electric generation supplier and end users. The instant provisions deal with competitive issues, more specifically, relationship and communications between competitors. It may be that competitors will seek to disadvantage other competitors through misleading or erroneous communications or behavior with respect to end users. These issues are clearly to be dealt with through the licensing provisions of § 54.43. Those provisions were not drafted, and are not intended to deal

<sup>3</sup> Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, R-00973953, Joint Petition for Full Settlement, ¶39a, Appendix H.

with competitive relationships or to forestall exercise of market power or gain unfair advantage from leveraging monopoly assets.

Accordingly, we believe that all competitive issues belong together in this section and we decline IRRC's suggestion that we remove electric generation supplier related provisions from the final rule and amend § 54.43 to add these provisions.

IRRC also proposes a number of technical and language amendments, some of which we have adopted elsewhere or will adopt without further comment.

*§ 54.122(3)*

This provision prohibits false or deceptive advertising by generation suppliers or distributing companies. Representative Lloyd suggested that paragraph (3) be amended to include "misleading" advertising as a prohibited activity. We believe that "deceptive" advertising includes "misleading" advertising and thus decline to make the suggested change.

Horizon suggests that additional language be added to paragraph (3). Horizon's amendment would prohibit any electric generation supplier from competing "unfairly in the market through, inter alia, anticompetitive practices or cross subsidies from corporate affiliates." We decline to make the suggested revision. "Cross-subsidies" are a term of regulatory art, and are so defined in public utility ratemaking law because these subsidies involve forced ratepayers to subsidize (through unjust utility rates) the costs and profits of unregulated, competitive enterprises. We have full jurisdiction to investigate and ameliorate these abuses. Horizon's additional and somewhat vague suggestion that we prohibit "anticompetitive practices" lacks any specificity and Horizon does not explain in detail what it intends us to prohibit.

In general, these rules are intended to address the potential for anticompetitive actions or cross subsidization by regulated utilities subject to the Commission's jurisdiction. While we retain considerable authority over the rates, rules and practices of regulated distribution companies, and must continue to assure that the regulated rates, rules and practices are "just and reasonable" within the meaning of the code, we believe that the Legislature did not intend us to apply regulated principles to unregulated entities wholly outside our jurisdiction. If Horizon believes that any electric generation supplier is violating the terms of its Pennsylvania license, it is free to file a complaint with the Commission to remedy the violation.

As to general "anticompetitive" behavior by unregulated entities, the Legislature has provided that Horizon may file a complaint, under section 2811(f) of the act (relating to market power remediation), asking the Commission to remedy the behavior, insofar as it is within our power to do so. In any event, Horizon retains all remedies available to it or any other market participant to complain to a Federal District Court that the behavior is in violation of the competition laws of the United States, and to ask for remedies and damages. That is a far more effective remedy than any we can fashion in the context of the present rulemaking.

*§ 54.122(4)*

This provision establishes dispute resolution procedures. Representative Lloyd suggested that paragraph (4) be deleted as it improperly allows parties to negotiate compromises among themselves concerning appropriate dispute resolution procedures. We note that it is our policy to encourage negotiated arrangements of the sort

permitted, but have amended the provision to clarify the procedural steps of informally resolving disputes.

The OCA recommends that we adopt the PECO Energy Interim Code of Conduct provisions regarding dispute resolution process. We have had some experience with those provisions and agree that they are better suited to dispute resolution than the draft provisions and have amended paragraph (4) accordingly. This will have the additional benefit of making dispute resolution procedures under this Code of Conduct uniform throughout this Commonwealth.

*§ 54.122(5)*

This provision prohibits illegal tying of goods and services as a requirement for obtaining electric distribution service. Representative Lloyd recommended that paragraph (5) be amended to delete the word "illegally." This provision is based upon negotiated stakeholder language and was intended to reach and prohibit only illegal tying arrangements. Accordingly, we decline to make the suggested editorial change.

*§ 54.122(6)*

Representative Lloyd recommended that we add the phrase "affiliated or division electric generation supplier" to paragraph (6), which prohibits distribution companies from providing any advantage to a generation supplier in the provision of information about the operational status and availability of the distribution system. The language as presently drafted is "any electric generation supplier," which includes, but is not limited to, affiliated and divisional suppliers. This language was intentional, and was intended to prevent preference being given to any electric generation supplier, whether or not affiliated with a distribution company. Businesses often enter into joint ventures or other contractual arrangements that may advantage the contracting parties to the disadvantage of others.

*§ 54.122(9)*

This provision requires that customer requests for information about generation suppliers be handled fairly and impartially by distribution companies. Representative Lloyd recommended that paragraph (9) be amended to state that the customer, not the electric distribution company, has the right to determine how the list of electric generation customers will be provided (that is, whether over the telephone, in writing or by some other means). We have licensed approximately 125 electric generation suppliers in this Commonwealth, many with limited geographical areas or which serve only certain kinds of retail customers. Electric generation suppliers are constantly changing their conditions of service or service areas. We believe that it is best to permit some managerial discretion in the mode of provision of the list information.

*§ 54.122(10)*

This provision prohibits a distribution company affiliate or division from claiming that generation bundled with distribution service is superior solely on the basis of the affiliation. Representative Lloyd recommended deleting from this provision the phrase "solely on the basis of their affiliation with the electric distribution company," as he believes that distribution companies should be forbidden from stating or implying that purchasing power from affiliates or divisions is inherently superior under any circumstances. Section 54.6(3)(c) requires any claims about power be based upon available information substantiating the claims. Likewise, it is not our intent that

distribution companies be prohibited from making any advertising claim which is truthful and not misleading to the public. The recommendation would effectively ban any advertising or customer relations regarding a distribution company's generation affiliate, a result that is extreme, in our judgment. Also, we note that the language sought to be amended was a product of the collaborative working group process. We therefore decline to make the proposed amendment.

However, we believe that it is appropriate to impose a disclosure requirement similar to that suggested by Enron, and have adopted language similar to that adopted in the PECO interim code of conduct, as suggested by the OCA.

§ 54.122(11) and (12)

Paragraph (11) requires functional separation of affiliated or divisional generation, distribution and transmission functions. Paragraph (12) provides that an adequate functional separation would be a substantial factor in the mitigation of penalties in an action brought against a distribution company under section 2811(f) of the act.

The OCA calls our attention to California and Massachusetts Codes of Conduct which, in the OCA's opinion, "ensure that functional separation between the monopoly distribution function and any retail sales operation is real and complete." In effect, the OCA believes that these rules should be amended to require complete physical separation of the retail generation and distribution functions. The OCA would also prohibit (as does the PECO interim settlement code of conduct) joint marketing or packaging of regulated distribution services with the generation services of an affiliate or division. While those are theoretically "purer" approaches, they are also far more prescriptive and we do not adopt them.

The WPP warns that the proposed paragraph (11) "has an ominous quality" and unreasonably regulates "speech" in that it prevents employees engaged in generation supply activities from private discussions with employees of related distribution or transmission businesses concerning current or future operations. It also argues that the provision would cover conduct "well beyond" FERC regulations at 18 CFR Part 37.4, which restricts only the interchange of competitive information about the transmission system. The WPP argues that it is "absolutely necessary for Allegheny's affiliated electric generation supplier to provide information to Allegheny Power's power control center transmission staff to allow the staff to operate the control area reliability (sic)." The WPP argues as well that communications are also necessary between Allegheny Power's transmission and distribution center and its power control center with respect to outages and performance conditions.

The PEA opposes adoption of paragraphs (11) and (12), asserting that they contravene section 2804(5) of the act (relating to standards for restructuring of electric industry) which states (in its entirety) "The Commission may permit, but shall not require, an electric utility to divest itself of facilities or to reorganize its corporate structure."

In effect, the PEA argues that in addition to the plain language of that provision, which forbids the Commission from ordering divestment of facilities or corporate reorganization (structural reorganization), the General Assembly also intended to forbid the Commission from regulating anticompetitive utility behavior through a nonstructural remedy.

It is a hard stretch to interpret this language to prohibit the Commission from directing that monopoly

utilities arrange their internal operations to prevent them from unfairly disadvantaging competitors or potential competitors. The statute, as stated, simply prohibits the Commission from directing that structural corporate changes be made, leaving restructuring to the judgment of utility management.

The PGA, in a single page letter, supports the PEA's opposition to § 54.122(11)(ii)—(v) and (12).

PP&L opposes paragraphs (11) and (12). PP&L makes the same point as does the WPP, that regulated distribution companies must coordinate operations with transmission systems and should not be barred from communicating in the ordinary course of business.

The ECI suggests a number of minor language changes that we decline to accept, as they consist mainly of changes in emphasis, rather than substance. However, we accept the ECI's suggestion that "related" should be changed to "affiliate or division" for § 54.122(11)(i)—(vi), in parallel with language proposed elsewhere in these rules. In addition to other editorial changes, we have modified this provision to apply to affiliates and divisions.

The ECI recommends that electric distribution companies be obligated to include the provisions of this regulation in their tariffs. The only substantial advantage to tariff publication is that it might, in theory, provide a more general notification to the public, as tariffs required to be available at company offices and to be posted on company internet web sites and are often more widely available for customer review.

In reality, electric generation suppliers and large end-use customers can be expected to be well aware of the obligations of the act and this Code of Conduct. For less sophisticated consumers, direct customer education programs, as implemented by the Commission from the outset of restructuring, are far more effective in conveying the rules, rights and obligations of retail electric competition. It should also be noted that all of Pennsylvania's regulations are now available to the public at no charge on the internet at <http://www.pacode.com>. In addition, we require that information about direct access and electric competition be disclosed in all bills, under §§ 54.1—54.7. Accordingly, we decline to require that the Code of Conduct be filed as part of electric distribution company tariffs.

The MAPSA faults the proposed regulations (in criticizing paragraphs (11) and (12) as not going far enough) for not barring joint marketing by affiliated generation suppliers and distribution companies. It also asks that we mandate physical separation between affiliated or divisional electric generation suppliers and electric distribution utilities. As noted elsewhere in this order, we decline to adopt either suggestion. The MAPSA also asks that we include a provision which would regulate the transfer of nonpower goods and services between an affiliated or divisional distribution company and generation supplier. We decline to do that, too.

However, that does not mean that the effect of and terms of the transfers between related entities will be ignored for ratemaking purposes. Cross-subsidization of nonutility enterprises by utility customers has been unlawful under the code for many years. Transfers of goods and services made between a utility and an affiliated or divisional entity which constitute a cross-subsidy may not be recovered from utility ratepayers. Moreover, these transactions, to the extent they are made between affiliated interests within the meaning of section 2101 of the code (relating to definition of affiliated interest) must

follow the rules of Chapter 21 of the code (relating to affiliated interests) at the risk of being disallowed or voided under those statutory provisions.

Accordingly, we decline to adopt the MAPSA's additional provisions and will rely upon existing law to provide safeguards to the public interest. The NEV also proposes joint marketing prohibitions, goods and services transfer rules and physical separation of related electric generation suppliers and electric distribution utilities. We decline, for the reasons stated previously.

After consideration of comments on paragraphs (11) and (12), we have decided to amend paragraph (11) and delete paragraph (12). We are troubled by the attempt at proscription in paragraph (11). We are not even sure that this attempt succeeds and covers every possible permutation of inter-employe contacts and information sharing. It appears that paragraph (11), in attempting to capture every possible element of the independence required to be observed, has also become too procedurally complex.

While we do not agree that paragraph (11) amounts to de facto divestiture, the proposed rulemaking is unnecessarily complicated and should be simplified. Further, as a State commission with jurisdiction over intrastate facilities we do not wish to exceed our jurisdiction by attempting to dictate the actions of transmission company affiliate employees. FERC has primary jurisdictional authority over the actions of transmission utilities, and Order No. 888 and its successive orders should be invoked by complaining market participants if they believe that the rates, terms and conditions of transmission service have been the subject of any anticompetitive acts by the transmission owner.

As edited, paragraph (11) now simply declares that affiliated or divisional entities covered under these provisions shall ensure that their employes act independently of each other. We have deleted paragraph (12) to further simplify these rules. It should be noted that we agree with comments that suggest that it appears pointless to accord a regulated company any mitigation of penalties for compliance with lawful regulations. In any case before the Commission, a utility may argue mitigation however it chooses.

Accordingly, under 66 Pa.C.S. §§ 501, 502, 504—506, 508, 701, 1301, 1304, 1501, 1502, 1505, 1701—1705, 2101—2107 and 2801—2811, the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.4, we adopt the rules to read as set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 54, are amended by adding §§ 54.121 and 54.122 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by IRRC.

3. A copy of this order and Annex A shall be served upon all commentators to our proposed rulemaking at this docket, including the OCA, the Office of Small Business Advocate, the Office of Trial Staff, all members of the Competitive Safeguards Working Group, all jurisdictional electric companies, all licensed electric providers and the PEA.

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

5. This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

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

JAMES J. MCNULTY,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 3239 (June 24, 2000).)

**Fiscal Note:** Fiscal Note 57-195 remains valid for the final adoption of the subject regulations.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

##### CHAPTER 54. ELECTRIC GENERATION CUSTOMER CHOICE

##### Subchapter E. COMPETITIVE SAFEGUARDS

Sec.  
54.121. Purpose.  
54.122. Code of conduct.

#### § 54.121. Purpose.

The purpose of these competitive safeguards is to assure the provision of direct access on equal and nondiscriminatory terms to all customers and generation suppliers, prevent discrimination in rates, terms or conditions of service by electric distribution companies, prevent the cross subsidization of service amongst customers, customer classes or between related electric distribution companies and electric generation suppliers, to forbid unfair or deceptive practices by electric generation companies and electric generation suppliers, and to establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in this Commonwealth.

#### § 54.122. Code of conduct.

Electric generation suppliers and electric distribution companies shall comply with the following requirements:

(1) An electric distribution company may not give an electric generation supplier, including without limitation, its affiliate or division, any preference or advantage over any other electric generation supplier in processing a request by a distribution company customer for retail generation supply service.

(2) Subject to customer privacy or confidentiality constraints, an electric distribution company may not give an electric generation supplier, including without limitation its affiliate or division, any preference or advantage in the dissemination or disclosure of customer information and any dissemination or disclosure shall occur at the same time and in an equal and nondiscriminatory manner. "Customer information" means all information pertaining to retail electric customer identity and current and future retail electric customer usage patterns, including appliance usage patterns, service requirements or service facilities.

(3) An electric distribution company or electric generation supplier may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this Commonwealth.

(4) Each electric distribution company shall adopt the following dispute resolution procedures to address alleged violations of this section:

(i) Regarding any dispute between an electric distribution company or a related supplier, or both, and an electric generation supplier (each individually referred to as a "party" and collectively referred to as "parties"), alleging a violation of any of the provisions of this section, the electric generation supplier shall provide the electric distribution company or related supplier, or both, as applicable, a written notice of dispute which includes the names of the parties and customers, if any involved and a brief description of the matters in dispute.

(ii) Within 5 days of receipt of the notice by the electric distribution company or related supplier, or both, a designated senior representative of each of the parties shall attempt to resolve the dispute on an informal basis.

(iii) If the designated representatives are unable to resolve the dispute by mutual agreement within 30 days of the referral, the dispute shall be referred for mediation through the Commission's Office of Administrative Law Judge. A party may request mediation prior to that time if it appears that informal resolution is not productive.

(iv) If mediation is not successful, the matter shall be converted to a formal proceeding before a Commission administrative law judge, and the prosecuting parties shall be directed to file a formal pleading in the nature of a complaint, petition or other appropriate pleading with the Commission within 30 days or the matter will be dismissed for lack of prosecution. Any party may file a complaint, petition or other appropriate pleading concerning the dispute under any relevant provision of 66 Pa.C.S. (relating to the Public Utility Code).

(5) An electric distribution company may not illegally tie the provision of any electric distribution service within the jurisdiction of the Commission to one of the following:

(i) The purchase, lease or use of any other goods or services offered by the electric distribution company or its affiliates.

(ii) A direct or indirect commitment not to deal with any competing electric generation supplier.

(6) An electric distribution company may not provide any preference or advantage to any electric generation supplier in the disclosure of information about operational status and availability of the distribution system.

(7) An electric distribution company shall supply all regulated services and apply tariffs to nonaffiliated electric generation suppliers in the same manner as it does for itself and its affiliated or division electric generation supplier, and shall uniformly supply all regulated services and apply its tariff provisions in a nondiscriminatory manner.

(8) Every electric distribution company and its affiliated or divisional electric generation supplier shall formally adopt and implement these provisions as company policy and shall take appropriate steps to train and instruct its employees in their content and application.

(9) If an electric distribution company customer requests information about electric generation suppliers, the electric distribution company shall provide the latest list as compiled by the Commission to the customer over the telephone, or in written form or by other equal and nondiscriminatory means. In addition, an electric distribution company may provide the address and telephone number of an electric generation supplier if specifically

requested by the customer by name. To enable electric distribution companies to fulfill this obligation, the Commission will maintain a written list of licensed electric generation suppliers. The Commission will regularly update this list and provide the updates to electric distribution companies as soon as reasonably practicable. The Commission will compile the list in a manner that is fair to all electric generation suppliers and that is not designed to provide any particular electric generation supplier with a competitive advantage.

(10) An electric distribution company or its affiliate or division may not state or imply that any delivery services provided to an affiliate or division or customer of either are inherently superior, solely on the basis of their affiliation with the electric distribution company, to those provided to any other electric generation supplier or customer or that the electric distribution company's delivery services are enhanced should supply services be procured from its affiliate or division. When an electric distribution company's affiliated or divisional supplier markets or communicates to the public using the electric distribution company's name or logo, it shall include a disclaimer stating that the affiliated or divisional supplier is not the same company as the electric distribution company, that the prices of the affiliated or divisional supplier are not regulated by the Commission and that a customer is not required to buy electricity or other products from the affiliated or divisional supplier to receive the same quality service from the electric distribution company. When an affiliated or divisional supplier advertises or communicates through radio, television or other electronic medium to the public using the electric distribution company's name or logo, the affiliated or divisional supplier shall include at the conclusion of any communication a disclaimer that includes all of the disclaimers listed in this paragraph.

(11) An electric distribution company which is related as an affiliate or division of an electric generation supplier or transmission supplier (meaning any public utility that owns, operates, or controls facilities used for the transmission of electric energy) which serves any portion of this Commonwealth; and any electric generation supplier which is related as an affiliate or division of any electric distribution company or transmission supplier which serves any portion of this Commonwealth, shall insure that its employees function independently of other related companies.

[Pa.B. Doc. No. 00-1161. Filed for public inspection July 7, 2000, 9:00 a.m.]

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**[52 PA. CODE CH. 59]**

[L-00990145]

**Ensuring Customer Consent to a Change of Natural Gas Supplier**

The Pennsylvania Public Utility Commission (Commission) on May 11, 2000, adopted a final rulemaking order promulgating regulations to implement and codify 66 Pa.C.S. § 2206(b) (relating to consumer protections and customer service) which requires the establishment of procedures to ensure that natural gas suppliers do not change a customer's gas supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier.

The contact persons are Louis Sauers, Bureau of Consumer Services, (717) 783-6688 and Terrence J. Buda, Law Bureau, (717) 787-5755.

#### *Executive Summary*

On June 22, 1999, Governor Tom Ridge signed into law the Natural Gas Customer Choice and Competition Act, 66 Pa.C.S. §§ 2201—2211 (act). The act revised the Public Utility Code, 66 Pa.C.S. § 101 et seq., by, inter alia, adding Chapter 22, relating to restructuring of the gas utility industry. The purpose of the law is to permit customers to buy natural gas supply service from their choice of gas suppliers.

Section 2206(b) of the act (relating to consumer protections and customer service) requires that “[t]he Commission shall, by order or regulation, establish procedures to ensure that a natural gas distribution company does not change a retail gas customer’s natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer’s consent to a change of supplier.” The purpose of this rulemaking is to implement and codify this provision of the act.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 21, 1999, the Commission submitted a copy of the proposed rulemaking which was published at 30 Pa.B. 37 (January 1, 2000) to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure 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 this final-form rulemaking, the Commission has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form regulation was approved by the House Committee on Consumer Affairs and was approved by the Senate Committee on Consumer Protection and Professional Licensure. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 8, 2000, and approved the final-form rulemaking.

*Commissioners present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Aaron Wilson, Jr.; and Terrance J. Fitzpatrick

Public meeting held  
May 11, 2000

### **Final Rulemaking Order**

#### *By the Commission:*

At public meeting of November 4, 1999, the Pennsylvania Public Utility Commission (Commission) issued an order adopting and directing publication of proposed regulations to ensure customer consent to a change of natural gas suppliers. The proposed regulations are part of the implementation duties performed by the Commission under the act. Signed into law on June 22, 1999, by Governor Tom Ridge, the act revised the Public Utility Code, 66 Pa.C.S. § 101 et seq., by, inter alia, adding Chapter 22 relating to restructuring of the natural gas industry. The Commission is the agency charged with implementing the act. Section 2206(b) of the act states that “[t]he Commission shall, by order or regulation, establish procedures to ensure that a natural gas distri-

bution company does not change a retail gas customer’s natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer’s consent to a change of supplier.”

On December 1, 1999, the Office of Attorney General issued its approval of the proposed regulations as to form and legality. On December 21, 1999, the Commission delivered copies of the proposed rulemaking to the Chairperson of the House Committee on Consumer Affairs, the Chairperson of the Senate Committee on Consumer Protection and Professional Licensure, IRRC and to the Legislative Reference Bureau. The proposed regulations were published for comment at 30 Pa.B. 37 and a 30-day comment period set. The Commission also posted the order on the Commission’s Internet website.

Comments were filed by the Pennsylvania Gas Association (PGA) on behalf of its member companies, the Office of Consumer Advocate (OCA), the Peoples Natural Gas Company (Peoples), the Consumer Advisory Council of the Public Utility Commission (CAC) and IRRC. We have considered all comments, and thank the parties for their suggestions on developing final regulations.

The instant order presents a section-by-section summary of comments and response. The final regulations, as revised under the discussion in the instant order, appear in Annex A of this order.

#### *§ 59.91. Definitions.*

IRRC expresses several concerns relative to the proposed definition of the term “customer.” IRRC believes that the phrase “a service account exists with either a [Natural Gas Distribution Company] NGDC or a [Natural Gas Supplier] NGS” is unclear since a typical residential customer may be listed with both the NGDC and NGS. Given this possibility of two service accounts, IRRC states it is unclear which service account would be controlling for other provisions proposed in the regulations, such as § 59.95 (relating to persons authorized to act on behalf of a customer). IRRC also believes the reference to §§ 59.92—59.99 is unnecessary and recommends the reference be limited to § 59.95.

#### *Response*

With respect to IRRC’s comments, the proposed definition of “customer” reflects, in part, a recommendation made by PG Energy in comments to the Tentative Order establishing interim guidelines pending completion of the instant rulemaking. In its comments to the tentative order that the Commission issued on August 27, 1999, PG Energy recommended the definition of “customer” be limited to the scope of the interim guidelines. We agreed and proposed a definition of “customer” that reflected PG Energy’s recommendation. In light of IRRC’s comments, however, it is evident that more clarity is needed in the definition of this term. We have, therefore, revised the definition to specifically reference the definition of “retail gas customer” at section 2202 of the act. We will, however, retain the portion of the definition that limits its scope to the instant regulations. Moreover, the revised definition clarifies that, for the purpose of application of the instant regulations, the term “customer” includes all persons identified by the NGDC ratepayer of record, under § 59.95, as authorized to act on behalf of the NGDC ratepayer in changing the supplier for the account. The revised definition reads:

Customer—A retail gas customer as defined by 66 Pa.C.S. § 2202 (relating to definitions). The term includes all persons identified by the NGDC ratepayer of record, under § 59.95 (relating to per-



sons authorized to act on behalf of a customer), as authorized to act on behalf of the NGDC ratepayer of record in changing the NGS for the account.

*§ 59.93. Customer Contacts with the NGS.*

Peoples reiterates a suggestion it made in comments to the Tentative Order that the Commission modify § 59.93(a)(1) to permit NGSs to “batch” requests for change of supplier, and permit NGSs to submit them less frequently than daily. To address the Commission’s concern that this practice might unnecessarily delay some customers’ supplier changes, Peoples recommends that weekly or monthly submissions of requests be permitted “so long as the actual change of supplier for the customer’s account occurs at the same time it would have happened if the information was relayed to the natural gas distribution company no later than the next day.” Peoples contends this added condition will achieve the same result as § 59.93(a)(1), that is, the customer’s supplier will be changed at the beginning of the first feasible billing period following the 10-day waiting period. Since this modification reduces administrative work for both NGDCs and NGSs without adversely delaying a customer’s supplier change, Peoples asks the Commission to reevaluate its position regarding modification of this provision.

The OCA suggests including additional specificity regarding third party verification without establishing regulations that may hinder the development of a competitive market. The OCA believes specific guidelines would aid those natural gas suppliers who decide to implement third party verification practices. The OCA suggests that a third party verifier should be completely independent of the provider that seeks to initiate service, and operate from facilities separate from those of the provider seeking to supply service. Additionally, the OCA recommends that a third party verifier should not receive compensation or commission of any kind based upon the number of confirmed sales. Finally, the OCA suggests that a third party verifier not be permitted to use any data or information for other commercial or marketing purposes, and should be required to maintain the confidentiality of the information.

IRRC recommends that the Commission define the term “data elements” found at § 59.93(a)(1) and list some examples in the provision of the data elements required to verify a request to change supplier. Regarding the confirmation letter required at § 59.93(a)(2), IRRC recommends that the Commission clarify in the regulation whether or not the NGDC is required to provide this confirmation notice to all persons who have authority to initiate a change of NGS.

*Response*

With respect to Peoples’ recommendation to modify § 59.93(a)(1), we decline to make the requested change at this time. While the language proposed by Peoples appears to address our concern that “batching” might unnecessarily delay some supplier selections, it apparently is premised on the understanding that all NGDC meter reading schedules can be made available to all NGSs. Our experience to date with electric choice indicates this may not be the case. In electric choice, the Commission found it necessary to issue a Secretarial letter dated February 23, 2000 (Re: Transmittal of Future Customer Selection; Docket No. P-00991673) in which the Commission notified all Electric Distribution Companies (EDCs) and Electric Generation Suppliers (EGSs) of the Commission’s desire to address the availability of EDC

schedules of meter read dates in all service territories. The EDC meter reading schedules are necessary to develop a long-term solution for delayed EGS transmittals of future customer selections. An example of a delayed EGS transmittal would be an EGS contracting with a customer today for service to commence in 6 months, and holding the enrollment transaction to the EDC until the appropriate meter reading so service could begin on the sixth month. These EGS transmittal delays reflect an exception granted by the Commission at Docket No. P-00991673 to the general rule in § 57.173(a)(1) (relating to consumer contracts with EGSs) requiring an EGS to notify the EDC of the customer’s selection by the end of the next business day. This electric rule in § 57.173(a)(1) corresponds with the proposed rule in § 59.93(a)(1).

We believe the electric choice issues involving transmittal delays and availability of meter reading schedules are pertinent to the issue of “batching.” If NGDC meter reading schedules are not available, an NGS may be unsure when to submit a selection to guarantee that it is not delayed due to “batching.” Moreover, NGDCs sometimes have to alter meter read dates. This raises the concern that an NGS, unaware of a change in NGDC meter read dates, may inadvertently transmit a “batch” selection too late to have some of the customer accounts in the batch processed as timely as they would have been had the NGS transmitted the selections as currently proposed in § 59.93(a)(1). For some customers, the delay could mean a month of lost savings.

While we decline to alter the general rule in § 59.93(a)(1) at this time to allow “batching” of supplier selections, we wish to emphasize that we will continue to explore viable electronic data interchange (EDI) enhancements with all parties. Our willingness to revisit this issue is evidenced by the previously noted limited waiver we recently granted to electric generation suppliers regarding the corresponding requirement in § 57.173(a)(1). We suggest that an appropriate time to revisit this issue would be after the standard EDI transactions between NGDCs and NGSs are designed, tested and in operation, and upon determining that NGSs are able to obtain access to NGDC meter reading schedules.

In regard to the OCA’s suggestion to include third party verification guidelines in the instant regulations, we agree that the substance of the guidelines have merit and encourage the NGSs to voluntarily incorporate them in their verification practices. However, we disagree that the proper place for these guidelines is in the instant regulations and therefore decline to include them with the instant regulations.

With respect to IRRC’s recommendation that the Commission define the term “data elements” found in § 59.93(a)(1), we accept the recommendation and have added a definition of the term in § 59.91. The term “data element” will be defined as, “One or more characters that represent numeric or alphanumeric fields of data.” This definition comes from the *Revised Plan for Electronic Data Exchange Standards for Electric Deregulation in the Commonwealth of Pennsylvania*, Docket No. M-00960890 F0015. IRRC also suggested that the Commission place some examples in the provision of the data elements required to verify a request to change supplier. We have therefore revised the second sentence under § 59.93(a)(1) to include some examples of data elements that can be matched to verify the accuracy of information provided by the NGS. The revised sentence reads: “The NGDC shall verify the accuracy of the information provided by the

NGS by matching at least two data elements such as name and account number, or address and account number, with NGDC records.”

In regard to the recommendation by IRRIC to clarify who the NGDC is required to send the 10-day confirmation letter to, we do not believe the NGDC should be required to send letters to all persons authorized under § 59.95. Instead, we believe it is important to send the letter to the NGDC ratepayer of record, that is, to the person under whose name the NGDC account is listed. Therefore, to clarify this practice in the regulation, we have revised the language in § 59.93(a)(2) to indicate that the 10-day confirmation letter should be sent to the “NGDC ratepayer of record.”

*§ 59.94. Time Frame Requirement.*

IRRC notes that § 59.94 requires an authorization for a change of NGS to be “consistent with the Commission’s data transfer and exchange standards.” Since this phrase is not clear as to the exact standards, IRRIC recommends the Commission either reference the required standards, or delete the phrase.

*Response*

We will delete the phrase “consistent with the Commission’s data transfer and exchange standards” since, as of the date of preparation of the instant order, the EDI standards for the computer-to-computer transaction of business between a NGDC and an NGS have not been established. We note, however, some progress toward this objective in that PECO Energy Company filed on January 18, 2000, a Joint Petition for Settlement of Electronic Data Interchange Issues (Docket Nos. R-00994787 and R-00994787C0001). In this Joint Petition, numerous parties requested that the Commission permit PECO Energy to adopt for gas choice several of the same procedures used by PECO Energy in electric choice. The rationale for this request is that PECO Energy’s potential gas choice customers are dual rate customers who receive a combined electric and gas bill. Regarding EDI rules for the other NGDCs, we anticipate establishment of EDI transaction sets for all NGDCs and NGSs in the near future through a collaborative process. Therefore, we have deleted the phrase in question and will address the need for both NGDCs and NGSs to adhere to EDI protocols when EDI transaction sets are developed for gas choice.

*§ 59.95. Persons authorized to act on behalf of a customer.*

IRRC recommends that the Commission revise § 59.95 so that it addresses the process of adding or deleting persons authorized to act on behalf of a customer. IRRIC raises the following query to illustrate the potential for confusion:

It could become confusing if the NGDC received an original document authorizing Person A to act on the customer’s behalf and six months later received a second document authorizing Person B to act on the customer’s behalf. In this instance, who would be authorized?

*Response*

In answer to the question posed by IRRIC, we believe proper application of § 59.95 would result in the NGDC adding Person B, but not deleting Person A unless so instructed by the customer. Based on our experience to date with electric choice, we do not believe it is necessary to revise the provision at § 59.95 to include a specific process by which an NGDC adds or deletes persons authorized to act on behalf of a customer. The correspond-

ing provision in the *Standards for Changing a Customer’s Electricity Generation Supplier*, § 57.176, does not contain a specific process for adding or deleting persons authorized to make changes on behalf of the customer. To our knowledge, this lack of a specific process in § 57.176 has not adversely affected the electric distribution companies’ implementation of this provision. In our view, it is adequate under § 59.95 to establish that a customer has the right to designate one or more persons to act on his or her behalf to switch suppliers, and to direct that the NGDC obtain that authorization in writing. Therefore, we have not revised the language at § 59.95.

*§ 59.96. Valid written authorization.*

The OCA expresses concern about § 59.96 as it pertains to door-to-door sales practices. The OCA notes that even though a signature is obtained on door-to-door enrollments, the signature may not be from the customer or a person authorized to act on behalf of the customer. While the OCA states that the Commission addresses this concern, in part, by requiring the written authorization form be limited to the sole purpose of obtaining consent, the OCA recommends that the written form clearly indicate that it must be signed by the customer of record or the customer’s designee.

*Response*

We decline to make the change suggested by the OCA. While we can continue to add safeguards, there is no fail-safe mechanism to prevent inappropriate actions of door-to-door marketers. In our opinion, the current proposed requirement provides adequate safeguard by limiting the document to the sole purpose of obtaining proper consent to a change of gas supplier. If an unauthorized party signs an enrollment form, the ratepayer will be alerted to this fact by the 10-day confirmation letter.

*§ 59.97. Customer Dispute Procedures.*

Both the PGA and IRRIC express concerns about the dispute procedures at § 59.97. The PGA asserts that the proposed rulemaking order “does not engage PGA’s arguments on their merits.” The primary objection of the PGA continues to be the requirement at § 59.97(a)(1) that a NGDC must bestow automatic dispute status to contacts it receives from customers alleging unauthorized change of supplier, a practice commonly referred to as “slamming.” In the PGA’s view, this requirement to automatically treat these contacts as disputes is unfair and disproportionate “given the essential fact that slamming results from actions by customers and suppliers, with utilities playing only a tangential, ministerial role.” The PGA argues that NGDC obligations should be proportionate to the NGDC’s involvement in the underlying transaction. The PGA maintains that every allegation of slamming arises from an interaction between a customer and a supplier. Therefore, in the PGA’s view, the NGDC should be able to handle initial contacts alleging slamming as an “initial inquiry” under § 56.2. If the NGDC determines that it fulfilled its duties with regard to change of supplier, the PGA believes the NGDC should be able to refer the customer to the NGS that requested the NGDC to switch the customer’s supplier. Under the PGA’s proposal to split § 59.97(a) into two parts, the NGDC would maintain records of its “initial inquiry” investigation and response, and “such documentation shall be available for inspection by the Commission.” Dispute status would be bestowed by the NGDC only where an NGDC’s initial investigation determines the NGDC did not adequately and accurately fulfill its duties.

The PGA also disagrees with the Commission’s argument that automatic dispute status is justified, in part, to

ensure that customer complaints against an NGDC affiliated supplier are not handled differently than disputes against non-affiliated gas suppliers. The PGA argues that the PUC Order, *Binding Interim Standards of Conduct* at Docket No. M-00991249 F0004, removes this concern as a foundation for imposing automatic dispute status.

Finally, the PGA's addresses the Commission's assertion in the proposed rulemaking order that, since some suppliers will offer both gas and electric supply to customers, it would be counterproductive to the goal of developing competitive gas and electric markets to impose substantively different rules for essentially the same activity. The PGA notes that throughout the various antislamming dockets, it has consistently maintained that NGDCs and EDCs should be on equal footing. The PGA advocates that equal footing should be accomplished by freeing the EDCs from the current requirement in § 57.173, not by extending this same requirement on the NGDCs.

IRRC, noting the PGA's view that the compliance requirements and costs of implementing § 59.97(a)(1) as proposed are unfair and disproportionate, recommends that the Commission fully explain why the NGDCs should be required to consider customer contacts under this provision as "disputes." IRRC suggests that the Commission provide a specific estimate of the costs imposed by this provision and an explanation of why these costs are justified. Further, IRRC recommends that the Commission consider whether a different classification, other than "disputes," would accomplish the same objectives without imposing the same costs on the NGDC.

IRRC also comments on § 59.97(b). This provision requires the Commission's Bureau of Consumer Services (BCS) to issue an informal decision in response to receiving an informal complaint alleging supplier change without customer consent. IRRC asks the Commission to clarify whether the customer is responsible for charges during a BCS review. Additionally, IRRC suggests that the Commission provide the time frame for a BCS decision, and explain as well what the customer's billing status is during this period.

IRRC's final comment regarding § 59.97 relates to subsection (e). IRRC states that, as proposed, this subsection allows the Commission to require an NGS to obtain written authorization from every new customer. IRRC, however, notes that section 2206(b) of the act permits both written and oral authorization. IRRC suggests that the Commission explain its authority to limit consent to written authorization.

#### *Response*

We disagree with the PGA's contention that the Commission has not engaged "on their merits" the PGA's prior comments opposing the proposed requirement at § 59.97(a)(1). The proposed rulemaking order reflects our careful consideration of all comments made by all parties regarding this important provision. We note that comments from other parties reflect agreement with our assessment. The CAC, for example, supports the "Rule as proposed" and states that the "Commission's discussion of the comments submitted reflect thoughtful consideration and the Commission's efforts to protect consumers without imposing excessive administrative burdens on suppliers and distribution companies." The OCA "commends the Commission on setting forth these regulations that strike a reasonable balance between preventing unauthorized switching, while still allowing for the development of competition." Thus, while the PGA's prior comments

relative to § 59.97(a)(1) did not result in modification of this provision, we wish to assure the PGA that its comments were given careful consideration.

In light of the importance of this provision, and in consideration of the most recent comments of the PGA and IRRC, we will review in detail the requirement in § 59.97(a)(1) to consider customer contacts under this provision as "disputes." First, we believe it is important to consider the context of the requirement in § 59.97(a)(1). The interrelated provisions preceding this section set forth a process that is neither excessive nor burdensome, but nevertheless serves to minimize, if not eliminate, instances of slamming. In our opinion, it is logical to anticipate minimal application of a provision designed to address a contingency contrary to the act, namely, changing a customer's NGS without authorization, otherwise known as "slamming."

If the regulations in §§ 59.92 and 59.93 (relating to customer contacts with the NGDC; and customer contacts with the NGS) are applied properly, the overwhelming majority of switches will occur without giving rise to allegations of slamming. A customer will deal directly with a NGS. The NGS, once satisfied they are dealing with a person who meets the definition in § 59.91 of "customer," will receive direct oral confirmation or written authorization from the customer to change their supplier. The NGS will send the switch request to the NGDC in a timely manner. The NGDC, in turn, will send the customer a 10-day confirmation letter. This confirmation letter acts as the first safeguard in ensuring proper switches by providing the NGDC ratepayer with the opportunity to rescind an erroneous or unauthorized switch before it is processed. Clearly, the portions of the proposed regulations which set forth the process of securing customer authorization and effecting a switch virtually eliminates incidents of slamming, provided the rules are applied properly. We therefore believe it is reasonable to assume limited application of § 59.97(a)(1) if one assumes "good faith" application by all parties of the other procedures to ensure customer consent to change of NGS.

To view § 59.97(a)(1) alternatively, as the PGA suggests, as a costly provision that will need to be applied frequently in response to a significant number of slamming complaints presumes an intolerable level of noncompliance with the other provisions of the instant proposed regulations. Assuming, however, for the sake of argument, that PGA's concerns are realized and NGDCs receive a high number of slamming disputes, the Commission must be able to exercise proper oversight. To correct such a pattern of noncompliance, restore the integrity of section 2206(b) of the act, and eliminate a hindrance to the development of a competitive market, the Commission must be able to access all potential violations that may be part of an enforcement action. This requires that records of all slamming complaints must be complete, properly maintained, and available for Commission review. Thus, the requirement in § 59.97(a)(1) is properly viewed as a safeguard to ensure adherence to the intent of section 2206(b) of the act; that is, to ensure customer consent to a change of the NGS. Any occurrences of frequent application by an NGDC of § 59.97 should be short-lived, and therefore not likely to have a significant impact on the NGDC dispute-handling costs.

With respect to IRRC's request that the Commission attempt to provide an estimate of the costs imposed by § 59.97(a)(1), we acknowledge that it is difficult to determine an across-the-board cost estimate on NGDCs' han-

dling of disputes in general, or slamming disputes in particular. Perhaps such difficulties explain, in part, the absence of any cost estimates in any of the three sets of the PGA comments filed in the various antislamming dockets.

One difficulty in attempting to determine an across-the-board estimate on NGDCs' dispute costs, including slamming disputes, is determining costs for every action or activity involved in handling disputes. Some of these costs, such as fixed overhead costs associated with offices, salaries, telecommunication equipment, computers, customer information system, and the like, cover costs for handling other types of customer contacts in addition to dispute handling. This makes it difficult to determine the portion of fixed overhead costs attributable to dispute handling actions versus the portion attributable to other actions.

These other actions respond to customer contacts about matters such as collections, outages and other emergency calls, general inquiries, applications for service, disconnection requests, and the like. In some instances, an action or activity may be performed to address both a dispute as well as another action. For example, an NGDC may obtain an actual meter read at a residence to initiate a new account, and to investigate a billing dispute from the prior occupant that their final bill was not based on an actual read.

A further difficulty is that the activities and costs involved in handling disputes vary from one type of dispute to another. Some disputes, such as claims of improper credit for a payment, are addressed by an internal review of account records and, if necessary, the generation of a corrective transaction. Other disputes, such as a high bill complaint alleging a faulty meter, require expensive field or on-site visits. Moreover, the NGDC cost to perform a particular activity or action varies from one NGDC to another. For example, the on-site visit adds significantly to the cost of investigating a residential customer dispute. Although some NGDCs do not charge for investigative on-site visits, others do. Equitable Gas Company, for example, charges a customer \$25 to conduct an on-site visit as part of a high bill investigation. See Equitable Tariff Rule 6.4. UGI Utilities, on the other hand, charges \$45 under its Tariff Rule 9.7 for the same activity. In both cases, the formally approved tariff charge is waived if the investigation detects a metering error. Disparities such as these in the cost of various NGDC dispute-related actions makes it difficult to calculate a meaningful across-the-board estimate of the cost of handling disputes, including slamming disputes.

While the costs associated with handling disputes, including slamming disputes, are admittedly difficult to estimate, we nevertheless remain convinced for several reasons that the NGDC costs for handling slamming disputes will not significantly impact an NGDC's overall dispute-handling costs. First, as noted previously, we do not anticipate that NGDCs will receive a high number of slamming complaints. Therefore, we do not anticipate the need for NGDCs to increase their fixed overhead costs to handle the volume. Second, expensive on-site or field visit costs, such as those noted previously, will not be part of the NGDC investigations of slamming disputes. And third, slamming disputes to the NGDC will generally be investigated through review of documentation on EDI transactions, and resolved through the generation of additional corrective EDI transactions. We do not believe the unit costs for these activities will be significant.

With respect to IRRC's suggestion that we consider whether a different classification, other than "disputes," would accomplish the same objectives without imposing the same costs on a NGDC, we do not believe that changing the name for these types of customer contacts will significantly change the activities or costs associated with addressing them in an appropriate manner. Following is a summary of the way we anticipate that the Chapter 56 dispute procedures will be applied to a slamming dispute. We include in the following summary a comparison with the actions inherent in the alternative procedures proposed by the PGA.

Slamming complaints will fall under two broad categories: those registered before the switch request is processed, and those registered after the change in supplier has occurred. If, in response to receiving the 10-day confirmation letter required by § 59.93(a)(2), a customer contacts the NGDC to both rescind the switch and allege slamming, the NGDC customer service representative (CSR) must access the customer's account and make a notation of the customer's claim. This step is necessary to satisfy the requirement in § 56.152(1) to document the claim or dispute. This action, and the cost associated with it, would also occur in the PGA's alternative process. Next, the CSR would generate the appropriate EDI transactions to rescind the switch request and, if applicable, reinstate the customer with their prior competitive supplier. Once again, the PGA's alternative procedure would require these actions and incur these costs. The NGDC would also notify the NGS who requested the switch of the customer's slamming allegation. The NGDC would ask the NGS to provide its position regarding the customer's slamming allegation so the NGDC could include this information in its response to the customer. This request to the NGS reflects adherence to the requirements in § 56.151(2) to conduct a reasonable investigation, and the requirement in § 56.151(4) to provide the complainant with the information necessary for an informed judgment. The PGA's alternative procedures eliminate this action and instead would call for the NGDC to inform the customer to pursue the slamming allegation by contacting the NGS directly. Finally, the NGDC would convey the information it gathered to the customer under § 56.151(4), determine satisfaction and prepare the appropriate summary of the resolution in accordance with § 56.151(5). The PGA's proposed procedures also call for documentation of the customer contact and provides "such documentation shall be available for inspection by the Commission." In regard to the dispute requirements in § 56.151(1) and (3), neither would apply to handling these types of disputes. Therefore, the costs associated with applying these two subsections of the Chapter 56 dispute procedures do not come into play.

If, on the other hand, the NGDC receives the slamming dispute after the switch has occurred, the steps noted above would apply, plus the additional step of securing appropriate billing adjustment from the NGS under § 59.97(b). The billing adjustment information from the NGS to the NGDC would be communicated by means of an EDI transaction. The PGA's alternative would place the burden on the customer to contact the NGS to have it rescind the switch and send a billing adjustment transaction. Additionally, the PGA's procedures would require that the customer also contact their prior supplier to have it submit a new enrollment request so that the customer can be switched back to their original supplier.

In our view the activities summarized previously, and the costs associated with implementing them, are reasonable and necessary to resolve these types of complaints,

regardless of whether one refers to them as disputes, initial inquiries, claims, complaints or grievances. Also, many of the actions and costs to apply the Chapter 56 dispute procedures to these types of disputes are also inherent in the PGA's alternative procedures. Our previously expressed view that the costs for handling these types of disputes are not significant is based, in part, on the fact that the NGDC actions primarily involve reviewing and initiating the EDI transactions, making account notations, and preparing a record of the complaint. The NGDC is not determining the validity of the position taken by the NGS. The NGDC is relaying this position along with other pertinent information to the complainant.

With respect to the PGA's contention that the anticipated actions expected of the NGDC under § 59.97 are "unfair and disproportionate," we disagree given the complainant's relationship with the NGDC. The complainant is a customer of the NGDC and one of the consequences of a slam is that it adversely affects the customer's NGDC bills. In effect, the complainant is contacting the NGDC, in part, to prevent or correct inaccurate NGDC billings. The PGA's alternative would require some customers to contact up to three entities to restore their account to its pre-slam status. In our view, promulgating regulations requiring this many contacts from a customer to reverse an unauthorized switch and correct the NGDC billing information would neither be fair to the customer nor proportionate given the customer's role in the slam. When customers are required to contact multiple entities to resolve a complaint they did not cause, they often derisively refer to such practices as "getting the runaround" or being "ping-ponged." The proposed regulations avoid this practice, and do so without significantly affecting the costs incurred by the NGDC.

Besides avoiding the possibility of bouncing the customer between parties, we wish to reiterate some of the other advantages in using the Chapter 56 dispute procedures to handle slamming disputes. The NGDC frontline service representatives are familiar with these procedures and therefore would need little additional training to properly implement them. Furthermore, by requiring that all customer contacts alleging slamming be classified as disputes, all parties can have more confidence that complaints against an NGDC's affiliate will not be treated differently than slamming complaints against other NGSs. Finally, some suppliers will offer both gas and electric supply to customers, and at least one NGDC, PECO Energy, serves dual rate customers who receive a combined electric and gas bill. As we stated in the proposed rulemaking order, it would be counterproductive to our goal of developing competitive gas and electric markets to impose substantively different rules for essentially the same activity. The PGA, while agreeing "that both fixed utility groups should be on equal footing," suggests we maintain consistency by revising the corresponding regulations for electric choice in §§ 57.171—57.179. We disagree. We believe the electric rules to date have proved effective in addressing slamming complaints, and therefore agree with the OCA that "... the Commission's regulations at 52 Pa. Code § 57.171—57.179... provide a sound basis for addressing consumer concerns regarding slamming in retail gas choice."

On the basis of the lengthy rationale presented previously, we remain convinced that the proposed language in § 59.97(a)(1) is both reasonable and necessary to ensure consistent identification and handling of all slamming disputes, and to ensure, if necessary, that complete

dispute records are available for Commission review. Therefore, we will not revise § 59.97(a)(1) as recommended by the PGA.

With respect to IRRC's comments regarding § 59.97(b), IRRC correctly notes that this provision requires the Commission's BCS to issue an informal decision in response to receiving an informal complaint alleging supplier change without consent. Based on the BCS' experience with electric slamming complaints, the BCS will determine on a case-by-case basis whether the customer is responsible for charges incurred during the Commission's review. In many cases we anticipate that the change in the complainant's supplier will not have occurred since the complainant will have responded in a timely manner to the 10-day confirmation letter. In these instances the informal complainant will not be seeking a billing adjustment from the Commission. Instead, the complainant will generally be upset or angry about the attempt to switch without authorization, and will wish to pursue the matter, particularly when the supplier maintains it received the customer's authorization before it submitted the switch request. In cases where the customer fails to rescind the switch request in time to prevent receiving NGS charges, the BCS' informal decision will be based on a review of NGDC or NGS dispute records and issued, under § 56.163, "within a reasonable period." The internal Commission procedures established by the BCS under § 56.211 requests utility reports from the applicable parties within 14 days of notification by the BCS of the filing of an informal slamming complaint. In general, the complainant's billing status pending resolution of the informal slamming complaint reflects a switch back to the original NGS under § 59.97(c), either before the complainant contacts the BCS or shortly thereafter.

Concerning IRRC's comment regarding § 59.97(e), this subsection allows the Commission to order an NGS to obtain written authorization from every new customer. IRRC, however, notes that section 2206(b) of the act permits both written and oral authorization, and therefore, suggests the Commission explain its authority to limit consent to written authorization.

Our authority to impose this limitation on NGSs that have a pattern of violating these regulations is rooted in the general enforcement powers accorded the Commission by 66 Pa.C.S. § 501(a) (relating to general powers). Specifically, the Commission has the power to enforce the Public Utility Code through promulgation of regulations. Therefore, to enforce section 2206(b) of the act on some NGSs, who have a track record of violating the regulations but have not lost their authority to provide natural gas supply services, it may be necessary to limit consent to written authorizations as opposed to oral which may be harder to document. Clearly, the basic intent of section 2206(b) of the act is to ensure customer consent to a change of suppliers. To satisfy the purpose of this provision, it may be necessary for some suppliers to limit their method of obtaining consent.

Given the unquestioned intent of this statutory provision, we submit that this regulation is valid since it is consistent with the statute. *Clough v. Tax Review Board*, 342 A.2d 483 (Pa. Cmwlth. 1975); *Pa. State Education Ass'n v. Com., Dept. Of Public Welfare*, 449 A.2d 89 (Pa. Cmwlth. 1982) *overruled on other grounds by Com. v. Gerstner*, 656 A.2d 108 (Pa. 1995). There is a rational reason for limiting authorization for some suppliers to written authorization, which is, in fact, an authorization allowed by the statute. We have not exceeded our author-

ity and there is no abuse of discretion in setting down this rule. *Brocal Corp. v. Com., Dept. Of Transportation*, 528 A.2d 114 (Pa. 1987).

§ 59.98. *Provider of last resort.*

For clarity, IRRC recommends replacing the phrase, "Sections 59.91—59.97, this section and § 59.99 do not apply . . ." with the phrase, "Sections 59.91 to 59.99 do not apply. . . ."

*Response*

We agree and have made the change in the wording of § 59.98 relating to provider of last resort.

§ 59.99. *Record maintenance.*

IRRC believes the Commission should clarify the meaning of the phrase "made available" in § 59.99. IRRC questions whether records must be sent to the Commission, or whether the Commission will travel to a site to review records. Also, IRRC suggests that the Commission explain what would happen if either an NGDC or NGS does not have a location or a facility in this Commonwealth.

*Response*

With respect to IRRC's concerns, we do not believe it necessary to modify for clarity the language in § 59.99 in light of other complimentary Commission provisions. For example, when the Commission requests records of a slamming dispute as part of a BCS investigation of an informal complaint, the Commission does so in accordance with the requirement in § 56.163. Section 56.163 relates to Commission informal complaint procedures, and provides for review of appropriate records. Generally, companies provide these records by fax, e-mail, or the United States mail. In electric choice, the fact that some suppliers do not have offices located in the Commonwealth has not caused problems securing appropriate records. We do not anticipate that securing appropriate records will be a problem in the BCS' investigation of gas slamming informal complaints. If the Commission needs to review all slamming records of a particular company to conduct an informal investigation under § 3.113, the Commission has full power and authority under 66 Pa.C.S. § 506 (relating to inspection of facilities and records), to inspect records. Also, we note that the sentence in § 59.99 that includes the phrase "made available" contains the same wording as in the corresponding electric choice provision in § 57.179. This wording has not caused problems securing electric slamming records and we have no reason to believe it will cause problems securing gas records. Therefore, we have not modified § 59.99.

*Conclusion*

In finalizing these regulations we believe we have met the intent of section 2206(b) of the act by establishing the necessary protections to assure that customers do not have their natural gas supplier changed without their consent. Accordingly, under 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.4, the Commission hereby adopts final regulations to ensure customer consent to a change of natural gas suppliers, as noted and set forth in Annex A;

*Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 59, are amended by adding §§ 59.91—59.99 to read as set forth in Annex A.

2. 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 review and approval by IRRC.

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

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

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. A copy of this order and Annex A and any accompanying statements of the Commissioners shall be served upon all jurisdictional natural gas distribution companies, and all parties who submitted comments in this rule-making proceeding.

7. A copy of this order shall be posted on the Commission's web site and shall be made available, upon request, to all interested parties.

8. The regulations adopted with this order are effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** Fiscal Note 57-211 remains valid for the final adoption of the subject regulation.

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 3239 (June 24, 2000).)

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 59. GAS SERVICE

#### STANDARDS FOR CHANGING A CUSTOMER'S NATURAL GAS SUPPLIER

##### § 59.91. Definitions.

The following words and terms, when used in this section and §§ 59.92—59.99, have the following meanings, unless the context clearly indicates otherwise:

*Customer*—A retail gas customer as defined by 66 Pa.C.S. § 2202 (relating to definitions). The term includes all persons identified by the NGDC ratepayer of record, under § 59.95 (relating to persons authorized to act on behalf of a customer), as authorized to act on behalf of the NGDC ratepayer of record in changing the NGS for the account.

*Data element*—One or more characters that represent numeric or alphanumeric fields of data.

*NGDC*—*Natural Gas Distribution Company*—An NGDC as defined by 66 Pa.C.S. § 2202.

*NGS*—*Natural gas supplier*—A supplier as defined by 66 Pa.C.S. § 2202.

##### § 59.92. Customer contacts with the NGDC.

When a customer orally contacts the NGDC to request a change of NGS, the NGDC shall notify the customer that the selected NGS shall be contacted directly to initiate the change.

**§ 59.93. Customer contacts with NGSs.**

When a contact occurs between a customer and an NGS to request a change of the NGS, upon receiving direct oral confirmation or written authorization from the customer to change the NGS, the customer's new NGS shall:

(1) Notify the NGDC of the customer's NGS selection by the end of the next business day following completion of the application process. The NGDC shall verify the accuracy of the information provided by the NGS by matching at least two data elements such as name and account number, or address and account number, with NGDC records.

(2) Upon receipt of this notification, the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter shall include notice of a 10-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 10-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of a NGS.

**§ 59.94. Time frame requirement.**

When a customer has provided the NGS with oral confirmation or written authorization to change NGSs, the NGDC shall make the change at the beginning of the first feasible billing period following the 10-day waiting period, as prescribed in § 59.93 (relating to customer contacts with NGSs).

**§ 59.95. Persons authorized to act on behalf of a customer.**

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

**§ 59.96. Valid written authorization.**

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

**§ 59.97. Customer Dispute Procedures.**

(a) When a customer contacts an NGDC or an NGS and alleges that the customer's NGS has been changed without consent, the company contacted shall:

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

(b) When the customer's dispute has been filed within the first two billing periods since the customer should reasonably have known of a change of NGSs and the dispute investigation establishes that the change occurred without the customer's consent, the customer is not responsible for NGS charges rendered during that period. If the customer has made payments during this period, the company responsible for initiating the change of supplier shall issue a complete refund within 30 days of

the close of the dispute. The refund or credit provision applies only to the natural gas supply charges.

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

(d) If a customer files an informal complaint with the Commission alleging that the customer's NGS was changed without the customer's consent, the Bureau of Consumer Services will issue an informal decision that includes a determination of customer liability for any NGS bills or administrative charges that might otherwise apply, rendered since the change of the NGS.

(e) In addition to customer-specific remedies, the Commission may, after investigation and decision, assess fines under 66 Pa.C.S. Chapter 33 (relating to violations and penalties), and initiate proceedings to revoke the license of any NGS that demonstrates a pattern of violating this chapter. The Commission may order a particular NGS that has a pattern of violating this chapter to obtain written authorization from every new customer as a condition of providing service in this Commonwealth. Nothing in this section limits the Commission's authority.

**§ 59.98. Provider of last resort.**

Sections 59.91—59.99 do not apply in instances when the customer's service is discontinued by the NGS and subsequently provided by the provider of last resort because no other NGS is willing to provide service to the customer.

**§ 59.99. Record maintenance.**

Each NGDC and each NGS shall preserve all records relating to unauthorized change of NGS disputes for 3 years from the date the customers filed the disputes. These records shall be made available to the Commission or its staff upon request.

[Pa.B. Doc. No. 00-1162. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Title 61—REVENUE**

**DEPARTMENT OF REVENUE  
[61 PA. CODE CHS. 32 AND 60]**

**Sales and Use Tax; Commercial Motion Pictures**

The Department of Revenue (Department), under authority contained in section 270 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7270), by this order adds § 32.38 (relating to commercial motion pictures) and deletes § 60.22 (relating to commercial motion pictures) to read as set forth in Annex A.

*Purpose of Regulation*

The Department is setting forth its interpretation of section 204(54) of the TRC (72 P.S. § 7204(54)) regarding the Sales and Use Tax exemption for the sale at retail to or use by a producer of commercial motion pictures of any tangible personal property directly used in the production of a feature-length commercial motion picture distributed to a national audience.

*Explanation of Regulatory Requirements*

Subsection (a) sets forth the definition of various terms for use in § 32.38. Subsection (b) details the scope of the exemption. To effect legislative intent, the Department has added language in § 32.38(b)(1)(ii). If this subparagraph were not added, the purchase of the tangible personal property would be exempt but the repair or alteration would be subject to tax. For example, the purchase of film would be exempt but the development charges would be subject to tax which clearly is not the legislative intent. Subsection (c) describes the treatment of property and services purchased for resale. Subsection (d) provides that charges to install, repair, maintain or service equipment, parts, tools and supplies directly used in the production of a commercial motion picture are exempt from tax. Subsection (e) explains that utilities used directly and exclusively in the production of a commercial motion picture are exempt from tax. Examples of taxable and exempt electricity usage are provided. An explanation regarding the use of exemption certificates is in subsection (f).

With the adoption of § 32.38, the pronouncement in § 60.22 is no longer necessary and is therefore being deleted.

Section 204(54) requires that the purchaser furnish to the vendor a certificate substantially in the form as the Department of Community and Economic Development (DCED) may prescribe by regulation. See 30 Pa.B. 3035 (June 17, 2000). In compliance with this provision, the DCED adopted 12 Pa. Code § 33.1 (relating to form required) which provides that producers of motion pictures, who are qualified to take advantage of section 204(54) of the TRC, shall use a Pennsylvania Exemption Certificate (Form REV-1220).

*Affected Parties*

Producers of motion pictures who qualify to take advantage of section 204(54) of the TRC may be affected by the regulation.

*Comment and Response Summary*

Notice of proposed rulemaking was published at 28 Pa.B. 1320 (March 14, 1998). This proposal is being adopted with changes as set forth in Annex A.

The Department received two comments from the public during the public comment period. The Department also received comments from the Independent Regulatory Review Commission (IRRC). No comments were received from the House Finance Committee or the Senate Finance Committee.

The amendments to the proposed rulemaking in response to comments are as follows:

(1) IRRC's first comment related to the inconsistent use of the terms "exemption" and "exclusion" in § 32.38. The problem relating to the use of these two terms originates with the statutory provision. The title of section 204 of the TRC is exclusions from tax; however, within paragraph (54) the term "exempt" is used. In its comments, IRRC concluded that because paragraph (54) references the term exempt, that references to "exclusion" in the regulation should be amended to "exemption." The Department also received a public comment with regard to the use of the two terms in the proposal. Contrary to IRRC, the public comment suggested that the Department use the term "exclusion" throughout the regulation instead of "exemption." The Department agrees with IRRC and the public comment that for consistency, the regulation should use only one term. The Department

agrees with the revision suggested by IRRC, and has amended § 32.38(b)(2) and (3) as well as the title of subsection (b) to reference the term exemption.

(2) IRRC's second area of concern related to subsection (b) which details the scope of the exemption. IRRC suggested that the subsection does not describe the extent of the scope of the regulation and that the text should be amended and reorganized. In response to the concerns raised by IRRC, the Department has amended § 32.38(b) by removing proposed paragraph (2) and creating a definition for the term "production of a commercial motion picture." With the deletion of paragraph (2), the remaining paragraphs were renumbered accordingly. In addition, the name of subsection (b) has been changed from "scope" to "scope of the exemption." Section 32.38(b)(1) has been amended to more clearly set forth the general scope of the regulation. Finally, in accordance with IRRC's suggestion, the Department has added the phrase "of a commercial motion picture" to § 32.38(b)(2) (proposed § 32.38(b)(3)).

(3) Because section 204(54) of the TRC specifically provides that the purchaser shall furnish to the vendor a certificate substantially in the form as the DCED may prescribe by regulation, IRRC and a public commentator both suggested that the Department make specific reference to the DCED regulation that prescribes the form. The Department agrees with the comment and has amended § 32.38(f)(1) accordingly.

For clarity, the Department edited and reorganized the provisions of subsection (f) relating to exemption certificates.

The Department has also amended a style change to the term "national" when it published the proposed rulemaking. The Department has amended all references to the term to all lower case letters for two reasons. First, the enabling statute uses all lower case letters. Second, by using an initial capital, the term would be restricting the phrase "National audience" to just the United States and it is the Department's opinion that the term should apply to audiences both within and outside the United States.

Comments that did not result in amendments to the regulation are as follows:

(1) Section 32.38(e) relates to utilities used in production. The subsection provides examples of taxable and exempt electricity usage. IRRC suggested that the Department group examples of usage exempt from tax in one subsection and usage subject to tax in a second subsection. Since there are only three examples involved, the Department does not believe separate subsections are necessary.

(2) As one of its comments to § 32.38(b), IRRC suggested that the subsection be entitled "application" instead of "scope." Scope is a customary word utilized in many of the Department's regulations, whereas application is not used. The Department does not see the merit in introducing a new term in this regulation; however, as mentioned previously, the title of the subsection has been expanded to state "scope of the exemption."

*Fiscal Impact*

The Department has determined that the amendments will have no significant impact on the Commonwealth. The Department has determined that the expenditure for the exclusion provided by section 204(54) of the TRC is estimated to be \$0.8 million for Fiscal Year 1997-98.



*Paperwork*

The amendments will require no additional paperwork for the public or the Commonwealth.

*Effectiveness/Sunset Date*

The amendments will become effective upon final publication in the *Pennsylvania Bulletin*. The regulation is 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 amendments 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 March 2, 1998, the Department submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 1320, 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(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation. In preparing this final-form regulation, the Department has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the Committees on May 2, 2000, and was approved by IRRC on May 11, 2000, in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745a(e)).

*Findings*

The Department finds that:

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

(2) The amendment is 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, are amended by adding § 32.38 and deleting § 60.22 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 30 Pa.B. 2688 (June 3, 2000).)*

**Fiscal Note:** Fiscal Note 15-400 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart B. GENERAL FUND REVENUES**

**ARTICLE II. SALES AND USE TAX**

**CHAPTER 32. EXEMPTIONS**

**§ 32.38. Commercial motion pictures.**

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

*Commercial motion picture*—A series of related images at least 40 minutes in length either on film, tape or other similar medium, when the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced for distribution to a national audience. The term does not include motion pictures produced for private noncommercial use, including motion pictures of weddings or graduations to be used as family mementos, accident reconstruction videotapes to be used for legal analysis or student films to be used for class projects.

*Distribution to a national audience*—Distribution by means of theatrical release or for exhibition on national television by a television network or through syndication.

*Producer*—A purchaser who is responsible for the production of a commercial motion picture.

*Production of a commercial motion picture*—The process of recording the actions taking place within a commercial motion picture and includes the actual shooting of the picture, either on location or at a motion picture studio, as well as the editing, dubbing and mixing of a commercial motion picture.

(b) *Scope of the exemption.*

(1) The sale at retail to or use by a producer of tangible personal property and services thereto that are directly used in the production of a commercial motion picture distributed to a national audience is exempt from Sales and Use Tax.

(i) Examples of tangible personal property that may be directly used in the production of a commercial motion picture include film and tape products; set construction equipment and supplies; props, including livestock, motor vehicles, books, paintings and other tangible personal property when photographed as part of a scene; wardrobe; grip and lighting equipment; cameras; camera mounts including tripods; jib arms; steadicams; cranes; dollies; generators; walkie talkies; boats, trains, helicopters, airplanes, vans, trucks or other motor vehicles specifically equipped for motion picture production or used solely for production activities, wardrobe and makeup trailers; special effects and stunt equipment; video assists, videotape recorders, cables and connectors; sound recording equipment; and editing, dubbing and mixing equipment.

(ii) Examples of services performed upon tangible personal property that may be directly used in the production of a commercial motion picture include sound or music recording; creation of special effects or animation on film, tape or other audiovisual medium, including animation drawings, inkings, paintings, tracing and celluloid "cels"; preparation of storyboards for either animation or live photography; technological modification, including

colorizing; computer graphics, including transfers of computer graphics on computer-generated media; sound dubbing or sound mixing; sound or music or effect transferring; film or tape editing or cutting; developing or processing of negative or positive prints; timing; coding or encoding; creation of opticals, titles, main or end credits; captioning; and medium transfers (for example film to tape, tape to tape).

(2) The exemption from Sales and Use Tax provided for property and services directly used in production of a commercial motion picture does not apply to either:

(i) The purchase of property used for administrative purposes. Administrative purposes includes activities such as sales promotions, general office work, ordering and receiving materials, making travel arrangements, the preparation of shooting schedules and the preparation of work and payroll records.

(ii) The purchase of catering services, as well as secretarial services, disinfecting or pest control services, building maintenance or cleaning services, help supply services, lawn care services, self-storage services and employment agency services, as those terms are defined under section 201 of the TRC (72 P. S. § 7201). However, charges for employment agency services provided by theatrical employment agencies and motion picture casting bureaus are not subject to Sales or Use Tax (72 P. S. § 7201(bb)).

(3) When a single unit of tangible personal property is used in two different activities, one of which is a direct use and the other of which is not, the property will not be exempted from tax unless the producer makes use of the property more than 50% of the time directly in the production phase of a commercial motion picture.

(c) *Property and services purchased for resale.*

(1) A producer may make certain purchases for resale. Materials and services on these materials that will become a component of the product sold may be purchased exempt from tax, if a properly completed exemption certificate is issued to the supplier.

(2) For example, the original negative is the medium (film, tape, and the like) first used in the camera when photographing live action, special effects, animation, computer generated images, and the like. The developing of the film is a service that is purchased for resale because the producer is selling the film on which the service is being performed.

(d) *Installation, repair, maintenance and service of tangible personal property.* Charges to install, repair, main-

tain or service equipment, parts, tools and supplies directly used in the production of a commercial motion picture are exempt from sales and use taxes. Examples of these services include:

(1) Installing illumination lighting and sound equipment.

(2) Installing special effects riggings.

(3) Connecting wiring from electrical sources to production equipment.

(e) *Utilities used in production.* Utilities used directly and exclusively in the production of a commercial motion picture are exempt from tax. Examples of taxable and exempt electricity usage:

(1) Electricity used for set lighting is exempt.

(2) Electricity used in a mobile trailer maintained for actors is taxable.

(3) Electricity used to light and heat a temporary or permanent office is taxable.

(f) *Exemption certificates.*

(1) A producer shall furnish a properly completed exemption certificate as required under 12 Pa. Code § 33.1 (relating to form required) to its vendors when claiming an exemption from the sale at retail or use of the following:

(i) Tangible personal property that becomes a physical component part of the commercial motion picture and is actually transferred to the customer.

(ii) Production machinery, equipment, parts, tools or supplies used or consumed directly in the production of a motion picture.

(iii) Repairs and maintenance services purchased by a producer which are performed upon production machinery, equipment, parts, tools or supplies used or consumed directly in the production of a motion picture.

(2) The exemption certificate shall be annotated in the space marked "other" as follows: "Property or services will be resold or shall be directly used or consumed in the production of a commercial motion picture under section 204(54) of the TRC (72 P. S. § 7204(54))."

#### CHAPTER 60. SALES AND USE TAX PRONOUNCEMENTS—STATEMENTS OF POLICY

##### § 60.22. (Reserved).

[Pa.B. Doc. No. 00-1163. Filed for public inspection July 7, 2000, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 711]

### Charter School Services and Programs for Children with Disabilities

The Department of Education (Department) proposes to add Chapter 711 (relating to charter school services and programs for children with disabilities) to read as set forth at Annex A, under the authority of sections 17-1701-A—17-1732-A of the Public School Code of 1949 (24 P. S. §§ 17-1701-A—17-1732-A) (act).

#### *Purpose*

Under section 17-1732-A(c)(2) of the act, the Secretary has the authority and the responsibility to ensure that charter schools comply with Federal laws and regulations governing children with disabilities, and further provides that the Secretary shall promulgate regulations to implement this provision. The missions, programs and curricula of charter schools are to promote the inclusion of all children. The proposed regulations can reduce the cost by providing children with a more flexible educational environment that can respond to a child's educational needs. These proposed regulations are promulgated to facilitate compliance with Federal statute, regulation and court decrees that apply in this Commonwealth to children with disabilities. The purposes of proposed Chapter 711 are to develop procedures for special education in charter schools and adopt by reference applicable Federal regulations. The proposed regulations will assist charter schools with compliance with the Federal laws, regulations and court decrees as they apply to children with disabilities.

#### *Requirements of the Regulations*

These proposed regulations define terms related to special education for charter schools and outline the Department's authority in its duties to assure charter schools' compliance with the Federal laws, regulations and court decrees as they apply to children with disabilities. These proposed regulations adopt provisions of specific Federal law (IDEA/504) that apply to special education in charter schools. These proposed regulations also set forth standards applicable to enrollment criteria, timelines for transfer of records between schools and payments for special education between the school district of residence and the charter schools.

Proposed Chapter 711 contains requirements for child find duties in charter schools as well as evaluation and reevaluation of students, Individualized Education Programs (IEP), transportation, educational placement and extended school year. The procedural safeguards section outlines requirements for suspension and expulsion and the charter school's access to the due process system.

#### *Cost and Paperwork Estimates*

The proposed regulations will ensure compliance with the Federal laws, regulations and court decrees as they apply to children with disabilities while not adding to the cost of providing special education services in charter schools.

Charter schools are local education agencies that must provide a Free Appropriate Public Education (FAPE) to

all who enroll. The missions and programs of charter schools are diverse, often allowing children to make educational progress without special education services. By following Federal statutes, regulations and court decrees, charter schools have the opportunity to minimize redundant paperwork and reroute their financial resources toward programs and services for children who need them. Because charter schools are local education agencies that are supervised by the Department, they will have access to systems already created and developed by the Department and therefore will not need to create and develop their own. Charter schools will be able to access staff training through Intermediate Units and the Instructional Support Centers. Charter schools and parents will have access to the due process and complaint system that has already been developed by the Department to resolve conflicts. Reliance upon proven systems already in place will reduce the cost and paperwork associated with the staff development and complaint management systems that are required for compliance with the Federal laws, regulations and court decrees as they apply to children with disabilities.

#### *Effective Date*

These proposed regulations will become effective upon final publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The Department will review the effectiveness of Chapter 711 every 4 years; therefore, no sunset date is necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 27, 2000, the Department submitted a copy of the proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. In addition to submitting the proposed regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed regulations, it will notify the Department within 10 days from the close of the Committee's review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

#### *Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding proposed Chapter 711 to Dr. Dale Baker, Office of Educational Initiatives, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*. Persons needing additional information regarding this proposal may contact Dr. Dale Baker.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Dr. Dale Baker at (717) 705-0930 or TDD at (717) 783-8445.

Alternative formats of these proposed regulations (for example, Braille, large print, or cassette tape) can be made available to members of the public upon request to Dr. Dale Baker.

EUGENE W. HICKOK,  
*Secretary*

**Fiscal Note:** 6-269. No fiscal impact; (8) recommends adoption.

### Annex A

## TITLE 22. EDUCATION

### PART XX. CHARTER SCHOOLS

#### CHAPTER 711. CHARTER SCHOOL SERVICES AND PROGRAMS FOR CHILDREN WITH DISABILITIES

##### GENERAL PROVISION AND SUPERVISION

Sec.	
711.1.	Definitions.
711.2.	Purpose and intent.
711.3.	Incorporation of Federal laws.
711.4.	Supervision.
711.5.	Personnel.
711.6.	Annual report.
711.7.	Enrollment.
711.8.	Education records.
711.9.	Payments.

##### IDENTIFICATION AND EVALUATION

711.21.	Child find.
711.22.	Evaluation and reevaluation.

##### IEP

711.41.	IEP.
711.42.	Transportation.
711.43.	Educational placement.
711.44.	ESY.

##### PROCEDURAL SAFEGUARDS

711.61.	Suspension and expulsion.
711.62.	Procedural safeguards.

##### GENERAL PROVISION AND SUPERVISION

###### § 711.1. Definitions.

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

*Act*—The Charter School Law (24 P. S. §§ 17-1701-A—17-1732-A).

*At-risk student*—A student at risk of educational failure because of limited English proficiency, poverty, community factors, truancy, academic difficulties or economic disadvantage.

*Charter school*—An independent public school established and operated under a charter granted under the act. The term also includes regional charter schools as defined by the act.

*Child with a disability*—As defined in 34 CFR 300.7 (relating to child with a disability).

*Department*—The Department of Education of the Commonwealth.

*ESY*—Extended school year.

*FAPE*—Free appropriate public education.

*IDEA*—Individuals with Disabilities Education Act (20 U.S.C.A. §§ 1400—1485).

*IEP*—Individualized education program.

*SEA*—State education agency—The Department of Education of the Commonwealth.

*Secretary*—The Secretary of the Department of Education.

*Section 504*—Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794).

###### § 711.2. Purpose and intent.

(a) This chapter specifies how the Commonwealth, through the Department, will meet its obligation to ensure that charter schools comply with the IDEA and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children), or Section 504 and its implementing regulations in 34 CFR Part 104 (relating to nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance).

(b) This chapter does not prevent a charter school and a school district from entering into agreements regarding the provision of services and programs to comply with this chapter, whether or not the agreements involve payment for the services and programs by the charter school.

###### § 711.3. Incorporation of Federal laws.

(a) Charter schools assume the duty to ensure that a FAPE is available to a child with a disability in compliance with the IDEA and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children) or Section 504 and its implementing regulations in 34 CFR Part 104 (relating to nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance).

(b) Except as expressly provided in this chapter, 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) is incorporated by reference as follows: §§ 300.4—300.26, 300.28, 300.29, 300.300, 300.302—300.309, 300.312, 300.313, 300.320, 300.321, 300.340, 300.342—300.346, 300.347(a) and (b), 300.348—300.350, 300.403, 300.500—300.515, 300.519—300.529, 300.531—300.536, 300.540—300.543, 300.550—300.553, 300.560—300.573 and § 300.576.

(c) Except as expressly provided in this chapter, 34 CFR Part 104 is incorporated by reference as follows: 104.3(f), (h)—(j), (k)(2), (l), 104.4—104.8, 104.11, 104.12 and 104.21—104.37.

###### § 711.4. Supervision.

(a) The Commonwealth, through the Department as the SEA, will provide general supervision of special education services and programs provided under this chapter to ensure that charter schools comply with Federal laws and regulations governing children with disabilities.

(b) The Department will establish and implement methods of administration, including effective and proper methods of monitoring, directing corrective action, and ensuring compliance, to ensure that charter schools comply with Federal laws and regulations governing children with disabilities.

(c) Charter schools shall:

(1) Comply with the Department's compliance monitoring requirements.

(2) Provide all information requested by the Department.

(3) Complete all corrective action required by the Department.

**§ 711.5. Personnel.**

Persons who provide special education or related services to children with disabilities in charter schools must have appropriate certification, notwithstanding section 1724-A of the act (24 P. S. § 17-1724-A).

**§ 711.6. Annual report.**

(a) The annual report required under section 1728-A(b) of the act (24 P. S. § 17-1728-A(b)) shall include:

- (1) The number of students in special education.
- (2) The services, programs and resources being implemented by the charter school staff.
- (3) The services and programs utilized by the charter school through contracting with another public agency, other organizations or individuals.
- (4) The services and programs utilized by the charter school through the assistance of the intermediate unit in which the charter school is located under section 1725-A(a)(4) of the act (24 P. S. 17-1725-A(a)(4)).
- (5) Staff training in special education utilized by the charter school through the intermediate unit and instructional support centers.

(b) The annual report shall include an assurance that the charter school is in compliance with Federal laws and regulations governing children with disabilities and the requirements of this chapter.

**§ 711.7. Enrollment.**

(a) A charter school may not discriminate in its admission policies or practices on the basis of status as a person with a disability.

(b) Charter schools may establish reasonable criteria, which shall be listed in their charters, to be used in evaluating prospective students. These criteria may not discriminate against an otherwise qualified handicapped child because of the child's handicap.

(c) A charter school may not discriminate in its admission policies or practices on the basis of intellectual ability, except as follows:

(1) The criteria may be used to assess intellectual ability relating solely to the charter school's particular grade level or area of concentration or targeted population group composed of at-risk students.

(2) The criteria may include prerequisites specified in the school's charter that directly relate to the school's mission and assess whether the child will be able to benefit from the offered program.

(3) The criteria may not include measures of achievement or aptitude such as intelligence tests, standardized achievement tests and scores resulting from testing associated with reading and math programs.

**§ 711.8. Education records.**

(a) When the educational records for a child with a disability are transferred from a public agency, private school, approved private school or private agency, to a charter school, the public agency, private school, approved private school or private agency from which the child transferred shall forward the child's educational records, including the most recent IEP, within 10 days after the public agency, private school, approved private school or private agency is notified in writing that the child is enrolled in a charter school.

(b) When the educational records for a child with a disability are transferred to a public agency, private

school, approved private school or private agency from a charter school, the charter school shall forward the child's educational records, including the most recent IEP, within 10 school days after the charter school is notified in writing that the child is enrolled at another public agency, private school, approved private school or private agency.

**§ 711.9. Payments.**

(a) The child's school district of residence shall provide the special education payment required by section 1725-A(a)(3) of the act (24 P. S. § 17-1725-A(a)(3)) to the charter school either when:

(1) A child with an IEP from a Pennsylvania school entity begins attending the charter school.

(2) The charter school has identified an enrolled child as a child with a disability under the IDEA, has developed an IEP for the child, and notifies the district of residence of the identification.

(b) When a child for whom a charter school received the special education payment required under section 1725-A(a)(3) of the act enrolls in another public agency, private school, approved private school or private agency in this Commonwealth, the charter school shall immediately inform the child's school district of residence that its payment responsibilities under section 1725-A(a)(3) of the act have ceased.

**IDENTIFICATION AND EVALUATION****§ 711.21. Child find.**

(a) To enable the Commonwealth to meet its obligations under 34 CFR 300.125 (relating to child find), each charter school shall establish written policies and procedures to ensure that all children with disabilities that are enrolled in the charter school, and who are in need of special education and related services, are identified and evaluated.

(b) Each charter school's written policy shall include:

(1) Public awareness activities sufficient to inform parents of children applying to or enrolled in the charter school of available special education services and programs and how to request those services and programs.

(2) Systematic screening activities that lead to the identification and evaluation of children with disabilities enrolled in the charter school.

**§ 711.22. Evaluation and reevaluation.**

Charter schools shall reevaluate students with disabilities every 3 years, unless a shorter period is required by existing law.

**IEP****§ 711.41. IEP.**

When a child with a disability transfers to a charter school from another public agency, private school, approved private school or private agency in this Commonwealth, the charter school is responsible upon enrollment for ensuring that the child receives special education and related services in conformity with an IEP, either by adopting the existing IEP or by developing a new IEP for the child.

**§ 711.42. Transportation.**

(a) The child's school district of residence is responsible for ensuring that transportation to and from the charter school, when recommended as a related service in an IEP

or as an accommodation under Section 504, is provided at no cost to the parent or charter school.

(b) This chapter does not prohibit a charter school and a school district from entering into agreements regarding the provision of transportation as a related service or accommodation to children with disabilities.

**§ 711.43. Educational placement.**

(a) When the IEP team at a charter school places a child in another public agency, private school, approved private school or private agency, and the parents choose to keep their child enrolled in the charter school, the charter school is obligated to pay for that placement.

(b) When a charter school places a child in an approved private school, the charter school shall be treated as the child's school district of residence for purposes of calculating cost of tuition and maintenance at the approved private school under section 1376(a) of the Public School Code of 1949 (24 P. S. § 13-1376(a)).

**§ 711.44. ESY.**

To implement 34 CFR 300.309, the State ESY Standards are as follows:

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

*Recoupment*—Recovery of skills or behavioral patterns, or both, specified on the IEP to a level demonstrated prior to the interruption of educational programming.

*Regression*—Reversion to a lower level of functioning evidenced by a measurable decrease in the level of skills or behaviors which occur as the result of an interruption in educational programming.

(2) An eligible student with disabilities is entitled to ESY services if regression caused by interruption in educational programming and limited recoupment capacity, or other factors, makes it unlikely that the student will attain or maintain skills and behavior relevant to established IEP goals and objectives.

(3) Factors such as those listed in this section shall be considered by the IEP teams whenever relevant, but no single factor is determinative of need for ESY services.

(4) Factors in addition to recoupment and regression include:

(i) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(ii) The extent to which a skill or behavior is particularly crucial to reaching the goals of self-sufficiency and independence from caretakers.

(iii) The extent to which successive interruptions in educational programming reduce a student's motivation and trust and may lead to an irreversible withdrawal from the learning process.

(5) Charter schools are responsible for considering the need for ESY services for each eligible student, including each student placed by the charter school in an approved private school or other placement site not operated by the charter school.

(6) Consideration of the need for ESY services shall occur at the IEP team meeting to be convened at least annually, or more frequently if conditions warrant consistent with Federal requirements in 34 CFR 300.343(c) (relating to IEP meetings). Consideration means that ESY services are raised and discussed at the IEP team

meeting. In making a determination that a student is eligible for ESY services, the IEP team shall rely on criteria in this section and applicable judicial decisions.

(7) When considering the need for ESY services, the IEP team shall pay particular attention to students with disabilities that are thought of as severe (that is, students with autism/pervasive developmental disorder, serious emotional disturbance, severe levels of mental retardation, degenerative impairments with mental involvement and severe multiple disabilities) and to IEP goals that are associated with self-sufficiency and independence from caretakers. IEP teams may not limit their consideration of need for ESY services to students with particular types or degrees of disability, particular student goals, particular methods of programming provided during the regular school term, or the availability of retrospective data on regression and recoupment.

(8) ESY services shall be designed to attain or maintain skills and behaviors relevant to established IEP goals and objectives.

(9) Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential, and year-to-year progress may include the following:

(i) Progress on goals in consecutive IEPs.

(ii) Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.

(iii) Reports by parents of negative changes in adaptive behaviors or in other skill areas.

(iv) Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.

(v) Observations and opinions by educators, parents and others.

(vi) Results of tests including criterion-referenced tests, curriculum-based assessments, ecological life skills assessments and other equivalent measures.

(10) Documentation that ESY services have been considered shall be made on each eligible student's IEP. When determined to be necessary by the IEP team, ESY services shall be reflected on a student's IEP.

(11) The need for ESY services will not be based on any of the following:

(i) The desire or need for day care or respite care services.

(ii) The desire or need for a summer recreation program.

(iii) The desire or need for other programs or services which, while they may provide educational benefit, are not required to ensure the provision of a free appropriate public education.

**PROCEDURAL SAFEGUARDS**

**§ 711.61. Suspension and expulsion.**

(a) For purposes of this chapter, the terms "suspension" and "expulsion" have the meanings as set forth in § 12.6 (relating to exclusions from school).

(b) Charter schools shall comply with Chapter 12 (relating to students).

(c) Any removal from the current educational placement is a change of placement for a student who is identified with mental retardation.

(d) When a child with a disability has been expelled from a charter school, the charter school shall provide the child with a disability with the education required under § 12.6(e) until the charter school is notified in writing that the child is enrolled in another public agency, private school, approved private school or private agency.

#### § 711.62. Procedural safeguards.

The following apply to coordination services for special education and Section 504 hearings and to hearing officers and appellate hearing officers:

(1) The Secretary may contract for coordination services in support of hearings conducted by local charter schools. The coordination services shall be provided on behalf of charter schools and may include arrangements for stenographic services, arrangements for hearing officer services, scheduling of hearings and other functions in support of procedural consistency and the rights of the parties to hearings.

(2) If a charter school chooses not to utilize the coordination services under paragraph (1), it may conduct hearings independent of the services if it has obtained the Secretary's approval of procedures that similarly provide for procedural consistency and ensure the rights of the parties. In the absence of approval, a charter school which receives a request for an impartial due process hearing shall forward the request to the entity providing coordination services under paragraph (1) without delay.

(3) The Secretary will contract for the services of panels of appellate hearing officers and may compensate appellate hearing officers for their services. The compensation does not cause the appellate hearing officers to become employees of the Department.

(4) Neither a hearing officer nor an appellate hearing officer may be an employe or agent of a school entity in which the parents or student or young child resides, or of an agency which is responsible for the education or care of the student or young child. A hearing officer or appellate hearing officer shall promptly inform the parties of a personal or professional relationship the officer has or has had with any of the parties.

[Pa.B. Doc. No. 00-1164. Filed for public inspection July 7, 2000, 9:00 a.m.]

## STATE ETHICS COMMISSION

[51 PA. CODE CHS. 17 AND 21]

### Procedure

The State Ethics Commission (Commission) proposes to amend 51 Pa. Code to read as set forth in Annex A. The amendments are proposed under the authority of 65 Pa.C.S. §§ 1101—1113 (relating to the Public Official and Employee Ethics Act) (act).

These amendments are proposed in accordance with section 1107(1) of the act (relating to powers and duties of commission) which directs the Commission to promulgate rules and regulations necessary to carry out the provisions of the act.

The proposed amendments implement the act, which directs the Commission to administer the act to public

officials, public employes, candidates for public office and other persons involved in an official activity with the foregoing persons.

The proposed amendments seek to address three specific matters of concern. First, amendments are proposed to insert general or cross references to Chapters 31 and 35 (relating to general provisions; and reporting) (lobbying disclosure regulations) to correspond with references appearing in that part. Second, the reporting thresholds in Chapter 17 are proposed to be amended in conformity with the existing statutory thresholds in section 1105(b) of the act (relating to powers and duties of commission). Third, a new section on confidentiality is proposed to be added to Chapter 21 which includes the eight statutory exceptions to confidentiality plus two additional exceptions which are proposed. The two additional exceptions are proposed under section 1108(k)(9) of the act (relating to investigation by commission) which authorizes the Commission to promulgate other exceptions to confidentiality as it may direct by regulation. The two exceptions are proposed so as to be in conformity with judicial precedent.

#### *Fiscal Impact and Paperwork Requirements*

These proposed amendments have no fiscal impact upon the Commonwealth.

#### *Effective Date*

The amendments will take effect upon final publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The effectiveness of these amendments will be reviewed by the Commission periodically. Thus, no sunset date is necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 22, 2000, the Commission submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and Senate Committee on Rules and Executive Nominations. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has any objections to any portion of the proposed amendments it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised prior to final publication of the amendments, by the Commission, the General Assembly and the Governor.

#### *Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to John J. Contino, Executive Director, or Vincent J. Dopko, Chief Counsel, State Ethics Commission, P. O. Box 11470, Room 309, Finance Building, Harrisburg, PA

17108-1470 within 30 days following publication in the *Pennsylvania Bulletin*, (717) 783-1610.

JOHN J. CONTINO,  
*Executive Director*

**Fiscal Note:** 63-7. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 51. PUBLIC OFFICERS**

**PART I. STATE ETHICS COMMISSION**

**CHAPTER 17. STATEMENTS OF FINANCIAL INTERESTS, CONTENT**

**§ 17.3. Creditors.**

(a) Each creditor to whom is owed in excess of \$[ 5,000 ] 6,500 or the amount as adjusted under [ section 5 of the act ( ) 65 [ P. S. ] Pa.C.S. § [ 405(d) ] 1105(d) (relating to powers and duties of commission) and § 19.5 (relating to reporting threshold adjustments) shall be reported.

\* \* \* \* \*

**§ 17.4. Income.**

(a) The name and address of a direct or indirect source of income, including employers, in the aggregate of [ \$1,000 ] 1,300 or more or the amount as adjusted under [ section 5 of the act ( ) 65 [ P. S. ] Pa.C.S. § [ 405(d) ] 1105(d) (relating to powers and duties of commission) and § 19.5 (relating to reporting threshold adjustments) shall be reported unless the disclosure would require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.

\* \* \* \* \*

**§ 17.5. Gifts.**

(a) The name and address of the source of a gift valued in the aggregate at [ 200 ] 250 or more or the amount as adjusted under [ section 5 of the act ( ) 65 [ P. S. ] Pa.C.S. § [ 405(d) ] 1105(d) (relating to powers and duties of commission) and § 19.5 (relating to reporting threshold adjustments) shall be reported.

\* \* \* \* \*

**§ 17.6. Expense reimbursement.**

(a) The name and address of the source and the amount of a payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where the actual expenses for transportation and lodging or hospitality exceed \$[ 500 ] 650, or the amount as adjusted under [ section 5 of the act ] (65 [ P. S. ] Pa.C.S. § [ 405(d) ] 1105(d) (relating to powers and duties of commission) and § 19.5 (relating to reporting threshold adjustments), in the course of a single occurrence shall be reported.

\* \* \* \* \*

**§ 17.11. Application of lobbying disclosure regulations.**

See, lobbying disclosure regulations, Chapters 31 and 35 (relating to general provisions; and reporting), as to the differentiation between “gift” and “transportation and lodging or hospitality received in connection with public office or employment” and the determination of the amounts for reporting.

**CHAPTER 21. INVESTIGATIONS**

**GENERAL**

**§ 21.6. Confidentiality.**

As a general rule, a person may not disclose or acknowledge, to another person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the Commission. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this chapter or 65 Pa.C.S. § 1108 (relating to investigations by commission), when the matters pertain to one or more of the following:

- (1) Final orders of the Commission as provided in 65 Pa.C.S. § 1108(h).
- (2) Hearings conducted in public under 65 Pa.C.S. § 1108(g).
- (3) For the purpose of seeking advice of legal counsel.
- (4) Filing an appeal from a Commission order.
- (5) Communicating with the Commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the Commission.
- (6) Consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency.
- (7) Testifying under oath before a governmental body or a similar body of the United States of America.
- (8) Information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of.
- (9) The divulgence of information that third parties have legally obtained about a confidential Commission proceeding.
- (10) The divulgence by individuals who are interviewees or witnesses as to confidential Commission proceedings regarding information that was already in their possession or obtained as a result of participation in those proceedings.

[Pa.B. Doc. No. 00-1165. Filed for public inspection July 7, 2000, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Conservation and Natural Resources

The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective June 22, 2000.

The following organization chart at 30 Pa.B. 3470 (July 8, 2000) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 00-1166. Filed for public inspection July 7, 2000, 9:00 a.m.]

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Board of Probation and Parole

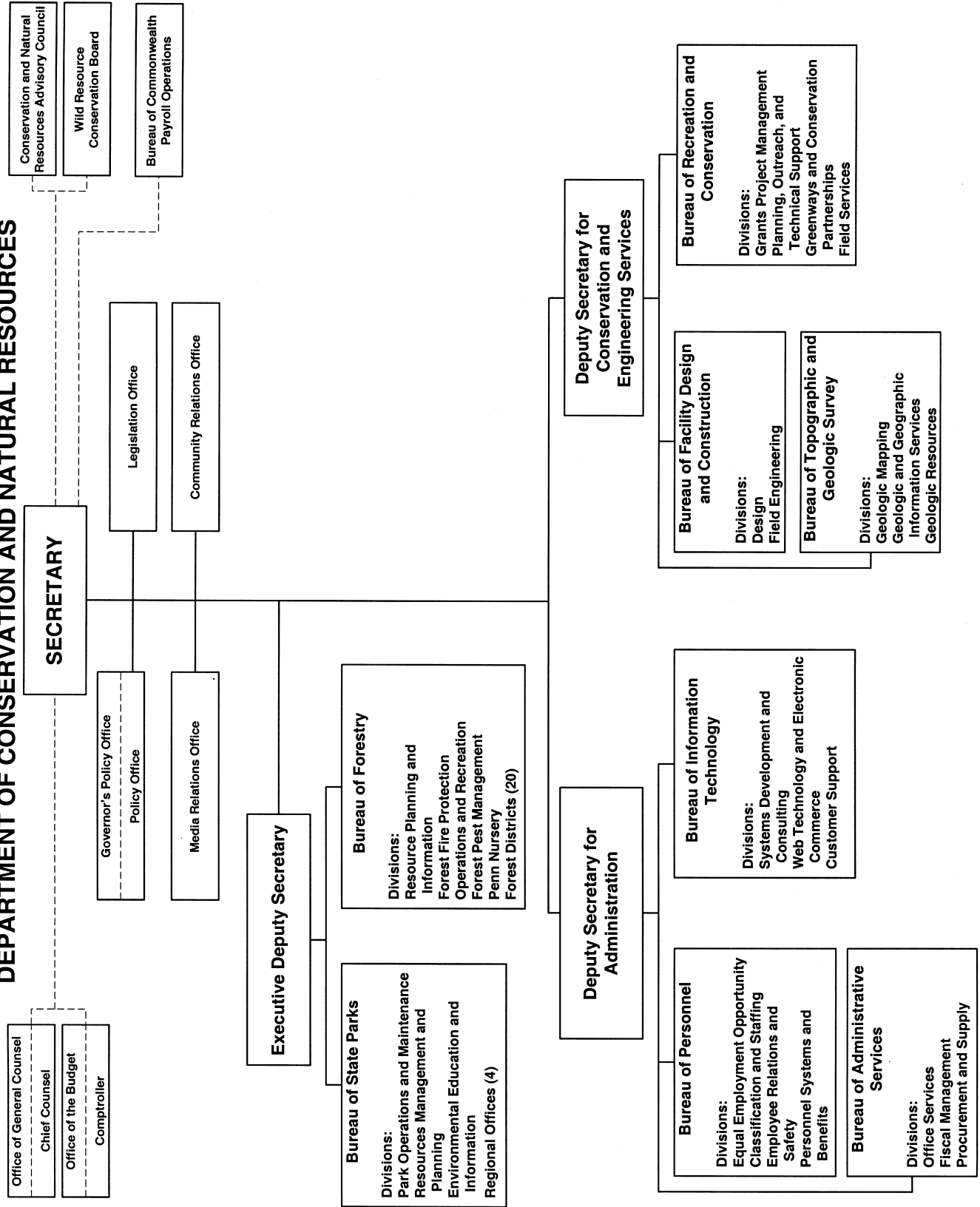
The Executive Board approved a reorganization of the Board of Probation and Parole effective June 22, 2000.

The following organization chart at 30 Pa.B. 3471 (July 8, 2000) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

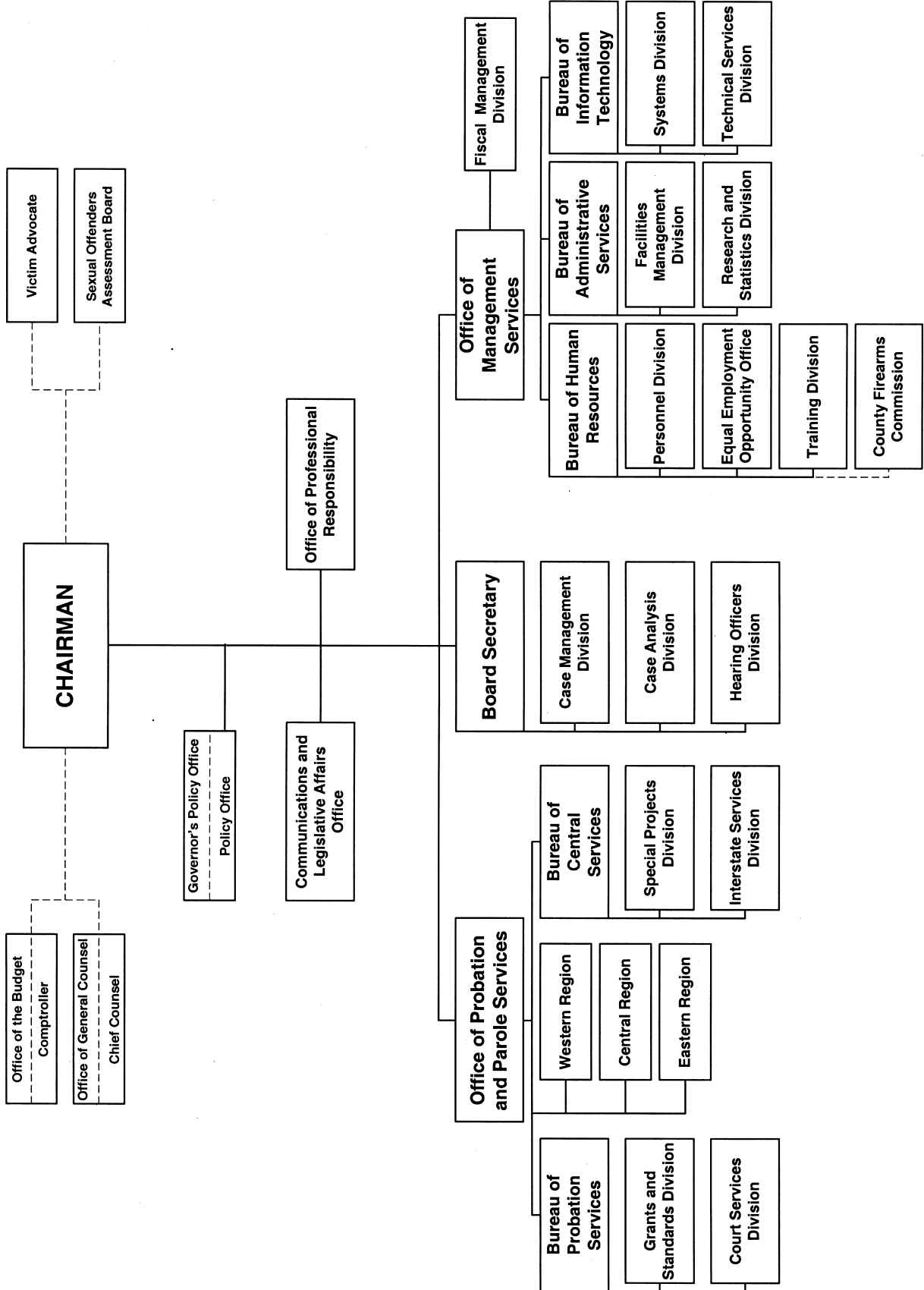
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 00-1167. Filed for public inspection July 7, 2000, 9:00 a.m.]

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**



**BOARD OF PROBATION AND PAROLE**



## Title 37—LAW

### COMMISSION ON CRIME AND DELINQUENCY and DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD [37 PA. CODE CH. 421]

#### Basic Training and Continuing Education

The Commission on Crime and Delinquency (Commission) and the Deputy Sheriffs' Education and Training Board (Board), under the authority granted by the act of January 27, 1998 (P. L. 38, No. 10) (Act 10), are publishing these guidelines to administer the Board's training programs.

#### *Purpose*

Act 10 authorized the Board, with the review and approval of the Commission, to increase the hours and adjust the content of training programs for basic training of newly-hired deputies and continuing education of those already certified by the Board. With this publication, the Board and Commission are implementing that statutory authority by increasing substantially the hours of basic training that new deputy sheriffs are required to undergo within a year of hiring to continue to receive compensation for the performance of duties. In addition, this publication activates the 1998 amendment authorizing the Board and Commission to expand the hours of continuing education that certified deputy sheriffs are required to receive every 2 years. However, the Board at this time is not increasing the continuing education program beyond the current 20-hour curriculum.

The Board recently completed a study of the needs of the deputy sheriffs whom it trains and the various missions in which these deputies are engaged. Working with Temple University, its training development contractor, the Board has determined that a significant expansion of the basic training is warranted in order to better prepare new deputies for their traditional roles in the areas of civil and criminal process, court security and prisoner transport. Pilot courses commencing in July 2000 will contain an expanded curriculum for basic training of approximately 560 hours, compared to the existing curriculum of 160 hours. The pilot curriculum will expand basic training instruction in topics already included in basic training, as in § 421.11 (relating to basic training course), and will add additional related topics as discussed in these guidelines. The Board anticipates that further adjustments to basic training will be warranted upon conclusion of the 560-hour pilot program. The training development contractor in early 2001 will begin development of approximately 200 additional proposed hours to introduce topics relating to law enforcement.

Deputies who qualify under certain standards established by the Board based on prior education, training or experience with Board approval may attend an abbreviated course of study known as waiver training, or under certain limited circumstances may forego training entirely. The training for those granted a partial waiver currently consists of a 40-hour course, but the Board and Commission are increasing the hours of waiver training to approximately 100 hours effective with the date of this publication.

#### *Authority*

These guidelines are published under the authority of sections 5 and 6 of the Deputy Sheriffs' Education and Training Act (act) (71 P. S. §§ 2105 and 2106), as amended by section 2 of Act 10.

Section 7(a) of the act (71 P. S. § 2107) requires every sheriff of this Commonwealth to "assure that each full-time or part-time deputy employed by him . . . receives the training provided for [in the specified sections on training and continuing education]. . ." A deputy sheriff shall be ineligible to receive any salary or other consideration for the performance of deputy sheriff duties if the Board does not certify the deputy sheriff to have met all of the requirements established under the act, including the basic training and continuing education requirements. See section 7(c) and (d).

Section 5 of the act currently provides for 160 hours of training for newly-hired deputy sheriffs, the content of which shall be determined by regulation and from 16-20 hours of continuing education every 2 years for already-certified deputy sheriffs. See section 6 of the act. Act 10 authorized an increase in training hours. Specifically, section 2 of Act 10 sets forth a requirement for initial training of "not less than 160 hours which content and hours of instruction shall be determined by the board subject to the review and approval of the commission." 71 P. S. § 2105 (emphasis added). The amendment also provided for the Board to establish continuing education of "not less than 20 hours . . . concerning subjects the board may deem necessary and appropriate. . ." 71 P. S. § 2106 (emphasis added).

The 1998 amendment provided that the new requirements as to basic training and continuing education were not to become effective until notice is published in the *Pennsylvania Bulletin* that the programs have been developed and implemented. The requirement in the previous language to determine the number of hours by regulation has been eliminated. Accordingly, it is the Board's intention for this publication to constitute the required notice, thus triggering the effectiveness of the new language allowing curriculum expansion.

#### *Contact Person*

For additional information on the Board's training programs, contact Stephen Spangenberg, Manager of the Commission's Civil and Criminal Training Division, at (717) 705-3693 ext 3040.

THOMAS W. CORBETT, Jr.,  
*Chairperson*  
*Pennsylvania Commission on*  
*Crime and Delinquency*  
CARMEN C. DELUCA,  
*Chairperson*  
*Deputy Sheriffs'*  
*Education and Training Board*

*(Editor's Note: The regulations of the Commission, 37 Pa. Code Chapter 421, are amended by adding a statement of policy in §§ 421.101—421.104 to read as set forth in Annex A. For a notice regarding the subject matter of this statement of policy, see 30 Pa.B. 3474 (July 8, 2000).)*

**Fiscal Note:** 35-25. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 37. LAW****PART VI. COMMISSION ON CRIME AND DELINQUENCY****CHAPTER 421. DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD****GUIDELINES FOR BASIC TRAINING AND CONTINUING EDUCATION—STATEMENT OF POLICY****§ 421.101. Code of conduct.**

(a) The Board or school may establish reasonable rules governing attendance and conduct expected of a deputy sheriff who is attending training required under the act.

(b) Violations of attendance policy or departures from the expected standards of conduct may result in the Board's imposition of disciplinary sanctions, which may include expulsion from the training or denying or withdrawing certification.

**§ 421.102. Basic training.**

(a) To be certified by the Board and to continue to receive compensation more than 1 year after being hired by a sheriff, a new deputy sheriff is required under sections 5 and 7(c) of the act (71 P.S. §§ 2105 and 2107(c)) to successfully complete basic training of approximately 560 hours.

(b) Basic training shall consist of expanded instruction in the topics listed in § 421.11 (relating to basic training course), as well as instruction in related topics such as defensive tactics, physical conditioning, emergency vehicle operations, communications, crisis intervention, ethics and professional development, families in crisis, less-than-lethal weapons, the Unified Court System of Pennsylvania and technology and law enforcement.

(c) A deputy sheriff shall attain at least the minimum score established by the Board on written tests designed for each topic area and shall demonstrate proficiency in all practical skills to be certified by the Board.

**§ 421.103. Waiver of basic training.**

Section 7(b) of the act (71 P.S. § 2107(b)) gives the Board discretion, with the review and approval of the Commission, to set criteria allowing a reduction of training hours for deputy sheriffs with requisite prior educa-

tion, training or experience. Waivers of training shall be governed by the following criteria:

(1) The Board may grant a full waiver of basic training upon application by a deputy sheriff who has served a full, 4-year term as sheriff within this Commonwealth.

(2) The Board may grant a partial waiver of training upon application by a deputy sheriff who meets one of the following categories:

(i) Trained by the Pennsylvania State Police and previously employed as a member of the Pennsylvania State Police.

(ii) Certified as a municipal police officer in this Commonwealth.

(iii) Graduated from a course of basic training approved by the Municipal Police Officers' Education and Training Commission.

(3) A deputy sheriff who is granted a partial waiver of basic training is required to undergo a basic training waiver course of approximately 100 hours.

(4) To be certified by the Board, a deputy sheriff with either a full or partial waiver of basic training shall meet the following conditions:

(i) Attain a passing score as established by the Board on a written examination designed for the applicable waiver classification.

(ii) Possess current basic first aid or equivalent and adult/child/infant cardio-pulmonary resuscitation (CPR) certification and current police firearms range qualification.

(iii) Demonstrate required practical skills during proficiency examinations.

**§ 421.104. Continuing education.**

(a) Effective July 8, 2000, the Board is triggering the effectiveness of the amending language of the act allowing the Board to set the hours of continuing education required by section 6 of the act (71 P.S. § 2106) at not less than 20 hours.

(b) The Board reserves the right to increase the hours of continuing education beyond the current level of 16-20 hours.

[Pa.B. Doc. No. 00-1168. Filed for public inspection July 7, 2000, 9:00 a.m.]

# NOTICES

## COMMISSION ON CRIME AND DELINQUENCY DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD

### Basic Training and Continuing Education

Effective July 8, 2000, the Deputy Sheriffs' Education and Training Board (Board) gives notice that a basic training program of not less than 160 hours has been developed and implemented under section 5 of the Deputy Sheriffs' Education and Training Act (71 P. S. § 2105).

Effective July 8, 2000, the Board is triggering the effectiveness of the amending language of section 6 of the Deputy Sheriffs' Education and Training Act (71 P. S. § 2106) which allows the Board to set the hours of continuing education at not less than 20 hours.

The Board reserves the right to increase the hours of continuing education beyond the current level of 16-20 hours, but is not at this time doing so.

*(Editor's Note: For a statement of policy adopted by the Board regarding these guidelines, see 30 Pa. 3472 (July 8, 2000).)*

THOMAS W. CORBETT, Jr.,  
*Chairperson  
Commission on Crime  
and Delinquency*

CARMEN C. DELUCA,  
*Chairperson,  
Deputy Sheriffs'  
Education and Training Board*

[Pa.B. Doc. No. 00-1169. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF AGING

### Public Hearings

The Department of Aging (Department) is making available for public review and comment the 2000-2004 State Plan on Aging. Comments on this document will be used to formulate the Department's final plan submitted to the Federal Administration on Aging for this Commonwealth to receive Federal funds under the Older Americans Act of 1965, as amended.

The Department of Aging periodically develops a State Plan on Aging; the plan being proposed will guide the Department during the Federal fiscal years October 1, 2000, through September 30, 2004. The purpose of the State Plan is to structure the Department's priorities and to set an aging agenda for this Commonwealth.

Citizens, local government officials and interested organizations in the Commonwealth are invited to submit

comments on the Plan. Persons wishing to submit written comments on the Plan must do so by July 28, 2000. Comments should be addressed to Robert J. McNamara, Department of Aging, Planning and Research Division, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101-1919. Comments may also be submitted through the Department's web site at [www.aging.state.pa.us](http://www.aging.state.pa.us).

The Department will hold the following public hearings on the 1996-1999 State Plan of Aging:

<i>Date</i>	<i>Location</i>	<i>Time</i>
July 19, 2000	Philadelphia Center in the Park 5818 Germantown Avenue Philadelphia, PA	1 p.m.— 3 p.m.
July 25, 2000	Cranberry Senior Center at the Municipal Building 2526 Rochester Road Cranberry Township, PA	9 a.m.— 11 a.m.
July 28, 2000	Department of Aging Conferences Rooms 5B & C 555 Walnut Street, 5th Floor Harrisburg, PA	1 p.m.— 3 p.m.

Persons who wish to speak must call to schedule a time to give oral testimony at the hearings. Testimony is limited to 10 minutes per person. To schedule oral testimony at any of the hearings, contact Kim McNoldy at (717) 783-6207. The listed facilities are accessible by people with disabilities. People with a hearing impairment who wish to attend one of the public hearings should notify Carol Lyons at (717) 783-6207 in advance so accommodations can be made. Text telephone calls can be placed through the Pennsylvania Relay System at (800) 654-5984. Anyone with a visual impairment who would like an audiocassette of the State Plan should contact Carol Lyons.

Copies of the plan are available upon request from the Department of Aging, Division of Planning and Research, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101-1919, (717) 783-6207. Copies of the Plan are also available at the Area Agencies on Aging and the following District Libraries.

#### *Pennsylvania's District Library Centers*

B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa  
Allentown Public Library, 1210 Hamilton Street, Allentown  
Altoona Area Public Library, 1600 Fifth Avenue, Altoona  
Bethlehem Area Public Library, 11 West Church Street, Bethlehem  
Bucks County Free Library, 150 South Pine Street, Doylestown  
Centre County Library, 203 North Allegheny Street, Bellefonte  
Chambersburg District Library, Coyle Free Library Building, 102 N. Main Street, Chambersburg  
Chester County Library, 450 Exton Square Parkway, Exton  
Easton Area Public Library, 515 Church Street, Easton  
Erie County Library, Blasco Memorial Library, 160 E. Front Street, Erie  
Dauphin County Library, 101 Walnut Street, Harrisburg  
Delaware County Library System, 340 North Middletown Road, Fair Acres, Building 19, Media

Lancaster Area Library, 125 North Duke Street, Lancaster  
 Monessen Public Library, 326 Donner Avenue, Monessen  
 New Castle Public Library, 107 East North Street, New Castle  
 Montgomery County, Norristown Public Library, 1001 Powell Street, Norristown  
 Oil Creek District Library Center, 2 Central Avenue, Oil City  
 Philadelphia, Free Library of Philadelphia, 1901 Vine Street, Philadelphia  
 Pittsburgh, Carnegie Library of Pittsburgh, 4400 Forbes Avenue, Pittsburgh  
 Neighborhood and Outreach Services, 5 Allegheny Square, Suite 200, Pittsburgh  
 Pottsville Free Public Library, 215 W. Market Street, Pottsville  
 Reading Public Library, 100 South 5th Street, Reading

Scranton Public Library, Albright Memorial Building, 500 Vine Street, Scranton  
 Warren Library Association, 205 Market Street, Warren  
 Washington, Citizens Library, 55 South College Street, Washington  
 Wilkes-Barre, Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre  
 Williamsport, James V. Brown Library, 19 E. 4th Street, Williamsport  
 York, Martin Memorial Library, 159 East Market Street, York

RICHARD BROWDIE,  
*Secretary*

[Pa.B. Doc. No. 00-1170. Filed for public inspection July 7, 2000, 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 June 27, 2000.

### BANKING INSTITUTIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-26-00	Fulton Bank, Lancaster, and Great Valley Savings Bank, Reading, Surviving Institution— Fulton Bank, Lancaster	Lancaster	Filed

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-26-00	Bank of Hanover and Trust Company Hanover York County	223 East Main St. Westminster Carroll County Maryland	Approved
6-26-00	U. S. Bank Johnstown Cambria County	724 S. Atherton St. State College Centre County	Approved

#### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-26-00	Pittsburgh Savings Bank Pittsburgh Allegheny County	<i>To:</i> 441 Smithfield St. Pittsburgh Allegheny County  <i>From:</i> 438 Wood Street Pittsburgh Allegheny County	Approved
6-26-00	Summit Bank Bethlehem Northampton County	<i>To:</i> 1242 Knapp Road Montgomery Township Montgomery County  <i>From:</i> 737 Bethlehem Pike Montgomery Township Montgomery County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-26-00	Wilmington Trust of Pennsylvania West Chester Chester County 1522 McDaniel Drive West Chester Chester County 102 East Market Street West Chester Chester County	Discontinuance of four branch offices at the following locations: 50 East Uwchlan Avenue Lionville Chester County 119 West State Street Media Delaware County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

DAVID E. ZUERN,  
*Secretary*

[Pa.B. Doc. No. 00-1171. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Land Use Planning and Technical Assistance Program

The Department of Community and Economic Development gives notice of the establishment of the Land Use Planning and Technical Assistance Program. The program provides financial assistance to promote cooperative efforts between municipalities for the purpose of strengthening community planning and management capabilities consistent with Executive Order 1999-1. Eligible applicants are generally two or more municipalities or a body authorized to act on behalf of two or more municipalities.

Local governments or other interested parties who wish to apply for funds can receive a copy of the application materials and program guidelines by contacting the Governor's Center for Local Government Services.

Department of Community and Economic Development  
Governor's Center for Local Government Services  
325 Forum Building  
Harrisburg, PA 17120  
Telephone: (888) 223-6837  
E-mail: DCED@state.pa.us

Program Guidelines are also available for downloading on the Governor's Center for Local Government Services' web site at [www.dced.state.pa.us](http://www.dced.state.pa.us)

SAMUEL A. MCCULLOUGH,  
*Secretary*

[Pa.B. Doc. No. 00-1172. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Approved Courses of Study under New Economy Technology Scholarship Act; Public Comment Period

The New Economy Technology Scholarship Act (24 P. S. §§ 5199.1—5199.9) established an incentive scholarship program for Pennsylvania students to pursue higher education and training in science and technology fields to create a sustained pool of highly trained technology workers to improve the Commonwealth's ability to attract and retain business. The act defines an approved course of study as "A program or curriculum offered by a postsecondary educational institution that provides instruction in science, technology and related fields and has been approved by the Department of Education (Department) in consultation with the Pennsylvania Workforce Investment Board."

The current list of approved courses of study is published on the New Economy Technology Scholarship Program Application. The application may be obtained by calling PHEAA at (800) 692-7435, or by visiting their web site, [www.pheaa.org](http://www.pheaa.org).

As part of the review process of the approved courses of study, the Department will accept written public comments from institutions, groups or individuals between the date of publication of this notice and October 1, 2000. Comments should address whether courses of study currently on the approved list for scholarships should continue to be approved, and/or whether the addition or deletion of specific courses of study would affect the purposes of the act.



All written comments shall be filed with Dr. Warren D. Evans, Chartering/Governance/Accreditation Specialist, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-7572; Fax: (717) 783-0583, or by e-mail addressed to wevans@state.pa.us, on or before 4 p.m. on October 1, 2000.

All public comments will be considered as part of the review. Any recommendations regarding the addition or deletion of a program will be coordinated with Commonwealth workforce needs as identified in the targeted

industry clusters and meetings with industry representatives. The list of approved courses of study, including any revisions as a result of the review, will appear on the New Economy Technology Scholarship Application for the 2001-2002 academic year.

EUGENE W. HICKOK,  
*Secretary*

[Pa.B. Doc. No. 00-1173. Filed for public inspection July 7, 2000, 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, Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

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

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

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

---

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

---

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

**PA 0036978 Amendment No. 1.** Sewage, **Telford Borough Authority**, 122 Penn Avenue, P. O. Box 209, Telford, PA 18969-0209.

This application is for an amendment of the NPDES permit to discharge treated sewage from Telford Borough Authority sewage treatment plant. This amendment is for a plant expansion from 0.95 mgd to 1.1 mgd. The plant is located in Franconia Township, **Montgomery County**. This is an existing discharge to Indian 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 annual flow of 1.1 at completion of plant expansion are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	15	23	30
(11-1 to 4-30)	20	30	40
Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	3.0		6.0
Phosphorus (as P) (4-1 to 10-31)	1.7		3.4
Total Residual Chlorine	0.01		0.03
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		
Total Copper	0.021	0.042	0.053
Dissolved Copper	monitor	monitor	monitor
Total Lead	0.0077	0.015	0.019
Dissolved Lead	monitor	monitor	monitor
Hardness as CaCO <sub>3</sub>	monitor	monitor	monitor

The EPA waiver is not in effect.

Requirement to submit a toxics reduction evaluation.

*Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.*

**PA 0034398.** Sewerage, **Woodloch Pines, Inc.**, R. R. 1, Box 80, Hawley, PA 18428.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Lake Teedyuskung in Lackawaxen Township, **Pike County**.

The receiving stream is classified for the following uses: high quality, cold water, aquatic life, water supply and recreation. Effluent requirements were evaluated at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .05 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	2	4
(11-1 to 4-30)	6	12
Phosphorus as "P"	.5	1
Total Residual Chlorine	1	2
Dissolved Oxygen	a minimum of 7 mg/l at all times	
Fecal Coliform	200/100 ml as a geometric mean	
pH	6.0 to 9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0061131.** Sewerage, **Dalton Sewer Authority**, P. O. Box 538, Dalton, PA 18414.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Ackerly Creek in La Plume Township, **Lackawanna County**.

The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is Danville water supply on the Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.140 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31)	7.5	11.3	15
Dissolved Oxygen	a minimum of 5 mg/l at all times		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine (1st month—24th month) (25th month—expiration)	monitor and report 1		monitor and report 2

The EPA waiver is in effect.

**PA 0044024.** Industrial waste, SIC: 0921, **Pennsylvania Fish and Boat Commission**, P. O. Box 3, Mount Pleasant, PA 18453-0003.

This proposed action is for renewal of an NPDES permit to discharge treated wastewater into West Branch of Lackawaxen River in Mount Pleasant Township, **Wayne County**.

The receiving stream is classified for the following uses: high quality cold water, fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Stroudsburg/East Stroudsburg intake on the Delaware River.

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

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen		minimum 7.0 at all times	
pH		6.9 s.u. at all times	

The EPA waiver is in effect.

**PA 0061247.** Sewerage, **Carbon Dack Assoc., L.L.C.**, 650 Naamans Road, Suite 315, P. O. Box 470, Brandywind Corporate Center, Claymont, DE 19703.

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

The receiving stream is classified for the following uses: cold water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing proposed downstream potable water supply (PWS) considered during the evaluation is Northampton Water Supply on Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of .021 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	5.5	11
(11-1 to 4-30)	16.5	33
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 to 9.0 standard units at all times	
Total Residual Chlorine (1st Month—36th Month)	monitor and report	monitor and report
(37 Month—Expir. Date)	.35	.82

The EPA waiver is in effect.

---

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

**PA 0024708.** SIC Code 4952, Sewage, **Municipal Authority of Union Township**, P. O. Box 5625, Belleville, PA 17004-9701.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to the Kishacoquillas Creek in Union Township, **Mifflin County**.

The receiving stream is classified for cold water fishery, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the United Water Company intake located on the Susquehanna River in Harrisburg. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.49 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	35	52.5	XXX	70
Total Suspended Solids	58	87	XXX	116
NH <sub>3</sub> -N				
(5-1 to 10-31)	5.0	XXX	XXX	10
(11-1 to 4-30)	12.5	XXX	XXX	25
Total Residual Chlorine			monitor and report	
	0.7	XXX		2.3
Total Phosphorus	monitor and report	XXX	XXX	XXX
pH			from 6.0 to 9.0 inclusive	
Dissolved Oxygen			minimum of 5.0 at all times	
Fecal Coliform				
(5-1 to 9-30)		200/100 ml as a geometric means		
(10-1 to 4-30)		9,300/100 ml as a geometric mean		

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

The EPA waiver is in effect.

**PA 0088137.** SIC Code 4951, Stormwater, **Reading Area Water Authority**, 815 Washington Street, Reading, PA 19601.

This application is for issuance of an NPDES permit for a new discharge of treated stormwater to Lake Ontelaunee/Maiden Creek, In Maiden creek Township, **Berks County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the City of Reading located on Lake Ontelaunee. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a stormwater discharge are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		monitor and report	
Total Suspended Solids		monitor and report	
Total Dissolved Solids		monitor and report	
Total Aluminum		monitor and report	
Total Iron		monitor and report	
Total Manganese		monitor and report	
Total Phenolics		monitor and report	

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

The EPA waiver is in effect.

**PA 0026735.** SIC Code 4952, Sewage, **Swatara Township Authority**, 8675 Paxton Street, Hummelstown, PA 17036-8601.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Swatara Creek, in Swatara Township, **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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Middletown Borough Water located in Middletown Borough, 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 6.3 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>
Total Residual Chlorine	0.5	—	—	1.6
Total Suspended Solids	30	45	—	60
CBOD <sub>5</sub>	25	40	—	50
NH <sub>3</sub> -N				
(5-1 to 10-31)	6	—	—	12
(11-1 to 4-30)	18	—	—	36
Total Phosphorus	2	—	—	4
Total Nitrogen	—	—	monitor and report	—
Dissolved Oxygen			minimum of 5.0 at all times	



The proposed effluent limits for Outfall 001 based on a design flow of 0.1475 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
TSS	30	45	60
Ammonia-N (5-1 to 10-31)	9	13.5	18
Total Cl <sub>2</sub> Residual*	0.79*		2.58*
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0 to 9.0 at all times		

\* The permittee shall comply with this effluent limit within 3 years of the permit effective date.

The EPA waiver is in effect.

**PA 0008915.** SIC: 3229, **Osram Sylvania, Inc.**, 1 Jackson Street, Wellsboro, PA 16901.

This proposed action is for renewal of an NPDES permit for discharge of treated industrial wastewater to Charleston Creek in Wellsboro Borough, **Tioga County**.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is the Jersey Shore Water Authority.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0275 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	25.0	50.0	75.0
Oil and Grease	15.0		30.0
Copper	monitor		
Zinc	monitor		
pH	6.0—9.0 standard units at all times		
Heat	BTU/day x 10 <sup>6</sup>	Tr (°F)	
1/1-1/31	108	35	
2/1-2/29	118	35	
3/1-3/31	283	40	
4/1-4/15	125	50	
4/16-4/30	501	50	
5/1-5/15	137	60	
5/16-5/31	412	60	
6/1-6/15	222	69	
6/16-6/30	303	69	
7/1-7/31	137	75	
8/1-8/31	122	74	
9/1-9/15	118	68	
9/16-9/30	74	68	
10-1-10/15	121	57	
10/16-10/31	72	57	
11/1-11/15	140	45	
11/16-11/30	54	45	
12/1-12/31	81	37	

The EPA waiver is in effect.

---

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

**PA 0215899.** Industrial waste, SIC: 3089, **Veka, Inc.**, 100 Veka Drive, Fombell, PA 16123.

This application is for issuance of an NPDES permit to discharge cooling water and stormwater from plastics manufacturing operations in Marion Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Connoquenessing 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 Beaver Falls Municipal Water Authority, located at Eastvale Borough, 19.9 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.00576 mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor/report				
BOD <sub>5</sub>		1.25		26	
Oil and Grease		1.4		29	
TSS		1.0		19	
TRC			0.5		1.25
Zinc			monitor/report		
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA 0218367.** Industrial waste, SIC: 4941, **Saint Francis College**, P. O. Box 600, Loretto, PA 15940-0600.

This application is for issuance of an NPDES permit to discharge treated process water from Saint Francis Water Treatment Plant in Loretto Borough, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Unnamed Tributary to Chest Creek, classified as a high quality-cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Patton Borough Water System, located at Chest Creek, 10 miles below the discharge point.

*Outfall 001: new discharge, design flow of 0.003 mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
Total Suspended Solids			30		60
Iron			2		4
Aluminum			4		8
Manganese			1		2
Total Residual Chlorine (1st month—35th month)			monitor and report		
(36th month—Expiration)			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA 0027715-A1.** Sewage. **Mill Service, Inc.**, 1815 Washington Road, Pittsburgh, PA 15241-1498.

This application is for amendment of an NPDES permit to discharge treated sewage from a small flow activated sludge plant in South Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Sewickley Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority—McKeesport Plant.

*Outfall 007: new discharge, design flow of 0.0014 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Flow	monitor/report			
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

**PA 0028177.** Sewage. **McCandless Township Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237-5597.

This application is for renewal of an NPDES permit to discharge treated sewage from A & B Sewage Treatment Plant in McCandless Township, **Allegheny County**.

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

*Outfall 001*: existing discharge, design flow of 0.04 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 <sub>5</sub> (5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (3-1 to 11-30)	1.5	2.3		3.0
(12-1 to 2-29)	3.0	4.5		6.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.22			0.72
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.

**PA 0096369.** Sewage. **Valley High Mobile Home Park**, 79 Valley High MHP, Ruffsedale, PA 15679.

This application is for renewal of an NPDES permit to discharge treated sewage from the Valley High MHP STP in East Huntingdon Township, **Westmoreland County**.

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

*Outfall 001*: existing discharge, design flow of 0.005 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	3.5			7.0
(11-1 to 4-30)	10.5			21.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	.57			1.35
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0216925.** Sewage. **Consolidation Coal Company**, P. O. Box 100, Osage, WV 26543.

This application is for renewal of an NPDES permit to discharge treated sewage from Kuhntown Portal Wastewater Treatment Plant in Wayne Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Hoovers Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Dunkard Valley Joint Municipal Authority.

*Outfall 001*: existing discharge, design flow of 0.014 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.5			7.0



Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean			
Total Residual Chlorine	2,000/100 ml as a geometric mean			
Dissolved Oxygen	0.05			0.11
pH	not less than 5 mg/l			
	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0218545.** Sewage, **Quecreek Mining, Inc.**, 1576 Stoystown Road, Friedens, PA 15541.

This application is for issuance of an NPDES permit to discharge treated sewage from Quecreek No. 1 Mine Portal Sewage Treatment Plant in Lincoln Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Quemahoning 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 Quemahoning Reservoir.

*Outfall 001:* new discharge, design flow of 0.005 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean			
Total Residual Chlorine	40,000/100 ml as a geometric mean			
pH	1.4			3.3
	not less than 6.0 nor greater than 9.0			

*Other Conditions:*

The EPA waiver is in effect.

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

**PA 0221813.** Sewage. **John H. Sechriest and James L. Whitmire**, 50 Wright Road (309 Egypt Road), Warren, PA 16345.

This application is for a renewal of an NPDES Permit, to discharge treated sewage to an Unnamed Tributary in Glade Township, **Warren 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at river mile 90.0, approximately 93.7 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.000800 mgd are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	
CBOD <sub>5</sub>	10	20
TSS	20	40
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average	
Total Residual Chlorine	2,000/100 ml as a geometric average	
pH	1.5	3.5
	6.0 to 9.0 at all times	

XX—monitor and report on monthly DMRs.

The EPA waiver is in effect.

**PA 0092185.** Sewage, SIC: 4952. **Peter Rabbit Campground Inc.**, 551 Mahood Road, Butler, PA 16001.

This application is for renewal of an NPDES Permit, to discharge treated waste to Big Run in Brady Township, **Butler 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Salvation Army Camp Allegheny on Slippery Rock Creek located at river mile 3.2, approximately 27.4 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.05 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	
CBOD <sub>5</sub>	25	50
TSS	30	60
Ammonia as Nitrogen		
Summer (5-1 to 10-31)	4	8
Winter (11-1 to 4-30)	12.0	24
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	4,200/100 ml as a geometric average	
Dissolved Oxygen	minimum of 4 mg/l at all times	
Total Residual Chlorine		
Interim	XX	XX
Final	0.4	0.9
pH	6.0 to 9.0 at all times	

XX—monitor and report on monthly DMRs.

The EPA waiver is in effect.

**PA 0101320.** Sewage. **Colonial Estates MHP**, 423 Candle Avenue, Sebastian, FL 32958.

This application is for a renewal of an NPDES Permit to discharge treated sewage to the Unnamed Tributary to Pine Creek in Oil Creek Township, **Crawford 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located in Emlenton Township, approximately 60 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 0.0175 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.4	3.3
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

---

### Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

---

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewaters into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements. 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 Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

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

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

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0050423	Villa Maria House of Studies 1140 King Road Immaculata, PA 19345	Chester County Immaculata Borough	UNT to Ridley Creek	
PA 0056600	Mark T. Besette 114 Ming Road Schwenksville, PA 19473	Montgomery County Lower Frederick Township	Mile Run	
PA 0051716	Jeffrey & Lori Scott 800 North Tower Road Quakertown, PA 18951	Bucks County West Rockhill Township	UNT to Butler Creek	

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0082627	CBM Ministries Inc. Camp Joy-El 3741 Joy-El Dr. Greencastle, PA 17225	Franklin County St. Thomas Township	Back Creek (13H)	TRC
PA 0028720	Reading Regional Airport 250 Bernville Rd. Reading, PA 19605	Berks County Bern Township	Schuylkill River	TRC

## DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

### Applications under the Pennsylvania Clean Streams Law

#### (Part II Permits)

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should

contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

**WQM Permit No. 4600418.** Sewerage. **Robert and Edith Trockels**, 2109 Jacobs Sawmill Road, East Greenville, PA 19331. Applicant is requesting approval for the construction and operation of a small flow sewage treatment plant located in Upper Hanover Township, **Montgomery County**.

**WQM Permit No. 4600419.** Sewerage. **East Norriton Plymouth Whitpain Joint Sewer Authority**, 200 Ross Street, Plymouth Meeting, PA 19426. Applicant is requesting approval for the construction and operation to replace a 21" and 24" interceptor and manholes located in Plymouth Township, **Montgomery County**.

**WQM Permit No. 0900407.** Sewerage. **Lon Moyer**, 717 E. Broad Street, Quakertown, PA 18951. Applicant is requesting approval for the construction and operation of a single-family residence treatment facility with stream discharge located in Haycock Township, **Bucks County**.

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

**A. 3600405.** Sewage, submitted by **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603 in East Hempfield Township, **Lancaster County** to replace portions of an existing 8-inch diameter sanitary sewer interception with a new 10-inch diameter PVC pipe and manholes was received in the Southcentral Region on June 9, 2000.

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

**A. 0200409.** Sewerage, **Lincoln Borough**, 45 Abe's Way, Elizabeth, PA 15037. Application for the construction and operation of a Sanitary Sewage Collection System and Sewage Pump Station to serve the Virginia Drive/Taylor Plant Area located in Lincoln Borough, **Allegheny County**.

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. 0400407.** Sewerage, **Michael Weekley**, 135 Sandy Drive, Clinton, PA 15026. Application for the construction and operation of a sewage treatment plant to serve the Weekley Residence located in Hanover Township, **Beaver County**.

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

**WQM Permit No. 6100404.** Sewage. **Cornplanter Township**, R. R. 1, Box 98A, Oil City, PA 16301. This project is for construction and operation of a pumpstation/sewer system to replace a system in the Colonial Village area in Cornplanter Township, **Venango County**.

**WQM Permit No. 1090402.** Sewage. **Concordia Lutheran Ministries**, 615 North Pike Road, Cabot, PA 16023-2299. This project is for proposed plans to add redundancy to their existing system to ease maintenance in Jefferson Township, **Butler County**.

**WQM Permit No. 2500408.** Sewage, **Roy C. Rodgers**, 11292 Firethorn Road, Wattsburg, PA 16442. This project is for construction of a Single Residence Sewage Treatment Plant in Washington Township, **Erie County**.

**WQM Permit No. 6200409.** Sewage, **Thomas C. and Karen S. Byler**, R. R. 2, Box 59, Pittsfield, PA 16340. This project is for the construction of a Single Residence Sewage Treatment Plant in Pine Grove Township, **Warren County**.

**WQM Permit No. 2400401.** Sewage, **Phillip Wingard**, 353 Benzinger Road, St. Marys, PA 15857. This project is for the construction of a Single Residence Sewage Treatment Plant in City of St. Marys, **Elk County**.

#### INDIVIDUAL PERMITS (PAS)

##### Stormwater Individual

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of the 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. The proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharge.

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

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

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

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

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

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

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

**NPDES Permit PAS10Q204.** Stormwater. **GSP Management Co.**, Frank T. Perano, P. O. Box 278, King of Prussia, PA 19406, has applied to discharge stormwater from a construction activity located in Lower Macungie Township, **Lehigh County**, to Little Lehigh Creek, HQ-CWF.

## SAFE DRINKING WATER

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

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

**A. 1500507.** Public water supply. **Nottingham Towers Apartments**, 10 Harbour Court, Nottingham, PA 19362. This proposal involves the permitting and upgrades of Nottingham Towers Apartments existing water supply system. The project includes installation of a 12,500

gallon storage tank, chemical feed systems for pH adjustment and disinfection, service pumps and additional hydropneumatic tanks in East Nottingham Township, **Chester County**.

*Northeast Regional Office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**4099507.** Public water supply. **Pardeesville Water Association**, Village of Pardeesville, Scott Keeley, President, R. R. 2, P4-4, Hazleton, PA 18201. This proposal involves completing construction on two additional wells to be incorporated into the system, construction of chemical treatment facilities to be associated with new wells, construction of a booster pump station and construction of a new main to expand the service area. It is located in Hazle Township, **Luzerne County**. *Engineer: Joseph Durkin, PE, Reilly Associates.*

**4500503.** Public water supply. **Pocono Plateau Mobile Home Park**, Tom Shimp, 1779 East Sawmill Road, Quakertown, PA 18951-4124. This proposal involves a request for design change to allow for an above grade chlorine contact tank instead of the previously approved buried tank. In addition, a transfer of ownership is requested. This notice will supersede the notice in the *Pennsylvania Bulletin*, May 20, 2000. It is located in Tunkhannock Twp., **Monroe County**. *Engineer: James P. Connor, EIT, Quad Three Group, Inc.*

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

**A. Minor Amendment.** The Department has received a permit application from **Westfield Borough**, 429 East Main Street, Westfield, PA 16950, Westfield Borough, **Tioga County**, to replace 8 inch water main crossing of Cowanesque River.

**A. Minor Amendment.** The Department has received a permit application from **Boggs Township Water System**, 1270 Runville Road, Bellefonte, PA 16823, Boggs Township, **Centre County**, for conversion of existing gas disinfection system to a liquid (sodium hypochlorite) disinfection system at existing well facility.

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

**3097501-A1.** **Southwestern Pennsylvania Water Authority**, Greene and Washington Streets, P. O. Box 187, Jefferson, PA 15344. Construction of chlorine booster facilities at the existing Kirby Pump Station located in Franklin Township, **Greene 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—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 the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as 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 suspected 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, or who receives approval of a special industrial area remediation 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. Furthermore, the person 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 standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified as proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, 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 the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

**A. T. Chadwick Company c/o Wallingford Apartments**, City of Philadelphia, **Philadelphia County**. Daniel F. Yonker, P. G., Phoenix Consulting, L.L.C., P. O. Box 229, Phoenixville, PA 19460, has submitted a Notice of Intent to Remediate site soil contaminated with petroleum hydrocarbons. 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 North East Times* on March 22, 2000.

**Former Schuylkill Valley Oil Company Property**, Pottstown Borough, **Montgomery County**. John G. Cannon, React Environmental Services, Inc., 6901 Kingsessing Avenue, Philadelphia, PA 19142, has submitted a

Notice of Intent to Remediate site soil contaminated with Naphthalene and groundwater contaminated with Naphthalene, BTEX, Ethylene dibromide and MTBE. 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 Mercury* on April 7, 2000.

**Abington Shopping Center**, Abington Township, **Montgomery County**. Dennis Fisher, NTH Consultants, Ltd., 860 Springdale Drive, Exton, PA 19341 has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with solvents. 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 Times Chronicle* on April 26, 2000.

**Former Cedar Hollow Quarry**, East Whiteland and Tredyffrin Townships, **Chester County**. Darryl D. Borelli, Manko, Gold & Katcher, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with PCBs, lead, heavy metals, solvents, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health and background standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Local News* on May 9, 2000.

**Former Metro Container Corp., Inc.**, Trainer Borough, **Delaware County**. Carl J. Bones, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet Statewide health and site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Delaware County Daily Times* on May 10, 2000.

**Hale Products, Inc.**, Conshohocken Borough and Whitemarsh Township, **Montgomery County**. Frank C. Keirse, Hale Products, Inc., 700 Spring Mill Avenue, Conshohocken, PA 19428, has submitted a Notice of Intent to Remediate site soil contaminated with lead and heavy metals and groundwater contaminated with heavy metals. 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 Norristown Times Herald* on May 15, 2000.

**Cognis Corp. Ball Field Property**, Lower Gwynedd Township, **Montgomery County**. James F. Mattern, HydroScience, Inc., 607 Washington Street, Reading, PA 19601, has submitted a Notice of Intent to Remediate site soil contaminated with heavy metals, solvents, BTEX and polycyclic aromatic hydrocarbons. 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 Ambler Gazette* on May 17, 2000.

**Millennium—The Center for Internet Excellence**, Conshohocken Borough, **Montgomery County**. Richard P. Almquist, Jr., Oxford Engineers & Consultants, Inc., 2621 Van Buren Avenue, Suite 500, Norristown, PA 19401, has submitted a Notice of Intent to Remediate site soil contaminated with lead, heavy metals, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons and groundwater contaminated with BTEX petroleum

hydrocarbons and polycyclic aromatic hydrocarbons. The site is located in a special industrial area. The applicant's proposed remediation will address any immediate, direct or imminent threat to the public health and the environment and will be based on the results of the Baseline Remedial Investigation Report. A summary of the Notice of Intent to Remediate was reported to have been published in *The Times Herald* on May 24, 2000.

## SOLID AND HAZARDOUS WASTE BENEFICIAL USE DETERMINATIONS

**Application received 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 the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

**General Permit Application No. WMGR068. Northampton Generating, L. P.**, 1 Horwith Drive, Northampton, PA 18067. For the beneficial use of ash generated by the burning of waste coal and other carbonaceous wastes (petroleum coke, wood chips and other paper and wood industry wastes comprised primarily of wood fibers), for use in mine land reclamation and other uses of coal ash authorized under 25 Pa. Code §§ 287.661—287.665. Comments on the general permit application may be submitted to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in examining the application may make arrangements by calling the Division of Municipal and Residual Waste at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Arrangements can also be made for persons with disabilities who wish to inspect the application. Public comments must be submitted to the Department within 60 days of the date of this notice and may recommend conditions upon, revisions to, and approval or denial of the application.

### RESIDUAL WASTE PROCESSING FACILITIES

**Determination of applicability 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 the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

Determination of applicability under **General Permit No. WMGR029D02. Ernie's Waste Oil**, 155-C Swiontek Road, R. D. 3, Aliquippa, PA 15001. General Permit Number WMGR029 for the operation of a transfer facility prior to beneficial use of waste oil, spent antifreeze, and waste oil/water mixtures. The Department determined that General Permit No. WMGR029 was applicable on June 27, 2000.

## OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

*Southcentral Regional Office: Regional Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706.*

**Permit No. 101584. Edward Armstrong and Sons, Inc.** (205 Greenfield Road, Lancaster, PA 17601). Application for permit renewal for a facility in East Lampeter Township, **Lancaster County**. Application determined to be administratively complete in the Regional Office on June 22, 2000.

*Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653.*

**A. 100955. Wayne Township Landfill, Clinton County Solid Waste Authority** (P. O. Box 209, McElhattan, PA 17748). Application for renewal of municipal waste landfill permit located in Wayne Township, **Clinton County**. Application accepted in the regional office on June 9, 2000.

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

**A. 101674. McCutcheon Enterprises, Inc.**, 250 Park Road, Apollo, PA 15613. An application for a municipal waste processing facility in Allegheny Township, **Westmoreland County**, was received in the Regional Office on June 8, 2000.

## AIR QUALITY

### Notice of Plan Approval and Operating Permit Applications

#### Nonmajor Sources and Modifications

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request

that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act and regulations adopted under the act.

## OPERATING PERMITS

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

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**35-302-110: PEI Power Corp.** (170 Power Boulevard, P. O. Box 157, Archbald, PA 18403) for operation of an auxiliary boiler in Archbald Borough, **Lackawanna County**.

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

**01-03021: Agway Inc. dba Andgrow Fertilizer** (3150 Stoney Point Road, East Berlin, PA 17316) for a Natural Minor Operating Permit for their fertilizer mixing operation in Latimore Township, **Adams County**.

**06-03104: Bean Funeral Homes and Cremation Services, Inc.** (129 East Lancaster Avenue, Shillington, PA 19607) for a Natural Minor Operating Permit for their cremation facility controlled by a secondary chamber in Sinking Spring Borough, **Berks County**.

**28-03004: Bri-Mar Manufacturing, Inc.** (1080 South Main Street, Chambersburg, PA 17201) for a Synthetic Minor Operating Permit for three spray booths at their dump trailer manufacturing facility in Chambersburg Borough, **Franklin County**.

### Notice of Intent to Issue Title V Operating Permits

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

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

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the persons submitting the comments, along with the refer-

ence 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.

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

**TV-65-00788: Sony Electronics, Inc.** (1001 Technology Drive, Mt. Pleasant, PA 15666) in East Huntingdon Township, **Westmoreland County**. The facility's major sources of emissions include several steam boilers, two aperture grille manufacturing line, four wave solder machines, six process ovens, forced-air heater and other miscellaneous sources.

**TV-63-00550: USA South Hills Landfill, Inc.** (a subsidiary of USA Waste Services, Inc.) (3100 Hill Road, Library, PA 15129) for operation of a municipal solid waste landfill in Union Township, **Washington County** and South Park Township, **Allegheny County**. The landfill borders both counties but the flaire is situated in the Washington County part of the landfill. The design capacity of this landfill makes it subject to the operating permit requirements of Title V of the Federal Clean Air Act, and 25 Pa. Code Chapter 127, Subchapter G (relating to Title V operating permit requirements). The Department also intends to incorporate the applicable requirements of Plan Approval 63-550A into the Title V Operating Permit. Plan Approval 63-550A is for the 36 acre expansion, including six cells, Pads 4-9 at this landfill site. This notice shall also serve as notice of public availability of Plan Approval 63-550A.

**TV-56-00181: Southern Alleghenies Disposal Service, Inc.** (USA Waste Northern Region, 310 Leger Road, North Huntingdon, PA) for their Southern Alleghenies Landfill located in Conemaugh Township, **Somerset County**. As a result of the potential levels of VOC emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

#### Notice of Intent to Amend a Title V Operating Permit

In accordance with 25 Pa. Code §§ 127.424(b) and 127.521, the Department of Environmental Protection (Department) intends to incorporate a plan approval into the existing Title V permit issued to Ford Electronics and Refrigeration LLC, for their facility located in Worcester Township, Montgomery County. The facility currently has a Title V operating permit No. TVOP-46-00036.

Plan Approval No. PA-46-0036 was issued for the construction of Selective Soldering Machine No. 6. Emissions from this source are 0.00035 tons per year of Lead and 2.37 tons per year of volatile organic compounds. The Operating Permit will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

Copies of the application, the Department's analysis, inspection report and other documents used in the evalu-

ation of the application are available for public review during normal business hours at Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Persons wishing to provide the Department with additional information that they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following: Name, address and telephone number of the person submitting the comments; Identification of the proposed Permit No. TVOP-46-00036; A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines notification is sufficient. Written comments or requests for a public hearing should be directed to Francine Carlini, Regional Manager, Air Quality, Department of Environmental Protection, Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

#### PLAN APPROVALS

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

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

**06-05025A: Morgan Corp.** (P. O. Box 588, Morgantown, PA 19543) for construction of a repair paint booth controlled by a portable particulate collector in Caernarvon Township, **Berks County**.

**06-05101: Terradyne Ceramics of PA, LLC** (101 Chelsley Drive, Suite 202, Media, PA 19063) for construction of a tile manufacturing plant controlled by various fabric collectors in New Morgan Borough, **Berks County**.

**36-03008C: Tyson Foods, Inc.** (P. O. Box 1156, New Holland, PA 17557-0901) for replacement of a dust collector used to control dust emissions from their Live Receiving Room in New Holland Borough/Earl Township, **Lancaster County**.

**67-05070B: Graham Packaging Co., L.P.** (2401 Pleasant Valley Road, York, PA 17401) for installation of a plastic bottle coating line controlled by a thermal oxidizer in Manchester Township, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**OP-47-0001D: PPL Electric Utilities Corp.** (2 North Ninth Street, Allentown, PA 18101-1179) for installation of two air cleaning devices (a replacement electrostatic precipitator and a selective catalytic reduction system) on a 750 megawatt rated capacity bituminous coal-fired electric utility boiler (Unit No. 1) at the Montour SES in Derry Township, **Montour County**. The resultant particulate matter emissions will be no greater than .1 pounds per million BTU of heat input and may be less. The selected catalytic reduction system, when operating, will reduce the nitrogen oxide emissions from Unit No. 1



by up to 90% from the level which currently exists to a level which will possibly be as low as .04 pounds per million BTU of heat input.

**59-301-019: TLC Services** (621 Smith Road, Mansfield, PA 16933) for construction of a crematory incinerator in Tioga Township, **Tioga County**.

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

**PA-63-147B: International Paper Co.** (P. O. Box 285, Washington, PA 15301) for operation of starch silo at Washington Container Plant in North Strabane Township, **Washington County**.

**PA-26-479A: Pioneer Mid-Atlantic, Inc.** (400 Industrial Blvd., New Kensington, PA 15068) for operation of Connellsville II Quarry in Bullsken Township, **Fayette County**.

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

**PA-25-00090A: Zurn Industries, Inc., Cast Metal Operation** (1301 Raspberry Street, Erie, PA 16502) for installation of a baghouse to replace two existing rota clone wet collectors in the City of Erie, **Erie County**.

**24-315-007A: Willamette Industries, Inc., Johnsonburg Mill** (100 Center Street, Johnsonburg, PA 15845) for modification of Air Quality Permit No. 24-315-007, Lime Kiln, to relax kiln SO<sub>2</sub> limit to 66.0 lbs/hour during periods when low volume high concentration (LVHC), gasses are ducted to the kiln in Johnsonburg, **Elk County**. Willamette Industries, Inc., Johnsonburg, is a Title V facility.

**10-307-050A: AK Steel, Butler Works** (210 Pittsburgh Road, Butler, PA 16003) for modification of Air Quality Permit No. 10-307-050, No. 22 Pickle Line, to convert to a sulfuric/hydrofluoric/hydrogen peroxide pickling operation in Butler, **Butler County**. AK Steel, Butler Works is a Title V facility.

**CNG Transmission Corporation** (625 Liberty Avenue, Pittsburgh, PA 15222) has submitted an application to the Department of Environmental Protection (Department) for approval to construct four internal combustion compressor engines, a pipeline heater, an emergency generator and a boiler at their Greenlick Compressor Station in Stewardson Township, **Potter County**. The information provided by the applicant and the Department's own analysis indicates that the subject air contamination sources may potentially emit up to 39.75 tons per year of nitrogen oxides, 46.24 tons per year of carbon monoxide, 10.74 tons per year of volatile organic compounds and 3.57 tons per year of a combination of hazardous air pollutants (of which up to 2.30 tons per year will be formaldehyde). These air contamination sources will also emit negligible amounts of sulfur oxides and particulate matter. A preliminary review of the information submitted by the applicant indicates that the proposed construction will meet all applicable air quality requirements, including the New Source Review requirements specified in 25 Pa. Code §§ 127.201–127.217. Based on this finding, the Department proposes to approve the application and issue a plan approval to construct four 3,200 horsepower, natural gas-fired White Superior model No. 2416 internal combustion compressor engines equipped with Clean Burn III control systems and model 30"-M51S "Special" Maxim converter/silencers as well as to construct a 12.8 million Btu per hour

natural gas-fired Gas Tech pipeline heater, a 536 horsepower natural gas-fired emergency generator and a 3.0 million Btu per hour natural gas-fired boiler.

To ensure compliance with all applicable standards, the Department proposes to place the following requirements in the respective plan approval.

1. The four internal combustion compressor engines, the pipeline heater, the emergency generator and the heater are to be constructed in accordance with the plans submitted with the application (as approved herein).

2. This plan approval is issued for the construction of four 3,200 horsepower, natural gas-fired White Superior model No. 2416 internal combustion compressor engines equipped with Clean Burn III control systems and model 30"-M51S "Special" Maxim converter/silencers as well as for the construction of a 12.8 million Btu per hour natural gas-fired Gas Tech pipeline heater, a 536 horsepower natural gas-fired emergency generator and a 3.0 million Btu per hour natural gas-fired boiler, as further described in the application and supplemental materials submitted for plan approval. The company shall submit the operating, design and air contaminant emission specifications of the emergency generator and the boiler within 15 days of finalizing the vendor selection for these sources to verify that the respective sources are equivalent to those described in the application and supplemental materials submitted for plan approval. If the Department determines that any of these sources are not equivalent, this plan approval is automatically null and void with respect to that source.

3. The emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from each of the four White Superior engines shall not exceed 6.35 pounds per hour, 5.64 pounds per hour and 1.69 pounds per hour, respectively. Additionally, the total combined emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the four engines shall not exceed 33.97 tons, 30.17 tons and 9.04 tons, respectively, in any 12 consecutive month period.

4. The total combined operation of the four White Superior engines shall not exceed 10,700 hours in any 12 consecutive month period.

5. The formaldehyde emissions from each of the four White Superior engines shall not exceed 0.43 pounds per hour. Additionally, the total combined emission of formaldehyde from the four engines shall not exceed 2.30 tons in any 12 consecutive month period and the total combined emission of all hazardous air pollutants from the four engines shall not exceed 3.57 tons in any 12 consecutive month period.

6. The 12.8 million Btu per hour Gas Tech pipeline heater shall be equipped with a low NO<sub>x</sub> burner and flue gas recirculation.

7. The concentration of nitrogen oxides (expressed as NO<sub>2</sub>) and carbon monoxide contained in the exhaust from the 12.8 million Btu per hour pipeline heater shall not exceed 30 ppm<sub>dv</sub> at 3% O<sub>2</sub> and 400 ppm<sub>dv</sub> at 3% O<sub>2</sub>, respectively, and the volatile organic compound emissions from the pipeline heater shall not exceed 0.14 pounds per hour. Additionally, the total emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the pipeline heater shall not exceed 2.28 tons, 15.75 tons and 0.61 tons, respectively, in any 12 consecutive month period.

8. The 536 horsepower emergency generator shall not be operated more than 1,000 hours in any 12 consecutive month period.

9. The emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the 536 horsepower emergency generator shall not exceed 4.38 pounds per hour, 3.70 pounds per hour and 1.48 pounds per hour respectively. Additionally, the total emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the emergency generator shall not exceed 2.19 tons, 1.85 tons and 0.75 ton respectively in any 12 consecutive month period.

10. The emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the 3.0 million Btu per hour boiler shall not exceed 0.30 pound per hour, 0.11 pound per hour and 0.08 pound per hour respectively. Additionally, the total emission of nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compounds from the boiler shall not exceed 1.31 tons, 0.48 ton and 0.35 ton respectively in any 12 consecutive month period.

11. All of the sources identified in condition 2 herein shall be fired only on pipeline quality natural gas.

12. The permittee shall be in possession of 58.27 tons of Department-approved volatile organic compound emission reduction credits prior to commencing operation of any of the air contaminant sources identified in condition 2 herein.

13. The natural gas-fired 6.5 million Btu per hour model No. 89-1160 NATCO pipeline heater currently existing at the Greenlick Compressor Station shall be shut down within 180 days of the start of operation of any source identified in condition 2 herein.

14. Within 120 days of startup of the White Superior engines, the permittee shall perform nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide, volatile organic compound and formaldehyde testing upon each of the engines to determine the mass emission rate (expressed in pounds per hour) of the respective air contaminants. This testing shall be performed while the engines are operating at maximum capacity using test methods and procedures deemed acceptable by the Department.

15. Within 120 days of startup of the 12.8 million Btu per hour natural gas-fired Gas Tech pipeline heater, the permittee shall perform nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compound testing upon the heater to determine the mass emission rate (expressed in pounds per hour, NO<sub>2</sub> and CO shall also be expressed in ppmv at 3% O<sub>2</sub>) of the respective air contaminants. This testing shall be performed while the heater is operating at maximum capacity using test methods and procedures deemed acceptable by the Department.

16. Within 120 days of startup of the 536 horsepower natural gas-fired emergency generator, the permittee shall perform nitrogen oxides (expressed as NO<sub>2</sub>), carbon monoxide and volatile organic compound testing upon the emergency generator to determine the mass emission rate (expressed in pounds per hour) of the respective air contaminants. This testing shall be performed while the emergency generator is operating at maximum capacity using test methods and procedures deemed acceptable by the Department.

17. At least 60 days prior to the performance of any testing required by conditions 14, 15 and 16 herein, the

permittee shall submit three copies of a pretest protocol to the Department for review.

18. At least 10 days prior to the performance of any testing required by conditions 14, 15 and 16 herein, the permittee shall notify the Department of the actual dates and times that testing will occur so that Department personnel can arrange to be present during the testing.

19. Within 60 days following the performance of any testing required by conditions 14, 15 and 16 herein, three copies of a test report shall be submitted to the Department.

20. The company shall maintain accurate and comprehensive records of the following:

- The number of hours that each of the White Superior engines is operated each month.
- The number of hours that the emergency generator is operated each month.

These records shall be retained for at least 5 years and be made available to the Department upon request.

21. Issuance of an operating permit for the aforementioned sources is contingent upon the sources being constructed, maintained and operated as described in the application and supplemental materials submitted for plan approval, as well as in accordance with all conditions contained herein, and upon satisfactory demonstration that any air contaminants emitted from the sources are in compliance with the requirements specified in all conditions contained herein and the applicable requirements specified in 25 Pa. Code §§ 123.1, 123.11, 123.13 and 123.41 as well as in compliance with the requirements specified in, or established under any other applicable rule or regulation contained in Article III.

22. The 12.8 million Btu per hour pipeline heater is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.40c through 60.48c. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance, including any recordkeeping and reporting requirements. Under 40 CFR 60.4 of the Standards of Performance, the submission of all requests, reports, applications, submittals and other communications required by the Standards of Performance must be made to both the Department and the Environmental Protection Agency.

23. The permittee shall immediately notify the Department of any malfunction of the sources or associated air cleaning devices which results in, or may possibly be resulting in, the emission of air contaminants in excess of the limitations specified in, or established under, any applicable rule or regulation contained in Article III of the Rules and Regulations of the Department or in excess of the limitations specified in any condition contained herein or which otherwise results in, or may possibly be resulting in, noncompliance with the requirements specified in any condition contained herein.

24. This plan approval authorizes temporary operation of the sources covered by this plan approval for a period of up to 180 days from the date upon which operation commences.

25. Any notification required as a result of any condition herein should be directed to: Joseph J. Dwyer.

In accordance with 25 Pa. Code § 127.45 the conditions listed in this plan approval do one or more of the following:

1. Identify the sources and location.
2. Establish allowable emission rates.
3. Establish monitoring, recordkeeping, testing and reporting requirements.
4. Ensure proper operation and adequate maintenance.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public inspection during normal business hours at the address listed.

Persons wishing to protest the issuance of plan approval or provide the Department with additional information which he/she believes should be considered prior to the issuance of the plan approval may submit the protest or information to the Department at the address listed. A 30-day comment period, from the last date of publication, will exist for the submission of protests or comments. Each written protest or comment shall include the following: name, address and telephone number of the person submitting the comments; identification of the proposed Plan Approval No. OP-53-0003D; and a concise statement regarding the relevancy of the information or any objections to issuance of the plan approval.

A public hearing may be held, if the Department in their discretion, decides that such a hearing is warranted based on the information received. All persons protesting the issuance of plan approval, submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper of general circulation in the county in which the source is to be located or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines notification by telephone is sufficient. All protests, comments and requests must be received by the Department no later than 30 days after final publication of this notice.

Written protests, comments or requests for a public hearing should be directed to David W. Aldenderfer, Regional Air Quality Program Manager, Department of Environmental Protection, Northcentral Region, Field Operations, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (570) 327-3648.

For additional information regarding the Department's analysis of the application, contact Joseph J. Dwyer, Air Pollution Control Engineer, Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (570) 327-3642.

#### **Notice of Intent to Issue a Plan Approval and Amend a Title V Operating Permit**

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval to **National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) for their plant in Sheffield Township, **Warren County**. The facility currently has a Title V permit No. 62-00141. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Plan approval No. 62-00141 is for the modification of units 1 through 8. The units will have their rated brake horsepower (BHP) increased by minor mechanical engine and ignition modifications and subsequent engine tuning. The manufacturer emissions rate guarantees will not increase. The #/hr and TPY emissions will increase slightly but will not trigger NSR or PSD review. The revised permit will include the emission limits for NO<sub>x</sub>,

CO and NMHC. The facility will be required to continue performing NO<sub>x</sub> emission tests on the engines on a semiannual basis using a Department approved portable analyzer. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 230 Chestnut Street, Meadville, PA 16335.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit [No. 62-00141].

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines notification is sufficient. Written comments or requests for a public hearing should be directed to Matthew Williams, Air Pollution Control Engineer, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Matthew Williams, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

If a plan approval has not undergone the above public notice process the change to an operating permit must be treated as a significant modification. In these situations, the Department should follow the procedures described in §§ 127.421—127.431 for State only operating permits or §§ 127.521—127.524 for Title V operating permits.

## **MINING**

### **APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Envi-

ronmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. These 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, 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 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.

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

*Coal Applications Received*

**03840106. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Revision received requesting a land use change on the property of Theodore Hooks, Jr. from cropland or pastureland/land occasionally cut for hay to unnamed wildlife habitat and request for a permanent stream crossing on an existing bituminous surface auger mine located in East Franklin Township, **Armstrong County**, affecting 583.4 acres. Receiving streams: unnamed tributary to the Allegheny River. Revision request received: June 22, 2000.

**65000102. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application received for commencement, operation, and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, proposed to affect 80.6 acres. Receiving

streams: unnamed tributaries to McGee Run to McGee Run to Conemaugh River. Application received: June 21, 2000.

*Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.*

**17663037. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), transfer of an existing bituminous surface mine permit from Al Hamilton Contracting Company, located in Decatur and Woodward Townships, **Clearfield County** affecting 400.5 acres. Receiving streams: unnamed tributaries to Little Beaver Run and Beaver Run, and unnamed tributaries to Goss Run and Goss Run. Application received June 12, 2000.

**17930124. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), transfer of an existing bituminous surface mine-auger permit from Al Hamilton Contracting Company, located in Woodward and Decatur Townships, **Clearfield County** affecting 346 acres. Receiving streams: unnamed tributary to Little Beaver Run and North Branch of Morgan Run. Application received June 12, 2000.

**17960114. Larry D. Baumgardner Coal Co., Inc.** (P. O. Box 186, Lanse, PA 16849), revision to an existing bituminous surface mine-auger permit for a Change in Permit Acres from 80.9 to 97.9 acres. The permit is located in Brady Township, **Clearfield County**. Receiving streams: unnamed tributary to Luthersburg Branch, Laborde Branch. Application received June 20, 2000.

**41940101. Fisher Mining Company** (40 Choate Circle, Montoursville, PA 17753), major permit revision to an existing bituminous surface mine permit to apply biosolids (stabilized sewage sludge) to enhance vegetation. The permit is located in Pine and McHenry Township, **Lycoming County** and affects 616 acres. Receiving streams: Buckeye Run, Otter Run, Little Pine Creek, Pine Creek, West Branch Susquehanna River, Chesapeake Bay. Application received June 16, 2000.

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

**03871302. DLR Mining, Inc.** (3065 Airport Rd., Indiana, PA 15701), to revise the permit for the Triple K No. 1 in Burrell Township, **Armstrong County** to add 712 acres to the underground permit area and 638 acres to the subsidence control plan boundary, no additional discharges. Application received May 18, 2000.

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

**40940203C. Hudson Anthracite, Inc.** (202 Main Street, Laflin, PA 18702), correction to an existing coal refuse reprocessing operation to include refuse disposal in Jenkins Township, **Luzerne County** affecting 149.9 acres, receiving stream—none. Application received June 19, 2000.

**49773204R3. Gilberton Coal Company** (P. O. Box 423, Gilberton, PA 17934), renewal of an existing coal refuse reprocessing operation in Mt. Carmel and Conyngham Townships, **Northumberland and Columbia Counties** affecting 958.0 acres, receiving stream—none. Application received June 19, 2000.

**54850202R3. B-D Mining Co.** (P. O. Box 423, Gilberton, PA 17934), renewal of an existing coal refuse reprocessing/disposal operation in Mahanoy Township, Shenandoah and Gilberton Boroughs, **Schuylkill County** affecting 1,590.0 acres, receiving stream—none. Application received June 19, 2000.

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

**32000102. Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701), commencement, operation and restoration of bituminous surface-auger mine in White Township, **Indiana County**, affecting 135.6 acres, receiving stream unnamed tributary of Yellow Creek and Yellow Creek to Two Lick Creek to the Conemaugh River, application received June 14, 2000.

**32000103. S & M Mining** (15 Rayne Run Road, Marion Center, PA 15759), commencement, operation and restoration of bituminous surface-auger mine in Cheryhill Township, **Indiana County**, affecting 64.0 acres, receiving stream unnamed tributary of Allen Run and unnamed tributary of Penn Run, both contributory to Two Lick Creek to the Conemaugh River, application received June 15, 2000.

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

*Small Noncoal (Industrial Minerals) Applications Returned*

**02000801. Duncan Excavating** (3037 Brownsville Road Extension, Library, PA 15219). Application returned for commencement, operation and restoration of a small industrial mineral surface mine located in Crafton Borough, **Allegheny County**, proposed to affect 8.9 acres. Receiving streams: Chartiers Creek to Ohio River. Application received: March 16, 2000. Application returned: June 16, 2000.

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

*Noncoal Applications Received*

**03930301. Allegheny Energy Supply Company, LLC** (800 Cabin Hill Drive, Greensburg, PA 15601-1689). Renewal application received for continued operation and reclamation of noncoal surface mine located in Washington Township, **Armstrong County**, affecting 19.8 acres. Receiving streams: unnamed tributary to the Allegheny River. Renewal application received: June 15, 2000.

**65900304. Carbon Fuel Resources, Inc.** (P. O. Box 275, West Leisenring, PA 15489). Revision application received to reconfigure the permit area for additional screening and removal of coke ash and by-products at a large noncoal surface mining operation located in Unity Township, **Westmoreland County**, affecting 40.4 acres. Receiving streams: unnamed tributary to Sewickley Creek to Sewickley Creek to the Youghiogheny River. Application received: June 21, 2000.

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

**10000305. G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Commencement, operation, and restoration of a sand and gravel operation in Worth Township, **Butler County** affecting 111.0 acres. Receiving streams: Black Run and unnamed tributaries to Black Run. Application to include a landuse change from forestland to pastureland/occasionally cut for hay. Application received June 15, 2000.

**10000305. G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Application for a stream encroachment to conduct mining activities within 100 feet of unnamed tributary to Black Run in Worth Township, **Butler County**. Receiving streams: Black Run and unnamed tributaries to Black Run. Application received June 15, 2000.

**16000303. Milestone Crushed, Inc.** (521 South Street, Clarion, PA 16214). Commencement, operation and restoration of a limestone operation in Perry Township, **Clarion County**, affecting 31.0 acres. Receiving streams: Unnamed tributaries to Allegheny River. Application received June 16, 2000.

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

**5878SM3C2. Haines & Kibblehouse, Inc.** (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit PA0595691 in Penn Forest Township, **Carbon County**, receiving stream—Stony Creek. Application received June 14, 2000.

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

*Large Industrial Minerals Received*

**32000301. Penn Run Quarry** (456 Weston Road, Penn Run, PA 15765), commencement, operation and restoration of a shale, sandstone and topsoil surface and crushing and screening mine in Cherryhill Township, **Indiana County**, affecting 42.0 acres, receiving stream unnamed tributary to Penn Run to Two Lick Creek to the Conemaugh River, application received June 13, 2000.

## APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

### ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department). Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

**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: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E35-330. Encroachment. South Abington Township,** 104 Shady Lane Road, Chinchilla, PA 18410. To remove the existing structure and to construct and maintain a 12-foot by 12-foot concrete box culvert, depressed 1 foot below streambed elevation, in Summit Lake Creek (TSF). The project, known as Leach Street culvert replacement

project, is located 0.5 mile west of the intersection of Shady Lane Road and S. R. 0006 (Scranton, PA Quadrangle N: 17.5 inches; W: 9.2 inches), South Abington Township, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E35-331.** Encroachment. **Pennsylvania Department of Transportation, District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structures and to construct and maintain a 13-foot by 7-foot concrete box culvert, 1 foot below streambed elevation, with alternating 6-inch high concrete baffles in Lucky Run Creek (CWF). The project is associated with the Keyser Avenue rehabilitation project and is located on S. R. 3011, Section 204, Segment 0120, Offset 0259 (Scranton, PA Quadrangle N: 6.9 inches; W: 11.1 inches), Taylor Borough, City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E35-332.** Encroachment. **Pennsylvania Department of Transportation, District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a 13-foot by 6-foot concrete box culvert, depressed 1 foot below streambed elevation, in Keyser Creek (CWF). The project is associated with the Keyser Avenue rehabilitation project and is located on S. R. 3011, Section 204, Segment 0150, Offset 000 (Scranton, PA Quadrangle N: 9.9 inches; W: 9.2 inches), Taylor Borough, City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E39-387.** Encroachment. **Borough of Catasauqua**, 118 Bridge Street, Catasauqua, PA 18032-2598. To maintain the existing twin 72 inch diameter RCP culverts in Catasauqua Creek (CWF) with work consisting of the construction of a trash rack on the upstream end of the structure. The project is located at the intersection of Walnut Street and St. John Street (Catasauqua, PA Quadrangle N: 6.3 inches; W: 12.9 inches), Borough of Catasauqua, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

**E40-554.** Encroachment. **Luzerne County Courthouse**, 200 North River Street, Wilkes-Barre, PA 18711. To remove the existing structure and to construct and maintain a road crossing consisting of three 29-inch by 42-inch C.M.P. arch culverts in Browns Creek (CWF). The project is located along Township Road T609 (Hardisky Road), approximately 0.4 mile north T712 (Gates Road) (Kingston, PA Quadrangle N: 6.6 inches; W: 13.5 inches), Jackson Township, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers).

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

**E31-163.** Encroachment. **PA Department of Transportation, Engineering District 9-0**, 1620 Juniata Street, Hollidaysburg, PA 16648. To remove an existing structure and to construct and maintain a single span prestressed reinforced concrete adjacent box beam bridge having a normal clean span of 51.68 feet and an underclearance of 5.62 feet across North Spring Branch (CWF) and construct a temporary cofferdam in the channel of North Spring Branch to facilitate construction of the bridge and a temporary roadway consisting of three 7.0-foot by 5.08-foot corrugated metal culverts with R-3 and R-7 rock fill for traffic control during construction located on SR 0094, Section 004, Segment 0480, Offset 2965 (Orbisonia, PA Quadrangle N: 12.5 inches; W: 15.3 inches) in Three Springs Borough, **Huntingdon County**.

**E36-693.** Encroachment. **PECO Energy**, 1848 Lay Rd., Delta, PA 17314. To perform maintenance dredging to remove accumulated sediment deposits from the north and south cooling water intake bays and the screenwell structure approach apron at the PECO Energy Company Peach Bottom Atomic Power Station located along the right bank in the Conowingo Reservoir on the Susquehanna River (WWF) (Holtwood, PA Quadrangle N: 3.6 inches; W: 4.5 inches) in Drumore Township, **Lancaster County**.

**E38-130.** Encroachment. **Trout Unlimited Doc-Fritscheg Chapter 2266**, Frank Payer, 124 Fort Hunter Road, Harrisburg, PA 17110. To construct and maintain an 8-inch PVC intake pipe to divert water to a second 6-foot diameter concrete pipe to be filled with limestone to serve as a diversion well being placed adjacent to an existing well. The project purpose is to treat high flows of acidic water in Rausch Creek (TSF). The site is located on the upstream side of the Stony Creek rail/trail bridge over Rausch Creek (Indiantown Gap, PA Quadrangle N: 22.3 inches; W: 13.5 inches) in Cold Spring Township, **Lebanon County**.

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

**E12-119.** Encroachment. **Gary Brown**, R. R. 2, Box 238D, Emporium, PA 15834. To restore 1,000 feet of Clear Creek (High Quality-Cold Water Fishery); construct, operate and maintain a water intake structure along Clear Creek for water supply to a 2-acre pond. The stream bank restoration work shall consist of regrading the eroded stream banks to side slopes of 4-feet horizontal to 1-foot vertical and applying vegetative stabilization. The water intake structure shall be constructed with a channel that shall have a maximum length of 10-feet, maximum bottom width of 5-feet, maximum depth of 7-feet and minimum side slopes of 2-feet horizontal to 1-foot vertical. The project will not impact wetlands while impacting 1,050 feet of waterway. The project is located along the western right-of-way of SR 0046 approximately 2,200 feet west of SR 4004 and SR 0046 intersection (Ridge Valley, PA Quadrangle N: 5.0 inches; W: 7.0 inches) in Shippen Township, **Cameron County**.

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

**E02-1313.** Encroachment. **Rohrich Automotive Group**, 2020 West Liberty Avenue, Pittsburgh, PA 15226. To remove the existing structures and to place and maintain fill in approximately 0.1 acre of wetlands (PEM) adjacent to an unnamed tributary to Brush Creek for the purpose of constructing a car dealership located on the south side of S. R. 0019, just south from the intersection of S. R. 0019 and Shenot Road (Mars, PA Quadrangle N: 4.3 inches; W: 10.8 inches) in Marshall Township, **Allegheny County**. The applicant proposes to pay into the Wetland Replacement Fund.

**E56-296.** Encroachment. **New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664. To place and maintain fill in approximately 2.64 acres of wetland for the purpose of constructing a concrete mix plant. The project site is located near the headwaters of Kimberly Run, adjacent to Township Road T-546, near where this road crosses the Pennsylvania Turnpike in (Murdock, PA Quadrangle N: 20 inches; W: 3 inches) Somerset Township, **Somerset County**.

**E63-491.** Encroachment. **Donna Lee Weber, Tom E. and Lisa D. Robinson, Flagler Center**, Suite 502, 501 South Flagler Drive, West Palm Beach, FL 33401. To rehabilitate and maintain the left bank of Maple Creek for the purpose of eliminating stream bank erosion on applicant property located on the south side of Lincoln Avenue, approximately 110 feet east from the intersection of Twilight Hollow Road and Lincoln Avenue (Monongahela, PA Quadrangle N: 1.2 inches; W: 2.8 inches) in Charleroi Borough, **Washington County**.

**E65-759.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 12-0**, P. O. Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain a 36-inch concrete pipe culvert in an unnamed tributary to Laurel Run (CWF) located on S. R. 2006, Segment 0020, Offset 0000 (Mammoth, PA Quadrangle N: 5.2 inches; W: 13.9 inches) in Mount Pleasant Township, **Westmoreland County**.

**E26-268.** Encroachment. **Blaney Farms, Inc.**, P. O. Box 640, Perryopolis, PA 15473. To place and maintain approximately 950 LF of fill along the left bank of an unnamed tributary to Crabapple Run (WWF) for the purpose of expanding an existing parking facility at Blaney Farms business located off of S. R. 51 North, approximately 1 mile south of the intersection of S. R. 51 and S. R. 201 (Fayette City, PA Quadrangle N: 6.3 inches; W: 2.8 inches) in Franklin Township, **Fayette County**. This application was filed as a result of the Department's Notice of Violation dated April 27, 1999 issued to Blaney Farm, Inc.

**E32-419.** Encroachment. **Green Township**, 1429 Rt. 240 Highway, Commodore, PA 15729. To remove the existing pipe culvert and to construct and maintain a 50-foot long, 5-foot diameter pipe culvert (invert depressed 6 inches) in Whitaker Run (HQ-CWF) located on Barr Road approximately .25 mile south of the intersection of S. R. 1014 and Barr Road. Also, to construct and maintain bank protection at the culverts approaches (Commodore, PA Quadrangle N: 6.6 inches; W: 7.9 inches) in Green Township, **Indiana County**.

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

**E43-287.** Encroachment. **Mercer County Commissioners**, 503 Mercer County Courthouse, Mercer, PA 16137. To remove the existing superstructure, reconstruct the top portion of the abutments and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear, normal span of 29.88 feet and an underclearance of 7.25 feet across Butchery Run on T-647 (Triple Link Road) approximately 1,000 feet northeast of S. R. 2021 (Hendersonville Road) (Sandy Lake, PA Quadrangle N: 16.2 inches; W: 9.5 inches) in Sandy Lake Township, **Mercer County**.

**E43-288.** Encroachment. **Mercer County Commissioners**, 503 Mercer County Courthouse, Mercer, PA 16137. To replace the steel beam super structure and to maintain County Bridge No. 2310 having a clear, normal span of 20 feet and an underclearance of 5 feet across Golden Run on T-446 (Robertson Road) approximately 0.5 mile north of S. R. 3020 (Lamor Road) (Sharpsville, PA Quadrangle N: 2.1 inches; W: 6.5 inches) in Sandy Lake Township, **Mercer County**.

## ENVIRONMENTAL ASSESSMENT

**The following Environmental Assessment and request for Water Quality Certification is being processed under §§ 105.12(a)(16) and 105.15(b), restoration activities undertaken and conducted under a restoration plan approved by the Department.**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**D39-010EA.** Environmental Assessment. **Chris Kocher, Rivers Program Director** (Wildlands Conservancy, 3701 Orchid Place, Emmaus, PA 18049-1637). To breach and remove an unnamed dam across Little Lehigh Creek for the purpose of restoring the stream to a free flowing condition. The dam is located on the grounds of the Pool Wildlife Sanctuary in Lower Macungie Township, **Lehigh County**.

## WATER ALLOCATIONS

**Applications received under the act of June 24, 1939 (32 P. S. §§ 631—640) relating to the acquisition of rights to divert waters of the Commonwealth.**

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

**WA26-539A.** Water Allocation. **Borough of Masontown**, 2 Court Street, Masontown, PA 15461. The applicant is requesting the right to withdraw 1,000,000 gallons per day (peak day) from the Monongahela River.

## ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Market Street 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 Secre-



tary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

*Permits Issued*

**WQM Permit No. 2300407.** Sewerage. **Knights Bridge Corporation**, 122 Chesley Drive, Suite 200, Media, PA 19063-1762. Applicant is granted approval to amend their existing permit to expand the STP serving Villages at Painters Crossing Shopping Center located in Chadds Ford Township, **Delaware County**.

**WQM Permit No. 4698425.** Sewerage. **McNeil Consumer Healthcare**, 7050 Camp Hill Road, Fort Washington, PA 19034. Applicant is granted approval for the construction and operation of pump station and forcemain to serve sanitary wastewater generated at the McNeil Consumer Products located in Whitemarsh Township, **Montgomery County**.

**NPDES Permit No. PA0011231.** Industrial waste. **Tosco Refining and Buckeye Pipe Line Company, L.P.**, P. O. Box 368, Emmaus, PA 18049-0368, is authorized to discharge from a facility located at Chelsea Pipe Line Station and Tank Farm, Upper Chichester Township, **Delaware County** into Boozers Run.

**NPDES Permit No. PA0055514.** Sewage. **John C. Lynam**, 148 Concord Meeting Road, Glen Mills, PA 19342, is authorized to discharge from a facility located in Concord Township, **Delaware County** into an unnamed tributary to West Branch of Chester Creek.

**NPDES Permit No. PA0026131. Amendment No. 2.** Sewage. **Upper Merion Municipal Utility Authority**, 900 Mancill Road, King of Prussia, PA 19406, is authorized to discharge from a facility located in Upper Merion Township, **Montgomery County** into Trout Creek/Schuylkill River.

**NPDES Permit No. PA0024376.** Sewage. **Borough of Boyertown**, 100 South Washington Street, Boyertown, PA 19512, is authorized to discharge from a facility located in Douglass Township, **Montgomery County**, to an unnamed tributary to Swamp Creek.

**NPDES Permit No. PA043974. Amendment No. 1.** Sewerage. **Valley Forge Sewer Authority**, 333 Pawling Road, Phoenixville, PA 19460-2656, is authorized to increase the flow to 9.4 mgd and discharge from a facility located in Schuylkill Township, **Chester County** to Schuylkill River.

**WQM Permit No. 2398407. Amendment No. 1** Sewerage. **Claude deBotton**, 1604 Walnut Street, Philadelphia, PA 19103. Applicant is granted approval to amend permit for the Edgmont Country Fair WWTP located in Edgmont Township, **Delaware County**.

**WQM Permit No. 1599422.** Sewerage. **Valley Forge Sewer Authority**, 333 Pawlings Road, R. D. 1, Phoenixville, PA 19406. Applicant is granted approval for the re-rate of the sewer authority's wastewater treatment plant located in Schuylkill Township, **Chester County**.

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

**Permit No. PA0087921.** Sewerage. **Berwick Township**, 85 Municipal Road, Hanover, PA 17331, is authorized to discharge from a facility located in Berwick Township, **Adams County** to the receiving waters named tributary of Pine Run.

**Permit No. PA0083917.** Industrial waste. **Polytek Pennsylvania, Inc.**, 811 Progress Avenue, Chambersburg, PA 17201, is authorized to discharge from a facility located in Chambersburg Borough, **Franklin County** to the receiving waters named Conococheague Creek.

**Permit No. PA0009733. Amendment No. 3.** Industrial waste. **PECO Energy Company**, Peach Bottom Atomic Power Station, 965 Chesterbrooke Boulevard 62 A-2, Wayne, PA 19087, is authorized to discharge from a facility located in Peach Bottom Township, **York County** to the receiving waters named Susquehanna River.

**Permit No. PA0028894.** Sewerage. **Fairfield Area School District**, 4840 Fairfield Road, Fairfield, PA 17320, is authorized to discharge from a facility located in Hamiltonban Township, **Adams County** to the receiving waters named UNT to Spring Run.

**Permit No. PA0033774.** Sewerage. **Regent Acres Mobile Home Park**, 4775 North Sherman Street Ext., Box 1, Mount Wolf, PA 17347, is authorized to discharge from a facility located in Newberry Township, **York County** to the receiving waters named Fishing Creek.

**Permit No. PAG043515.** Sewerage, Single Family Residence. **Royal C. Stout**, 144 Plum Creek Road, Bernville, PA 19506, is authorized to discharge from a facility located in Penn Township, **Berks County** to the receiving waters named Plum Creek.

**Permit No. 0100401.** Sewage. **Berwick Township**, 85 Municipal Road, Hanover, PA 17331. This permit approves the construction of Sewage Treatment Facilities/Sewers and Appurtenances in Berwick Township, **Adams County**.

**Permit No. 3683415-99-1.** Sewage. **William Horst**, City of Lancaster, 120 N. Duke St., P. O. Box 1599, Lancaster, PA 17608. This permit amendment approves the construction/modification of Sewage Treatment Facilities and Pump Station in Lancaster City, **Lancaster County**.

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

**NPDES Permit PA0228184.** Sewerage. **Curt A. Jones, J & D Service and Campground**, 973 Southern Drive, Catawissa, PA 17820. Permission granted to construct and maintain a sewerage treatment facility. Facility located at Franklin Township, **Columbia County**.

**NPDES Permit PA0033910.** Sewerage. **Thomas Neilson, Northeast Bradford School District**, R. R. 1, Box 211B, Rome, PA 18837-9505. Renewal granted to applicant to treat sewage from facility located at Orwell Township, **Bradford County**.

**NPDES Permit No. PA0112330.** Sewerage. **Melvin Rummings**, R. R. 3, Box 200, Jersey Shore, PA 17744. Renewal granted to continue the existing discharge of treated and chlorinated sewage from facility located at Woodward Township, **Lycoming County**.

**NPDES Permit No. PA0035777.** Industrial waste, Amendment. **Hoeganaes Corporation**, 1001 Taylors Lane, Cinnaminson, NJ 08077-2017. The amendment is for a new production line that requires de-mineralized



water. The discharge will be reverse osmosis backwash. Facility located at Delaware Township, **Northumberland County**.

**WQM Permit No. 0899404.** Sewerage. **Bradford County**, P. O. Box 10, Towanda, PA 18848. Permission granted to construct, operate and maintain a new sewage treatment plant to replace the existing worn-out plant. The facility is located at West Burlington Township, **Bradford County**.

**WQM Permit No. 5500401.** Sewerage. **Middleburg Municipal Authority**, 13 North Main Street, Middleburg, PA 17842-0415. Permission granted to construct and maintain sewer system to serve the village of Kissimmee. The sewage system will be a collection and extended air sewage plant.

**WQM Permit No. 5700401.** Sewerage. **David E. Engle**, R. R. 4 Box 4285, Dushore, PA 18614. Permission granted to construct and maintain a small flow sewer system for facility located at Cherry Township, **Sullivan County**.

**WQM Permit No. 6000402.** Sewerage. **DCNR Bureau of State Parks**, P. O. Box 8551, Harrisburg, PA 17105-8551. Permission to construct and maintain a sewage treatment plant and collection system to serve the eastern area of R B Winter State Park. The facility is located at Hartley Township, **Union County**.

**WQM Permit No. 1800401.** Sewerage. **East Nittany Valley Joint Municipal Authority**, P. O. Box 314, Lamar, PA 16848. The Department approved the new sewer extension to serve Porter, Lamar and Walker Townships. Facility located at Lamar Township, **Clinton County**.

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

**NPDES Permit No. PA0091898.** Sewage. **United Mobile Home, Inc.**, 125 Wyckoff Road, P. O. Box 335, Eatontown, NJ 07724, is authorized to discharge from a facility located at Edgewood Estates Mobile Home Park Sewage Treatment Plant, Kiskiminetas Township, **Armstrong County** to receiving waters named Unnamed Tributary of Rattling Run.

**NPDES Permit No. PA0218421.** Sewage. **The Group at Spring Church**, 2867 Washington Road, McMurray,

PA 15314, is authorized to discharge from a facility located at the Links at Spring Church Golf Course STP, Kiskiminetas Township, **Armstrong County** to receiving waters named Unnamed Tributary of Roaring Run.

**Permit No. 0273494-A1.** Sewerage. **Municipal Authority of the Township of Robinson**, P. O. Box 15539, Pittsburgh, PA 15244. Construction of Pump Station located in Robinson Township, **Allegheny County** to serve Magnus Lane Pump Station.

**Permit No. 0488402-A2.** Sewerage. **Marion Township**, 485 Hartzell School Road, Fombell, PA 16123. Construction of Sewage Treatment Plant Expansion located in Marion Township, **Beaver County** to serve Vekaplast.

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

**NPDES Permit No. PA0223051.** Sewage. **Connoquenessing Borough**, 228 Constitution Avenue, P. O. Box 471, Connoquenessing, PA 16027-0471, is authorized to discharge from a facility located in Connoquenessing Borough, **Butler County** to an unnamed tributary to Connoquenessing Creek.

**NPDES Permit No. PA0221481.** Industrial waste. **Norfolk Southern Railway Company**, 425 Holliday Drive, Pittsburgh, PA 15220, is authorized to discharge from a facility located in the City of Meadville, **Crawford County** to French Creek.

**NPDES Permit No. PA0041645.** Sewage. **Pennsylvania Department of Transportation, Safety Rest Area Site L**, P. O. Box 3060, Harrisburg, PA 17105-3060, is authorized to discharge from a facility located in Springfield Township, **Erie County** to an unnamed tributary to Turkey Creek.

**NPDES Permit No. PA0222861.** Industrial waste. **Temple Inland Forest Products Corp.**, R. R. 1, Box 268, Hutchins Road, Kane, PA 16735-9305, is authorized to discharge from a facility located in Sergeant Township, **McKean County**, to Seven Mile Creek.

**WQM Permit No. 2000406.** Sewerage. **Adam H. and Rebecca W. Detweiler**, SRSTP, 2761 Leach Road, Atlantic, PA 16111. Construction of Adam H. and Rebecca W. Detweiler SRSTP located in East Fallowfield Township, **Crawford County**.

## INDIVIDUAL PERMITS

(PAS)

The following NPDES Individual Permits for discharges of stormwater from construction activities have been issued.

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10N025	William G. Bracey c/o Bill's Super Market Route 435 Moscow, PA 18444	Lackawanna County Covington Township	Roaring Brook HQ-CWF
PAS10S028-R	Calvary Baptist Church of Stroudsburg West, Inc. Route 41, Box 4189 Stroudsburg, PA 18360	Monroe County Hamilton Township	McMichaels Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS101918	East Nittany Valley Joint Muni. Auth. P. O. Box 314 Lamar, PA 16848	Lamar and Porter Clinton County Walker Township Centre County	Fishing Creek

### INDIVIDUAL PERMITS

(PAR)

---

#### Approvals to Use NPDES and/or Other General Permits

---

The following parties have submitted (1) Notices of Intent (NOIs) for Coverage under General NPDES Permits to discharge wastewater into the surface waters of the Commonwealth; (2) NOIs for Coverage under General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; or (3) Notifications for First Land Application of Sewage Sludge.

The approval of coverage under these General Permits may be subject to one or more of the following: pollutant or effluent discharge limitations, monitoring and reporting, 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 (Department) has reviewed the NOIs and determined that they comply with administrative requirements of the respective permit application. Also, the Department has evaluated the First Land Application of Sewage Sludge for the sites applying for coverage under PAG-7, PAG-8 and PAG-9 and determined that the sites are suitable for land application of sewage sludge.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

#### List of General Permit Types

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 Quality 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
PAG-10	General Permit for Discharges Resulting From Hydrostatic Testing of Tanks and Pipelines

#### General Permit Type—PAG-2

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Lehigh County Hanover Township	PAR10Q141	Lehigh Northampton Airport Authority 3311 Airport Rd. Allentown, PA 18103	Catasauqua Creek CWF	Lehigh CD (610) 391-9583
Straban Township Adams County	PAR-10-0106	Adams County Economic Dev. Corp. 261 South Franklin Street Gettysburg, PA 17325	Rock Creek	Adams County CD 57 North Fifth Street Gettysburg, PA 17325 (717) 334-0636

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Derry Township Dauphin County	PAR-10-I235	Hershey Entertainment and Resorts Company 300 Park Boulevard Hershey, PA 17033	Swatara Creek Spring Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Williamsport Lycoming County	PAR804834	United Parcel Service, Inc. 3300 Wahoo Dr. Williamsport, PA 17701	Storm Drain Dougherty Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Potter Township Centre County	PAR604815	H R Bierly Auto Service 585 N. Pennsylvania Ave. Centre Hall, PA 16828	Unnamed tributary of Gap Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Decatur Township Clearfield County	PAR604821	Roy Conklin Box 100 West Decatur, PA 16878	Swale to Little Laurel Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Coal Township Centre County	PAR804805	Waste Management of Penn. Inc. R. R. 3, Box 4 Ranshaw, PA 17866	Shamokin Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Piatt Township Lycoming County	PAR604814	Aikey's Body Shop 1678 Devils Elbow Rd. Jersey Shore, PA 17740	Seely Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
College Township Centre County	PAR604817	Stewart Auto Parts 150 Shiloh Rd. State College, PA 16801	Unnamed tributary to Spring Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664

*General Permit Type—PAG-3*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Blair County Snyder Township	PAR603560	William Loner Loners Auto Salvage (Yard 1) R. D. 3 Tyrone, PA 16686	Bald Eagle Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Harrisburg City	PAR603506	Consolidated Scrap Resources, Inc. P. O. Box 1761 Harrisburg, PA 17105	Paxton Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Washington Township	PAR113503	Richard F. Nester Nester's Auto Sales-Service 1626 A Route 100 Bally, PA 19503	Perkiomen Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-4*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Bedford County Broad Top Township	PAG043653	Broad Top Township (Scott and Karen Morningstar) 187 Municipal Road P. O. Box 57 Defiance, PA 16633-0057	Sherman Valley Road	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Cherry Township Sullivan County	PAG045094	David Engle R. R. 4, Box 4285 Dushore, PA 18614	Unnamed tributary to Marsh Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Westmoreland County Mt. Pleasant Township	PAG046208	Evelyn Waugaman R. D. 1, Box 58B Acme, PA 15610	Jacobs Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-5*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Greene Township Erie County	PAG058326	Margaret L. Runser Franklin's General Store 9861 Wattsburg Road Erie, PA 16509	Unnamed Tributary to Four Mile Creek	Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-10*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Blair County Allegheny Township	PAG103505	Sun Pipe Line Company 1801 Market Street—15/10 PC Philadelphia, PA 19103-1699	Brush Run Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
South Williamsport Lycoming County	PAG104801	Coastal Oil New York Inc. 2344 Sylvan Dale Rd. South Williamsport, PA 17702	Susquehanna River	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664

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

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

**Permit No. 4600503.** Public water supply. **PA-American Water Company**, 800 West Hershey Park Drive, Hershey, PA 17033. A permit has been issued to PA-American Water Company granting permission to construct a relay station with two 1,250 gpm pumps in Norristown Borough, **Montgomery County**. *Type of Facility:* Public Water Supply System. *Consulting*

*Engineer:* BCM Engineers, Inc. 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462. *Permit to Construct Issued:* May 19, 2000.

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

**Permit No. 4099503.** Public water supply. **Glen Summit Spring Water**, Kevin Duffy, P. O. Box 129, Mountaintop, PA 18707. This proposal involves the construction of a borehole adjacent to its existing springs to supplement the springs during times of reduced ground-water recharge. It is located in Wright Township, **Luzerne County**. Permit issued on June 1, 2000.

**Permit No. 4099506.** Public water supply. **Hex Acres Water Company**, Barbara Tambur, P. O. Box 746, Pittston, PA 18640. This proposal involves the addition of Well No. 3 and disinfection facilities to supplement the existing source of supply (Well No. 1) during periods of high demand. It is located in Exeter Township, **Luzerne County**. Permit issued on May 24, 2000.

**Permit No. 3997501.** Public water supply. **Mark Terrace Water Company, Inc., d/b/a Lynn Water Company**, Joseph E. Iudicello, 6500 Chapman's Road, Allentown, PA 18106. This proposal involves abandonment of the existing permitted well source and the permitting of two currently unapproved well supplies. It is located in Lynn Township, **Lehigh County**. Permit issued on June 15, 2000.

**Permit No. 5290503.** Public water supply. **Crescent Lake North Community Association, Inc.**, c/o Fred Schoenagel, R. D. 2, Box 15, Greentown, PA 18426. This proposal involves an application to permit a public water supply system serving 26 single family residential dwellings. The water supply system consists of a well with disinfection. It is located in Dingman Township, **Pike County**. Permit issued on June 14, 2000.

**3999506.** Public water supply. **Whitehall Township Authority**, Douglas K. Bowen, Manager, 1901 Shadt Ave., Whitehall, PA 18052. This proposal involves the permitting of a new well, a pump station/treatment building with emergency generator and other necessary appurtenances. It is located in Whitehall Township, **Lehigh County**. Permit issued on June 16, 2000.

**4090512.** Public water supply. **Cherone Trailer Court, Mark Cherone**, 807 Schwab Street, Freeland, PA 18224. This proposal involves the permitting of an existing community water supply serving the Cherone Trailer Court in Freeland Borough, **Luzerne County**. This system included two wells, disinfection, iron sequestration, storage facilities and a distribution system. This is a re-issued permit. Permit issued on June 15, 2000.

**Minor Amendment for Skytop Lodge, Inc.**, Edward Mayotte, General Manager, One Skytop, Skytop, PA 18357. It is located in Barrett Township, **Monroe County**. Permit issued on June 8, 2000.

**Minor Amendment for PAWC.** Steven Seidl, VP, 800 West Hershey Drive, Hershey, PA 17033, for Flat Road Regulator Station. It is located in Plymouth Township, **Luzerne County**. Permit issued on June 6, 2000.

**Minor Amendment for Summit Hill Water Authority.** Michael Leonzi, Chairman, 114 West Ludlow Street, Summit Hill, PA 18250. It is located in Summit Hill Borough, **Carbon County**. Permit issued on June 14, 2000.

**Operations Permit PWS 3486466** issued on June 6, 2000, to **Glacier Water Services, Inc.**, Special Permit by Rule on June 6, 2000, for a vending machine addition.

**Operations Permit PWS 2400054** issued on June 14, 2000, to **Freeland Municipal Authority**, located in Freeland Borough, **Luzerne County**.

**Operations Permit PWS 3540002** issued on June 6, 2000, to **Country Hill Apartments**, located in West Brunswick Township, **Schuylkill County**.

**Operations Permit PWS 3130027** issued on June 5, 2000, to Creekside Manor Mobile Home Park, located in Franklin Township, **Carbon County**.

**Operations Permit PWS 2580009** on June 1, 2000, to **Village Green Development Corp.**, (Stillwater Village MHP) located in Uniondale, **Susquehanna County**.

**Operations Permit PWS 2450136** on June 16, 2000, to **Sullivan Trail Village** located in Pocono Township, **Monroe County**.

**Operations Permit PWS 3540047** on June 15, 2000 to **Hegins Township Authority Water System**, New Source Well No. 5, located in Hegins Township, **Schuylkill County**.

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

**Permit No. 5656490.** Public water supply. **Global Beverage Systems, Inc.**, 11 Lloyd Avenue Place, Latrobe, PA 15650-0391. *Type of Facility:* New bottled water plant using water from Latrobe Municipal Authority. *Permit issued for Construction:* June 13, 2000.

**Permit No. 2600504.** Public water supply. **Pennsylvania American Water Company**, P. O. Box 1290, 300 Galley Road, PA 15317. *Type of Facility:* Brownsville-Menallen Pump Station. *Permit issued for Construction:* June 13, 2000.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final report:

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

**Caparo Steel Company** (Perox Plant former Impoundment Area AOC-8), 15 Roemer Blvd., Farrell, PA 16121, City of Farrell, **County of Mercer**, Paul Wojciak, Environmental Management Associates Consultants, 10925 Perry Highway, Wexford, PA 15090, has submitted a final report concerning remediation of site soils and

groundwater contaminated with Lead and Heavy Metals. The applicant proposes to remediate the site to meet the Statewide health standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program.**

Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act (act). Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report, and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. 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. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a plan or report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has acted upon the following plans and reports:

*Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-5217.*

**Mark R. Nabuda**, Borough of Trafford, **Westmoreland County**. Mark R. Nabuda, c/o Law Offices of Harry Klondowski, 330 Grant Street, Suite 3321, Pittsburgh, PA 15219 and Von E. Fisher, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 have submitted a final report concerning remediation of site soil contaminated with BTEX and PHCs. The final report

demonstrated attainment of the Statewide health standard and was approved by the Department on June 9, 2000.

**Neville Island Industrial Park** (Lot B-RPS Facility), Neville Township, **Allegheny County**. Shenango Group, Inc., 200 Neville Road, Pittsburgh, PA 15225, Neville Island Associates, Gregg Brown, 733 Washington Avenue, Carnegie, PA 15106 and Stephen G. McGuire, Fluor Daniel GTI, 637 Braddock Avenue, East Pittsburgh, PA 15112 have submitted a final report concerning remediation of site soil and groundwater contaminated with BTEX, PHCs and PAHs. The final report demonstrated attainment of the site-specific standard and was approved by the Department on April 12, 2000.

**Pittsburgh Forging Company** (former American Bridge Corporation), Borough of Coraopolis, Allegheny County. American Bridge Corporation, Three Gateway Center, Suite 1100, Pittsburgh, PA 15222 and AMPCO Pittsburgh Corporation/Old Forgings Company, Rose Hoover, 600 Grant Street, Suite 4600, Pittsburgh, PA 15219 have submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, solvents, BTEX and PHCs. The Final Report did not demonstrate attainment of the site-specific standard and was disapproved by the Department on June 2, 2000.

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

**Baker Auto Service**, City of New Castle, **Lawrence County**, has submitted a Baseline Remedial Investigation Work Plan concerning remediation of groundwater and site soils. The site is being remediated in a Special Industrial Area. The Work Plan was approved by the Department on June 12, 2000.

**Agway Petroleum, Inc.**, City of New Castle, **Lawrence County**, has submitted a Baseline Remedial Work Plan concerning remediation of groundwater and site soils. The site is being remediated in a Special Industrial Area. The Work Plan was approved by the Department on June 12, 2000.

**DuFerco Farrell**, 15 Roemer Boulevard, Farrell, PA, City of Farrell, **Mercer County**, has submitted a Baseline Environmental Assessment Work Plan concerning remediation of groundwater and site soils. The site has been found to be contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The work plan was approved by the Department on May 21, 1999.

**DuFerco Farrell**, 15 Roemer Boulevard, Farrell, PA, City of Farrell, **Mercer County**, has submitted a Baseline Environmental Report concerning remediation of groundwater and site soils. The site has been found to be contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The site is being remediated in a Special Industrial Area. The Baseline Environmental Report was approved by the Department on April 28, 2000.

**Chicago Pneumatic Tool**, Howard Street, Franklin, PA, **Venango County**, Franklin Township, has submitted a Baseline Environmental Assessment Work Plan concerning the remediation of site soils contaminated with lead, heavy metals and solvents. The Work Plan was approved by the Department on January 18, 2000.

**Crawford County Properties, Inc.**, 345 Rogers Ferry Road, Meadville, PA 16335, former Spaulding's Property, **Crawford County**, City of Meadville, has submitted a Baseline Environmental Report concerning the remediation of groundwater and site soils in a Special Industrial Area. The report was approved by the Department on May 15, 2000.

## AIR QUALITY OPERATING PERMITS

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

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

**GP10-36-03114: NCR Corp.** (1160 East Main Street, Mount Joy, PA 17552) authorized use of a general permit for construction/operation of a nonheatset web offset lithographic printing press and operation of 13 existing nonheatset web offset lithographic printing presses in Mount Joy Borough, **Lancaster County**.

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

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**49-399-019A: Hoeganaes Corp.** (1001 Taylors Lane, Cinnaminson, NJ 08077) on June 21, 2000, to allow use of 2,000 pound activated carbon units instead of Calgon Ventsorb carbon canisters for the control of methylene chloride emissions from powdered metal coating operations in Delaware Township, **Northumberland County**.

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

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

**TV-11-00034: Johnstown Corp.** (545 Central Avenue, Johnstown, PA 15902) for their Johnstown Foundry in Johnstown, **Cambria County**. The facility's major sources of emissions include one tri-fuel boiler, various electric furnaces, mold making operations and sand reclamation processes which emit major quantities of volatile organic compounds (VOCs).

**TV-04-00108: Armstrong World Industries, Inc.** (1018 11th Street, Beaver Falls, PA 15010) for their ceiling tile manufacturing facility in Beaver Falls, **Beaver County**. As a result of the potential levels of VOC emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

**TV-65-00053: Dura Bond Steel Corp.** (P. O. Box 518, Export, PA 15632) for their specialty steel pipe fabrication and coating facility in Export, **Westmoreland County**. As a result of the potential levels of VOC emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

**TV-03-00197: Nature's Blend Wood Products, Inc.** (P. O. Box 392, Ford City, PA 16226-0392) for their wood kitchen cabinet manufacturing and finishing facility in Ford City, **Armstrong County**. As a result of the potential levels of VOC and HAPs emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

**TV-56-00100: Highland Tank & Manufacturing Co.** (One Highland Road, Stoystown, PA 15563) for their tank manufacturing and coating facility in Stoystown, **Somerset County**. As a result of the potential levels of HAPs emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

## PLAN APPROVALS

**Minor Modification of Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**OP-53-0009D: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) on June 22, 2000, to extend the deadline for the performance of stack testing on Engine 1A to September 28, 2000, at the Ellisburg Compressor Station in Allegany Township, **Potter County**.

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

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**48-307-059: Lehigh Heavy Forge Corp.** (1275 Daly Avenue, Bethlehem, PA 18015) on June 19, 2000, for reactivation of Furnace 6 and 14 at Forge 2 in Bethlehem, **Northampton County**.

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

**67-304-034E: R. H. Sheppard Co., Inc.** (P. O. Box 877, Hanover, PA 17331-0877) on June 22, 2000, for installation of a fabric collector at Plant 9 in Hanover Borough, **York County**.

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

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

**22-310-005D: Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105) granted June 26, 2000, to authorize temporary operation of a stone crushing plant controlled by two fabric filters and a wet suppression system, covered under this Plan Approval until October 23, 2000, at the Hummelstown Quarry in South Hanover Township, **Dauphin County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

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

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

#### *Coal Mining Permits Issued*

**02733702. Consolidation Coal Company** (200 Hidden Valley Rd., McMurray, PA 15317), to renew the permit for the Renton Mine Coal Refuse Disposal Area in Plum Borough, **Allegheny County** to renew permit, no additional discharges. Permit issued June 13, 2000.

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

**40900201R2. Hudson Anthracite, Inc.** (202 Main Street, Laflin, PA 18702), renewal of an existing coal refuse reprocessing operation in Jenkins Township, **Luzerne County**, affecting 15.42 acres, receiving stream—none. Renewal issued June 21, 2000.

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

**65840117. M. B. Energy, Inc.** (175 McKnight Road, Blairsville, PA 15717-7960). Renewal issued for continued reclamation only of a bituminous surface mine located in Salem Township, **Westmoreland County**, affecting 134.45 acres. Receiving streams: unnamed tributary to Beaver Run. Application received: March 15, 2000. Reclamation only renewal issued: June 21, 2000.

**65880113. M. B. Energy, Inc.** (175 McKnight Road, Blairsville, PA 15717-7960). Renewal issued for continued operation and reclamation of a bituminous surface/auger mine located in Derry Township, **Westmoreland**

**County**, affecting 133.3 acres. Receiving streams: unnamed tributaries of Conemaugh River and unnamed tributaries of McGee Run. Application received: March 13, 2000. Renewal issued: June 21, 2000.

**04723003. Darlington Brick & Clay Products Co.** (P. O. Box 346, Darlington, PA 16115-0346). Renewal issued for continued operation and reclamation of a bituminous surface mine located in South Beaver Township, **Beaver County**, affecting 213.1 acres. Receiving streams: unnamed tributaries to Brush Run to North Fork Little Beaver to Little Beaver Creek. Application received: October 13, 1999. Renewal issued: June 21, 2000.

**02950102. Robinson Coal Company** (200 Neville Road, Neville Island, PA 15225). Renewal issued for continued reclamation only of a bituminous surface mine located in North Fayette Township, **Allegheny County**, affecting 100.7 acres. Receiving streams: one unnamed tributary to North Branch Robinson Run. Application received: March 10, 2000. Reclamation only renewal issued: June 21, 2000.

**02890106. Robinson Coal Company** (200 Neville Road, Neville Island, PA 15225). Renewal issued for continued reclamation only of a bituminous surface mine located in Robinson and North Fayette Townships, **Washington and Allegheny Counties**, affecting 104.0 acres. Receiving streams: North Branch of Robinson Run, to Robinson Run, to Chartiers Run. Application received: March 10, 2000. Reclamation only renewal issued: June 21, 2000.

**02743004. Deep Valley Coal & Disposal, Inc.** (7111 Steubenville Pike, Oakdale, PA 15071). Renewal issued for continued operation and reclamation of a bituminous surface mine located in North Fayette Township, **Allegheny County**, affecting 35.0 acres. Receiving streams: Pinkerton Run to Robinson Run to Charles Creek. Application received: March 21, 2000. Renewal issued: June 21, 2000.

**03950107. Rosebud Mining Company** (R. R. 9, Box 379A, Kittanning, PA 16201). Renewal issued for continued reclamation of a bituminous surface auger mine located in South Bend and Burrell Townships, **Armstrong County**, affecting 248.0 acres. Receiving streams: unnamed tributaries to Crooked Creek, Crooked Creek to the Allegheny River. Renewal application received: May 17, 2000. Renewal permit issued: June 23, 2000.

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

**11783035. Permit Renewal, C & K Coal Company** (P. O. Box 69, Mayfield Road, Clarion, PA 16214), for continued operation of a bituminous-surface/coal refuse disposal/auger surface mine in Reade Township, **Cambria County**, affecting 1,256.0 acres, receiving stream to Bear Loop Run; to unnamed trib to Bells Gap Run; and to Powell Run; application received December 31, 1999, application issued June 12, 2000.

**56990103. Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), for commencement, operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 222.0 acres, receiving stream Miller's Run; unnamed tribs to Miller's Run, application received September 1, 1999, application issued June 16, 2000.

**56900105. Permit Renewal, Cooney Brothers Coal Company** (P. O. Box 246, Cresson, PA 16630), for contin-



ued operation of a bituminous surface and auger mine in Paint Township, **Somerset County**, affecting 295.0 acres, receiving stream unnamed tributaries to/and Shade Creek, application received April 25, 2000, application issued June 19, 2000.

**56813104.** Permit Revision, **Finzel Coal** (12152 National Pike, Grantsville, MD 21536), for the premining land use of forestland to be restored to pastureland post-mining on a portion of the Jean C. Shaffer property in Brothersvalley Township, **Somerset County**, affecting 344.7 acres, receiving stream to unnamed tributaries to Tubs Run and to Tubs Run, application received April 21, 2000, application issued June 19, 2000.

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

*Small Industrial Minerals Issued*

**05880801.** Permit Revision, **Rickie L. Wright** (R. D. 1, Box 301, Imler, PA 16655), for a change in reclamation to equipment and hay storage in Kimmel Township, **Bedford County**, affecting 1.5 acres, receiving stream Mud Run, application received April 20, 2000, application issued June 19, 2000.

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

*Small Noncoal (Industrial Mineral) Permits Issued*

**34000801.** **Jeffrey D. Pontius** (R. R. 2, Box 2075, Port Royal, PA 17082), commencement, operation and restoration of a small quarry operation in Turbett Township, **Juniata County** affecting 1.0 acre, receiving stream—none. Permit issued June 21, 2000.

**58002801.** **Power's Stone, Inc.** (R. R. 1, Box 124, Montrose, PA 18801), commencement, operation and restoration of a bluestone quarry operation in Forest Lake Township, **Susquehanna County**, affecting 5.0 acres, receiving stream—none. Permit issued June 21, 2000.

**52000801.** **Wayne D. Holbert** (237 Mast Hope Plank Road, Lackawaxen, PA 18435), commencement, operation and restoration of a quarry operation in Shohola Township, **Pike County**, affecting 3.0 acres, receiving stream—none. Permit issued June 22, 2000.

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

*Noncoal Permits Issued*

**7474SM1A1C4.** **Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9454), renewal of NPDES Permit PA0119253 in Lower Nazareth Township, **Northampton County**, receiving stream—unnamed tributary to Schoeneck Creek. Renewal issued June 19, 2000.

**6774SM1C4.** **National Limestone Quarry, Inc.** (P. O. Box 397, Middleburg, PA 17847), renewal of NPDES Permit PA0594695 in Perry Township, **Snyder County**, receiving stream—North Branch Mahantongo Creek. Renewal issued June 19, 2000.

**40960301C.** **Bedrock Quarries, Inc.** (71 South Foote Avenue, Duryea, PA 18642), correction to an existing quarry operation in Duryea Borough, **Luzerne County**, affecting 11.4 acres, receiving stream—none. Correction issued June 21, 2000.

**40940301T.** **No. 1 Contracting Corporation** (49 South Main Street, Ashley, PA 18705), transfer of an existing quarry operation in Hazle Township, **Luzerne County**, affecting 236.0 acres, receiving stream—none. Transfer issued June 22, 2000.

## ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

### ENCROACHMENTS

The Department of Environmental Protection (Department) has taken the following actions on previously received Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E35-289.** Encroachment. **William G. Bracey, c/o Bill's Supermarket**, Route 435, Moscow, PA 18444. To construct and maintain a 16-foot x 3-foot concrete box culvert in a tributary to Roaring Brook, including the placement of fill in 0.96 acre of wetlands and the placement of 70-linear feet of 18-inch diameter C.P.E. stormwater pipe in wetlands for the construction of a secondary access road to the existing retail complex. The project is part of Bill's Shopping Center expansion project. The project is located immediately northwest of the intersection of S. R. 0435 and S. R. 0502 (Moscow, PA Quadrangle N: 10.8 inches; W: 2.3 inches) in Covington Township, **Lackawanna County**. The permittee is required to provide 0.96 acre of replacement wetlands.

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

**E06-474-R.** Encroachment. **Berks County**, 633 Court Street, Reading, PA 19601. To remove an existing structure and to construct and maintain a bridge having an underclearance of 6.5 feet and a clear span of 47.7 feet across the channel of Allegheny Creek (CWF) at a point at Hartz Store Road (T-322) (Morgantown, PA Quadrangle N: 20.0 inches; W: 8.2 inches) in Brecknock Township,

**Berks County.** The permittee is required to provide 0.12 acre of replacement wetlands. 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.*

**E12-115.** Encroachment. **Jeff Kochel, Allegheny Partners LP**, 312 Main Street, Smethport, PA 16749. To construct and maintain a 35 foot long portable steel bridge with an underclearance of 6.19 feet in Bobby Run located .75 mile west on Bobby Run Road from the intersection with Rich Valley Road (Rich Valley, PA Quadrangle, N: 6 inches, W: 13 inches) in Shippen Township, **Cameron County**.

**E14-372.** Encroachment. **Ray and Carol Fisher**, 160 East Fifth Avenue, Bellefonte, PA 16823-2651. To maintain a steel grate bank-to-bank bridge across Wallace Run with a 47-foot clear span, a 5-foot underclearance and concrete abutments buried in the approach roads 3-feet back from the top of the stream bank located 0.5 mile west of Gum Stump (Bellefonte, PA Quadrangle, N: 18.91 inches; W: 15.09 inches) in Union Township, **Centre County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E53-340.** Encroachment. **Matthew Lowe, Chairman, Coudersport Municipal Authority**, P. O. Box 820, Coudersport, PA 16915. To construct and maintain 8-inch and 10-inch gravity sewer extensions and a 24 inch PVC outfall from the Coudersport area sewage treatment plant. The sewer extensions will require crossings of Trout Run, Lyman Creek, Mill Creek, several intermittent streams and emergent wetlands. The project also includes sewage treatment plant expansion with construction of new clarifiers, oxidation ditch, mechanical and administration buildings and appurtenances in the floodplain of the Allegheny River. The centroid of the proposed sewer construction is located approximately 300 feet south of Route 6 and 4,500 feet east of the Coudersport Borough/Sweden Township boundary line (Sweden Valley, PA Quadrangle N: 2.0 inches; W: 12.1 inches) in Sweden Township, **Potter County**. The project will temporarily impact wetlands while impacting approximately 290 feet of waterway. Lyman Creek and Mill Creek are Cold Water Fisheries Streams.

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

**E63-490.** Encroachment. **Cecil Township**, 3655 Millers Run Road, Cecil, PA 15321. To construct and maintain a 64.0 foot long x 32.0 foot wide addition to the existing four bay metal garage along the left bank of Millers Run (WWF) for the purpose of expanding the existing facility and to operate and maintain the existing four bay metal garage and the existing five bay metal garage on the left bank of said stream located approximately 320 feet south from the intersection of S. R. 50 and Glass Hill Road (T. R. 662) (Canonsburg, PA Quadrangle N: 12.2 inches; W: 13.6 inches) in Cecil Township, **Washington County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E63-339.** Encroachment. **David Wylie**, 228 King Richard Drive, McMurray, PA 15317-2535. To amend permit E63-339 which authorized the construction and maintenance of two bridges both having a span of 60 feet and underclearance of 8 feet across Little Chartiers Creek

(HQ-WWF) to provide pedestrian and golf cart crossing to an existing golf course located 0.4 mile north of the intersection of Linden Road and Walker Road. The permit will be amended to include two new bridges, both having a span of 60 feet and an underclearance of 8 feet across Little Chartiers Creek at two locations to provide pedestrian and golf cart crossings in the existing golf course and perform bank rehabilitation on both sides of the stream channel located between the two proposed bridges for a distance of 570 feet (Washington East Quadrangle N: 21.5 inches; W: 1.9 inches) in North Strabane Township, **Washington County**.

**E63-486.** Encroachment. **Pennsylvania Department of Transportation**, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To remove the existing Valley Church Road Bridge and to construct and maintain a prestressed concrete box beam bridge having a normal span of 32.0 feet and an underclearance of 7.5 feet over Enlow Fork (TSF). Also, to conduct channel cleaning within 50 feet upstream of the bridge, to construct and maintain a temporary stream crossing and to construct and maintain an 18-inch diameter outfall in Enlow Fork (TSF). This project is located on Valley Church Road (S. R. 4013, Section A10) approximately 500 feet southeast of its intersection with S. R. 3026 (Wind Ridge, PA Quadrangle N: 18.7 inches; W: 3.0 inches) in Morris Township, Green County and East Finley Township, **Washington County**.

---

## SPECIAL NOTICES

---

### Availability of Grants for the Remediation of Waste Tire Piles in Pennsylvania

The Department of Environmental Protection (Department) hereby announces the availability of grants for fiscal year 2000/2001 for the remediation of ten waste tire piles in Pennsylvania. Only the following waste tire piles listed are eligible under this grant offering.

To be considered for a grant, an applicant: (1) must propose to remediate any of the following waste tire piles: Gemstar, Springfield Township, Bucks County; Calabrette, Haycock Township, Bucks County; Huston Junkyard, Falls Township, Bucks County; John Hook Property, Fairview Township, Erie County; Robert Parknow, Conneaut Township, Erie County; Wesley Cooper, Larksville Borough, Luzerne County; Recreation Realty, Inc., Bear Creek Township, Luzerne County; Eggleston/Matusavage, Northmoreland Township, Wyoming County; Kenneth Gacek, Exeter Township, Wyoming County; and Minor Burgess, Tunkhannock Township, Wyoming County; (2) must not have contributed, in any manner, to the creation of a noncompliant waste tire pile; and (3) must have an identifiable end-use for the waste tires to be remediated.

Grant funds are to be used for activities directly related to the remediation of priority waste tire sites (such as employee wages, operation of equipment, transportation, processing costs and the like). Grants may not be used for the purchase of equipment and grant recipients shall use funds only for those activities approved by the Department.

All applicants must complete and submit an official two-part application for each proposed tire pile remediation. The Waste Tire Remediation Grant Application Parts A and B include all the materials and instructions necessary for applying for a grant. Copies of these documents are available by contacting the Division of Municipal and Residual Waste at (717) 787-7381 or may

be obtained electronically from the Department Internet site on the world wide web at: <http://www.dep.state.pa.us> (type "tires" in directLINK). Six copies of the application containing both Parts A and B must be completed and submitted by 4 p.m. on August 18, 2000, to Department of Environmental Protection, Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8472, Harrisburg, PA 17105-8472. Applications that are incomplete or arrive after the deadline will not be considered.

At a minimum, all applications must contain: (1) a description of the applicant's experience in waste tire remediation; (2) markets or end-uses for the remediated tires; (3) a schedule for the remediation of tires at the site; (4) proposed cost of the waste tire pile remediation; and (5) any additional information the Department deems necessary. Please follow the instructions in the Part A and B Grant Application to assure all of the necessary information is submitted in the correct format.

Persons who have any questions about this grant program should contact the Division of Municipal and Residual Waste (717) 787-7381.

**Availability of Grants for the Remediation of Waste Tire Piles in Pennsylvania Under the Waste Tire Remediation Grant Program for Municipalities for Fiscal Year 2000/2001**

The Department of Environmental Protection (Department) announces the availability of grants through the Waste Tire Recycling Act of 1996 (Act 190) for fiscal year 2000/2001 for the remediation of waste tire piles in Pennsylvania. The Waste Tire Remediation Grant Program for Municipalities provides a grant program, which is funded through the general fund. The grants are limited to only those municipalities having a waste tire pile containing 5,000 or more waste tires.

Only municipalities are eligible to participate and receive funding. To be considered for a grant, a municipality: (1) must propose to remediate a waste tire pile on the Department's list of priority waste tire piles or piles containing 5,000 or greater waste tires; (2) must not have contributed, in any manner, to the creation of a noncompliant waste tire pile; and (3) must have an identifiable end-use for the remediated waste tires.

Grant funds are intended for activities directly related to the remediation of waste tire piles (such as employee wages, operation of equipment, transportation, processing costs and the like). Grants may not be used for the purchase of equipment and grant recipients shall use the funds only for those activities approved by the Department.

All applicants must complete and submit an official two-part application for each proposed tire pile remediation. The Waste Tire Remediation Grant Application Parts A and B includes all the materials and instructions necessary for applying for a grant. Copies of these documents are available by contacting the Division of Municipal and Residual Waste at (717) 787-7381 or may be obtained electronically from the Department's Internet site on the world wide web at: <http://www.dep.state.pa.us> (type "tires" in directLINK). Six copies of the application containing both Parts A and B must be completed and submitted by 4 p.m. on September 15, 2000, to Department of Environmental Protection, Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8472, Harrisburg, PA 17105-8472. Applications that are incomplete or arrive after the deadline will not be considered.

At a minimum, all applications must contain: (1) a description of the applicant's or their contractor's experience in waste tire remediation; (2) markets or end-uses for the remediated tires; (3) a schedule for the remediation of tires at the site; (4) proposed cost of the waste tire pile remediation; and (5) any additional information the Department deems necessary. Please follow the instructions in the Part A and B Grant Application to assure all of the necessary information is submitted in the correct format.

Persons who have any questions about this grant program should contact the Division of Municipal and Residual Waste at (717) 787-7381.

[Pa.B. Doc. No. 00-1174. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Mining and Reclamation Advisory Board**

The Mining and Reclamation Advisory Board will hold their quarterly meeting on Friday, July 7, 2000, at 8 a.m. in the Laurel Room, Ramada Inn, Somerset.

Questions concerning the agenda can be directed to Elaine Holland at (717) 783-5338 or e-mail to [holland.elaine@dep.state.pa.us](mailto:holland.elaine@dep.state.pa.us). The agenda for this meeting will be available through the Public Participation Center on the Department'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 Elaine Holland directly at (717) 783-5338 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. 00-1175. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Proposed Recommendations to Designate Areas under the Clean Air Act**

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat. Ozone can also cause damage to crops, forests and wildlife. In July 1997, the United States Environmental Protection Agency (EPA) established a new health-based ozone standard. Federal law requires the EPA to designate those areas of the country that do not meet that standard. The new ozone standard was challenged in Federal court and on May 14, 1999, was remanded to the EPA. However, the EPA is planning to designate areas for this new ozone standard by early 2001.

Governors may submit recommendations for designations based on air quality monitoring data over the last 3 years and other criteria. If, upon the outcome of the litigation, the standard and designations become legally enforceable, states must then develop state implementation plans that describe how the areas will attain clean air.

This Commonwealth is proposing to recommend that (1) boundaries for the designated areas follow metropolitan area and county boundaries, similar to the methodol-

ogy used for designating areas under the existing ozone standard; and (2) the EPA clearly identify areas that will most likely meet the air quality standard once interstate transport measures are in place.

This proposal is available on the Department Website at <http://www.dep.state.pa.us> (choose Information by Subject/Air Quality/State Implementation Plans), or through the following contact person.

Written comments should be sent to Wick Havens, Chief, Air Resource Management Division, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or by e-mail to [havens.wick@dep.state.pa.us](mailto:havens.wick@dep.state.pa.us) no later than close of business on August 11, 2000. Please make sure all comments, including e-mails, include name, organization name, postal address and telephone number.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 00-1176. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Small Water Systems Technical Assistance Center Advisory Board Special Committee Meeting

The Capability Enhancement Committee will hold a special meeting on Tuesday, July 11, 2000, from 9:30 a.m. to 11 a.m. in the 11th Floor Conference Room of the Rachel Carson State Office Building, Harrisburg, PA. The purpose of the meeting will be to review the draft package describing Pennsylvania's Capability Enhancement Program before it is finalized for submittal to EPA.

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

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Donna Green directly at (717) 787-0122 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 00-1177. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Water Resources Advisory Committee Cancellation of Meeting

Because of a lack of agenda items, the Water Resources Advisory Committee's July 13, 2000, meeting has been

cancelled. The Committee's next meeting will be held on September 13, 2000, at 9 a.m. in the Green Room, Ground Floor, Forum Building in Harrisburg.

For further information, contact Carol Young at (717) 787-9637.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 00-1178. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Construction Manager; Request for Proposal

The Department of General Services is seeking interested firms to submit sealed proposals for consideration for the following project:

**DGS 377-1.OA**—Construction Management, Construction of a State Correctional Institution, Jenks Township, Forest County, PA. A brief description of the project is as follows: Construction Management for Pre-Construction and Construction Services for design and construction of a new 1,236 cell State Correctional Institution, as well as all ancillary buildings containing equipment to operate the facility. Construction Manager is not acting as contractor. Construction allocation is \$105 million for the entire project on a 30 month schedule.

**RFP Price**—\$50 (Includes 6% PA Sales Tax) per RFP. Checks must be made payable to the Commonwealth of Pennsylvania. This price is nonrefundable. Requests for the RFP should be mailed to the Department of General Services, Bureau of Professional Selections and Administrative Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Contact Bidders Services at (717) 787-3923 or [www.dgs.state.pa.us](http://www.dgs.state.pa.us) for the names of those who have secured the RFP.

A Preproposal Conference is not scheduled for this contract.

All questions regarding the RFP or to clarify matters concerning the construction manager's responsibilities must be submitted in writing to the issuing office by no later than 5 p.m., Tuesday, July 18, 2000. Only firms requesting the RFP will receive a copy of all submitted questions and answers.

All proposals are due Tuesday, August 1, 2000, no later than 2 p.m., in Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Responses received after this due date and time will be returned unopened.

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 00-1179. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health under sections 301 and 317 of the Public Health Service Act, as amended, 42 U.S.C.A. §§ 241(a) and 247(b), will hold public meetings on Wednesday, July 19 and Thursday, July 20, 2000.

The meeting will be held at the Sheraton Inn Harrisburg East, 800 East Park Avenue, Harrisburg, PA 17111, from 9 a.m. to 3 p.m.

For additional information contact Thomas M. DeMelfi, Department of Health, Bureau of HIV/AIDS, P. O. Box 90, Room 912, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-0574.

Persons with a disability who desire to attend the meeting and require an auxiliary aid service or other accommodation to do so, should contact Thomas DeMelfi at (717) 783-0574 or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 00-1180. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Laboratories Approved to Determine Blood Alcohol Content

The following laboratories are licensed by the Department of Health (Department) under the Clinical Laboratory Act (35 P.S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the analysis of serum proficiency testing specimens are approved to analyze both serum and plasma. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), and the Game and Wildlife Code, 34 Pa.C.S. § 2502, (relating to hunting or furtaking under the influence of alcohol or controlled substance) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside the Commonwealth may not provide blood and/or serum and plasma alcohol testing services in this Commonwealth unless they are specifically licensed by the Department under the Clinical Laboratory Act.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated

laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes, and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised approximately semi-annually and published in the *Pennsylvania Bulletin*.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the United States Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464, Ext. 3229.

Persons with a disability who require auxiliary aid service should contact Dr. Shoemaker at V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

Abington Memorial Hospital-S  
1200 Old York Road  
Abington PA 19001  
215-576-2350

Albert Einstein Medical Center-Northern Division-S  
5501 Old York Road  
Philadelphia PA 19141  
215-456-6100

Allegheny County Coroner's Office-SB  
Division of Laboratories  
10 County Office Building  
Pittsburgh PA 15219  
412-350-6873

Allegheny General Hospital-Dept. Lab. Medicine-S  
320 East North Avenue  
Pittsburgh PA 15212  
412-359-3521

Allegheny Valley Hospital Laboratory-SB  
1300 Carlisle Street  
Natrona Heights PA 15065  
724-224-5100

Altoona Hospital-SB  
620 Howard Avenue  
Altoona PA 16601  
814-946-2340

American Medical Laboratories, Inc.-SB  
14225 Newbrook Drive  
Chantilly VA 20153  
703-802-6900

Analytic Bio-Chemistries, Inc.-SB  
1680-D Loretta Avenue  
Feasterville PA 19053  
215-322-9210

Armstrong County Memorial Hospital-S  
1 Nolte Drive  
Kittanning PA 16201  
724-543-8122

Associated Clinical Laboratories-SB  
1526 Peach Street  
Erie PA 16501  
814-461-2400

Associated Regional and University Pathologists-S  
500 Chipeta Way  
Salt Lake City UT 84108  
800-242-2787

AUH-Forbes Regional-SB  
2570 Haymaker Road  
Monroeville PA 15146  
412-858-2560

Ayer Clinical Laboratory-Penn Hospital-S  
8th & Spruce Streets  
Philadelphia PA 19107  
215-829-3541

Barnes-Kasson County Hospital-S  
400 Turnpike Street  
Susquehanna PA 18847  
570-853-3135

Bon Secours-Holy Family Regional Health-SB  
2500 Seventh Avenue  
Altoona PA 16602  
814-949-4495

Braddock Medical Center-S  
412 Holland Avenue  
Braddock PA 15104  
412-636-5000

Bradford Hospital Laboratory-SB  
116-156 Interstate Parkway  
Bradford PA 16701  
814-834-8282

Brandywine Hospital and Trauma Center-S  
Route 30 Bypass  
Coatesville PA 19320  
610-383-8000

Brownsville General Hospital Laboratory-S  
125 Simpson Road  
Brownsville PA 15417  
724-785-7200

Butler Memorial Hospital-S  
911 East Brady Street  
Butler PA 16001  
724-284-4510

Canonsburg General Hospital-SB  
R. D.# 1, Box 147, Route 519  
Canonsburg PA 15317  
724-745-6100

Carlisle Hospital-S  
245 Parker Street  
Carlisle PA 17013  
717-249-1212

Centre Community Hospital-B  
1800 East Park Avenue  
State College PA 16803  
814-234-6117

Chambersburg Hospital-S  
112 North Seventh Street  
Chambersburg PA 17201  
717-267-7152

Charles Cole Memorial Hospital-S  
R. D. # 1, Box 205  
Coudersport PA 16915  
814-274-9300

Chester County Hospital-S  
701 East Marshall Street  
West Chester PA 19380  
610-431-5182

Chestnut Hill Hospital-S  
8835 Germantown Avenue  
Philadelphia PA 19118  
215-248-8630

Childrens Hospital of Philadelphia-S  
One Children's Center, 34th and Civic Center Blvd.  
Philadelphia PA 19104  
215-590-1000

Citizens General Hospital-S  
651 Fourth Avenue  
New Kensington PA 15068  
724-337-5031

City Avenue Hospital-S  
4150 City Avenue  
Philadelphia PA 19131  
215-871-1000

Clarion Hospital-SB  
One Hospital Drive  
Clarion PA 16214  
814-226-9500

Clearfield Hospital Laboratory-S  
809 Turnpike Avenue, P. O. Box 992  
Clearfield PA 16830  
814-765-5341

Clinical Laboratories, Inc.-SB  
901 Keystone Industrial Park  
Throop PA 18512  
570-346-1759

Community Hospital-B  
North Fraley Street  
Kane PA 16735  
570-837-4575

Community Hospital of Lancaster-S  
1100 East Orange Street  
Lancaster PA 17602  
717-397-3711

Community Medical Center-S  
1822 Mulberry Street  
Scranton PA 18510  
570-969-8000

Conemaugh Valley Memorial Hospital-SB  
1086 Franklin Street  
Johnstown PA 15905  
814-534-9000

Corry Memorial Hospital-S  
612 West Smith Street  
Corry PA 16407  
814-664-4641

Crozer-Chester Medical Center-Springfield-S  
190 West Sproul Road  
Springfield PA 19064  
610-328-9200

Crozer Chester Medical Center-S  
1 Med Ctr. Blvd.  
Upland PA 19013  
610-447-2000

Delaware County Memorial Hospital-S  
501 N. Lansdowne Avenue  
Drexel Hill PA 19026  
610-284-8100

Department of Pathology & Lab Med-HUP-SB  
3400 Spruce Street  
Philadelphia PA 19104  
215-662-6880

Doylestown Hospital-S  
595 West State Street  
Doylestown PA 18901  
215-345-2250

DrugScan, Inc.-SB  
1119 Mearns Road, P. O. Box 2969  
Warminster PA 18974  
215-674-9310

DuBois Regional Medical Center-West Unit-S  
100 Hospital Avenue  
DuBois PA 15801  
814-371-2200

Easton Hospital-SB  
250 South 21st Street  
Easton PA 18042  
610-250-4140

Elkins Park Hospital-S  
60 East Township Line Road  
Elkins Park PA 19027  
215-663-6102

Ellwood City General Hospital-S  
724 Pershing Street  
Ellwood City PA 16117  
724-752-0081

Ephrata Community Hospital-S  
169 Martin Avenue, P. O. Box 1002  
Ephrata PA 17522  
717-733-0311

Episcopal Hospital Laboratory-S  
100 East Lehigh Avenue  
Philadelphia PA 19125  
215-427-7333

Evangelical Community Hospital-SB  
1 Hospital Drive  
Lewisburg PA 17837  
570-522-2510

Frankford Hospital Bucks County Campus-S  
380 North Oxford Valley Road  
Langhorne PA 19047  
215-934-5227

Frankford Hospital-Frankford Division-S  
Frankford Avenue and Wakeling Street  
Philadelphia PA 19124  
215-831-2068

Frankford Hospital-Torresdale Division-S  
Red Lion and Knights Road  
Philadelphia PA 19114  
215-612-4000

Frick Hospital-S  
508 South Church Street  
Mount Pleasant PA 15666  
412-547-1500

Fulton County Medical Center-S  
216 South First Street  
McConnellsburg PA 17233  
717-485-3155

Geisinger Medical Center-SB  
North Academy Road  
Danville PA 17822  
570-271-6338

George Tolstoi Laboratory-Uniontown Hospital-S  
500 West Berkeley Street  
Uniontown PA 15401  
724-430-5143

Gettysburg Hospital-SB  
147 Gettys Street  
Gettysburg PA 17325  
717-334-2121

Gnaden Huetten Memorial Hospital-SB  
Eleventh and Hamilton Streets  
Lehigh PA 18235  
610-377-1300

Good Samaritan Hospital-SB  
Fourth and Walnut Streets, P. O. Box 1281  
Lebanon PA 17042  
717-270-7500

Good Samaritan Regional Medical Center-B  
700 East Norwegian Street  
Pottsville PA 17901  
570-621-4032

Graduate Hospital-S  
1800 Lombard Street  
Philadelphia PA 19146  
215-893-2240

Grand View Hospital-S  
700 Lawn Avenue  
Sellersville PA 18960  
215-257-3611

Greene County Memorial Hospital-S  
Bonar Avenue  
Waynesburg PA 15370  
724-627-2608

Guthrie Clinic Pathology Laboratory-S  
Guthrie Square  
Sayre PA 18840  
570-888-5858

Hahnemann University Hospital-S  
Broad and Vine Streets, MS 113  
Philadelphia PA 19102  
215-762-1783

Hamot Medical Center-S  
201 State Street  
Erie PA 16550  
814-877-6000

Hanover General Hospital-SB  
300 Highland Avenue  
Hanover PA 17331  
717-637-3711

Harrisburg Hospital-SB  
South Front Street  
Harrisburg PA 17101  
717-782-2832

Hazleton General Hospital-SB  
East Broad Street  
Hazleton PA 18201  
717-450-4156

Health Network Laboratories-SB  
2024 Lehigh Street  
Allentown PA 18103  
610-402-8150

Health Network Laboratories-S  
2545 Schoenersville Road  
Bethlehem PA 18017  
610-861-2261

Highlands Hospital-S  
401 East Murphy Avenue  
Connellsville PA 15425  
724-628-1500

Holy Spirit Hospital-SB  
503 North 21st Street  
Camp Hill PA 17011  
717-763-2206

Horizon Hospital System-Greenville Campus-SB  
110 North Main Street  
Greenville PA 16125  
724-588-2100

Horizon Hospital System-Shenango Campus-SB  
2200 Memorial Drive  
Farrell PA 16121  
724-981-3500

Indiana Hospital-Department of Lab Medicine-S  
Hospital Road, P. O. Box 788  
Indiana PA 15701  
724-357-7167

Jameson Memorial Hospital-S  
1211 Wilmington Avenue  
New Castle PA 16105  
724-656-4080

J. C. Blair Memorial Hospital-S  
Warm Springs Avenue  
Huntingdon PA 16652  
814-643-8645

Jeanes Hospital-S  
7600 Central Avenue  
Philadelphia PA 19111  
215-728-2347

Jeannette District Memorial Hospital-S  
Jefferson Avenue  
Jeanette PA 15644  
724-527-3551

Jefferson Regional Health Services, Inc.-Brookville Div.-S  
100 Hospital Road  
Brookville PA 15825  
814-849-2312

John F. Kennedy Memorial Hospital-S  
Cheltenham Avenue and Langdon Street  
Philadelphia PA 19124  
215-831-7203

Kensington Hospital-S  
136 West Diamond Street  
Philadelphia PA 19122  
215-426-8100

LabOne, Inc.-SB  
10101 Renner Boulevard  
Lenexa KS 66219  
913-888-1770

Lab Corp Occupational Testing Services, Inc.-SB  
4022 Willow Lake Blvd  
Memphis TN 38118  
901-795-1515

Lab Corp. of America Holdings-SB  
69 First Avenue, P. O. Box 500  
Raritan NJ 08869  
201-526-2400

Lab Corp. of America Holdings-SB  
6370 Wilcox Road  
Dublin OH 43016  
800-282-7300

Laboratory Specialists, Inc.-B  
1111 Newton Street  
Gretna Louisiana 70053  
504-361-8989

Lancaster General Hospital-S  
555 North Duke Street, P. O. Box 3555  
Lancaster PA 17603  
717-299-5511

Lancaster General Hospital-Susquehanna Division-S  
306 North Seventh Street  
Columbia PA 17512  
717-684-2841

Latrobe Area Hospital-S  
121 West Second Avenue  
Latrobe PA 15650  
724-537-1550

Lewistown Hospital-SB  
Highland Avenue  
Lewistown PA 17044  
717-248-5411

Lock Haven Hospital Laboratory-B  
24 Cree Drive  
Lock Haven PA 17745  
570-893-5000

Main Line Clinical Laboratories-Bryn Mawr-CP-S  
130 Bryn Mawr Avenue  
Bryn Mawr PA 19010  
610-526-3554

Main Line Clinical Laboratories-Lankenau-CP-S  
100 East Lancaster Avenue  
Wynnewood PA 19096  
610-645-2615

Main Line Clinical Laboratories-Paoli Memorial-CP-S  
255 W. Lancaster Avenue  
Paoli PA 19301  
610-648-1000

Marian Community Hospital-S  
100 Lincoln Avenue  
Carbondale PA 18407  
570-281-1042

McKeesport Hospital Laboratory-S  
1500 Fifth Avenue  
McKeesport PA 15132  
412-664-2233

Meadville Medical Center-Liberty Street-S  
751 Liberty Street  
Meadville PA 16335  
814-336-3121

The Medical Center, Beaver, PA, Inc.-SB  
1000 Dutch Ridge Road  
Beaver PA 15009  
724-728-7000

Medical College of Pennsylvania Hospital-S  
3300 Henry Avenue  
Philadelphia PA 19129  
215-842-6615

MedTox Laboratories, Inc.-SB  
402 West County Road D  
St. Paul Minnesota 55112  
612-636-7466



Memorial Hospital-SB  
325 South Belmont Street, P. O. Box 15118  
York PA 17403  
717-843-8623

Memorial Hospital Lab-SB  
1 Hospital Drive  
Towanda PA 18848  
570-265-2191

Mercy Health Laboratory/Mercy Fitzgerald Hospital-S  
Lansdowne Avenue and Bailey Road  
Darby PA 19023  
610-237-4175

Mercy Health Laboratory/Mercy Hospital of  
Philadelphia-S  
5301 Cedar Avenue  
Philadelphia PA 19143  
215-748-9170

Mercy Health Laboratory/Mercy Community Hospital-S  
2000 Old West Chester Pike  
Havertown PA 19083  
610-645-3600

Mercy Health Laboratory/Mercy Suburban Hospital-S  
2701 DeKalb Pike  
Norristown PA 19404  
610-278-2075

Mercy Health Partners-S  
746 Jefferson Avenue  
Scranton PA 18510  
570-348-7100

Mercy Hospital-S  
Pride and Locust Streets  
Pittsburgh PA 15219  
412-232-7831

Mercy Hospital-S  
25 Church Street  
Wilkes-Barre PA 18765  
570-826-3100

Mercy Hospital-Nanticoke-S  
128 West Washington Street  
Nanticoke PA 18634  
570-735-5000

Mercy Providence Hospital Laboratory-S  
1004 Arch Street  
Pittsburgh PA 15212  
412-323-5783

Methodist Hospital Division/TJUH, Inc.-S  
2301 South Broad Street  
Philadelphia PA 19148  
215-952-9059

Meyersdale Community Hospital-S  
200 Hospital Drive  
Meyersdale PA 15552  
814-634-5911

MidValley Hospital-S  
1400 Main Street  
Peckville PA 18452  
570-489-7546

Miners Hospital-S  
290 Haida Avenue  
Hastings PA 16646  
814-948-7171

Monongahela Valley Hospital, Inc.-S  
Country Club Road, Route 88  
Monongahela PA 15063  
724-258-1000

Monsour Medical Center-S  
70 Lincoln Way East  
Jeannette PA 15644  
724-527-1511

Montgomery Hospital Laboratory-S  
Powell and Fornance Streets  
Norristown PA 19401  
610-270-2173

Moses Taylor Hospital-S  
700 Quincy Avenue  
Scranton PA 18510  
570-963-2100

Muncy Valley Hospital-S  
215 East Water Street  
Muncy PA 17756  
570-546-8282

Nason Hospital-B  
Nason Drive  
Roaring Spring PA 16673  
814-224-6215

National Medical Services, Inc.-Laboratory-SB  
3701 Welsh Road  
Willow Grove PA 19090  
215-657-4900

Nazareth Hospital-S  
2601 Holme Avenue  
Philadelphia PA 19152  
215-335-6245

North Penn Hospital-S  
100 Medical Campus Drive  
Lansdale PA 19446  
215-368-2100

Northwest Medical Center-Franklin-SB  
1 Spruce Street  
Franklin PA 16323  
814-437-7000

Ohio Valley General Hospital-S  
Heckel Road  
McKees Rocks PA 15136  
412-777-6244

Omega Medical Laboratories, Inc.-SB  
2001 State Hill Road, Suite 100  
Wyomissing PA 19610  
610-378-1900

PA Department of Health, Bureau of Laboratories-SB  
110 Pickering Way  
Lionville PA 19353  
610-280-3464

PA State Police Lab-Bethlehem-SB  
2932 Airport Road  
Bethlehem PA 18017  
610-861-2103

PA State Police Lab-Erie-SB  
4310 Iroquois Avenue  
Erie, PA 16511  
814-899-8447

PA State Police Lab-Greensburg-SB  
P. O. Box P, PA State Police  
Greensburg PA 15601  
724-832-3299

PA State Police Lab-Harrisburg-SB  
1800 Elmerton Avenue  
Harrisburg PA 17110  
717-783-5548

PA State Police Lab-Lima-SB  
350 N. Middletown Road  
Media PA 19063  
610-566-9066

PA State Police Lab-Wyoming-SB  
479 Wyoming Avenue  
Wyoming PA 18644  
570-826-2230

Palmerton Hospital-S  
135 Lafayette Avenue  
Palmerton PA 18071  
610-826-3141

Parkview Hospital-S  
1331 East Wyoming Avenue  
Philadelphia PA 19124  
215-537-7430

Penn State-Geisinger WVMC-S  
1000 East Mountain Drive  
Wilkes-Barre PA 18711  
570-826-7830

Philipsburg Area Hospital-SB  
210 Lock Lomond Road  
Philipsburg PA 16866  
814-342-7112

Phoenixville Hospital Laboratory-S  
140 Nutt Road, Department of Pathology  
Phoenixville PA 19460  
610-983-1612

Pinnacle Health/Community General Osteopathic  
Hospital-S  
4300 Londonderry Road, P. O. Box 3000  
Harrisburg PA 17109  
717-657-7214

Pittsburgh Criminalistics-SB  
1320 Fifth Avenue  
Pittsburgh PA 15219  
412-391-6118

Pocono Medical Center Laboratory-SB  
206 East Brown Street  
East Stroudsburg PA 18301  
570-476-3544

Polyclinic Hospital-S  
2601 North Third Avenue  
Harrisburg PA 17110  
717-782-4141

Pottstown Memorial Medical Center-S  
1600 East High Street  
Pottstown PA 19464  
610-327-7111

Pottsville Hospital and Warne Clinic-SB  
420 South Jackson Streets  
Pottsville PA 17901  
570-621-5262

Presbyterian Medical Center of Phila.-S  
3400 Spruce Street, Dept. of Pathology  
Philadelphia, PA 19104  
215-662-3435

Quest Diagnostics Clinical Laboratories, Inc.-SB  
400 Egypt Road  
Norristown PA 19403  
610-631-4200

Quest Diagnostics of PA, Inc.-S  
900 Business Center Drive  
Horsham PA 19044  
215-957-9300

Quest Diagnostics of PA, Inc.-SB  
875 Greentree Road  
4 Parkway Center  
Pittsburgh PA 15220  
412-920-7600

Quest Diagnostics Incorporated-SB  
One Malcolm Avenue  
Teterboro NJ 07608  
201-393-5602

Reading Hospital and Medical Center-S  
Sixth and Spruce Streets  
Reading PA 19611  
610-988-8080

Riddle Memorial Hospital-S  
Baltimore Pike Highway 1  
Media PA 19063  
610-566-9400

Ridgway Health Center-S  
94 Hospital Street  
Ridgway PA 15853  
814-788-5530

Roxborough Memorial Hospital-S  
5800 Ridge Avenue  
Philadelphia PA 19128  
215-483-9900

Sacred Heart Hospital-S  
Fourth and Chew Streets  
Allentown PA 18102  
610-776-4727

Saint Agnes Medical Center-S  
1900 South Broad Street  
Philadelphia PA 19145  
215-339-4360

Saint Clair Memorial Hospital-S  
1000 Bower Hill Road  
Pittsburgh PA 15243  
412-561-4900

Saint Francis Hospital-S  
1000 South Mercer Street  
New Castle PA 16101  
724-658-3511

Saint Joseph Hospital-S  
250 College Avenue, P. O. Box 3509  
Lancaster PA 17604  
717-291-8022

Saint Lukes Hospital-S  
801 Ostrum Street  
Bethlehem PA 18015  
610-691-4141

Saint Mary Medical Center-S  
Langhorne-Newtown Road  
Langhorne PA 19047  
215-750-2162

Saint Marys Health Center-B  
763 Johnsonburg Road  
Saint Marys PA 15857  
814-788-8179

Saint Vincent Health Center-S  
232 West 25th Street  
Erie PA 16544  
814-452-5383

Sewickley Valley Hospital Laboratory-S  
Blackburn Road and Fitch Drive  
Sewickley PA 15143  
412-741-6600

Shadyside Hospital-S  
5230 Centre Avenue  
Pittsburgh PA 15232  
412-622-2315

Sharon Regional Health System-SB  
740 East State Street  
Sharon PA 16146  
724-983-3911

Soldiers & Sailors Memorial Hospital-S  
Central Avenue  
Wellsboro PA 16901  
570-724-1631

Somerset Hospital Laboratory-B  
225 South Center Avenue  
Somerset PA 15501  
814-443-2626

South Hills Health System-Jefferson-S  
575 Coal Valley Road  
Pittsburgh PA 15236  
412-469-5723

Southern Chester County Medical Center-S  
1015 West Baltimore Pike  
West Grove PA 19390  
610-869-1080

Specialty Laboratories-SB  
2211 Michigan Avenue  
Santa Monica CA 90404  
310-828-6543

St. Francis Central Hospital-S  
1200 Centre Avenue  
Pittsburgh PA 15219  
412-562-3060

St. Francis Hospital-Cranberry-S  
One St. Francis Way  
Cranberry Township PA 16066  
724-772-5300

St. Francis Medical Center-S  
400-45th Street  
Pittsburgh PA 15201  
412-622-4838

St. Joseph Quality Medical Laboratory-SB  
215 North 12th Street, Box 316  
Reading PA 19603  
610-378-2200

St. Joseph's Hospital-Div. of NPHS-S  
16th Street and Girard Avenue  
Philadelphia PA 19130  
215-787-9000

St. Lukes Hospital-Allentown Campus-S  
1736 Hamilton Street  
Allentown PA 18104  
610-439-4000

St. Lukes Quakertown Hospital-S  
Eleventh Street & Park Avenue, P. O. Box 9003  
Quakertown PA 18951  
215-538-4681

Suburban General Hospital-S  
100 South Jackson Avenue  
Bellevue PA 15202  
412-734-6000

Taylor Hospital Division of CCMC-S  
175 East Chester Pike  
Ridley Park PA 19078  
610-595-6450

Temple East, Inc., NE-S  
2301 East Allegheny Avenue  
Philadelphia PA 19134  
215-291-3671

Temple East, Inc.-NMC-S  
1741 Frankford Avenue  
Philadelphia PA 19125  
215-291-2118

Temple Lower Bucks Hospital Lab-S  
501 Bath Road  
Bristol PA 19007  
215-785-9200

Temple University Hospital-S  
3401 N. Broad Street  
Philadelphia PA 19140  
215-707-4353

Thomas Jefferson University Hospital-S  
125 South 11th Street, 204 Pavillion  
Philadelphia PA 19107  
215-955-6374

Titusville Area Hospital-S  
406 West Oak Street  
Titusville PA 16354  
814-827-1851

Toxi-Con-SB  
201 Smallcombe Drive  
Scranton PA 18508  
570-963-0722

Tyler Memorial Hospital-S  
880 SR6W  
Tunkhannock PA 18657  
570-836-2161

Tyrone Hospital-SB  
Clay Avenue Extension  
Tyrone PA 16686  
814-684-0484

United Community Hospital-S  
631 North Broad Street Ext.  
Grove City, PA 16127  
724-458-5442

University Hospital-M.S. Hershey Medical Center-S  
500 University Avenue  
Hershey PA 17033  
717-531-8353

University of Pittsburgh Medical Center/Beaver Valley-SB  
2500 Hospital Drive-Pathology Dept.  
Aliquippa PA 15001  
724-857-1238

University of Pittsburgh Medical Center-CLSI-S  
200 Lothrop Street, CLSI Room 5929 MT  
Pittsburgh PA 15213  
724-647-7813

UPMC Bedford Memorial-SB  
10455 Lincoln Highway  
Everett PA 15537  
814-623-3506

UPMC Lee Regional Hospital-SB  
320 Main Street  
Johnstown PA 15901  
814-533-0130

UPMC Passavant-S  
9100 Babcock Boulevard  
Pittsburgh PA 15237  
412-367-6700

UPMC Saint Margaret Hospital-S  
815 Freeport Road  
Pittsburgh PA 15215  
412-784-4000

Warminster Hospital-S  
225 Newtown Road  
Warminster PA 18974  
215-441-6700

Warren General Hospital-SB  
212 Crescent Park West  
Warren PA 16365  
814-723-3300

Washington Hospital-S  
155 Wilson Avenue  
Washington PA 15301  
724-223-3136

Wayne Memorial Hospital-S  
601 Park Street  
Honesdale PA 18431  
570-253-1300

Waynesboro Hospital-SB  
501 East Main Street  
Waynesboro PA 17268  
501-765-3403

West Virginia University Hospital-S  
Clinical Laboratories  
1 Medical Center Drive, P. O. Box 8009  
Morgantown WV 26506  
304-598-4241

Western Pennsylvania Hospital-S  
4800 Friendship Avenue  
Pittsburgh PA 15224  
412-578-5779

Western Reserve Care System-SB  
500 Gypsy Lane  
Youngstown OH 44504  
216-740-3794

Westmoreland Hospital-S  
532 W. Pittsburgh Street  
Greensburg PA 15601  
724-832-4365

Williamsport Hospital and Medical Center-SB  
777 Rural Avenue  
Williamsport PA 17701  
570-321-2300

Windber Medical Center-B  
600 Somerset Avenue  
Windber PA 15963  
814-467-6611

WVHCS Hospital, General Campus-SB  
Corner North River and Auburn Streets  
Wilkes-Barre PA 18764  
570-829-8111

York Hospital-SB  
1001 South George Street  
York PA 17405  
717-771-2696

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 00-1181. Filed for public inspection July 7, 2000, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Inpatient Hospitals Qualifying for Medical Assistance (MA) Disproportionate Share Payments for the Period July 1, 1999 through June 30, 2000

On July 1, 1988, the Department of Public Welfare (Department) implemented a disproportionate share payment system. Under Pennsylvania regulations, the Department is required to annually publish the names of each inpatient acute care general hospital, rehabilitation hospital and private psychiatric hospital qualifying for a disproportionate share payment and their respective disproportionate share payment percentage.

*A. Disproportionate Share for Acute Care General Hospitals, Rehabilitation Hospitals and Private Psychiatric Hospitals.*

The following lists identify the inpatient acute care general hospitals, psychiatric units and rehabilitation units of acute care general hospitals, rehabilitation hospitals and private psychiatric hospitals eligible for disproportionate share payment for the period July 1, 1999 through June 30, 2000 and their respective payment percentages. For all inpatient facilities, disproportionate share payments are calculated as a percentage of projected MA inpatient income.

*Payment period July 1, 1999 to June 30, 2000, disproportionate share payment percentages:*

#### Acute Care General Hospitals

AEHN-GERMANTOWN HOSP	4.245%
ALBERT EINSTEIN	6.564%
ARMSTRONG COUNTY MEMORIAL	3.591%
A. I. DU PONT	8.124%
BARNES KASSON	4.065%
CHARLES COLE MEMORIAL	4.476%
CHILDRENS HOSPITAL-PGH	8.857%
CHILDRENS HOSPITAL-PHIL	11.904%
CLARION HOSPITAL	7.135%
CLEARFIELD	2.648%
CROZER CHESTER	3.819%
DUBOIS REGIONAL MED CTR	10.000%
EPISCOPAL	10.035%
HIGHLAND HEALTH CENTER	5.510%
HOSP UNIV OF PENNA	4.349%
INDIANA HOSPITAL	1.000%
J C BLAIR	6.390%
J F KENNEDY MEMORIAL	2.362%
JAMESON MEMORIAL	1.010%
KENSINGTON	5.573%
LGH - SUSQUEHANNA DIV.	3.154%
LOCK HAVEN	6.297%
MAGEE WOMENS	6.463%
MEADVILLE	6.449%

MEMORIAL HOSPITAL-TOWANDA	3.205%
MEMORIAL OF BEDFORD	7.184%
MERCY CATHOLIC-MISERICORDIA	5.164%
MERCY PROVIDENCE-PGH	3.964%
MILLCREEK COMMUNITY	4.438%
MONSOUR	7.595%
NPHS—GIRARD	1.000%
NPHS—ST. JOSEPHS	9.682%
PINNACLE HEALTH SYSTEM	5.013%
PRESBYT MED CTR OF UPHS	4.118%
PUNXSUTAWNEY	6.204%
SOLDIERS AND SAILORS	8.323%
ST. FRANCIS-NEW CASTLE	9.000%
TEMPLE	7.326%
TEMPLE EAST, INC.	5.477%
TEMPLE UNIV. CHILDREN'S MED CTR	14.000%
THOMAS JEFFERSON	5.260%
THS-CITY AVENUE HOSPITAL	6.813%
THS-HAHNEMANN HOSPITAL	5.933%
THS-MED COLL OF PS HOSP	9.399%
THS-PARKVIEW HOSPITAL	6.200%
THS-ST. CHRISTOPHERS	15.000%
TITUSVILLE	3.051%
TROY COMMUNITY	6.500%
UPMC—BRADDOCK MED CTR	3.977%
VALLEY FORGE	4.617%
WAYNE COUNTY MEMORIAL	1.996%
WEST VIRGINIA	6.673%

#### Psychiatric Units of Acute Care Hospitals

ALBERT EINSTEIN	4.104%
ARMSTRONG COUNTY MEMORIAL	2.164%
CITY AVENUE	4.243%
CROZER CHESTER	2.572%
DUBOIS REGIONAL MED CENTER	3.167%
THS—HAHNEMANN HOSPITAL	3.752%
PINNACLE	3.239%
HIGHLANDS HEALTH CENTER	3.516%
HOSP-UNIV OF PA	2.868%
J C BLAIR	2.419%
MEADVILLE	2.425%
THS—MED COL HOSP-EPPI	5.685%
MERCY CATHOLIC-MISERICORDIA	3.323%
MERCY PROVIDENCE	2.653%
MONSOUR	4.679%
NPHS-GIRARD	1.000%
THS—PARKVIEW	3.901%
PRESBY MED CNTR, UPHS	2.739%
SOLDIERS AND SAILORS	2.595%
ST FRANCIS-NEW CASTLE	2.657%
TEMPLE	4.529%
TEMPLE EAST	3.498%
THOMAS JEFFERSON	3.376%
UPMC-BRADDOCK	2.661%

#### Private Psychiatric Hospitals

BELMONT CENTER (PHILA PSY CNTR)	4.854%
CHARTER FAIRMOUNT INSTITUTE	3.372%
CLARION PSYCH CENTER	6.067%
DELAWARE VALLEY M H	10.000%
EDGEWATER PSYCHIATRIC	5.269%
EUGENIA HOSPITAL	6.625%
FIRST HOSP WYOMING VALLEY	5.030%
HORSHAM HOSPITAL	4.839%
KIRKBRIDE CENTER	3.063%
MEADOWS PSYCH CENTER	5.227%
MONTGOMERY EMER SRVCS	4.673%
NAT'L HOSP FOR KIDS IN CRISIS	8.715%

NORTHWESTERN	3.892%
PHILA CHILD GUIDANCE	8.511%
PHILHAVEN	4.109%
SOUTHWOOD PSYCH CENTER	7.585%

#### Drug and Alcohol Units of Acute Care Hospitals

LANCASTER/SUSQ DIV	2.285%
MEADVILLE D&A UNIT	2.592%
NPHS-ST. JOSEPH	7.301%
PRESBYTERIAN/UPHS	3.026%
VALLEY FORGE D&A	3.410%

#### Medical Rehab Units of Acute Care Hospitals

ALBERT EINSTEIN	4.905%
CROZER CHESTER	2.796%
DUBOIS	3.614%
EAGLEVILLE (D & A)	2.974%
PINNACLE	3.713%
HOSP-UNIV OF PA	3.203%
JAMESON MEMORIAL	1.910%
MERCY-PROV	2.908%
ST FRANCIS-NEW CASTLE	2.912%
TEMPLE	5.490%
THOS JEFFERSON	3.903%

#### Freestanding Rehab Hospitals

CHILDREN'S HOME-PITTSBURGH	6.746%
CHILDREN'S SEASHORE HOUSE	10.000%
MAGEE MEMORIAL	3.542%
H/S READING REHAB HOSPITAL	1.000%

#### B. Additional Disproportionate Share Payments.

Additional disproportionate share payments are made to inpatient facilities, with a Medicaid inpatient utilization rate of not less than 1%, which have provided services to persons who have been determined to be low income by meeting the income and resource standards for the State's general assistance program.

The payment adjustments are paid directly proportional to the payment received for either general assistance recipients for all hospital services or Title XIX recipients age 21—64 for services rendered by institutions for mental diseases under the fee-for-service and capitation programs.

The following hospitals are eligible for this payment adjustment:

#### Acute Care General Hospitals

ABINGTON MEMORIAL
AEHN-GERMANTOWN HOSP
ALBERT EINSTEIN
ALLEGHENY GENERAL
ALTOONA
AMERICAN ONCOLOGICAL
ARMSTRONG COUNTY MEMORIAL
ASHLAND REG MED CTR
AUMC-ALLEGHENY VALLEY
AUMC-CANNONSBURG GENERAL
A. I. DU PONT
BARNES KASSON
BERWICK
BLOOMSBURG
BON SECOURS HOSPITAL
BRADFORD REG MED CTR
BRANDYWINE HOSPITAL
BROOKVILLE
BROWNSVILLE

BRYN MAWR  
 BUCKTAIL MEDICAL CENTER  
 BUTLER COUNTY MEMORIAL  
 CARLISLE HOSPITAL  
 CENTRE COMMUNITY  
 CHAMBERSBURG HOSPITAL  
 CHARLES COLE MEMORIAL  
 CHESTER COUNTY  
 CHESTNUT HILL  
 CHILDRENS HOSPITAL-PGH  
 CHILDRENS HOSPITAL-PHIL  
 CITIZENS GENERAL  
 CLARION HOSPITAL  
 CLEARFIELD  
 COMMUNITY HOSP OF LANCASTER  
 COMMUNITY HOSPITAL-KANE  
 COMMUNITY MEDICAL CENTER  
 CONEMAUGH VALLEY  
 CORRY MEMORIAL  
 CROZER CHESTER  
 DELAWARE COUNTY  
 DELAWARE VALLEY  
 DIVINE PROVIDENCE-WMSPT  
 DOYLESTOWN  
 DUBOIS REGIONAL MED CTR  
 EASTON HOSPITAL  
 ELK COUNTY GENERAL  
 ELLWOOD CITY  
 EPHRATA COMMUNITY  
 EPISCOPAL  
 EVANGELICAL COMMUNITY  
 FORBES METRO HEALTH CNTR  
 FORBES REG. HEALTH CNTR  
 FRANKFORD  
 FRICK COMMUNITY HLTH CNTR  
 FULTON COUNTY MEDICAL CENTER  
 GEISINGER MEDICAL CENTER  
 GEISINGER WYOMING VALLEY  
 GETTYSBURG HOSPITAL  
 GNADEN HUETTEN  
 GOOD SAMARITAN-LEBANON  
 GOOD SAMARITAN-POTTSVILLE  
 GRANDVIEW  
 GREENE COUNTY MEMORIAL  
 HAMOT MEDICAL CENTER  
 HANOVER GENERAL  
 HAZLETON GENERAL HOSPITAL  
 HIGHLAND HEALTH CENTER  
 HOLY REDEEMER  
 HOLY SPIRIT  
 HORIZON HOSPITAL SYS, INC  
 HOSP UNIV OF PENNA  
 INDIANA HOSPITAL  
 J C BLAIR  
 J F KENNEDY MEMORIAL  
 JAMESON MEMORIAL  
 JEANES  
 JEANNETTE DIST MEMORIAL  
 JEFFERSON HEALTH SERV  
 JERSEY SHORE HOSPITAL  
 KENSINGTON  
 LANCASTER GENERAL  
 LANKENAU  
 LATROBE AREA  
 LEHIGH VALLEY  
 LEWISTOWN  
 LGH—SUSQUEHANNA DIV.  
 LOCK HAVEN  
 MAGEE WOMENS  
 MARIAN COMMUNITY HOSPITAL

MCKEESPORT  
 MEADVILLE  
 MED CTR, BEAVER PA, INC.  
 MEMORIAL—YORK  
 MEMORIAL HOSPITAL-TOWANDA  
 MEMORIAL OF BEDFORD  
 MERCY CATHOLIC-FITZGERALD  
 MERCY CATHOLIC-MISERICORDIA  
 MERCY HAVERFORD  
 MERCY HOSP OF NANTICOKE  
 MERCY HOSPITAL-PGH  
 MERCY HOSPITAL-SCRANTON  
 MERCY HOSPITAL-WILKES-BAR  
 MERCY PROVIDENCE-PGH  
 METRO HEALTH CENTER  
 MEYERSDALE  
 MID VALLEY  
 MILLCREEK COMMUNITY  
 MILTON S. HERSHEY MED CTR  
 MINERS HOSPITAL  
 MINERS MEMORIAL MED CTR  
 MONONGAHELA VALLEY  
 MONSOUR  
 MONTGOMERY  
 MOSES TAYLOR  
 MUHLENBERG  
 MUNCY VALLEY  
 NASON HOSPITAL  
 NAZARETH  
 NORTH PENN  
 NORTHWEST MEDICAL CENTER  
 NPHS—GIRARD  
 NPHS—ST. JOSEPHS  
 OHIO VALLEY  
 PALMERTON  
 PAOLI MEMORIAL  
 PHILIPSBURG AREA  
 PINNACLE HEALTH SYSTEM  
 POCONO HOSPITAL  
 PODIATRY HOSPITAL  
 POTTSWOWN MEMORIAL  
 POTTSVILLE HOSPITAL  
 PRESBYT MED CTR OF UPHS  
 PRESBYT UNIV HOSPITAL—PGH  
 PUNXSUTAWNEY  
 READING HOSPITAL  
 RIDDLE MEMORIAL  
 ROBERT PACKER  
 ROXBOROUGH MEMORIAL  
 SACRED HEART-ALLENTOWN  
 SEWICKLEY VALLEY HOSPITAL  
 SHADYSIDE  
 SHAMOKIN AREA COMM HOSP  
 SHARON  
 SOLDIERS AND SAILORS  
 SOMERSET COMMUNITY  
 SOUTHERN CHESTER  
 ST. AGNES  
 ST. CLAIR MEMORIAL  
 ST. FRANCIS CENTRAL  
 ST. FRANCIS-NEW CASTLE  
 ST. FRANCIS-PITTSBURGH  
 ST. JOSEPH MED CTR—HAZLETON  
 ST. JOSEPH MED CTR READING  
 ST. JOSEPH-LANCASTER  
 ST. LUKES—QUAKERTOWN  
 ST. LUKES BETHLEHEM  
 ST. MARY-LANGHORNE  
 ST. MARYS MEDICAL CENTER  
 ST. VINCENT

SUBURBAN GENERAL-NORRISTO  
 SUBURBAN GENERAL-PGH  
 SUNBURY COMMUNITY  
 TEMPLE  
 TEMPLE EAST, INC.  
 TEMPLE UNIV. CHILDREN'S MED CTR  
 TEMPLE-LOWER BUCKS  
 THOMAS JEFFERSON  
 THS-CITY AVENUE HOSPITAL  
 THS-ELKINS PARK  
 THS-GRADUATE HOSPITAL  
 THS-HAHNEMANN HOSPITAL  
 THS-MED COLL OF PA HOSP  
 THS-PARKVIEW HOSPITAL  
 THS-ST. CHRISTOPHERS  
 THS-WARMINSTER  
 TITUSVILLE  
 TROY COMMUNITY  
 TYLER MEMORIAL  
 TYRONE HOSP  
 UNION CITY  
 UNIONTOWN  
 UNITED COMMUNITY  
 UPHS—PENNSYLVANIA HOSPITAL  
 UPHS—PHOENIXVILLE HOSPITAL  
 UPMC—BEAVER VALLEY  
 UPMC—BRADDOCK MED CTR  
 UPMC—LEE HOSPITAL  
 UPMC—PASSAVANT HOSPITAL  
 UPMC—SOUTHSIDE  
 UPMC—ST. MARGARET—PGH  
 VALLEY FORGE  
 WARREN GENERAL  
 WASHINGTON  
 WAYNE COUNTY MEMORIAL  
 WAYNESBORO  
 WEST VIRGINIA  
 WESTERN PENN  
 WESTMORELAND  
 WILLIAMSPORT  
 WILLS EYE HOSPITAL  
 WINDBER  
 WYOMING VALLEY HEALTH CARE SYSTEM  
 YORK HOSPITAL

**Freestanding Drug and Alcohol Hospitals**  
 EAGLEVILLE

**Freestanding Rehab Hospitals**

ALLIED SERVICES  
 BRYN MAWR REHAB HOSPITAL  
 CHESTNUT HILL /SPRINGFIELD  
 CHILDREN'S HOME-PITTSBURGH  
 CHILDRENS SEASHORE HOUSE  
 D. T.WATSON  
 GOOD SHEPHERD  
 H/S HARMARVILLE  
 H/S LAKE ERIE INSTIT  
 H/S NITTANY VALLEY REHAB  
 H/S OF MECHANICSBURG REHAB  
 H/S REHAB OF ALTOONA  
 H/S REHAB OF GREATER PGH  
 H/S REHAB OF YORK  
 JOHN HEINZ REHAB HOSP  
 MAGEE MEMORIAL  
 H/S READING REHAB HOSPITAL  
 REHAB INSTITUTE OF PGH

**Freestanding Psychiatric Hospitals**

BELMONT CENTER  
 CHARTER FAIRMONT  
 CLARION PSYCH

DELAWARE VALLEY MH  
 EDGEWATER  
 EUGENIA HOSPITAL  
 FIRST HOSP. WYOMING VALLEY  
 FRIENDS HOSPITAL  
 HORSHAM  
 KIRKBRIDE CENTER  
 MEADOWS  
 MONTGOMERY EMER SRVCS  
 NAT HOSP FOR KIDS IN CRISIS  
 NORTHWESTERN  
 PHILA CHILD GUIDANCE  
 PHILHAVEN  
 SOUTHWOOD PSYCH CENTER

**Drug and Alcohol Units of Acute Care Hospitals**

BUTLER COUNTY MEMORIAL  
 HAMOT MEDICAL CENTER  
 HORIZON-SHENANGO VALLEY  
 LANCASTER GEN HOSP-SUSQUEHANNA DIV  
 MEADVILLE MED CNTR  
 NPHS-ST JOSEPHS HOSP  
 PRESBY MED CTR OF UNIV OF PA HLTH SYST  
 ST FRANCIS-PITTSBURGH  
 VALLEY FORGE  
 WESTMORELAND

**Medical Rehab Units of Acute Care Hospitals**

ABINGTON MEMORIAL HOSP  
 ALBERT EINSTEIN  
 BON SECOURS HOLY FAMILY REG HLTH SYS  
 CHAMBERSBURG HOSPITAL  
 COMMUNITY HOSP-LANCASTER  
 CONEMAUGH VALLEY HOSP  
 CROZER-CHESTER MED CNTR  
 DELAWARE CNTY MEM HOSP  
 DIVINE PROV-WILLIAMSPORT  
 DOYLESTOWN HOSPITAL  
 DUBOIS REG MED CNTR  
 EASTON HOSPITAL  
 FORBES METRO HOSP  
 FRANKFORD  
 GEISINGER-WYOMING VALLEY  
 GOOD SAMARITAN HOSPITAL-LEBANON  
 HORIZON HOSP SYS, INC.  
 HOSP OF THE UNIV OF PA  
 JAMESON MEMORIAL  
 JEANNETTE DIST MEM HOSP  
 JEFFERSON HEALTH SERVICES  
 LANCASTER GENERAL HOSP  
 MERCY CATHOLIC-FITZGERALD  
 MERCY HOSPITAL-PITTSBURGH  
 MERCY PROVIDENCE-PGH  
 MILTON S. HERSHEY MED CTR  
 MONONGAHELA VALLEY HOSP  
 NAZARETH  
 NORTHWEST MED CTR FRANKLIN  
 PINNACLE HEALTH HOSPITALS  
 POTTSVILLE HOSPITAL  
 PRESBYTERIAN UNIV-PGH  
 SEWICKLEY VALLEY HOSPITAL  
 ST AGNES MEDICAL CNTR  
 ST FRANCIS CENTRAL  
 ST FRANCIS HOSP-NEW CASTLE  
 ST FRANCIS MED CNTR-PITTS  
 ST JOSEPH HOSP-LANCASTER  
 ST MARY HOSP-LANGHORNE  
 ST VINCENT HEALTH CNTR  
 SUBURBAN GENERAL HOSPITAL-PGH  
 THS-ELKINS PARK  
 THS-WARMINSTER HOSPITAL

TEMPLE UNIVERSITY HOSP  
 THOMAS JEFFERSON UNIV HOSP  
 UNIV OF PITTS MED CTR-LEE HOSP  
 UNIV OF PITTS MED CTR-MCKEESPORT  
 UNIV OF PITTS MED CTR-SOUTHSIDE  
 UNIV OF PITTS MED CTR-ST MARGARET  
 WESTMORELAND HOSPITAL  
 WILLIAMSPORT HOSPITAL

**Psychiatric Units of Acute Care Hospitals**

AUH-ALLEGHENY GENERAL  
 AUH-ALLEGHENY VALLEY  
 ABINGTON MEMORIAL  
 ALBERT EINSTEIN  
 ALTOONA  
 ARMSTRONG COUNTY MEMORIAL  
 BLOOMSBURG HOSP  
 BON SECOURS HOLY FAM REG HLTH SYS  
 BRADFORD  
 BRANDYWINE HOSPITAL  
 BROWNSVILLE  
 BRYN MAWR HOSP  
 BUTLER COUNTY MEMORIAL  
 CARLISLE HOSPITAL  
 CENTRE COMMUNITY  
 CHAMBERSBURG HOSPITAL  
 COMMUNITY HOSP OF LANCASTER  
 COMMUNITY MEDICAL CENTER  
 CONEMAUGH VALLEY  
 CORRY MEMORIAL  
 CROZER CHESTER  
 DELAWARE VALLEY  
 DIVINE PROVIDENCE-WMSPT  
 DOYLESTOWN  
 DUBOIS REGIONAL MED CNTR  
 ELK COUNTY GENERAL  
 EPHRATA COMMUNITY  
 FORBES METRO GEROPSYCH  
 FORBES REG HOSP  
 GEISINGER MEDICAL CENTER  
 GNADEN HUETTEN  
 GRANDVIEW  
 GREENE COUNTY MEMORIAL  
 HAMOT MEDICAL CENTER  
 HANOVER GENERAL  
 HAZELTON GEN HOSP  
 HIGHLAND HOSPITAL  
 HOLY SPIRIT  
 HOSP-UNIVERSITY OF PA  
 J C BLAIR  
 JEFFERSON HEALTH SERV  
 LANCASTER GENERAL  
 LANKENAU  
 LATROBE AREA  
 LEHIGH VALLEY HOSPITAL  
 LEWISTOWN  
 MARIAN COMMUNITY HOSPITAL  
 MEADVILLE MED CNTR  
 MEDICAL CENTER, BEAVER PA, THE  
 MEMORIAL HOSP-YORK  
 MERCY CATHOLIC-FITZGERALD  
 MERCY CATHOLIC-MISERICORD  
 MERCY HOSPITAL-PGH  
 MERCY HOSPITAL-WILKES-BARRE  
 MERCY HOSP OF NANTICOKE  
 MERCY PROVIDENCE HOSP-PGH  
 MILTON S. HERSHEY MEDICAL CENTER  
 MONONGAHELA VALLEY  
 MONSOUR MED CNTR  
 MONTGOMERY  
 MOSES TAYLOR GEROPSYCH UNIT

MUHLENBERG  
 NAZARETH  
 NPHS-GIRARD  
 NORTHWEST MED CTR OIL CITY  
 PAOLI MEMORIAL  
 PENNSYLVANIA HOSPITAL/UPHS  
 PINNACLE HEALTH HOSPITALS  
 POCONO HOSPITAL  
 POTTSTOWN MEMORIAL MED CTR  
 POTTSVILLE HOSPITAL  
 PRESBYTERIAN MED CNTR OF UPHS  
 PRESBYTERIAN UNIV HOSP-PGH  
 READING HOSPITAL  
 ROBERT PACKER  
 SEWICKLEY VALLEY HOSP  
 SHARON REGIONAL HLTH SYST  
 SOLDIERS AND SAILORS  
 SOMERSET HOSP CNTR FOR HEALTH  
 ST CLAIR MEMORIAL  
 ST FRANCIS-NEW CASTLE  
 ST FRANCIS-PITTSBURGH  
 ST JOSEPH-LANCASTER  
 ST JOSEPH MED CTR-READING  
 ST LUKES-QUAKERTOWN  
 ST LUKES OF BETHLEHEM  
 ST VINCENT  
 THS-CITY AVENUE HOSPITAL  
 THS-HAHNEMANN UNIV HOSP  
 THS-MEDICAL COL OF PA HOSP (EPPI)  
 THS-PARKVIEW HOSPITAL  
 THS-WARMINSTER HOSPITAL  
 TEMPLE EAST HOSPITAL  
 TEMPLE-LOWER BUCKS  
 TEMPLE UNIVERSITY HOSPITAL  
 THOMAS JEFFERSON  
 UNIV OF PITT MED CTR-BEAVER VALLEY  
 UNIV OF PITT MED CTR-BRADDOCK  
 UNIV OF PITT MED CTR-MCKEESPORT  
 UNIV OF PITT MED CTR-SOUTHSIDE PSY  
 WARREN GENERAL  
 WASHINGTON  
 WESTERN PENN  
 WESTMORELAND  
 WYOMING VALLEY HLTH CARE SYSTEM  
 WILLIAMSPORT  
 WILLS EYE  
 YORK HOSPITAL

*C. Additional Class of Disproportionate Share Payments.*

Effective March 1, 1998, the Department established a new class of disproportionate share payments to hospitals which render uncompensated care and which the Department has determined are experiencing significant revenue loss as a result of Medical Assistance program revisions under Act No. 1996-35.

The following hospitals qualify for this new class of disproportionate share payments:

Albert Einstein  
 Allegheny General  
 Barnes Kasson  
 Braddock Medical Center  
 Charles Cole Memorial  
 Clarion Osteopathic  
 Clearfield  
 Crozer Chester Medical Center  
 Dubois Regional Medical Center  
 Eagleville  
 Episcopal  
 Fulton County Medical Center



THS-Graduate Hospital  
 Indiana Hospital  
 JC Blair  
 Jameson Memorial  
 Lehigh Valley  
 Lockhaven  
 Meadville Medical Center  
 Memorial Hospital Bedford  
 Memorial Hospital Towanda  
 Mercy Catholic-Fitzgerald  
 Mercy Catholic-Misericordia  
 Mercy Hospital-Pittsburgh  
 North Philadelphia Health System  
 Pennsylvania Hospital  
 Presbyterian Medical Center of Philadelphia  
 Punxsutawney  
 Soldiers and Sailors  
 St. Francis—New Castle  
 St. Francis Pittsburgh  
 Titusville  
 Valley Forge  
 Wayne County Memorial

Effective January 15, 1999, the Department revised its previously established new class of disproportionate share payments to include a Charity Care component of the Community Access Fund. A disproportionate share payment will be made to qualifying hospitals based on each hospital's percentage of charity care cost to the total charity care cost of all qualifying hospitals. The Department also established a disproportionate share payment for those hospitals that experience a high volume of MA births.

The following hospitals qualify for this payment:

Abington Memorial  
 A. I. Dupont  
 Albert Einstein  
 Allegheny General  
 Altoona  
 Childrens Hospital of Philadelphia  
 THS-City Avenue Hospital  
 Crozer Chester Medical Center  
 Doylestown  
 Easton Hospital  
 Episcopal  
 Evangelical Community  
 Frankford  
 Geisinger Medical Center  
 THS-Hahnemann Hospital  
 Hamot Medical Center  
 Hazelton General Hospital  
 Hospital of the University of PA  
 Indiana Hospital  
 Jeannette Dist Memorial  
 Lankenau  
 Lehigh Valley  
 Magee Womens  
 THS-Medical College Hospital-Main  
 Mercy Catholic-Misericordia  
 Milton S. Hershey Medical Center  
 North Philadelphia Health System  
 NPHS-Girard  
 THS-Parkview Hospital  
 UPHS-Pennsylvania Hospital  
 Presbyterian Med Ctr of UPHS  
 Presbyterian University Hospital-Pgh  
 Reading Hospital  
 Shadyside

St. Agnes  
 St. Francis-Pittsburgh  
 St. Lukes of Bethlehem  
 Temple University Hospital  
 Thomas Jefferson  
 UPMC-Beaver Valley  
 Western Penn  
 West Virginia  
 York Hospital

*Contact Person*

A copy of this notice is available for review at local county assistance offices. Interested persons are invited to submit written comments within 30 days of publication of this notice to the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Office of Medical Assistance Programs, Attention: Suzanne Love, Room 515 Health and Welfare Building, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (voice users). Persons who require another alternative should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-251; (1) General Fund; (2) Implementing Year 1999-00 is \$39.938 Million; (3) 1st Succeeding Year 2000-01 is \$6.459 Million; 2nd Succeeding Year 2001-02 is \$NA; 3rd Succeeding Year 2002-03 is \$NA; 4th Succeeding Year 2003-04 is \$NA; 5th Succeeding Year 2004-05 is \$NA; (4) 1998-99 Program—\$453.594 Million; 1997-98 Program—\$428.079 Million; 1996-97 Program—\$436.941 Million; (7) Medical Assistance—Inpatient; (8) recommends adoption. Funds are available to make the payments as described in this notice.

[Pa.B. Doc. No. 00-1182. Filed for public inspection July 7, 2000, 9:00 a.m.]

**Public Hearing on Declining Resident Population  
 at Selinsgrove Center**

The Department of Public Welfare (Department) will hold a public hearing on the declining resident population at Selinsgrove Center. The hearing will be held on Tuesday, August 8, 2000, at 7 p.m. at the Degenstein Campus Center, Susquehanna University, University Avenue, Selinsgrove.

State law requires the Department to hold a public hearing on any State mental health or mental retardation facility within 30 days of a closure announcement or following a downsizing of 20% or more in patient population since December 31, 1997.

The decrease in resident population at Selinsgrove Center is a result of numerous factors, primarily successful community placement of individuals with mental retardation into small community homes, which provide alternatives to State center treatments and living arrangement. The hearing is not driven by a closure announcement.

Individuals or organizations wishing to testify should contact Paul Hindman, Regional Program Manager at (717) 772-6507 by July 31, 2000. Persons requiring special accommodations should inform the Department at the time of scheduling.

FEATHER O. HOUSTOUN,  
*Secretary*

[Pa.B. Doc. No. 00-1183. Filed for public inspection July 7, 2000, 9:00 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Retention of Engineering Firms

### Lehigh County

#### Project Reference No. 08430AG2570

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately seven (7) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S. R. 0145, Section 07B, Lehigh County  
Local Name: Jordan Creek Bridge  
This project involves the replacement of the State Route 0145 (MacArthur Road) structure over Jordan Creek in Whitehall Township.
2. S. R. 0145, Section 05S, Lehigh County  
Local Name: MacArthur Road  
This safety project involves the reconstruction and widening of State Route 0145 (MacArthur Road) in Whitehall Township south of State Route 0022 to the Allentown City limit line.

Department policy requires firms providing construction inspection services to have a Federal Acquisition Regulation (FAR) field overhead rate established. The Department's current policy (SOL-430-91-34) requires a firm to submit their proposed field and office cost allocation approach, before the beginning of the fiscal year where the separate overhead rates would apply. This approach must comply with the provisions set forth in Part 31 of the Federal Acquisition Regulations (48 CFR Chapter 1) which governs the determination of the eligibility of costs making up the firm's Direct and Indirect Costs.

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

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

a. Review of inspectors' resumes with emphasis on construction inspection capabilities, certifications (NICET, NECEPT, PennDOT CDS, ACI and nuclear gage), and specialized experience in Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving, drain-

age, traffic signals, pavement markings, guide rail, signing, and erosion and sedimentation control.

b. Understanding of Department's requirements, policies, and specifications (Pub 408, R.C.'s, B.C.'s, D.M.'s Pub. 203, P. O.M.).

c. Past Performance

d. Number of NICET certified inspectors in each payroll classification.

e. Understanding of the specifics of this construction inspection project.

f. Number of available inspectors in each payroll classification.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	2 (2)
Transportation Construction Inspector—Materials (TCI-Materials) (NICET Highway Materials Level 2 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	2 (2)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum hourly payroll rate for each Department Payroll Classification for calendar year 2000 shall be as shown:

<i>Payroll Classification</i>	<i>Maximum Straight Time Hourly Payroll Rate (Year 2000)</i>
(TCM-1)	\$23.22
(TCIS)	\$20.34
(TCI-Materials)	\$17.55
(TCI)	\$17.05
(TA)	\$11.72

If applicable, the maximum straight time hourly payroll rate for subsequent calendar years will be established at the scope of work meeting.

The maximum hourly payroll rate is the maximum hourly rate paid to an employee in a specific Department Payroll classification. The Department reserves the right to negotiate hourly payroll rates of compensation of individuals based on knowledge, experience and education up to the payroll classification maximum hourly payroll rate.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item, and perform other duties as may be required.

The firm selected will be required to supply the following equipment:

<i>Quantity</i>	<i>Item</i>
1	Nuclear Densometer Gauges/License
1	Vehicle for Transporting Nuclear Gauge
6	Two-Way Radios
1	Base Radio Station
3	Cellular Phones (for Engineer's employees only)

The Department will directly reimburse the selected engineering firm for the above equipment, for use by the consultant inspection staff at their actual cost not to exceed the maximum direct reimbursement shown below. The engineering firm is required to include their billing rates for each type of equipment in the letter of interest.

- Nuclear Densometer Gauge @ \$660.00 each *Maximum/month*
- Vehicle for Gauge @ \$650.00 each *Maximum/month*
- Two-way Radio @ \$ 25.00 each *Maximum/month*
- Radio Base Station @ \$ 35.00 each *Maximum/month*
- Cell Phone Usage\* As per invoice

If the equipment is self-owned, reimbursement will be based on actual cost of ownership not to exceed the maximum allowable. If equipment is from an outside supplier, the engineer must secure a minimum of three written quotes. The Department reserves the right to request additional quotes.

\*Cost of phone and activation fees are not eligible for direct reimbursement

The Department will reimburse for actual miles driven on the project as directed by the Department, and a maximum of \$32.50/day for either mileage to and from the work site or lodging. An inspector will not be reimbursed for a combination of the two during the same day. Mileage will be reimbursed for the most direct route

from the inspector's residence or the Consultant's office, whichever is less, to the project site and return at the lesser of the maximum mileage rate established by the Commonwealth or the firm's current policy. The first 15 miles each day of an inspector's commute from and to his/her residence or the consultant's office to the work location is considered normal commuting travel and will not be eligible for mileage reimbursement. Lodging will be reimbursed at a maximum rate of \$32.50/day, in lieu of mileage, but receipts for all costs must be provided to the Department with the Engineer's invoice. Lodging will only be reimbursed for employees whose home or headquarters is more than 65 miles from the project.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	3
TCI-M	2
TCI	3
TA	2

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided (any pages beyond 3 will not be reviewed by the Department), plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Walter E. Bortree, P.E., District Engineer  
 Engineering District 5-0  
 2460 Parkwood Drive  
 Allentown, PA. 18103  
 Attn: Mr. Brian H. Graver

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 P.M. prevailing time on the tenth (10th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Mr. Brian H. Graver, phone number (610) 791-6022, fax number (610) 791-6032.

**Indiana and Westmoreland Counties  
 Project Reference No. 08430AG2571**

The Department will retain an engineering firm to provide final design and services during construction (shop drawing review and construction consultation) on the S.R. 0259, Section 450, Indiana and Westmoreland Counties, Bolivar Bridge Replacement.

This project involves the replacement of the existing structure that carries S.R. 0259 over the Conemaugh River on a new alignment. The river is the dividing line between Indiana and Westmoreland Counties. The project begins in the Borough of Bolivar, Fairview Township

(Westmoreland County) and goes north across the river into the Borough of Robinson (Indiana County). The estimated construction cost for this project is \$5 million.

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

- a) Specialized experience and technical competence of firm. The specific experience of individuals employed by the firm shall be considered.
- b) Past record of performance with respect to cost control, work quality and ability to meet schedules.
- c) Previous experience on similar types of projects.
- d) Available staffing for this assignment, including projected workload for the firms.
- e) Location of Consultant in respect to the District.

The firm selected may be required to provide the following services or perform the following tasks: Utility verification and relocation; PUC involvement and coordination; field surveys; roadway cross sections; drainage design; final right-of-way plans; traffic control plans; final roadway plans; core borings; waterway permit submission; final Type, Size and Location submission; geotechnical report; foundation approval; final structure plans; erosion and sedimentation control plans; value engineering and safety review submissions; construction CPM schedule; project review meetings; public/special interest group meetings; completion of all applicable forms; PS&E package submission; project administration, and other unforeseen activities that are required to complete the design of his project. Services during construction activities will include construction consultation, alternate design review and shop drawing reviews.

The project will be designed in metric units.

The project is being advanced, by others, through the completion of the preliminary design submission and field view, preliminary type, size and location, and preliminary right-of-way plans. The selected firm must build upon the work that has been performed to date with minimal redundancy.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised projects.

This project reference assignment is considered complex. The Letter of Interest shall be limited to a maximum of five pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable (see the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Richard H. Hogg, P.E., District Engineer  
Engineering District 10-0  
2550 Oakland Avenue  
Indiana, PA 15701-0429

Attention: James R. Andrews, P.E.

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the twentieth (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to James R. Andrews, P.E., phone number 724-357-2080, FAX number 724-357-1905.

**Statewide  
Project Reference No. 08430AG2572**

The Department will retain an engineering firm for an Open-End Contract to perform statewide periodic NBIS bridge safety inspections for designated bridges and structures on the Local System throughout the Commonwealth. The Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of the Open-End Contract will be \$2.0 million.

The selected firm will be required to provide all necessary professional and non-professional services, work, material and equipment necessary to inspect/re-inspect and evaluate the condition of locally owned bridges and structures at various locations. The firm will provide updated inspection reports including a bridge load capacity rating/re-rating and/or posting recommendation as warranted. Structure inventory and appraisal data, and completed Bridge Management System coding sheets are also to be furnished. Inventory and operating ratings based on existing conditions for AASHTO and PDT loadings using the Department's computer programs and/or other programs with prior approval when the Department's program is not applicable, may be required.

Firms responding to this solicitation should provide, at a minimum, the following information in their letter of interest:

1. Indicate the lead person or sub-consultant on each of the required work tasks identified above and indicate the qualifications and experience of the lead person or sub-consultant specifically related to each work task. List NBIS certification credentials and PA Bridge Safety Inspection courses taken by staff.
2. Indicate how the firm will provide "on demand" response for urgent problems. In the recent past, 200-500 bridges have been inspected per year under similar contracts. Due to variability of inspection schedules and emergencies, this work is not anticipated to be evenly distributed throughout a year or duration of contract.
3. Indicate internal procedures for timeliness of report submission, cost containment and quality assurances.
4. Indicate computer capabilities including PDT programs and other software.

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

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

- a. Specialized technical expertise and experience of the individuals committed to this project.
- b. Capabilities of the qualified proposed team to address the bridge inspection, load rating evaluations and recommendations, and related aspects identified in the advertisement.
- c. Prior technical successes and timeliness in performing work with the Department, especially on bridge inspection related work.
- d. Available staffing and "on demand" response capabilities in the event of emergencies.

e. Location, cost containment and quality assurance program.

The engineering services identified above are the general work activities that can be expected under this Open-End Contract. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

This project reference assignment is considered moderately complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

R. Scott Christie, P.E.  
Chief Bridge Engineer  
Bureau of Design  
P. O. Box 3560  
Harrisburg, PA 17105-3560

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 P.M. prevailing time on the twentieth (20th) day following the date of this Notice.

Project management will be by the Bridge Quality Assurance Division, Bureau of Design. Engineering inspections will be directed by the respective District Office.

Any technical questions concerning the requirements for this project should be directed to Mr. Suresh Dadhania, P.E., at (717) 787-3590, FAX No. (717) 787-2882.

**Beaver and Lawrence Counties  
Project Reference No. 08430AG2573**

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately twenty-six (26) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S.R. 0051, Section B17, Beaver County Local Name: PA 51 from Franklin Avenue to the West Aliquippa Bridge This project includes reconstruction with concrete pavement, installing concrete media barrier, guide rail and drainage update, wall repair, safety parapet, curb and sidewalk replacement and relocation of the waterline. Located in the City of Aliquippa, it extends from 1200' north of the bridge over Franklin Avenue to 600' north of West Aliquippa Bridge, 6718 feet, 1.27 miles.

2. S.R. 0018, Section L17, Lawrence County Local Name: TR 18 from Wallace Avenue to Maitland Lane This project consists of milling 2" and resurfacing 2" of superpave, curb removal and replacement, some sidewalk replacement and drainage improvements from the start of work at Craig St. to the New Castle city limits. Also, consists of 1 1/2" superpaving, type 7 and 6-I shoulders, guiderail replacement and drainage work from the New Castle city limits to the end of work at Maitland Lane. Traffic signal updates will be provided. This project is located in the Township of Neshannock.

3. S.R. 0351, Section 005, Lawrence County  
Local Name: Conrail RR Bridge  
This project is the replacement of a bridge over Conrail RR in Little Beaver Township. It involves a 3-span continuous, composite curved steel multi-girder bridge and approach work. From a point

approximately 300 feet west of SR 3011 to a point approximately 200 feet east of Haggerty Road (Twp. Rd T-301).

4. S.R. 1021, Section B01, Beaver County  
Local Name: Pine Run Bridge  
This project entails the removal and replacement of the existing bridge in Marion Township, with a low profile metal arch culvert (35 foot span) and includes minor approach work.

Department policy requires firms providing construction inspection services to have a Federal Acquisition Regulation (FAR) field overhead rate established. The Department's current policy (SOL-430-91-34) requires a firm to submit their proposed field and office cost allocation approach, before the beginning of the fiscal year where the separate overhead rates would apply. This approach must comply with the provisions set forth in Part 31 of the Federal Acquisition Regulations (48 CFR Chapter 1) which governs the determination of the eligibility of costs making up the firm's Direct and Indirect Costs.

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

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

a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in structures, drainage, concrete pavement, curb and sidewalk replacement, shoulders, and maintenance and protection of traffic. (References for each inspector should be made available upon request.)

b. Understanding of the Department's requirements, policies, and specifications.

c. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.

d. Past Performance.

e. Number of NICET certified inspectors in each payroll classification.

f. Number of available inspectors in each payroll classification.

g. Workload.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	4 (4)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	15 (11)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	6 (6)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum hourly payroll rate for each Department Payroll Classification for calendar year 2000 shall be as shown:

<i>Payroll Classification</i>	<i>Maximum Straight Time Hourly Payroll Rate (Year 2000)</i>
(TCM-1)	\$23.22
(TCIS)	\$20.34
(TCI)	\$17.05
(TA)	\$11.72

If applicable, the maximum straight time hourly payroll rate for subsequent calendar years will be established at the scope of work meeting.

The maximum hourly payroll rate is the maximum hourly rate paid to an employee in a specific Department Payroll classification. The Department reserves the right to negotiate hourly payroll rates of compensation of individuals based on knowledge, experience and education up to the payroll classification maximum hourly payroll rate.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity

provisions of the contract item; firms must also provide two inspectors certified in computer documentation; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment:

<i>Quantity</i>	<i>Item</i>
20	Cellular Phones (for Engineer's employees only)
4	Digital Cameras (3 Gigs)

The Department will directly reimburse the selected engineering firm for the above equipment, for use by the consultant inspection staff at their actual cost not to exceed the maximum direct reimbursement shown below. The engineering firm is required to include their billing rates for each type of equipment in the letter of interest.

- Cell Phone Usage\* As per invoice
- Camera {[type]} As per invoice

If the equipment is self-owned, reimbursement will be based on actual cost of ownership not to exceed the maximum allowable. If equipment is from an outside supplier, the engineer must secure a minimum of three written quotes. The Department reserves the right to request additional quotes.

\*Cost of phone and activation fees are not eligible for direct reimbursement

The Department will reimburse for actual miles driven on the project as directed by the Department, and a maximum of \$32.50/day for either mileage to and from the work site or lodging. An inspector will not be reimbursed for a combination of the two during the same day. Mileage will be reimbursed for the most direct route from the inspector's residence or the Consultant's office, whichever is less, to the project site and return at the lesser of the maximum mileage rate established by the Commonwealth or the firm's current policy. The first 15 miles each day of an inspector's commute from and to his/her residence or the consultant's office to the work location is considered normal commuting travel and will not be eligible for mileage reimbursement. Lodging will be reimbursed at a maximum rate of \$32.50/day, in lieu of mileage, but receipts for all costs must be provided to the Department with the Engineer's invoice. Lodging will only be reimbursed for employees whose home or headquarters is more than 65 miles from the project.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	1
TCIS	4
TCI	18

This project reference assignment is considered non-complex. The letter of interest shall be limited to a

maximum of three (3) pages, 8 1/2" x 11", one sided (any pages beyond 3 will not be reviewed by the Department), plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Raymond S. Hack, P.E., District Engineer  
Engineering District 11-0  
45 Thoms Run Road, Bridgeville, PA 15017  
Attention: Design Development Unit

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the twentieth (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Brian A. Krul, District 11-0, Design Development Unit at 412-429-3801.

**Allegheny County  
Project Reference No. 08430AG2574**

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately twenty-four (24) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S.R. 0019, Section A21, Allegheny County  
Local Name: Railroad Opening  
This project involves construction of two structures to provide an opening in the railroad embankment supporting the Norfolk Southern Railroad in the City of Pittsburgh. This project will also provide traffic mitigation for the Fort Pitt Bridge Project.
2. S.R. 0065, Section A24, Allegheny County  
Local Name: Ohio River Boulevard  
This project consists of milling and resurfacing, concrete pavement patching, bituminous overlay, shoulders, drainage restoration, concrete median barrier and guide rail upgrades. The project is located in the Boroughs of Edgeworth and Leetsdale.
3. S.R. 0022, Section A08, Allegheny County  
Local Name: RT 22/30 Expressway Rehab  
The project includes a reconstructed roadway, which will consist of two 12' wide lanes with 10' wide shoulders (outside), and 6' wide left (median) shoulders in both the westbound and eastbound directions. By shifting the existing lanes 3 feet into the median, the existing 20 foot wide median will be reduced to 14 feet. This will enable the construction of the roadway pavement and shoulders (both concrete) without any major impacts to the existing cut and fill slopes. Located in North Fayette Township, this project is the continuation of the SR 0022, Section A07 and Section A11 projects, which were the eastbound and westbound projects just west of the subject project.

Department policy requires firms providing construction inspection services to have a Federal Acquisition Regulation (FAR) field overhead rate established. The Department's current policy (SOL-430-91-34) requires a firm to submit their proposed field and office cost allocation approach, before the beginning of the fiscal year where the separate overhead rates would apply. This approach must comply with the provisions set forth in Part 31 of the Federal Acquisition Regulations (48 CFR Chapter 1) which governs the determination of the eligibility of costs making up the firm's Direct and Indirect Costs.

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

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

a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in structures, paved shoulders, bituminous overlay, concrete pavement, milling and resurfacing, drainage, and maintenance and protection of traffic. (References for each inspector should be made available upon request).

b. Understanding of the Department's requirements, policies and specifications.

c. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.

d. Past Performance.

e. Number of NICET certified inspectors in each payroll classification.

f. Number of available inspectors in each payroll classification.

g. Workload.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	5 (5)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	12 (9)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	6 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.

2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum hourly payroll rate for each Department Payroll Classification for calendar year 2000 shall be as shown:

<i>Payroll Classification</i>	<i>Maximum Straight Time Hourly Payroll Rate (Year 2000)</i>
(TCM-1)	\$23.22
(TCIS)	\$20.34
(TCI)	\$17.05
(TA)	\$11.72

If applicable, the maximum straight time hourly payroll rate for subsequent calendar years will be established at the scope of work meeting.

The maximum hourly payroll rate is the maximum hourly rate paid to an employee in a specific Department Payroll classification. The Department reserves the right to negotiate hourly payroll rates of compensation of individuals based on knowledge, experience and education up to the payroll classification maximum hourly payroll rate.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; firms must also provide two inspectors certified in computer documentation; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment:

<i>Quantity</i>	<i>Item</i>
18	Cellular Phones (for Engineer's employees only)
3	Digital Cameras (3 Gigs)

The Department will directly reimburse the selected engineering firm for the above equipment, for use by the consultant inspection staff at their actual cost not to exceed the maximum direct reimbursement shown below. The engineering firm is required to include their billing rates for each type of equipment in the letter of interest.

- Cell Phone Usage\* As per invoice
- Camera {[type]} As per invoice

If the equipment is self-owned, reimbursement will be based on actual cost of ownership not to exceed the maximum allowable. If equipment is from an outside supplier, the engineer must secure a minimum of three written quotes. The Department reserves the right to request additional quotes.

\*Cost of phone and activation fees are not eligible for direct reimbursement

The Department will reimburse for actual miles driven on the project as directed by the Department, and a maximum of \$32.50/day for either mileage to and from the work site or lodging. An inspector will not be reimbursed for a combination of the two during the same day. Mileage will be reimbursed for the most direct route from the inspector's residence or the Consultant's office, whichever is less, to the project site and return at the lesser of the maximum mileage rate established by the Commonwealth or the firm's current policy. The first 15 miles each day of an inspector's commute from and to his/her residence or consultant's office to the work location is considered normal commuting travel and will not be eligible for mileage reimbursement. Lodging will be reimbursed at a maximum rate of \$32.50/day, in lieu of mileage, but receipts for all costs must be provided to the Department with the Engineer's invoice. Lodging will only be reimbursed for employees whose home or headquarters is more than 65 miles from the project.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	1
TCIS	6
TCI	14
TA	0

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided (any pages beyond 3 will not be reviewed by the Department), plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Raymond S. Hack, P.E., District Engineer  
Engineering District 11-0  
45 Thoms Run Road, Bridgeville, PA 15017  
Attention: Design Development Unit

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 P.M. prevailing time on the twentieth (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Brian A. Krul, District 11-0, Design Development Unit at 412-429-3801.

**General Requirements and Information**

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information for each Project Reference Number for which the applicant wishes to be considered.

The Letter of Interest and required information must be submitted to the person designated in the individual advertisement.



The Letter of Interest and required information must be received by the Deadline indicated in the individual advertisement.

For District projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the appropriate District Office, by the deadline stipulated in the individual advertisements.

For Statewide projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with Central Office, Bureau of Design by the deadline stipulated in the individual advertisements.

Information concerning the Annual Qualification Package can be found in Strike-off Letter No. 433-99-04 or under the Notice to all Consultants published in the February 27, 1999 issue of the *Pennsylvania Bulletin*.

By submitting a letter of interest for the projects that request engineering services, the consulting firm is certifying that the firm is qualified to perform engineering services in accordance with the laws of the Commonwealth of Pennsylvania. A firm not conforming to this requirement may submit a letter of interest as a part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

The letter of interest must include full disclosure of any potential conflict of interest by the prime or any subconsultant based on Engineering Involvement Restrictions Guidelines as established in Strike-off Letter No. 433-00-02 published March 27, 2000. If there are no potential conflicts you shall include the following statement: "I have reviewed Strike-off Letter No. 433-00-02 and determine that there are no potential conflicts of interest for anyone on this project team."

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit a Letter of Interest on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st century (TEA-21) and currently certified by the Department of Transportation shall have the opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The TEA-21 requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act, WBEs or combinations thereof).

Proposed DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Letters of Interest for will be considered non-responsive and eliminated from further consideration for any of the following reasons:

1. Letters of Interest not received on time.
2. Project of interest is not identified.
3. An Annual Qualification Package for the prime consultant and all subconsultants is not on file with the organization receiving the Letter of Interest.
4. Conflict of Interest evaluation statement is not included.
5. A Disadvantaged Business Enterprise (DBE) participation goal is established for the Project Reference Number but no DBE/WBE is identified and no good faith effort is included.
6. Firm submitted a Letter of Interest on more than one (1) Joint Venture or a firm submitted a Letter of Interest as a prime and was also included as a subconsultant, to another firm. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm, or firms, involved.

In addition to the above reasons, a Letter of Interest for Construction Inspection Services will be considered non-responsive for any of the following reasons:

1. Prime consultant or any subconsultant does not have a Federal Acquisition Regulation (FAR) Audit Field Overhead Rate on file with the Department.
2. Using an individual's resume without including a letter granting the individual's approval for TCIS and higher positions.
3. Exceeding the maximum number of resumes in a payroll classification.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
Secretary

[Pa.B. Doc. No. 00-1184. Filed for public inspection July 7, 2000, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Temporary Changes to Fishing Regulations and Proposed Designations of Waters Subject to Special Fishing Regulations

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to temporarily modify fishing regulations at the Beaverdam Run Reservoir, Cambria County. Specifically, the Executive Director has designated Beaverdam Run Reservoir as a water to be regulated and managed under 58 Pa. Code §§ 65.9 and 65.11 (relating to big bass special regulations and panfish enhancement special regulation) for sunfish, yellow perch and crappie.

The Commission has approved guidelines with regard to encouraging public participation on possible changes to the designation of stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on July 23 and 24, 2000, the Commission will consider designating Beaverdam Run Reservoir, Cambria County, as a water subject to big bass special regulations under 58 Pa. Code § 65.9 and the panfish enhancement special regulation under 58 Pa. Code § 65.11 for sunfish, yellow perch and crappie. If approved, these designations will go into effect upon publication of a notice in the *Pennsylvania Bulletin*.

At this time, the Commission is soliciting public input concerning the above designations. Persons with comments, objections or suggestions concerning the designations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 by no later than 4 p.m., July 21, 2000. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 00-1185. Filed for public inspection July 7, 2000, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Meetings Scheduled

The following meetings of the Health Care Cost Containment Council (Council) have been scheduled: Wednesday, July 12, 2000, Data Systems Committee—9 a.m.; Education Committee—11 a.m.; Mandated Benefits Review Committee—1:30 p.m. Thursday, July 13, 2000, Council Meeting—9 a.m. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability and want to attend the meetings, should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 00-1186. Filed for public inspection July 7, 2000, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, June 22, 2000, and took the following actions:

#### *Regulations Approved:*

Department of Revenue #15-402: Payments for Employee Welfare Benefit Plans and Cafeteria Plans (amends 61 Pa. Code §§ 101.1, 101.6, 101.6(a), 101.7 and 125.21—125.33)

Department of Revenue #15-408: Sales and Use Tax; Vending Machines (amends 61 Pa. Code § 31.28)

Department of Revenue #15-407: Sales and Use Tax; Lawn Care Services (amends 61 Pa. Code §§ 55.6 and 60.2)

State Board of Dentistry #16A-464: Continuing Dental Education and Biennial Renewals (amends 49 Pa. Code Chapter 33)

State Board of Nursing #16A-5110: Sexual Misconduct (amends 49 Pa. Code Chapter 21)

Pennsylvania Higher Education Assistance Agency #58-23: State Grant Program; Early Childhood Education Professional Loan Forgiveness Program (amends 22 Pa. Code Chapter 121)

Department of Education #6-262: Nurse Aide Applicant Criminal History Record Information (adds Chapter 701 to 22 Pa. Code)

Pennsylvania Emergency Management Agency #30-51: Public Safety Emergency Telephone Program (amends 4 Pa. Code Chapter 120b)

Pennsylvania Emergency Management Agency #30-52: Training and Certification Standards for 9-1-1 Emergency Communications Personnel (amends 4 Pa. Code Chapter 120c)

Pennsylvania Emergency Management Agency #30-53: 9-1-1 Performance Review and Quality Assurance Standards (amends 4 Pa. Code Chapter 120d)

*Regulations Disapproved:*

Pennsylvania State Police #17-60: Uniform Firearms Act; Licensed Retail Dealers; Firearm Record Forms (amends 37 Pa. Code Chapters 31 and 33)

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Department of Revenue—Payments for Employee Welfare Benefit Plans and Cafeteria Plans; Regulation No. 15-402*

On April 15, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue. This rulemaking amends 61 Pa. Code §§ 101.1, 101.6, 101.6a, 101.7 and 125.21—125.33. The proposed regulation was published in the April 25, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 19, 2000.

The regulation addresses how employee welfare benefit programs, such as self-insured medical reimbursement accounts and cafeteria plans, will be taxed. The regulation also addresses how compensation in the form of employer-provided services or property will be taxed.

We have determined this regulation is consistent with the statutory authority of the Department of Revenue (72 P. S. § 7354) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Department of Revenue—Sales and Use Tax; Vending Machines; Regulation No. 15-408*

On June 30, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue. This rulemaking amends 61 Pa. Code § 31.28. The proposed regulation was published in the July 17, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 25, 2000.

This rulemaking is required by the act of April 23, 1998 (P. L. 239, No. 45) (act). The act amended the requirements for collecting sales tax from vending machines. The final regulation defines “juice beverage,” “meal,” “operator,” “selected food and beverage items,” “soft drink” and “vending machine.” The rulemaking also describes: regis-

tration and operating requirements for operators who sell taxable tangible personal property through vending machines; requirements for operator information to be displayed on vending machines; the scope of taxation for vending machine sales; and taxation requirements for vending machines on church or school premises.

We have determined this regulation is consistent with the statutory authority of the Department of Revenue (72 P. S. § 7270) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Department of Revenue—Sales and Use Tax; Lawn Care Services; Regulation No. 15-407*

On June 30, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code §§ 55.6 and 60.2. The proposed regulation was published in the July 17, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 25, 2000.

The Department is adding regulations to interpret the act of August 4, 1991 (P. L. 97, No. 22) which made “lawn care service” a taxable service. The Department is also deleting its Statement of Policy on lawn care services.

We have determined this regulation is consistent with the statutory authority of the Department (72 P. S. § 7270) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*State Board of Dentistry—Continuing Dental Education and Biennial Renewals; Regulation No. 16A-464*

On July 1, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Dentistry (Board). This rulemaking amends 49 Pa. Code Chapter 33. The proposed regulation was published in the July 11, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 23, 2000.

The Board is amending its regulations to implement Act 113 of 1996. The regulation requires cardiopulmonary resuscitation certification and continuing education cred-

its for biennial renewal of licenses or certificates. Continuing education requirements were added to restore expired licenses.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 122(j), 122(j.1), 122(j.2), 122(o) and 122.1) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*State Board of Nursing—Sexual Misconduct; Regulation No. 16A-5110*

On May 28, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Nursing. This rulemaking amends 49 Pa. Code Chapter 21. The proposed regulation was published in the June 13, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 23, 2000.

This regulation establishes standards for determining when Registered Nurses and Licensed Practical Nurses have engaged in sexual misconduct.

We have determined this regulation is consistent with the statutory authority of the State Board of Nursing (63 P. S. §§ 212.1(k) and 667.6) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Pennsylvania Higher Education Assistance Agency—State Grant Program; Early Childhood Professional Loan Forgiveness Program; Regulation No. 58-23*

On March 16, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Higher Education Assistance Agency (Agency). This rulemaking amends 22 Pa. Code Chapter 121. The proposed regulation was published in the March 28, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 27, 2000. On May 10, 2000, the Commission received a request from the Agency to toll consideration of this final-form regulation to make technical corrections. On June 5, 2000, the Agency submitted its revisions to the final-form regulation to the Commission.

The Agency is updating and adding requirements for participation in the State Grant Program and the Early Childhood Education Professional Loan Forgiveness Pro-

gram. It also adds a section for wage garnishment procedures for Federal loans.

We have determined this regulation is consistent with the statutory authority of the Agency (24 P. S. §§ 5104, 5151, 5181—5189, 5191—5197, and 5198.1—5198.7) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Department of Education—Nurse Aide Applicant Criminal History Record Information; Regulation No. 6-262*

On July 7, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Education. This rulemaking adds Chapter 701 to 22 Pa. Code. The proposed regulation was published in the July 18, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 23, 2000.

This regulation implements the Nurse Aide Resident Abuse Prevention Training Act (63 P. S. §§ 671—680). It establishes the procedures and rules for applicants to use in filing their Criminal History Record Information reports before enrolling in State-approved nurse aide training programs.

We have determined this regulation is consistent with the statutory authority of the Department of Education (63 P. S. § 676) and the intention of the General Assembly. Having considered all the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Pennsylvania Emergency Management Agency—Public Safety Emergency Telephone Program; Regulation No. 30-51*

On March 19, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Emergency Management Agency. This rulemaking amends 4 Pa. Code Chapter 120b. The proposed regulation was published in the April 3, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 24, 2000.

This final rulemaking is one of three rulemakings designed to implement Act 17 of 1998 (Act 17) which amended the Public Safety Emergency Telephone Act. One facet of Act 17 was the authorization to develop and maintain master street address guides by "911" centers.

Act 17 also expanded the costs that a county may be reimbursed for operating its "911" center. This regulation includes the new reimbursable costs for the expenditure of county "911" funds, and provides the accuracy standards for the master street address guides.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Emergency Management Agency (35 P. S. §§ 7011—7021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Pennsylvania Emergency Management Agency—Training and Certification Standards for 911 Emergency Communications Personnel; Regulation No. 30-52*

On March 19, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Emergency Management Agency. This rulemaking amends 4 Pa. Code Chapter 120c. The proposed regulation was published in the April 3, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 24, 2000.

This regulation implements a portion of Act 17 of 1998 (Act 17) which amended the Public Safety Emergency Telephone Act. This rulemaking establishes minimum standards for the certification and training of emergency dispatchers, call takers and supervisors, as required by Act 17.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Emergency Management Agency (35 P. S. §§ 7011—7021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Pennsylvania Emergency Management Agency—9-1-1 Performance Review and Quality Assurance Standards; Regulation No. 30-53*

On March 19, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Emergency Management Agency. This rulemaking amends 4 Pa. Code Chapter 120d. The proposed regulation was published in the April 3, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 24, 2000.

This regulation implements a portion of Act 17 of 1998 (Act 17) which amended the Public Safety Emergency

Telephone Act. The rulemaking establishes the standards and procedures for how quality assurance reviews will be conducted for "911" emergency communications centers.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Emergency Management Agency (35 P. S. §§ 7011—7021) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson—by proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
June 22, 2000

*Pennsylvania State Police—Uniform Firearms Act; Licensed Retail Dealers; Firearm Record Forms; Regulation No. 17-60*

On April 15, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania State Police (State Police). This rulemaking amends 37 Pa. Code Chapters 31 and 33. The proposed regulation was published in the May 2, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 1, 2000.

This regulation implements the Pennsylvania Uniform Firearms Act of 1995 (act) including firearms storage requirements for dealers, the Pennsylvania Instant Check System, confidentiality requirements, license revocation procedures and forms to carry out these requirements.

The State Police made amendments in response to many of our comments, or explained why amendments were not made. However, there continue to be four areas where the final regulation does not meet our criteria.

First, the use of the term "firearm" in sections 33.114 and 33.115 of this regulation creates a clarity problem (71 P. S. § 745.5a(i)(3)(ii)). The act contains two distinct definitions of this term in sections 6102 and in 6111.2. To remove any potential confusion, the term "firearm" in sections 33.114 and 33.115 should be replaced with the term "firearm as defined in section 6102 of the act."

Second, section 31.104 lacks clarity (71 P. S. § 745.5a(i)(3)(ii)). We commented that the phrases "entrance cannot easily be gained" and "constructed to require an excessive amount of force to gain illegal entry" in section 31.104 (formerly section 31.105) are vague. Although the Preamble states the regulation was amended in response to our comments, this section is unaltered from the proposed version, except for the deletion of the term "steel mesh." Therefore, further clarification is needed.

Third, the recordkeeping requirements in sections 33.112 and 33.113 still raise questions as to the economic impact of and need for these requirements (71 P. S. § 745.5a(i)(1)(iii) and (3)(iii)). We questioned the need to retain record forms required in sections 33.112 and 33.113 for 20 years. In response, the State Police deleted the 20-year record retention requirement. However, subsection (c) in both of these sections still requires the transfer of records when a licensed business is discontinued. Subsection (c) in sections 33.112 and 33.113 is no longer necessary and should be deleted.

Finally, subsections 33.120(a) and (b) are also inconsistent with the statutory requirements and lack clarity (71 P. S. § 745.5a(i)(3)(i) and (ii)). These subsections require examining physicians to report "when they determine a lack of severe mental disability following the initial examination under section 302(b) of the Mental Health Procedures Act . . ." The Pennsylvania Psychiatric Society commented that subsections 33.120(a) and (b) are inconsistent with section 6105(c)(4) of the act as amended by Act 70 of 1998. It is our understanding that the State Police agree that reporting a lack of mental disability is not necessary. The State Police should delete this reporting requirement in subsections 33.120(a) and (b).

We have determined this regulation is consistent with the statutory authority of the State Police (18 Pa.C.S. §§ 6101 to 6126) and the intention of the General Assembly. However, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

*By Order of the Commission:*

This regulation is disapproved.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 00-1187. Filed for public inspection July 7, 2000, 9:00 a.m.]

## INSURANCE DEPARTMENT

### **Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield; Access Care II Community Rated Group Rate Increase; Filing No. 464-ACII-CR-10/1/2000**

Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield submitted a filing requesting the Insurance Department's (Department) approval to increase rates for the Community Rated Group Access Care II program to be effective October 1, 2000. The requested rate increases for the fourth quarter, 2000 are 9.4% (Hospital Portion), 41.5% (Drug Rider) and 41.8% (Medical/Surgical Portion). The other quarterly rate increases will vary based on quarterly indexes. The rate increase will affect approximately 4,100 policyholders and will produce additional annual income of \$5.1 million. To adequately keep pace with the emerging medical care cost trends, which are significantly higher than those projected in last year's approved filing, Blue Cross of Northeastern Pennsylvania and Pennsylvania Blue Shield are also requesting the Department's approval of revised rates for September 1, 2000 groups with 2-50 eligible contracts. The new proposed September 1, 2000 rates were developed by indexing backward one quarter from the proposed October 1, 2000 rates using the quarterly trend factors identified in the rate filing.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Of-

ice of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 00-1188. Filed for public inspection July 7, 2000, 9:00 a.m.]

### **Capital Blue Cross; Security 65, Plans A, B, C and H Rate Increase; Filing No. 00-M**

By Filing No. 00-M, Capital Blue Cross proposes to increase the rates for the Security 65 Plans A, B, C and H. The proposed rate increases are 9.36% for Plan A, 12.95% for Plan B, 5.18% for Plan C, and 10.89% for Plan H. This rate change will produce an estimated additional annual income of \$6.12 million and will impact approximately 89,700 subscribers. An effective date of January 1, 2001 is requested.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 00-1189. Filed for public inspection July 7, 2000, 9:00 a.m.]

### **Keystone Health Plan West; Group Size Rating Factor for Association Pool Rating Methodology; Rating Factor for Association Group Size One; Filing No. 2-SGR-00-KHPW**

Keystone Health Plan West submitted filing number 2-SGR-00-KHPW for Insurance Department approval. This filing requests approval for a rating factor based on the size of a group to be used in conjunction with the approved association rating methodology.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 00-1190. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Pennsylvania 1999 Private Passenger Automobile Data Call (Act 6 Data Call)

To monitor the auto insurance marketplace in this Commonwealth and to collect data for statutory reports, the Insurance Department (Department), on July 3, 2000, has mailed data calls to be completed by insurers who are licensed to write private passenger automobile insurance in this Commonwealth. The information is also available from the Department website. Persons who have not received the hard copy and diskette should download the letter, instructions and Excel spreadsheets from the Department website (<http://www.insurance.state.pa.us>).

Parts 1 and 2 should be completed by all insurance companies having Pennsylvania private passenger automobile direct written premium in 1999. For these companies, there must be a single part 1 and a single part 2 for each company. Data for more than one insurance company may not be combined into a single part 1 and a single part 2. These parts should be submitted to the Department by October 15, 2000.

Insurance Companies which had no Pennsylvania private passenger automobile direct written premium in 1999 will only be required to complete Part 2. This should be submitted to the Department by October 15, 2000.

Please see the instructions for additional information regarding the completion of the individual parts. Consistent with previous years, the Department will protect the proprietary interest of all companies with regards to the handling of the data that is submitted.

Submissions and inquires should be directed to Clinton Wright, Insurance Department, Office of Rate and Policy Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120 (E-mail: [cwright@ins.state.pa.us](mailto:cwright@ins.state.pa.us) or telephone: (717) 783-0651).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 00-1191. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). This administrative hearing will be held in the Insurance Department's Office in Philadelphia, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held in Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of James G. Rabatin; file no. 00-280-01835; State Farm Mutual Automobile Insurance Co.; doc. no. PH00-06-033; September 29, 2000, at 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring

documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Commissioner may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, 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 may be 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. 00-1192. Filed for public inspection July 7, 2000, 9:00 a.m.]

### United American Insurance Company Requesting Authority to Increase Rates for Individual Standardized Medicare Supplement Plans A, B, C and D; Policy Form Numbers MSA, MSB, MSC and MSD

United American Insurance Company has filed for approval increased rates for its individual Medicare supplement plans. The filing requests an average increase of 28.5%, varying by benefit plan. The rate increase will impact about 10,885 policyholders, and produce additional annual Pennsylvania premium income of approximately \$4 million.

The proposed rate increase percentages by plan are as follows:

Form #	Plan	Increase %
MSA	A	13.7%
MSB	B	16.0%
MSC	C	17.0%
MSD	D	44.7%

Copies of the filing are available for public inspection during normal working hours, by appointment, 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 Gurgiolo, Actuary, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 00-1193. Filed for public inspection July 7, 2000, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Fayette County, Wine & Spirits Shoppe #2610, 619 Pittsburgh Road, Uniontown, PA 15401-2200.

*Lease Expiration Date:* October 31, 2005

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,300 net useable square feet of new or existing retail commercial space in a shopping center environment fronting PA Route 51 North of Uniontown.

*Proposals due:* July 28, 2000 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Washington County, Wine & Spirits Shoppe #6306, 245 W. Main Street, Monongahela, PA 15063-2442.

*Lease Expiration Date:* July 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,200 net useable square feet of new or existing retail commercial space serving Monongahela. Location must have access for rear truck delivery. Free, off-street parking preferred.

*Proposals due:* July 28, 2000 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Westmoreland County, Wine & Spirits Shoppe #6522, 111 Westmore Avenue, New Stanton, PA 15672-0234.

*Lease Expiration Date:* May 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 to 3,000 net useable square feet of new or existing retail commercial space serving the New Stanton area. Off-street parking and good loading facilities preferred.

*Proposals due:* July 28, 2000 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Tom Deal, (412) 565-5130

JOHN E. JONES, III,  
Chairperson

[Pa.B. Doc. No. 00-1194. Filed for public inspection July 7, 2000, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Fuel Surcharge Order

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Aaron Wilson, Jr.; Terrance J. Fitzpatrick  
Public Meeting  
June 22, 2000

*Fuel Surcharge Extension; S. P. 28204*

### Order

*By the Commission:*

The Pennsylvania Public Utility Commission (Commission) by its Fuel Surcharge Order at Special Permission Number 28204, ratified March 30, 2000, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset unanticipated fuel expenditures.

All call or demand, paratransit and airport transfer carriers were authorized a fuel surcharge of 25¢ per paying passenger. The fuel surcharge is to be in addition to officially filed tariff rates. The Fuel Surcharge became effective on April 1, 2000, and is scheduled to terminate on June 30, 2000.

After due consideration, we have determined that fuel costs have not stabilized and are continuing to increase. Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the fuel surcharge to permit the recovery of unanticipated fuel expenditures; *Therefore,*

*It Is Ordered That:*

1. The Fuel Surcharge established at Special Permission 28204 be and is hereby extended until September 30, 2000.
2. The Fuel Surcharge at Special Permission 28204 shall terminate September 30, 2000, without further Commission action. No further extensions of the Fuel Surcharge will be considered.
3. Motor Carriers who can demonstrate financial justification for an increase in currently filed rates and charges, based upon their overall operating costs, may recover increased fuel costs through the regular rate increase procedure.
4. The Secretary shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 00-1195. Filed for public inspection July 7, 2000, 9:00 a.m.]



**Petition of TCG Pittsburgh, Inc., d/b/a AT&T, for designation as an Eligible Telecommunications Carrier under Section 214(e) of the Telecommunications Act of 1996 and CFR 54.101, 2301-207; Doc. No. P-00001797**

On March 27, 2000, TCG Pittsburgh, Inc., d/b/a AT&T (AT&T) filed a petition requesting designation as an Eligible Telecommunications Carrier (ETC) for applicable State and Federal universal service funding. The petition seeks ETC approval for the entire area of metropolitan Pittsburgh covered by TCG Pittsburgh, Inc.'s recently approved tariff. The Commission has determined that publication and comment on this petition is appropriate. Interested parties must submit comments on the AT&T petition within 7 days of publication in the *Pennsylvania Bulletin*. Reply Comments must be submitted within 14 days of publication in the *Pennsylvania Bulletin*.

Copies of the petition may be obtained from the Commission, Office of the Secretary, upon request. The contact person at the Commission is Elizabeth A. Lion Januzzi, Assistant Counsel, Law Bureau, (717) 772-0696.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1196. Filed for public inspection July 7, 2000, 9:00 a.m.]

---

**Railroad  
With Hearing**

**A-00113538. Department of Transportation.** Application of Department of Transportation for the approval of (1) a proposed new crossing where S. R. 6522 crosses, at grade, a single track of East Broad Top Railroad and Coal Company in Shirley Township, Huntingdon County; and (2) a proposed new crossing where S.R. 6522 will pass under two tracks of Consolidated Rail Corporation in Mount Union, Huntingdon County; and the allocation of costs and expenses incident thereto.

An initial hearing on this matter will be held Tuesday, August 29, 2000, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1197. Filed for public inspection July 7, 2000, 9:00 a.m.]

---

**Railroad  
With Hearing**

**A-00116721. Penn Eastern Lines, Inc.** (AAR 591 577 P)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Ridge Road, S.R. 1045, East Cocalico Township, West Cocalico Township, Lancaster County, District 8-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and

electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116745. Penn Eastern Lines, Inc.** (AAR 591 556 W)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Mountain Home Road, S. R. 3012, Sinking Springs Borough, Berks County, District 5-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116746. Penn Eastern Lines, Inc.** (AAR 591 570 S)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Fritztown Road, S. R. 3016, South Heidelberg Township, Berks County, District 5-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116747. Penn Eastern Lines, Inc.** (AAR 591 559 S)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Fritztown Road, S. R. 3016, Spring Township, Berks County, District 5-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116748. Penn Eastern Lines, Inc.** (AAR 591 574 U)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Galen Hall Road, S. R. 1055, West Cocalico Township, Lancaster County, District 8-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116749. Penn Eastern Lines, Inc.** (AAR 591 580 X)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Locust Street Denver Borough, Lancaster County, District 8-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of

obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116750. Penn Eastern Lines, Inc.** (AAR 591 585 G)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Stevens Road, S. R. 1030, East Cocalico Township, Lancaster County, District 8-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

**A-00116751. Penn Eastern Lines, Inc.** (AAR 591 582 L)—Application of Penn Eastern Lines, Inc. (PRL) for approval of the alteration of the crossings where Main Street, S. R. 1051, Denver Borough, Lancaster County, District 8-0, crosses at grade, the tracks of Penn Eastern Railroad Lines. The purpose of this alteration is the removal of obsolete automatic crossing protection, including lights, posts and electrical equipment. Prior to the removal of said equipment, the applicant requests approval to erect two reflective crossbucks as crossing identification devices and two reflective, PennDOT-type stop signs as traffic control method. The cost for these alterations shall be the sole responsibility of the applicant.

An initial hearing on these matters will be held Wednesday, August 16, 2000, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1198. Filed for public inspection July 7, 2000, 9:00 a.m.]

**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-00117018. Bart Ganster and Fernando Delos Santos, Copartners** (901 Butter Lane, Reading, Berks County, PA 19606)—persons, on schedule, between the borough of West Reading, Berks County and the Berks County Prison, located in the township of Bern, Berks County, over the following route: Beginning on East Wyomissing Boulevard, to Pershing Boulevard, to Old Wyomissing Boulevard, to Parkside Drive, to Playground Drive, to Linden Lane becoming Second Avenue, to Penn Avenue, across Penn Street Bridge to Third Street, to Washington Street, to Front Street, to West Greenwich Street, to Schuylkill Avenue (Rt. 183), to Avenue A, to Avenue C, to Avenue B, to Route 183, past the Reading Airport, to West Leesport Road, to County Welfare Road, to Prison Road, and return by the same route. *Attorney:* David R. Dautrich, 526 Court Street, Reading, PA 19601.

**Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00115549, Folder 1, Am-A. EMT Transport, Inc.** (1430 Beaver Road, Southampton, Bucks County, PA 18966), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, to or from medical facilities, to include but not limited to, doctor's offices, hospitals, clinics, treatment centers, nursing facilities, and personal care facilities, in the city and county of Philadelphia; subject to the following condition: That the service herein authorized is limited to the transportation of injured persons involved in civil litigation and worker's compensation cases to and from medical facilities for treatment and to and from independent medical examinations: *So as to permit* the transportation of persons in paratransit service, to and from medical facilities, to include but not limited to, doctor's offices, hospitals, clinics, treatment centers, nursing facilities, and personal care facilities, between points in the counties of Bucks, Montgomery, Berks and Delaware. *Attorney:* Christopher P. Gerber, Ludwigs Corner Professional Center, 961 Pottstown Pike, P. O. Box 630, Exton, PA 19341.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1199. Filed for public inspection July 7, 2000, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before July 31, 2000, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

### Transfer of Assets Without Hearing

**A-230435 F2000. Shangri-La Sewer Company.** Application of Shangri-La Sewer Company for the transfer of its assets to the New Garden Township Sewer Authority, and for the abandonment of sewer service by Shangri-La Sewer Company.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before July 24, 2000, under 52 Pa. Code (relating to public utilities).

*Applicant:* Shangri-La Sewer Company

*Through and By Counsel:* Craig A. Doll, Esquire, 25 North Front Street, Second Floor, Harrisburg, PA 17101-1606

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1200. Filed for public inspection July 7, 2000, 9:00 a.m.]

The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1, (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

DALE H. EVERHART,  
*Secretary*

[Pa.B. Doc. No. 00-1201. Filed for public inspection July 7, 2000, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 27, 2000	Geneva McKee (Membership Eligibility) Phylliss A. Breininger (Membership Eligibility)	10:30 a.m.  1 p.m.
August 09, 2000	Marie E. Labar (Change of Option)	10:30 a.m.
August 16, 2000	Carolyn R. Bischoff (Membership Eligibility)	1 p.m.
August 23, 2000	Peggy L. Balla (Membership Eligibility)	10:30 a.m.

Persons with a disability who wish to attend the above-listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant Executive Director, at (717) 720-4700 to discuss how the Public School Employees' Retirement System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective

## STATE TAX EQUALIZATION BOARD

### Common Level Ratios

The State Tax Equalization Board (Board) has established a Common Level Ratio for each county in the Commonwealth for the calendar year 1999. The ratios were mandated by Act 267-1982.

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the 1999 Common Level Ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 1999.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by four. Using these computed limits, the Board has utilized the valid sales, rejecting those sales, which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the Common Level Ratio for each county for 1999.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 1999 of 100% will utilize valid sales from 1% to 200%.

MARTHA BELL SCHOENINGER,  
*Chairperson*

### 1999 COMMON LEVEL RATIOS

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>
ADAMS	38.4	ELK	19.1	*MONTGOMERY	93.6
ALLEGHENY	19.1	ERIE	8.4	MONTOUR	9.6
ARMSTRONG	44.7	FAYETTE	10.3	NORTHAMPTON	48.5
BEAVER	35.4	FOREST	28.0	NORTHUMBERLAND	6.9
BEDFORD	9.1	FRANKLIN	7.0	PERRY	13.6
*BERKS	96.1	FULTON	15.5	PHILADELPHIA	29.2
BLAIR	10.7	GREENE	28.1	PIKE	30.7
BRADFORD	47.0	HUNTINGDON	19.5	POTTER	11.1
BUCKS	4.4	INDIANA	15.2	SCHUYLKILL	45.7

## NOTICES

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>
BUTLER	12.4	JEFFERSON	20.1	SNYDER	18.8
CAMBRIA	17.3	JUNIATA	14.3	SOMERSET	45.3
CAMERON	37.2	*LACKAWANNA	20.3	SULLIVAN	27.5
CARBON	8.9	*LANCASTER	93.3	SUSQUEHANNA	47.8
CENTRE	43.4	LAWRENCE	18.1	TIOGA	33.2
*CHESTER	89.8	LEBANON	9.2	UNION	18.2
CLARION	23.8	LEHIGH	48.6	VENANGO	18.2
CLEARFIELD	21.4	LUZERNE	7.6	WARREN	39.0
CLINTON	29.5	LYCOMING	67.7	WASHINGTON	18.6
COLUMBIA	36.5	MCKEAN	23.8	WAYNE	8.6
CRAWFORD	38.0	MERCER	10.1	*WESTMORELAND	23.7
CUMBERLAND	6.4	MIFFLIN	53.4	WYOMING	29.5
*DAUPHIN	53.6	MONROE	23.4	*YORK	94.0
*DELAWARE	3.2				

\*Counties with a predetermined assessment ratio of 100%.

[Pa.B. Doc. No. 00-1202. Filed for public inspection July 7, 2000, 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". The 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.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:  
 The payment date specified in the contract.  
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.  
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

Reader's Guide	REQUIRED DATA DESCRIPTIONS
<h3 style="text-align: center;">Legal Services &amp; Consultation—26</h3> <p style="text-align: center;">① Service Code Identification Number</p> <p style="text-align: center;">② Commodity/Supply or Contract Identification No.</p> <p><b>B-54137.</b> 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> <p>Department: General Services                  Location: Harrisburg, Pa.                  Duration: 12/1/93-12/30/93                  Contact: Procurement Division                  787-0000</p> <p style="text-align: center;">③ Contract Information</p> <p style="text-align: center;">④ Department</p> <p style="text-align: center;">⑤ Location</p> <p style="text-align: center;">⑥ Duration</p> <p>⑦ (For Commodities: Contact:) Vendor Services Section                  717-787-2199 or 717-787-4705</p>	<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.                  (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705</p>

## 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*

### Commodities

**Project ID 1315** Prefabricated packages to construct the following: two 30' x 36' wood shelter pavilions. Wood shelters shall be the Raleigh model as furnished by Unit Structures, Inc. or Palm Beach pavilions as furnished by RCP Shelters, or park-approved alternate. Bid documents, bid specifications, all attachments can be obtained by telephoning park office at (570) 467-2404, Monday through Friday, 8 a.m. to 4 p.m.  
**Department:** Conservation and Natural Resources  
**Location:** Tuscarora State Park, R. R. # 1 Box 1051, Barnesville, PA 18214  
**Duration:** Indeterminate 2000-2001  
**Contact:** Leo G. Davidovich, (570) 467-2404

**732-4963** The State Correctional Inst. Graterford is seeking vendors to supply approximately 1,500 officer cap frames. Sizes to range from 7 through 7-5/8. Exact specifications, sizes and amounts will be furnished with the bid proposal.  
**Department:** Corrections  
**Location:** Correctional Industries, State Corr. Inst. Graterford, Box 246, Off Rt. 29, Graterford, PA 19426  
**Duration:** July 1, 2000 through June 30, 2001  
**Contact:** Gerald L. Arasin, (610) 489-4151

**BULD-00-01** Building materials to maintain outside modular and pole buildings. Bid proposal will cover the purchase of building materials such as spruce and dry select lumber, strandboard, roofing shingles and underlay, replacement doors and windows, wallboard, gutter and downspout accessories, siding materials, and nails.  
**Department:** Corrections  
**Location:** SCI-Greensburg, R. D. # 10, Box 10, Route 119, South, Greensburg, PA 15601-8999  
**Duration:** Estimated July—September 2000  
**Contact:** Jack Loughry, (724) 853-3502

**1026040** Bovine leukemia antibody test kits. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Agriculture  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**8252450** Passenger Vans. For a copy of bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**8252470** Trucks, 1 ton, pickup and truck, 1 ton, shop, service body. For a copy of bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**8252430** Drill, soiles/core, skid mounted with trailer. For a copy of bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**1037210** Stainless steel instantaneous packaged steam fired water heater. For a copy of bid package fax request to (717) 787-0725.

**Department:** Public Welfare  
**Location:** Bridgeville, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**8252420** Post pounder, guiderail without truck. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**7350-09** Cups, paper, plastic and foam with lids. For a copy of the bid package fax your request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** October 1, 2000—September 30, 2001  
**Contact:** Vendor Services, (717) 787-2199

---

# SERVICES

---

## Audio/Video—04

**RFP 06-00** Voice Mail System—Provide all labor, equipment and material necessary to install 1,200 mail box voice mail system at Bloomsburg University's main campus, located at 400 East Second St., Bloomsburg, PA. The voice mail system must provide voice mail system services for faculty, staff and university recognized clubs and organizations to enhance communications to members of the Bloomsburg University community without eliminating the human touch. The RFP will be released in mid-latter part of July 2000. To obtain a copy of the RFP please submit a request in writing to Bloomsburg University, Waller Building, Room 38, 400 East Second Street, Bloomsburg, PA 17815 Attn: Joe Quinn or Fax your request to (570) 389-2017. Requests for the RFP must be received by July 20, 2000.

**Department:** State System of Higher Education  
**Location:** Bloomsburg, PA  
**Duration:** 3 Months  
**Contact:** Joseph C. Quinn, (570) 389-4311

---

## Computer Related Services—08

**00-1-001** Data entry for campaign finance reports filed with the Department of State Election Bureau.

**Department:** State  
**Location:** 116 Pine Street, Harrisburg, PA 17101  
**Duration:** Six months  
**Contact:** Kathy Bilyeu, (717) 787-3945

---

## Construction & Construction Maintenance—09

**FDC-131-817** Construct an approximate 900 L. F. causeway for the replacement of sections of the fabric dam at Shikellamy State Park at Sunbury. (10,000 C. Y.'s of embankment and 7,500 C. Y.'s of excavation). NOTE: Bid documents will be available ON or AFTER July 10, 2000.

**Department:** Conservation and Natural Resources  
**Location:** Upper Augusta Township  
**Duration:** Complete all work by December 29, 2000  
**Contact:** Construction Management Section, (717) 787-5055

**DGS377-10A** Project Title: Construction of a State Correctional Institution. Brief Description: Construction Management for Pre-Construction and Construction Services for design and construction of a new 1,236 cell State Correctional Institution, as well as all ancillary buildings containing equipment to operate the facility. Construction Manager is not acting as contractor. Construction allocation is \$105 million for the entire project on a 30 month schedule. RFP Price: \$50 per set (Includes PA Sales Tax) per RFP. Checks made payable to: Commonwealth of PA. This price is nonrefundable. Contact the office listed below to arrange for delivery of documents. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Date for receiving RFP: Tuesday, August 1, 2000 at 2 p.m. All questions regarding the RFP or to clarify matters concerning the Construction Manager's responsibilities must be submitted in writing to the issuing office by no later than 5 p.m., Tuesday, July 18, 2000. Only firms requesting the RFP will receive a copy of all submitted questions and answers.

**Department:** General Services  
**Location:** Jenks Township, Forest County (210 acres)  
**Duration:** Indeterminate 2000-2001  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**DGSA574-33** Project Title: Roof Replacement—McCauley Building. Brief Description: Remove existing slate roof and all related materials, two small tin roofs and a small copper roof, gutters and downspouts. Install new plywood sheeting, underlayment, ice and water shield, flashings, accessories and new 50 year warranted rubber shingle roof to match the existing one on Smith Cottage. Install new copper standing seam roof and four low slope copper pan roofs on four small roof areas. Two of the low slope roofs are on Smith Cottage. Install new aluminum gutters, downspouts and all new accessories. Remove all flashing from chimneys, repoint and reflash with new copper and seal according to drawings and specifications. Estimated Range: \$100,000 to \$500,000. General Construction: Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, July 19, 2000 at 2 p.m.

**Department:** General Services  
**Location:** Muncy SCI, Muncy, Lycoming County, PA  
**Duration:** 120 Calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**DGSA251-586REBID** Project Title: Bulk Salt Storage Facility with High Gambrel Roof. Brief Description: Construct a new 70' x 88' high arch salt building. Estimated Range: \$100,000 to \$500,000. General and Electrical Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to cover the cost of delivery. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, July 19, 2000 at 11 a.m.

**Department:** General Services  
**Location:** PennDot Maintenance Stockpile, Mercer, Mercer County, PA  
**Duration:** 100 Calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**2-2-00041** The Clearfield County Maintenance District is seeking quotations for 570 square feet with six panels Open Steel Bridge Decking. All bidders must be an approved supplier in Approved Construction Materials (Bulletin # 15) Steel Products Procurement Act applies to this bid.

**Department:** Transportation  
**Location:** PennDOT, Washington Ave. and Hall St., Hyde, PA 16843  
**Duration:** One Year Contract  
**Contact:** Debbie Swank or Donna Figula, (814) 765-0524

**061860** Demolition or removal of residential buildings and any site improvements located at 186 Sunset View Drive and 131 Wells Road, Doylestown, Bucks County, PA SR 202-721.

**Department:** Transportation  
**Location:** Doylestown, Bucks County, PA  
**Duration:** Open  
**Contact:** Roger Joseph, (610) 205-6505

**DGS960-26REVISEDREBID# 2** Project Title: PA Veteran's Memorial National Cemetery. Brief Description: Construction of a Veteran's Memorial Structure with concrete and stone walls, amphitheater theater, reflecting pools, trees, landscaping, walkways, toilet rooms and parking. Work includes General, HVAC, Plumbing and Electrical Construction. Estimated Range: \$2,000,000 to \$5,000,000. General, HVAC, Plumbing and Electrical Construction. Plans Deposit: \$50 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$15 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Thursday, July 20, 2000 at 2 p.m.

**Department:** General Services  
**Location:** Ft. Indiantown Gap, Lebanon County, PA  
**Duration:** On or before August 15, 2001  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**DGS183-11** Project Title: Rehabilitation of Solomon Run Flood Protection Project. Brief Description: Work consists of weephole replacement and installation, rehabilitation of two debris basins channel invert, spill repair, concrete patch repair (vertical and horizontal), channel joint repairs (vertical and horizontal), miscellaneous concrete repair and miscellaneous mortar replacement. Estimated Range: \$500,000 to \$1,000,000. General Construction. Plans Deposit: \$100 per set payable to Gibson-Thomas Engineering Co., Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: Gibson-Thomas Engineering Co., Inc., P. O. Box 853, Latrobe, PA 15650, Tel: (724) 539-8562. Bid Date: Wednesday, August 2, 2000 at 11 a.m. A Pre-Bid Conference has been scheduled for Wednesday, July 12, 2000 at 11 a.m. at the City of Johnstown, Borough of Dale and Stoneycreek Township in the parking lot of the convenience store at the intersection of Bedford Street and Annie Street, Cambria County, PA. Contact: Dan Schmitt, Tel: (724) 539-8562 Ext. 16. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

**Department:** General Services  
**Location:** City of Johnstown, Borough of Dale and Stoneycreek Township, Cambria County, PA  
**Duration:** 165 Calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**DGSA996-33** Project Title: Paving of Parking Areas and Roads. Brief Description: Paving of parking areas, pedestrian tow paths and roadways. Installation of stormwater culverts as shown. Estimated Range: \$100,000 to \$500,000. Paving Construction. Plans Deposit: \$25 per set payable to Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, July 19, 2000 at 1 p.m. A Pre-Bid Conference has been scheduled for Thursday, July 6, 2000 at 10:30 a.m. at the Washington Crossing Historic Park at the Visitors Center, Washington Crossing, PA. Contact: Robert Barnette or Michael Bertheald. Tel: (215) 493-4076. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

**Department:** General Services  
**Location:** Washington Crossing Historic Park, Washington Crossing, Bucks County, PA  
**Duration:** 90 Calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

## Engineering Services—14

**08430AG2570** To provide supplementary construction inspection staff of approximately seven inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on S. R. 0145, Section 07B, the replacement of Jordan Creek Bridge on MacArthur Road in Whitehall Township and on S. R. 0145, Section 05S, the reconstruction and widening of MacArthur Road from south of State Route 0022 to the Allentown City limit line in Whitehall Township, Lehigh County. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or www.statecontracts.com under Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 5-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

**08430AG2571** To provide final design and services during construction (shop drawing review and construction consultation) for the S. R. 0259, Section 450, Bridge Replacement Project (Bolivar Bridge) over the Conemaugh River between the Borough of Robinson (Indiana County) and the Borough of Bolivar (Westmoreland County). Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or www.statecontracts.com under Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

**08430AG2572** Open-End Contract for NBIS Bridge safety inspection for bridges and structures on the local system throughout the Commonwealth. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or www.statecontracts.com under Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Bureau of Design  
**Duration:** 60 Months  
**Contact:** N/A

**08430AG2573** To provide construction inspection and documentation services on S. R. 0051, Section B17, PA 5 from Franklin Avenue to the west Aliquippa Bridge/and S. R. 1021, Section B01, Pine Run Bridge, both in Beaver County; and S. R. 0018, Section L17, TR 18 from Wallace Avenue to Maitland Lane and S. R. 0351, Section 005, Conrail Railroad Bridge, both in Lawrence County. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or www.statecontracts.com under Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 11-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

**08430AG2574** To provide construction inspection and documentation services on S. R. 0019, Section A21, Railroad Opening; S. R. 0065, Section A24, Ohio River Boulevard; and S. R. 0022, Section A08, Route 22/30 Expressway Rehab, all in Allegheny County. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or www.statecontracts.com under Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 11-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

## Financial & Insurance Services—17

**RFP No. 000-11** The Department of Corrections is soliciting proposals for consulting services to provide a life cycle cost analysis of the State Correctional Institutions at Muncy, Lycoming County and Huntingdon, Huntingdon County. The successful vendor will provide a cost benefit analysis of renovating the existing facilities versus replacement.

**Department:** Corrections  
**Location:** 2520 Lisburn Road, Camp Hill, PA 17011  
**Duration:** Approximately 1 year  
**Contact:** Suzanne Malhenzie, Administrative Officer, (717) 975-4973

**RFP No. 2000-2** The Legislative Budget and Finance Committee requires an actuarial firm to conduct a study of the cost and benefits of section 5 of Act 1998-150, which imposed certain mental illness coverage requirements on specific group health insurance policies. The study must be actuarially sound and subject to peer review by the American Academy of Actuaries. Contractor will be responsible for preparing a written report and giving oral testimony at two public hearings.

**Department:** Legislative Budget and Finance Committee  
**Location:** Room 400, Finance Building, Harrisburg, PA 17120  
**Duration:** August 2000 through June 2001  
**Contact:** Phillip Durgin, Executive Director, (717) 783-1600

## Firefighting Services—18

**1000-13281** Protective equipment used for fire fighting. Items to be bid include turnout coat, pants, boots, gloves, helmets and hoods.

**Department:** Corrections  
**Location:** 2520 Lisburn Road, Camp Hill, PA 17011  
**Duration:** Indeterminate 2000-2001  
**Contact:** Russ Ilgenfritz, (717) 975-4988



**Food—19**

**PG-0008** The State Correctional Institution at Pine Grove will be soliciting bids for canned and dry foods (to include all condiments) in the event these items are eliminated from Statewide Contract # 8920-06.

**Department:** Corrections  
**Location:** State Correctional Institution at Pine Grove, 189 Fyock Road, Indiana, PA 15701  
**Duration:** July 1, 2000 through June 30, 2001  
**Contact:** Sherre Benninghoff, Purchasing Agent, (724) 357-2585

**PG-0007** The State Correctional Institution at Pine Grove will be soliciting bids for dairy and related products to include (but not be limited to) milk, cheese and margarine. Bid proposals will be issued on a quarterly basis or as needed. Milk pricing will be in accordance with the Pennsylvania Milk Marketing Board.

**Department:** Corrections  
**Location:** State Correctional Institution at Pine Grove, 189 Fyock Road, Indiana, PA 15701  
**Duration:** July 1, 2000 through June 30, 2001  
**Contact:** Sherre Benninghoff, Purchasing Agent, (724) 357-2585

**PG-0009** The State Correctional Institution at Pine Grove will be soliciting bids for meat and meat products. Bid proposals will be issued on a quarterly basis or as needed.

**Department:** Corrections  
**Location:** State Correctional Institution at Pine Grove, 189 Fyock Road, Indiana, PA 15701  
**Duration:** July 1, 2000 through June 30, 2001  
**Contact:** Sherre Benninghoff, Purchasing Agent, (724) 357-2585

**Hazardous Material—21**

**120-1500-003** The contractor shall provide all equipment, materials and labor to remove and dispose of various paints, roof tar, nonhazardous waste, etc. from the State Correctional Institution at Camp Hill.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Rd., Camp Hill, PA 17001-8837  
**Duration:** August 1, 2000 to June 30, 2001  
**Contact:** Delores Stephens, (717) 975-5200

**120-1500-002** The contractor shall provide all equipment, materials and labor to remove and dispose of 50 electrical transformers from the State Correctional Institution at Camp Hill.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Rd., Camp Hill, PA 17001-8837  
**Duration:** August 1, 2000 to June 30, 2001  
**Contact:** Delores Stephens, (717) 975-5200

**HVAC—22**

**1103500005** Vendor to provide emergency repairs to the 33 K feed line from PECO to SCIG power station and support equipment to include high voltage lines, substations, transformer vaults, wellhouse transformer rooms, aerial lines around wall and on utility poles, utility poles and related items. Two hours emergency response time is required due to security purposes. Contact will be as needed basis.

**Department:** Corrections  
**Location:** State Correctional Inst. Graterford, Box 246, Rt. 29, Graterford, PA 19426  
**Duration:** 3 years  
**Contact:** Kelly Richardson, (610) 489-4151

**UP-169** Renovate Rhoads Hall: Slippery Rock University is accepting sealed bids for the renovation of approximately 6,000 sq. ft. of dormitory room space to health care space. The project includes the installation of new walls, ceiling and finishes. Mechanical and electrical system upgrades and site improvements. The bid package can be obtained by submitting a \$75 nonrefundable check to Peter F. Loftus of Michele Engineers, Inc., 6585 Penn Avenue, Pittsburgh, PA 15206-4407. Telephone (412) 363-9000. Plans will be made available at the University for viewing by contacting Tod Horner, Project Manager at (724) 738-2534. A pre-bid conference will be held at 11 a.m. on July 5, 2000 in Rhoads Hall Conference Room. The bid opening is set for 2 p.m. on July 14, 2000. Please mark UP-169 on the outside of the envelope.

**Department:** State System of Higher Education  
**Location:** Slippery Rock University, Slippery Rock, Butler County, PA 16057  
**Duration:** 175 Days from Notice to Proceed  
**Contact:** J. F. Revesz, Director of Contracts, (724) 738-2255

**Janitorial Services—23**

**SP-01742003** Provide labor and material to wash and wipe dry exterior windows at the DPW complex # 2, Willow Oak building, and the Cherry Wood Building, located on the campus of the Harrisburg State Hospital grounds.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital Grounds, Willow Oak Building, and Cherry Wood Buildings, Cameron and McClay Streets, Harrisburg, PA 17105  
**Duration:** Estimated term of contract would be from July 1, 2000 to June 30, 2005  
**Contact:** Barry Malone, (717) 705-3917

**MU-001** This is a "Source Sought" notice only. Millersville University is looking for a single provider for all Housekeeping supplies on an "all or none" basis. Multiple on-site deliveries may be required weekly to user destinations. A contract, if awarded, will be for 1 base year, and up to 4 option years. General categories for these supplies are: housekeeping chemicals, plastic bags, brooms and handles, mops, protective gloves, sanitary napkins, cleaning pads, polish, soap, toilet tissue, paper towels, and razor blades. A detailed list will be included in any solicitation for these supplies. If responsive and responsible sources are found, a formal solicitation for bids may follow. A contract of the type described here has the potential to exceed \$100,000 annually. Interested parties should contact John Cox at (717) 871-2083, or Email John.Cox@millersville.edu no later than July 17, 2000.

**Department:** State System of Higher Education  
**Location:** Campus wide, Millersville University, Millersville, Lancaster County, PA 17551-0302  
**Duration:** One base year with 4 option years  
**Contact:** John Cox, (717) 871-2083

### Lodging Facilities—27

**8101840011** The Office of Administration is requesting bids from vendors to provide meeting room space and catering services for The Governor's Executive Seminars. The dates for the seminars are September 12, 14, 26, 27, 28, October 3, 4, 5, 17, 18, 19, November 14, 15, 16, 28, 29, 30, December 5, 6 and 7, 2000. Must provide a large meeting room, separate room for lunch, audio visual equipment, morning refreshments, break refreshments, and lunch to accommodate 30 attendees daily. Prospective bidders must be able to accommodate and bid on all dates in their entirety. A complete description of services required will be included in the bid package. If interested in receiving a bid package, please fax your request on company letterhead to (717) 787-0776, Attn: Jane L. Benfer. Please include your company name, address, phone and fax numbers, and Federal id number.

**Department:** Office of Administration/Executive Offices  
**Location:** Within a 25 mile radius of the Harrisburg Capitol Complex  
**Duration:** September 12, 14, 26, 27, 28, October 3, 4, 5, 17, 18, 19, November 14, 15, 16, 28, 29, 30, December 5, 6 and 7, 2000  
**Contact:** Jane L. Benfer, (717) 787-8767

**06-S-00** The Department of Labor and Industry, Bureau of Worker's Compensation is soliciting bids for Training Sites in the Valley Forge Area. For a copy of Bid package, Fax request to (717) 787-0688 or telephone (717) 787-2877.

**Department:** Labor and Industry  
**Location:** Valley Forge Area  
**Duration:** September 14, 2000 and October 25, 2000 (if needed)  
**Contact:** Cherianita Thomas/BF, (717) 787-2877

**06-T-00** The Department of Labor and Industry, Bureau of Worker's Compensation is soliciting bids for Training Sites in the Monroeville Area. For a copy of Bid package, Fax request to (717) 787-0688 or telephone (717) 787-2877.

**Department:** Labor and Industry  
**Location:** Monroeville Area  
**Duration:** September 27, 2000 and November 1, 2000 (if needed)  
**Contact:** Cherianita Thomas/BF, (717) 787-2877

### Moving Services—30

**06-L-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 5 consists of seven centers specifically: Bedford County—Bedford; Somerset County—Somerset; Huntingdon County—Huntingdon; Cambria County—Johnstown; Blair County—Altoona; Clearfield County—Clearfield and DuBois  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-K-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 8 consists of eight centers specifically: Luzerne County—Hazleton; Nanticoke, Wilkes-Barre and Pittston; Lackawanna County—Carbondale and Scranton; Tioga County—Wellsboro; Bradford County—Towanda  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-N-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 1 consists of 11 Centers specifically: Chester County—Coatesville; Delaware County—Chester and Lansdowne; Montgomery County—Hatboro and Norristown; Bucks County—Bristol; Philadelphia County—Germantown, Northeast, West, Uptown and Downtown  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-O-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 2 consists of five centers specifically: Lehigh County—Allentown; Northampton County—Bethlehem and Easton; Carbon County—Jim Thorpe; Monroe County—Tannersville  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-P-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 3 consists of six centers specifically: Franklin County—Chambersburg; Adams County—Gettysburg; York County—York; Cumberland County—Carlisle; Dauphin County—Harrisburg; Lebanon County—Lebanon  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-R-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 6 consists of 15 centers specifically: Greene County—Waynesburg; Fayette County—Uniontown and Connellsville; Washington County—Washington and Charleroi; Beaver County—Beaver Falls and Ambridge; Butler County—Butler; Armstrong County—Kittanning; Indiana County—Indiana; Allegheny County—Pittsburgh North, South, East, Liberty and McKeesport  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-M-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 7 consists of ten centers specifically: Lawrence County—New Castle; Mercer County—Sharon; Jefferson County—Punxsutawney; Crawford County—Meadville; Elk County—St. Marys; Potter County—Coudersport; McKean County—Bradford; Warren County—Warren; Crawford County—Meadville; Erie County—Erie  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**06-Q-00** The Department of Labor and Industry, Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the Relocation of State Offices.

**Department:** Labor and Industry  
**Location:** Region 4 consists of eight centers specifically: Mifflin County—Yeagertown; Centre County—Phillipsburg and State College; Northumberland County—Shamokin and Sunbury; Cambria County—Berwick; Clinton County—Lock Haven; Lycoming County—Williamsport  
**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

### Property Maintenance—33

**00714-000-99-AS-1/Re-Bid** Exterior Painting of Main House, at the Joseph Priestley House, Northumberland, PA. Scope includes: Preparation and finishing of exterior surfaces; miscellaneous carpentry repairs. For directions, contact the site at (570) 473-9474. All interested bidders should request a bid package in writing to Historical and Museum Commission, Division of Architecture, Room 526, 3rd and North Streets, Harrisburg, PA 17120—Attention: Judi Yingling, (717) 772-2401 or fax (717) 783-1073. All proposals are due on August 4, 2000 at 11:45 a.m. Bid opening will be held in Room 526, 5th Floor of the State Museum Building, corner of 3rd and North Streets, Harrisburg, PA 17120.

**Department:** Historical and Museum Commission  
**Location:** Joseph Priestley House, 472 Priestley Avenue, Northumberland, PA 17120  
**Duration:** July 1, 2000 to June 30, 2001  
**Contact:** Judi Yingling, (717) 772-2401

**014** Fascia replacement.

**Department:** Military Affairs  
**Location:** Bldgs. 53 and 54, Ft. Mifflin, Philadelphia, PA  
**Duration:** August 1, 2000—December 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**404874** Furnish and install stationary canopy.

**Department:** Public Welfare  
**Location:** Warren State Hospital, 33 Main Dr., N. Warren, PA 16365  
**Duration:** Summer 2000  
**Contact:** John Sample, PA I, (814) 726-4448

**Bid No. 8165** Furnish all labor, materials and equipment to cut, trim and maintain grass area at the Selinsgrove Station, three cuttings per month, or as required by the Station Commander. Trim shrubs once a year to include edging along sidewalks and driveways. Vegetation/fertilize once a year. Detailed Work Schedule and Bid must be obtained from Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Selinsgrove Station, R. D. # 1, Box 131, Selinsgrove, PA 17870  
**Duration:** October 1, 2000 to June 30, 2003  
**Contact:** Donna Enders, (717) 783-5484

**373883** Lease office space to the Commonwealth of Pennsylvania. 7,069 sq. ft. of office space with 25 parking spaces, in Coudersport, Potter County, within the Borough of Coudersport or within 2 miles of the County Court House with properties facing on Routes 6, 44 or 49. In areas where street or public parking is not available, an additional five parking spaces are required. The Department of Public Welfare, Potter County Assistance Office will occupy the space. Proposals Due: August 21, 2000. Solicitation No: 93045.

**Department:** Public Welfare  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Duration:** N/A  
**Contact:** Cynthia T. Lentz, (717) 787-0952

### Real Estate Services—35

**373883** Lease office space to the Commonwealth of Pennsylvania. 6,076 sq. ft. of office space with 17 parking spaces, in Philadelphia, bounded by: N: Belfield Avenue; E: Broad Street and 29th Street; S: Allegheny Avenue, York Street; W: Kelly Drive, School House Lane, Wissahickon Avenue, Cheltenham Avenue. The office must be situated within three blocks of a public transportation system. Downtown locations will be considered. The PA Board of Probation and Parole will occupy the space. Proposals Due: August 7, 2000. Solicitation No: 93051.

**Department:** Probation and Parole Board  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Duration:** N/A  
**Contact:** John Hocker, (717) 787-4396

### Miscellaneous—39

**SP350001189** Assess drinking water sources that serve public water systems for susceptibility to pollution.

**Department:** Environmental Protection  
**Location:** Throughout PA  
**Duration:** Through June 30, 2001 with an option for a 2-year renewal  
**Contact:** Sharon Peterson, (717) 787-2471

**R0007013** Millersville University of Pennsylvania is seeking qualified vendors who can provide the University with closed circuit monitoring system in Hash-Bassler Communication and Theatre Bldg. Digital system to consist of a multi-character alpha command center, wide angle motion detectors, closed circuit TV System, fiber optic cabling, and computer software to control access from MU's police station. Interested bidders may fax their requests to be placed on a bidders list no later than 2 p.m. on Friday, July 14, 2000 to Anna Stauffer (Fax: (717) 871-2000).

**Department:** State System of Higher Education  
**Location:** Millersville University, Millersville, PA 17551  
**Duration:** August—December 2000  
**Contact:** Anna Stauffer, (717) 871-3041

[Pa.B. Doc. No. 00-1203. Filed for public inspection July 7, 2000, 9:00 a.m.]

---

## DESCRIPTION OF LEGEND

---

- |  |   |
|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

GARY E. CROWELL,  
*Secretary*

## STATE CONTRACTS INFORMATION

3553

## Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
0037-02	07/01/00	David A. Smith Printing Inc.	72,058.25	1529119-02	06/27/00	Central Penn Sewing Machine Co.	22,070.00
2550-07	07/01/00	Sunbury Motor Co.	100,000.00	1529119-03	06/27/00	G & G Sewing Machine OC.	18,420.00
2550-09	07/01/00	Sutliff Chevrolet	100,000.00	1532219-01	06/27/00	Hertz Supply Co. Inc.	118,826.50
2805-01	07/01/00	Danville Sales and Service Inc.	20,000.00	1535119-01	06/27/00	Berkshire Systems Group Inc.	117,347.00
2805-01	07/01/00	Groff Tractor and Equipment Inc.	20,000.00	1537159-01	06/27/00	Golden Equipment Co. Inc.	61,032.00
2805-01	07/01/00	Sunbury Motor Co.	40,000.00	1559119-01	06/27/00	Sulzer Textile Inc.	88,128.00
2805-01	07/01/00	Plasterer Equipment Company Inc.	20,000.00	1561119-01	06/27/00	Cumberland Truck Equipment Co.	35,804.00
2805-01	07/01/00	Mack Sales and Service of Harrisburg	20,000.00	1563119-01	06/27/00	Cumberland Truck Equipment Co.	43,929.00
2805-01	07/01/00	Jay Automotive Specialties Inc.	40,000.00	1564119-01	06/27/00	Allegheny Fence Construction Co.	41,360.00
5850-03	06/22/00	Q-Matic Corp.	100,000.00	1565119-01	06/27/00	D & H Distributing Co.	74,082.00
8430-04	07/15/00	Kar Wing Trading Company Inc.	4,969.25	1569149-01	06/27/00	DTC Communications Inc.	354,860.00
8430-04	07/15/00	The Liberty Store	107,588.75	1575219-01	06/27/00	Loran Blake Carpets Inc.	56,433.30
8430-04	07/15/00	J. H. Churchwell Co.	11,985.00	7314390-01	06/27/00	Commercial Marketing Associates Inc.	84,546.00
1412219-01	06/27/00	Cumberland Truck Equipment Co.	45,890.00	7314400-01	06/27/00	Filenet Corporation	128,530.00
1508219-01	06/27/00	Thermal Pipe Systems Inc.	297,745.00	8141460-01	06/27/00	Dunbar Asphalt Products Inc.	299,962.93
1529119-01	06/27/00	Arch Sewing Machine Co.	8,245.00	8141510-01	06/27/00	IA Construction Corp.	301,615.68
				8160930-01	06/27/00	Ace Hydraulic Service	34,443.60

## STATE CONTRACTS INFORMATION

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
8227710-01	06/27/00	Moletz Elec- tric Co.	317,800.00
8250520-01	06/27/00	Shaul Equipment & Supply Co. Inc.	136,268.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 00-1204. Filed for public inspection July 7, 2000, 9:00 a.m.]

---