

# PENNSYLVANIA BULLETIN

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**Agencies in this issue:**

The Courts  
Board of Claims  
Delaware River Basin Commission  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Revenue  
Department of Transportation  
Environmental Quality Board  
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Independent Regulatory Review Commission  
Insurance Department  
Milk Marketing Board  
Pennsylvania Infrastructure Investment Authority  
Pennsylvania Public Utility Commission  
State System of Higher Education  
Turnpike Commission

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

**No. 310, September 2000**

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**PENNSYLVANIA**



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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 255—LOCAL COURT RULES

### WESTMORELAND COUNTY

#### Rules W1270, W1272, and W1274; Issuance of Short Certificate After an Estate is Closed; No. 3 of 2000

##### Administrative Order

*And Now* this 31st day of August, 2000, it is hereby ordered that Westmoreland County Rules of Civil Procedure W1272 and W1274 are adopted. Westmoreland County Rule of Civil Procedure W270 is renumbered as W1270.

*By the Court*

CHARLES H. LOUGHRAN,  
*President Judge*

#### Rule W1272. Appeals of Proceedings under the Eminent Domain Code.

Upon the filing of an appeal to the Court under 26 P. S. Section 1-516, where there are objections other than to the amount of the award raised by the appeal, the Court upon motion of any party shall set a date for a hearing, a briefing schedule, and a date for oral argument for preliminary disposition of the appeal in accordance with 26 P. S. 1-517. This provision shall pertain to all proceedings under the Eminent Domain Code and to proceedings in which the procedure provided under the Eminent Domain Code applies.

#### Rule W1274. Land Use Appeals.

(a) Upon the filing of a land use appeal, the Prothonotary shall send to the governing body, zoning hearing

board or agency whose decision has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, zoning hearing board, or agency, within twenty (20) days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken or a true and complete copy thereof, including but not limited to:

- (1) transcripts of all testimony received at the hearing;
- (2) all exhibits received at the hearing;
- (3) the finding of fact and conclusions of law;
- (4) notice of the decision.

(b) In addition to the foregoing, the solicitor of the governing body, zoning hearing board, or agency whose decision has been appealed shall provide the court with a certified copy of the zoning or land development ordinance pertaining to the appeal.

(c) Upon filing of the complete record, the solicitor of the governing body, zoning hearing board or agency whose decision has been appealed shall provide a written notice to the assigned judge, the parties or the counsel for the parties, and shall file a certificate with the prothonotary that the complete record had been filed.

(d) Since in most cases the court will decide the appeal on the existing record, any party after the record has been filed may present to the assigned judge, with notice to all other parties, a proposed order setting a briefing schedule and a date for oral argument.

[Pa.B. Doc. No. 00-1629. Filed for public inspection September 22, 2000, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE SYSTEM OF HIGHER EDUCATION

[22 PA. CODE CH. 507]

#### Operation of Motor Vehicles on State System of Higher Education Facilities

The Board of Governors of the State System of Higher Education proposes a revision to its regulations relating to the operation of motor vehicles on State System facilities, in §§ 507.13 and 507.14.

The revision would amend § 507.13(c) (relating to crimes and offenses relating to the operation and parking of a motor vehicle), by authorizing the Board of Governors to set the amounts of fines for each campus or facility upon the recommendation of the chancellor or the respective university president. The change followed legislative action in amending section 2006-A of the Public School Code of 1949 (24 P. S. § 20-2006-A(a)(13.1)) to permit the Board to set the amounts for fines for violations of the rules respecting the use, parking and operation of motor vehicles on State System facilities, which may exceed the amounts which municipalities are authorized to assess for these offenses under 75 Pa.C.S. (relating to Vehicle Code). The final-form regulation would enhance the ability of the State System to regulate and deter the violation of parking and operational rules, thus alleviating congestion, speeding, reckless driving and other activities which may threaten the health, welfare and safety of individuals residing on or using State System facilities.

The following comments were received from the Independent Regulatory Review Commission (IRRC):

1. IRRC requested that the State System include in Item Number 20 on the Regulatory Analysis Form the fiscal impact of the regulation. A sentence was added to that item number indicating that the amendments would have no adverse fiscal impact and that costs would be recovered through fines and fees.

2. IRRC noted that in the Preamble under "Sunset Review" section 2006-A(a) (13.1) of the Public School Code should be cited instead of the Crimes Code, 18 Pa.C.S. § 7705. This change was made.

3. IRRC recommended that we include the process that the Board of Governors will use for fine adjustments in § 507.13(c). Two sentences were added to § 507.13(c) indicating that the chancellor shall submit requests from the presidents to the Board of Governors on an annual basis and that the Board of Governors will vote in public session to approve or deny the recommended adjustments.

4. IRRC recommended that we also include in § 507.13(c) a notification provision similar to § 507.14(c) (relating to fines). A sentence was added indicating that notice of the amounts of the fines shall be contained in the published parking rules for each campus or facility.

No comments were received from the Education Committees nor the public.

#### *Fiscal Impact*

The final-form regulations would have no adverse fiscal impact. Costs would be recovered through fines and fees.

#### *Statutory Authority*

The statutory authority for the final-form regulation is section 2006-A of the Public School Code of 1949.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the State System submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 1378 (February 24, 2000), to IRRC and the Chairpersons of the House Education Committee and the Senate Education Committee for review and comment.

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

These final-form regulations were deemed approved by the House and Senate Committees on August 18, 2000. IRRC met on August 10, 2000, and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

#### *Sunset Review*

This is an ongoing regulation made necessary by section 2006-A(a)(13.1) of the Public School Code of 1949, to facilitate enforcement of traffic laws at State System facilities. It is periodically reviewed by the Office of the Chancellor.

#### *Contact Person*

Persons with questions or desirous of further information about the final-form revision may contact Robert A. Mulle, Chief Legal Counsel, State System of Higher Education, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110, (717) 720-4030.

#### *Order*

The State System, acting under the authorizing statutes, orders that:

(a) The regulations of the State System, 22 Pa. Code Chapter 507, are amended by amending §§ 507.13 and 507.14 to read as set forth in Annex A.

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

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

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

JAMES H. MCCORMICK,  
Chancellor

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 4480 (August 25, 2000).)*

**Fiscal Note:** Fiscal Note 71-7 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 22. EDUCATION**

**PART XVII. STATE SYSTEM OF HIGHER EDUCATION**

**CHAPTER 507. FINANCE AND ADMINISTRATION**

**§ 507.13. Crimes and offenses relating to the operation and parking of a motor vehicle.**

(a) *Operation.* Each of the following activities constitutes a summary offense under 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) when committed on a System facility.

(1) Operation of a motor vehicle on a highway at a speed in excess of the maximum posted limit.

(2) Operation of a motor vehicle on a highway posted as closed to motor vehicles.

(3) Operation of a motor vehicle without snow tires or chains on a designated snow emergency route during a declared snow emergency.

(4) Operation of a motor vehicle causing noise which is unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(5) Operation of a motor vehicle being used for business or commerce without specific written approval from the facility's chief executive officer.

(6) Operation of a motor vehicle in areas not designated for operation of motor vehicles.

(b) *Parking.* Each of the following activities constitutes a summary offense under 18 Pa.C.S. § 7505 when conducted on a System facility.

(1) Parking a motor vehicle other than in a designated or posted parking area.

(2) Parking a motor vehicle which obstructs a gate, road, bicycle path, access way, drinking fountain, entrance, exit or road turnaround.

(3) Parking a motor vehicle in an area which is posted or closed, without written approval of the facility's chief executive officer or a designee.

(c) *Fines.* The Board of Governors (Board) will set the amounts of the fines for each campus or facility upon the recommendation of the chancellor or the respective university president.

(1) The chancellor shall submit requests from the presidents to the Board on an annual basis. The Board will vote in public session to approve or deny the recommended adjustments.

(2) Notice of the amounts of the fines shall be contained in the published parking rules for each campus or facility.

**§ 507.14. Enforcement.**

(a) *Towing.* A vehicle parked on a highway, parking area, or any other area in violation of parking rules may be towed at the owner's expense, upon authorization of the facility's chief executive officer or a designee.

(b) *Booting.* An immobilizing device may be placed on any vehicle with three or more delinquent tickets to compel payment of fines. A service charge, not to exceed \$50 may be assessed for the removal of immobilizers.

(c) *Notice of towing and booting.* Notice of towing and booting shall be contained in the published parking rules of facilities engaging in either practice.

(d) *Tow-away areas.* Tow-away areas shall be posted with tow-away signs.

[Pa.B. Doc. No. 00-1630. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Title 25—ENVIRONMENTAL PROTECTION**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
[25 PA. CODE CH. 86]**

**Corrective Amendment to 25 Pa. Code § 86.194(f)(1)**

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 86.194(f)(1) (relating to system for assessment of penalties) as deposited with the Legislative Reference Bureau and the official text as published at 27 Pa.B. 6186, 6189 (November 29, 1997), and as currently appearing in the *Pennsylvania Code*.

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 § 86.194(f)(1). The corrective amendment to 25 Pa. Code § 86.194(f)(1) is effective as of November 29, 1997.

The correct version of 25 Pa. Code § 86.194(f)(1) appears in Annex A, with ellipses referring to the existing text of the regulation.

JAMES M. SEIF,  
*Secretary*

**Annex A**

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

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

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

**Subchapter G. CIVIL PENALTIES FOR COAL MINING ACTIVITIES**

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

\* \* \* \* \*

(f) *Revision of civil penalty.*

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

approval. The basis for every revision of a civil penalty shall be fully explained and documented in the records of the case.

\* \* \* \* \*

[Pa.B. Doc. No. 00-1631. Filed for public inspection September 22, 2000, 9:00 a.m.]

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**ENVIRONMENTAL QUALITY BOARD**  
**[25 PA. CODE CHS. 123 AND 145]**  
**Interstate Ozone Transport Reduction**

The Environmental Quality Board (Board) by this order amends Chapter 123 (relating to standards for contaminants) and adopts Chapter 145 (relating to interstate ozone transport reduction) to read as set forth in Annex A.

The amendments establish a program to limit the emission of nitrogen oxides (NO<sub>x</sub>) from fossil-fired combustion units with rated heat input capacity of greater than 250 MMBtu per hour and electric generating facilities of greater than 25 megawatts. This program which will begin in May 2003 will replace the existing NO<sub>x</sub> allowance requirements contained in Chapter 123. The program will be applicable to sources located in other states that significantly contribute to nonattainment in this Commonwealth if related Clean Air Act programs are not sufficient to control these sources.

The emission limitations for NO<sub>x</sub> emissions from stationary reciprocating internal combustion engines and cement manufacturing operations that were included in the proposed rulemaking in Subchapters B and C (relating to emissions of NO<sub>x</sub> from stationary reciprocating internal combustion engines; and emissions of NO<sub>x</sub> from cement manufacturing) are not being finalized at this time.

The Board approved the final regulations at its meeting of July 18, 2000.

*A. Effective Date*

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

*B. Contact Persons*

For further information contact J. Wick Havens, Chief, Division of Air Resources Management, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4310 or M. Dukes Pepper, Jr., Assistant Director, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The final regulations are available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

*C. Statutory Authority*

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

*D. Background*

In the 1990 amendments to the Federal Clean Air Act (CAA), Congress recognized that ground level ozone (smog) is a regional problem not confined to state boundaries and established special provisions to address ozone nonattainment areas. Section 182 of the Clean Air Act (42 U.S.C.A. § 7511a) establishes mandatory control requirements based on the severity of the ozone problem. Section 184 of the Clean Air Act (42 U.S.C.A. § 7511(c)) establishes the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate air pollution.

Ozone is not directly emitted by pollution sources, but is created as a result of the chemical reaction of NO<sub>x</sub> and volatile organic compounds (VOCs), in the presence of light and heat, to form ozone in the air masses traveling over long distances. Exposure to ozone causes decreased lung capacity, particularly in children and elderly individuals. Decreased lung capacity from ozone exposure can frequently last several hours after the initial exposure. All states in the OTC, except for Vermont, have, since 1990, experienced levels of ozone during the months of May through September in excess of the National Ambient Air Quality Standard (NAAQS).

To address the ozone problem, section 182 of the CAA requires that, for areas which exceed the NAAQS for ozone, states must develop and implement reasonably available control technologies (RACT) for existing major stationary sources emitting NO<sub>x</sub> and VOCs. Because this Commonwealth is included in the OTC, these RACT requirements are applicable throughout this Commonwealth. The Commonwealth adopted regulations implementing the RACT requirements at 24 Pa.B. 459 (January 15, 1994). Implementation of RACT reductions was not sufficient to allow Pennsylvania and other OTC states to achieve the ozone NAAQS.

Because NO<sub>x</sub> from large fossil-fired combustion units is a major contributor to regional ozone pollution, the OTC member states, including the Commonwealth, proposed development of a regional approach to address NO<sub>x</sub> emissions. This regional approach resulted in a model rule applicable to "NO<sub>x</sub> affected sources." NO<sub>x</sub> affected sources are fossil-fired combustion units with a rated capacity of 250 MMBtus per hour or more and electric generating units of 15 megawatts or greater. This regional approach was adopted by the Commonwealth at 27 Pa.B. 5683 (November 1, 1997). These NO<sub>x</sub> allowance requirements in §§ 123.101—123.120, establish an OTC region-wide market based "cap and trade" program. The "cap and trade" program sets a regulatory limit on mass emissions from the NO<sub>x</sub> affected sources, allocates allowances (the limited authorization to emit 1 ton of NO<sub>x</sub> from May 1 through September 30) to the sources authorizing emissions up to the regulatory limit, and permits trading of allowances to effect cost efficient compliance with the cap. This program is designed to effectuate least cost NO<sub>x</sub> emission reductions for the years 1999—2002.

As additional air quality modeling and analysis was developed, it became apparent that reductions of NO<sub>x</sub> emissions in the OTC states alone would not result in attainment of the NAAQS along the eastern seaboard (including the Philadelphia Ozone Nonattainment Area). In 1995, the Ozone Transport Assessment Group (OTAG) was formed by the Environmental Council of States and the United States Environmental Protection Agency (EPA). The OTAG's express goal was to "identify and recommend a strategy to reduce transported ozone and its

precursors which, in combination with other measures, will enable attainment and maintenance of the National Ambient Ozone Standard in the OTAG region." The OTAG was composed of the 37 eastern most states and included participation by the EPA, industry and environmental groups. The OTAG undertook a comprehensive modeling effort to evaluate the impact on ozone formation and transport resulting from imposition of various emission reduction strategies. The OTAG found that ozone transport does occur and that control of NO<sub>x</sub> reduces this regional transport. The OTAG recommended NO<sub>x</sub> controls on large fossil fuel-fired combustion units in 22 of the 37 states.

As a result of both the OTAG analysis and independent analysis conducted by the Commonwealth and other northeastern states, on August 14, 1997, Governor Ridge filed a Petition with EPA Administrator Browner for abatement of excess emissions under section 126(b) of the CAA (42 U.S.C.A. § 742.6(b)). The Commonwealth's Petition requested a finding that large fossil-fired combustion units and electric generating units in mid-western and southern states significantly contribute to nonattainment of the ozone NAAQS in this Commonwealth. The Commonwealth requested that the Administrator of the EPA establish emission limitations for these large NO<sub>x</sub> emitters. Specifically, the Commonwealth petitioned the Administrator to establish a cap and trade compliance system to provide for the most cost effective emission reductions. Seven other northeastern states filed similar petitions with the EPA.

On January 18, 2000, the EPA issued the "Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport; Final Rule." See 65 FR 2674. In that rulemaking, the EPA made a finding that a number of large electric generating units (EGUs) and large industrial boilers and turbines emit in violation of the CAA prohibition against significantly contributing to nonattainment or interfering with maintenance of the ozone NAAQS in the petitioning states. The EPA also finalized the Federal NO<sub>x</sub> Budget Trading Program as the control remedy for sources affected by the final rule. See 40 CFR Part 97 (relating to Federal NO<sub>x</sub> Budget Trading Program). The EPA's action on the States 126 Petitions has been challenged in the United States Circuit Court for the District of Columbia Circuit. The cases have been consolidated into a single docket, *Appalachian Power Company, et al. v. United States Environmental Protection Agency*, Docket No. 99-1200.

Because the EPA's analysis demonstrated that 22 states and the District of Columbia significantly contribute to nonattainment of the ozone NAAQS in other states, on October 27, 1998, the EPA promulgated a final rule requiring those 22 states and the District of Columbia to modify their State Implementation Plans (SIPs) to prevent this significant contribution. This "SIP call" establishes a State NO<sub>x</sub> budget and requires states to develop mechanisms to ensure that the budget is achieved beginning in 2003. One of the mechanisms proposed by the EPA to meet the budget is a cap and trade program for large fossil fired combustion boilers and electric generating units greater than 25 megawatts. The EPA developed a model cap and trade rule similar to the OTC model rule. The EPA's proposal would extend the market for developing least cost controls to the 22 states and District of Columbia. States were required, by the EPA's final SIP call rule, to establish NO<sub>x</sub> emission programs on or before September 30, 1999. If states fail to establish SIP based programs, the EPA indicated that it would impose a

Federal Implementation Plan (FIP) under section 110 of the CAA (42 U.S.C.A. § 7410).

The EPA's SIP call was challenged in the United States Circuit Court for the District of Columbia Circuit. The challenges were consolidated into a single docket, *State of Michigan et al. v. United States Environmental Protection Agency*, Docket No 98-1497. Midwestern States requested that the Court stay the September 30, 1999, submission deadline until April 27, 2000. The Court issued a stay but did not include a termination date. On March 3, 2000, the Court issued its substantive decision in the case, upholding most of the NO<sub>x</sub> SIP call rule, but vacating its applicability, in whole or in part, with respect to three states, and remanding certain discrete portions of the rule to the EPA for further action. On June 22, 2000, the Court lifted the stay and required the NO<sub>x</sub> SIP to be submitted within 128 days.

Chapter 145 is designed to meet the requirements of the NO<sub>x</sub> SIP call and the portion of the section 126 remedy that is applicable to sources located within this Commonwealth. The regulations are necessary for attainment of the ozone NAAQS in the Philadelphia area and are included in the Philadelphia attainment plan. The Commonwealth used the EPA's model cap and trade program rule found in 40 CFR Part 96 (relating to NO<sub>x</sub> Budget Trading Program for State Implementation Plans) and the section 126 remedy found in 40 CFR Part 97 as the template for the Chapter 145 rulemaking.

The regulations also represent the Commonwealth's continuing commitment to do its fair share in reducing ozone transport both within this Commonwealth and throughout the northeast.

#### E. Summary of the Regulatory Revisions

The final amendments to Chapter 145, Interstate Ozone Transport Reduction, contain one subchapter. Subchapter A (relating to NO<sub>x</sub> budget trading program) establishes the NO<sub>x</sub> budget trading program for fossil-fired combustion boilers with a maximum design heat input greater than 250 million MMBtus per hour and electric utility generators with a rated capacity greater than 25 megawatts. The final-form rulemaking modifies § 123.115 (relating to initial NO<sub>x</sub> allowance NO<sub>x</sub> allocations) and adds § 123.121 (relating to NO<sub>x</sub> allowance program transition) to eliminate the existing NO<sub>x</sub> allowance requirements in 2003. Action is being deferred on proposed Subchapters B and C that establish emission limitations for internal combustion engines and cement kilns.

Subchapter A establishes definitions for the following terms: "account certificate of representation," "account number," "acid rain emissions limitation," "act," "administrator," "allocate or allocation," "boiler," "CAA," "CEMS—continuous emission monitoring system," "combined cycle system," "combustion turbine," "commence commercial operation," "commence operation," "common stack," "compliance account," "compliance certification," "control period," "DAHS—automated data acquisition and handling system," "electricity for sale under firm contract to the electric grid," "emissions," "energy information administration," "excess emissions," "fossil fuel," "fossil fuel-fired," "general account," "generator," "heat input," "heat input rate," "life-of-the-unit, firm power contractual arrangement," "maximum design heat input," "maximum potential hourly heat input," "maximum potential NO<sub>x</sub> emission rate," "maximum rated hourly heat input," "monitoring system," "most stringent State or Federal NO<sub>x</sub> emissions limitation," "nameplate capacity," "NO<sub>x</sub>

allowance," "NO<sub>x</sub> allowance deduction or deduct NO<sub>x</sub> allowances," "NO<sub>x</sub> allowances held or hold NO<sub>x</sub> allowances," "NO<sub>x</sub> allowance tracking system," "NO<sub>x</sub> allowance tracking system account," "NO<sub>x</sub> allowance transfer deadline," "NO<sub>x</sub> authorized account representative," "NO<sub>x</sub> Budget Administrator," "NO<sub>x</sub> budget emissions limitation," "NO<sub>x</sub> budget opt-in source," "NO<sub>x</sub> budget source," "NO<sub>x</sub> budget trading program," "NO<sub>x</sub> budget unit," "operating," "operator," "opt-in," "overdraft account," "owner," "percent monitor data availability," "potential electrical output capacity," "receive or receipt of," "recording, record or recorded," "reference method," "serial number," "source," "state," "State trading program budget," "submit or serve," "ton or tonnage," "unit," "unit operating day" and "unit operating hour or hour of unit operation." These defined terms are used in the substantive provisions of Subchapter A. Definitions of the terms "fossil fuel-fired," "nontitle V permit," "NO<sub>x</sub> budget opt-in permit," "Title V operating permit," "Title V operating permit regulations," "unit load" and "utilization" have been deleted from the final-form regulations.

Subchapter A implements the EPA NO<sub>x</sub> SIP Call, the portion of the Section 126 remedy applicable to the sources in this Commonwealth and the CAA attainment requirements applicable to the Commonwealth. Subchapter A is necessary for the Philadelphia ozone nonattainment area to attain the 1-hour ozone standard. Subchapter A uses the framework from the EPA's model rule developed and promulgated at 40 CFR Part 96 and from the EPA's Section 126 remedy promulgated at 40 CFR Part 97. The Commonwealth cap and trade rule identifies the facilities subject to § 145.4 (relating to applicability) and describes the process for NO<sub>x</sub> allowance allocation for the May 1 through September 30 control periods in § 145.42 (relating to NO<sub>x</sub> allowance allocations). The rule also describes the accounting process for deposit, use and transfer of allowances between NO<sub>x</sub> budget sources in §§ 145.50—145.62 (relating to accounting process for deposits use and transfer of allowances). This includes the compliance requirements in § 145.54 (relating to compliance). The rule also establishes a process for sources not otherwise covered to "opt in" to the provisions of the rule. The opt-in process is described in §§ 145.80—145.88 (relating to opt-in process).

Monitoring, recordkeeping and reporting requirements for sources covered by the rule are contained in §§ 145.70—145.76 (relating to recordkeeping and reporting requirements). In general, the monitoring requirements are consistent with the provisions for the existing NO<sub>x</sub> budget rule and the EPA acid rain requirements at 40 CFR Part 75 (relating to continuous emission monitoring). For sources located within this Commonwealth, the Department plans to integrate this trading rule into its existing permitting program.

Emission reduction credit provisions are contained in § 145.90 (relating to emission reduction credit provisions).

Section 145.100 (relating to applicability) has been added to respond to comments raised by facility owners, the General Assembly and the Independent Regulatory Review Commission (IRRC). These comments raised concern about program implementation of the rule in this Commonwealth placing facilities in this Commonwealth at a competitive disadvantage and about the importance of ensuring that NO<sub>x</sub> budget sources located in other states do their fair share to ensure attainment and maintenance of the 1-hour NAAQS in this Commonwealth. To address this concern, § 145.100 would, under

certain circumstances, implement the Interstate Ozone Transport Reduction program in states that significantly contribute to nonattainment in this Commonwealth. These states are: Ohio, West Virginia, Maryland, Delaware, North Carolina, New Jersey, New York and Washington D.C. This provision of the rule would only be applicable if the Section 126 remedy was overturned, the State or Washington D.C. failed to submit a SIP meeting the CAA requirements related to significant contribution and the EPA failed to impose FIP under the CAA requirements.

Finally, the permitting requirements in §§ 145.20—145.25 have been deleted because they are duplicative. The Department will use the existing permit provisions in Chapter 127 (relating to construction, modification, reactivation and operation of sources) to administer applicable permit requirements.

#### F. Summary of Comments and Changes to the Proposal

The Board held three public hearings during the 66-day comment period on the proposed rulemaking. Comments were received from 45 commentators. As a result of those comments and the significant public interest in the rulemaking, the Department prepared draft final regulations for additional comment. The Department held three public hearings during this 30-day additional public comment period. Comments were submitted by 134 commentators.

The final-form rulemaking makes the substantive requirements of this Commonwealth program consistent with the remedy established by the EPA under section 126 of the CAA. The Commonwealth requested that the EPA establish this remedy in the Petition filed by Governor Ridge in August of 1997. The final rulemaking also addresses a concern raised by a number of commentators, including IRRC, and by the General Assembly related to implementation of the rule in surrounding states. These changes as well as a number of other issues are discussed in more detail as follows:

#### Summary of Public Comments

A number of commentators suggested that the facilities covered by the rule and the allocation methodology contained in the rule be consistent with those covered under the EPA model rule published in 40 CFR Part 96. The proposed rule was more protective than the EPA model rule in a number of areas. Subsequent to the close of the public comment period, the EPA finalized the remedy under section 126 of the CAA. That cap and trade program is codified in 40 CFR Part 97 and is an updated version of the model rule. This final rulemaking covers the same facilities and provides the same exemptions as Part 97. In addition, the substantive provisions of the final-form rulemaking have been revised to be consistent with Part 97. The Department believes that Part 97 establishes an environmentally sound program that can be implemented regionally.

Section 145.4 of the final-form rulemaking has been modified to cover electric generating units of greater than 25 MW (rather than 15 as proposed) and includes an exception provision allowing units to avoid coverage by taking appropriate permit restrictions. In addition, § 145.42 of the rule has been modified to establish allocations for 5 year periods using average heat input data and an emission rate of 0.15lb/MMBtu for electric generating units and 0.17 lb/MMBtu for nonelectric generating units. In addition to being consistent with the EPA rule, these changes address a number of specific comments received on the proposal.

A number of commentators suggested that the Department make the permitting provisions as simple as possible. Because the Department already has a comprehensive permitting program in Chapter 127, the permitting provisions of the proposed rule have been eliminated. The Department will, when appropriate, as required by the CAA, incorporate the applicable requirements of this rule into permits issued under Chapter 127.

The Board received numerous comments related to the development of the database used to establish the Commonwealth budget and allocations. The Department proposed use of the EPA database and budget. A number of the commentators from the regulated community indicated that the EPA emission inventory contained errors and should not be used. Instead, they suggested that the Department develop its own inventory and consequently its own budget. The Department disagrees with the approach suggested by these commentators.

The final-form rulemaking uses the EPA inventory to establish the Commonwealth budget. This inventory was prepared by the EPA with extensive input from states and the regulated community. The EPA provided numerous comment periods with opportunities for states, source owners and operators and the public to comment. The Commonwealth worked cooperatively with the EPA during this inventory development process. The inventory that was used is one of the best and most comprehensive ever developed. It is based, in large part, on information submitted by sources, and has been subject to numerous public comment periods. The Department has determined that it is the best inventory available at this time and is using it both to establish the Pennsylvania budget and will be using it to establish the allocations to Pennsylvania sources.

The Board received numerous comments requesting that the regulation include a "trigger" provision that would tie implementation of the rule to implementation in surrounding states and to implementation of the EPA NO<sub>x</sub> SIP Call Rule and the EPA Section 126 Remedy. The basis for these comments was that there needs to be a level playing field between all states subject to the rule to address issues of competitiveness and ensure that all states do their fair share to address ozone pollution in this Commonwealth and the northeast. The final-form regulations do not include this "trigger" because doing so could unnecessarily delay the important public health and environmental benefits of these regulations. In response to these comments, the final-form regulations contain a provision that ensures that all facilities that significantly contribute to this Commonwealth's ozone problem reduce their emissions to address the problem. Section 145.100 of the final-form regulations would, in certain circumstances, require facilities located in states significantly contributing to nonattainment in this Commonwealth to meet the same emission limitations as facilities located in this Commonwealth. This provision of the regulation does not become effective unless the Section 126 remedy fails, the State does not meet the SIP requirements of the CAA related to significant contribution and the EPA does not establish a FIP to meet those requirements. A discussion of the comments received on this provision is included in the Advance Notice of Final Rulemaking in this Preamble.

A number of the commentators raised issues regarding the compliance supplement pool. The major issue raised was that the pool should not establish a cap on the amount of banked credits allowed to be transitioned from the existing program established in Chapter 123. The

Department has retained this cap. First, it is a reasonable limitation on the size of the bank that gets brought into the new program. Second, this issue was litigated in the Federal court challenge to the NO<sub>x</sub> SIP call and the court upheld EPA's approach.

Several commentators also questioned the compliance provisions contained in § 145.54. Specifically, it was suggested that the 3:1 allowance penalty and a failure to hold sufficient allowances being treated as a violation for the entire ozone season were inappropriate. The final-form regulations retain these provisions. First, these provisions are identical to the provisions in the Department's existing cap and trade rule in Chapter 123. Second, these provisions are designed to provide a strong incentive for facility owners to comply with the rule. Only facilities that violate the rule are subject to the imposition of these enforcement tools. Finally, in assessing any civil penalty, the Department will use the factors established in section 9.1 of the APCA (35 P.S. § 4009.1). These factors take into account the specific factual circumstances of the violation in developing the penalty.

A number of commentators suggested that the monitoring provisions of this rulemaking should be identical to the provisions in existing Chapter 123. The final-form regulations include the monitoring provisions established by the EPA in 40 CFR Part 97. The Department believes that these monitoring provisions will provide consistent and reliable data for reporting of emissions from facilities participating in the cap and trade program.

#### *Advance Notice of Final Rulemaking (ANFR)*

The majority of the commentators expressed strong support for the rulemaking. Environmental and public health organizations as well as the public, including a number of physicians, testified about the real and substantial public health problems caused by ozone pollution and the need for the rule to address these problems in this Commonwealth and surrounding states. These commentators strongly urged the Department to implement this rulemaking in this Commonwealth regardless of what occurred in other states. They asserted that it would be particularly inappropriate for the Commonwealth, a leader in ozone pollution control, to wait until the most recalcitrant of states implemented a regulation before implementing the program in this Commonwealth. In fact, many of these commentators suggested that the Commonwealth should take the next step and implement additional controls to address acid rain, global warming and mercury contamination.

Virtually all commentators provided comments on § 145.100 of the ANFR. A number of commentators representing the regulated community asserted that this section violated both the Supremacy and Commerce Clauses of the United States Constitution. These same commentators generally suggested that the regulation be made nonseverable so that if a court overturned § 145.100, the remainder of the rulemaking would not be implemented. The commentators generally asserted that they were seeking a level playing field with other states. A number of these commentators are actively litigating in Federal court to prevent imposition of the level playing field they assertedly support in their comments.

Other commentators, primarily those representing environmental, public health and the public supported § 145.100 but suggested that, because of the possibility of successful challenges to that section, it should be severable from the remainder of the rulemaking.

The final-form regulations retain § 145.100 but provide that this section is not applicable unless the Section 126



remedy fails, the State fails to implement a SIP that meets the significant contribution provisions of the CAA and the EPA fails to promulgate a FIP to meet those CAA requirements. The Department believes that the provision can be supported under both the Commerce and Supremacy Clauses of the United States Constitution. However, if it becomes necessary to implement the provision and the matter is litigated, this will be a case of first impression in a very difficult area of environmental law. Consequently, the Department is following the general provisions of statutory construction that this provision is severable from the remainder of this rulemaking.

A number of commentators raised concerns about the 1% set aside for addressing errors in the allocations to individual facilities. The final-form regulations eliminate this additional set aside and, instead, allow the 5% set aside to be used for this purpose. This will make the allocations consistent with the approach taken by the EPA.

A number of commentators suggested changes to the compliance supplement pool provisions to encourage the development, installation and operation of control technology. Other commentators suggested that the Department require reductions for additional pollutants including sulfur dioxide, carbon dioxide and mercury. The final-form regulation in § 145.43 includes incentives for the installation and operation of NO<sub>x</sub> control equipment and for the development of innovative technology that will reduce NO<sub>x</sub> as well as other pollutants.

Finally, a number of commentators repeated the comments they submitted on the proposed regulation in areas where the ANFR did not make the changes they recommended.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) technical aspects of this regulation. At that May 23, 2000, meeting the AQTAC recommended that the Department forward the final-form regulations to the Board. The AQTAC did, however, express concern about several issues in the area where the Department has not made the recommended changes. Specifically, the AQTAC expressed concern over the allocation methodology, monitoring requirements, source coverage, penalties and renewable energy. In each area, the Department has followed the approach included by the EPA in the NO<sub>x</sub> SIP Call and 126 remedy. This supports the National approach for addressing the issues.

#### G. *Benefits, Cost and Compliance*

##### *Benefits*

Executive Order 1996-1 requires a cost benefit analysis of the amendments. Overall, the citizens of this Commonwealth will benefit from the amendments because the regulations will provide appropriate protection of air quality both in this Commonwealth and the entire eastern United States. In addition to reducing ozone pollution, this program will assist the Commonwealth in meeting its requirements for reasonable further progress and attainment under the CAA.

##### *Compliance Cost*

The controls required to implement these amendments are highly cost effective. Compliance costs for sources covered by the trading program are expected to be less than one half of one percent of revenues for the utility sector.

##### *Compliance Assistance Plan*

The Department plans to educate and assist the regulated community and the public with understanding these new regulatory requirements.

#### *Paperwork Requirements*

These regulatory changes will have little additional paperwork impact on the regulated entities. These regulations simply extend and build upon the existing NO<sub>x</sub> allowance requirements in Chapter 123.

#### H. *Sunset Review*

These final-form regulations will be reviewed in accordance with the Sunset Review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 16, 1997, the Department submitted a copy of the proposed rulemaking to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees.

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 the comments, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the Preamble. The Committees did not provide comments on the proposed rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5(d)), these final-form regulations were deemed approved by the House and Senate Environmental Resource and Energy Committees on August 23, 2000. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 24, 2000, and approved the final-form regulations.

#### J. *Findings of the Board*

The Board finds that:

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

(2) A public comment period and public hearings were provided as required by law.

(3) The modifications to the amendments do not enlarge the purpose of the proposed amendments published at 29 Pa.B. 1319 (March 6, 1999).

(4) This rulemaking is necessary and appropriate for the administration, enforcement and implementation of the APCA.

(5) This rulemaking is necessary and appropriate to satisfy obligations imposed under the Clean Air Act.

(6) This rulemaking is necessary to achieve and maintain the National Ambient Air Quality Standard for ozone.

#### K. *Order*

The Board orders that:

(a) The regulations of the Department, 25 Pa. Code, are amended by amending §§ 123.115 and 123.121; and by adding §§ 145.1—145.7, 145.10—145.14, 145.30, 145.31, 145.40—145.43, 145.50—145.57, 145.60—145.62, 145.70—145.76, 145.80—145.88, 145.90 and 145.100, to read as set forth in Annex A.

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

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

JAMES M. SEIF,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 4780 (September 9, 2000))*

**Fiscal Note:** Fiscal Note 7-345 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 25. ENVIRONMENTAL PROTECTION

### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE III. AIR RESOURCES

### CHAPTER 123. STANDARDS FOR CONTAMINANTS

#### NO<sub>x</sub> ALLOWANCE REQUIREMENTS

#### § 123.115. Initial NO<sub>x</sub> allowance NO<sub>x</sub> allocations.

(a) The sources contained in Appendix E are subject to the requirements of §§ 123.101—123.114, 123.116—123.120 and this section. These sources are allocated NO<sub>x</sub> allowances for the 1999-2002 NO<sub>x</sub> allowance control periods as listed in Appendix E.

(b) The Department may allocate allowances to Duquesne Light Company's Phillips and Brunot Island facilities. The allowances allocated to these facilities are limited as follows:

(1) The facility shall be fully operational.

(2) The allowances allocated to the facility may only be used by the baseline sources located at that facility, and may not be banked or transferred.

(3) The allocation to Brunot Island source identification numbers 001—012 may not exceed an aggregate 246 allowances for the period May 1—September 30.

(4) The allocation to Phillips Station boilers 1—6 may not exceed an aggregate 1,686 allowances for the period May 1—September 30.

#### § 123.121. NO<sub>x</sub> Allowance Program transition.

(a) NO<sub>x</sub> allocations for the NO<sub>x</sub> allowance control periods starting May 1, 2003, will be distributed in accordance with Chapter 145 (relating to interstate pollution transport reduction).

(b) The emission limitations and monitoring requirements established in §§ 123.101—123.120 are replaced by the requirements in Chapter 145 beginning with the May 1, 2003, control period. If a source has failed to demonstrate compliance with § 123.111 (relating to failure to meet source compliance requirements), the provisions in § 145.54(d) (relating to compliance) shall be used to withhold NO<sub>x</sub> allowances in calendar year 2003 and beyond. If no NO<sub>x</sub> allowances are provided to the source under § 145.42 (relating to NO<sub>x</sub> allowance allocations), the source will be obligated to acquire and retire a number of NO<sub>x</sub> allowances as specified in § 145.54.

## CHAPTER 145. INTERSTATE POLLUTION TRANSPORT REDUCTION

### Subchapter A. NO<sub>x</sub> BUDGET TRADING PROGRAM

#### GENERAL PROVISIONS

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145.2.	Definitions.
145.3.	Measurements, abbreviations and acronyms.
145.4.	Applicability.
145.5.	Retired unit exemption.
145.6.	Standard requirements.
145.7.	Computation of time.

#### NO<sub>x</sub> ACCOUNT

Sec.	
145.10.	Authorization and responsibilities of the NO <sub>x</sub> authorized account representative.
145.11.	Alternate NO <sub>x</sub> authorized account representative.
145.12.	Changing the NO <sub>x</sub> authorized account representative and the alternate NO <sub>x</sub> authorized account representative; changes in the owners and operators.
145.13.	Account certificate of representation.
145.14.	Objections concerning the NO <sub>x</sub> authorized account representative.

#### COMPLIANCE CERTIFICATION

Sec.	
145.30.	Compliance certification report.
145.31.	Department's action on compliance certifications.

#### NO<sub>x</sub> ALLOWANCE ALLOCATIONS

Sec.	
145.40.	State Trading Program budget.
145.41.	Timing requirements for NO <sub>x</sub> allowance allocations.
145.42.	NO <sub>x</sub> allowance allocations.
145.43.	Compliance supplement pool.

#### ACCOUNTING PROCESS FOR DEPOSIT USE AND TRANSFER OF ALLOWANCES

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145.50.	NO <sub>x</sub> Allowance Tracking System accounts.
145.51.	Establishment of accounts.
145.52.	NO <sub>x</sub> Allowance Tracking System responsibilities of NO <sub>x</sub> authorized account representative.
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145.54.	Compliance.
145.55.	Banking.
145.56.	Account error.
145.57.	Closing of general accounts.

#### NO<sub>x</sub> ALLOWANCE TRANSFERS

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#### RECORDKEEPING AND REPORTING REQUIREMENTS

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145.70.	General monitoring requirements.
145.71.	Initial certification and recertification procedures.
145.72.	Out of control periods.
145.73.	Notifications.
145.74.	Recordkeeping and reporting.
145.75.	Petitions.
145.76.	Additional requirements to provide heat input data.

#### OPT-IN PROCESS

Sec.	
145.80.	Applicability for opt-in sources.
145.81.	Opt-in source general provisions.
145.82.	NO <sub>x</sub> authorized account representative for opt-in sources.
145.83.	Applying for a NO <sub>x</sub> budget opt-in approval.
145.84.	Opt-in process.
145.85.	NO <sub>x</sub> budget opt-in application contents.
145.86.	Opt-in source withdrawal from NO <sub>x</sub> Budget Trading Program.
145.87.	Opt-in source change in regulatory status.
145.88.	NO <sub>x</sub> allowance allocations to opt-in units.

#### EMISSION REDUCTION CREDIT PROVISIONS

Sec.	
145.90.	Emission reduction credit provisions.

#### INTERSTATE POLLUTION TRANSPORT REDUCTION REQUIREMENTS

Sec.	
145.100.	Applicability to upwind states.

## GENERAL PROVISIONS

## § 145.1. Purpose.

This subchapter establishes general provisions and the applicability, allowance, excess emissions, monitoring and opt-in provisions for the NO<sub>x</sub> Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

## § 145.2. Definitions.

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

*Account certificate of representation*—The completed and signed submission certifying the designation of a NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget source or a group of identified NO<sub>x</sub> budget sources who is authorized to represent the owners and operators of the sources and of the NO<sub>x</sub> budget units at the sources with regard to matters under the NO<sub>x</sub> Budget Trading Program.

*Account number*—The identification number given by the Administrator to each NO<sub>x</sub> Allowance Tracking System account.

*Acid rain emissions limitation*—A limitation on emissions of sulfur dioxide or NO<sub>x</sub> under the Acid Rain Program under Title IV of the Clean Air Act (42 U.S.C.A. §§ 7651—7651o).

*Act*—The Air Pollution Control Act (35 P. S. §§ 4001—4015).

*Administrator*—The Administrator of the EPA or the Administrator's authorized representative.

*Allocate or allocation*—The determination by the Department of the number of NO<sub>x</sub> allowances to be initially credited to a NO<sub>x</sub> budget unit or an allocation set-aside.

*Boiler*—An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam or other medium.

*CAA*—The Clean Air Act (42 U.S.C.A. §§ 7401—7642).

*CEMS—continuous emission monitoring system*—The equipment required under this subchapter and Chapter 139 (relating to sampling and testing) to sample, analyze, measure and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of NO<sub>x</sub> emissions, expressed in pounds per hour for NO<sub>x</sub>. The following systems are component parts included, consistent with this subchapter and 40 CFR Part 75 (relating to continuous emission monitoring), in a continuous emission monitoring system:

- (i) Flow monitor.
- (ii) NO<sub>x</sub> pollutant concentration monitors.
- (iii) Diluent gas monitor (O<sub>2</sub> or CO<sub>2</sub>).
- (iv) A continuous moisture monitor.
- (v) A DAHS.

*Combined cycle system*—A system comprised of one or more combustion turbines, heat recovery steam generators and steam turbines configured to improve overall efficiency of electricity generation or steam production.

*Combustion turbine*—An enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

*Commence commercial operation*—With regard to a unit that serves a generator, to have begun to produce steam, gas or other heated medium used to generate electricity for sale or use, including test generation.

(i) Except as provided in § 145.4(b), § 145.5 or §§ 145.80—145.88 (relating to applicability; and opt-in process), for a unit that is a NO<sub>x</sub> budget unit under § 145.4 on the date the unit commences commercial operation, the date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed or repowered.

(ii) Except as provided in § 145.4(b), § 145.5 or §§ 145.80—145.88, for a unit that is not a NO<sub>x</sub> budget unit under § 145.4 on the date the unit commences commercial operation, the date the unit becomes a NO<sub>x</sub> budget unit under § 145.4 is the unit's date of commencement of commercial operation.

*Commence operation*—To have begun any mechanical, chemical or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber.

(i) Except as provided in § 145.4(b), § 145.5 or §§ 145.80—145.88, for a unit that is a NO<sub>x</sub> budget unit under § 145.4 on the date of commencement of operation, the date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed or repowered.

(ii) Except as provided in § 145.4(b), § 145.5 or §§ 145.80—145.88, for a unit that is not a NO<sub>x</sub> budget unit under § 145.4 on the date of commencement of operation, the date the unit becomes a NO<sub>x</sub> budget unit under § 145.4 shall be the unit's date of commencement of operation.

*Common stack*—A single flue through which emissions from two or more units are exhausted.

*Compliance account*—A NO<sub>x</sub> Allowance Tracking System account for a NO<sub>x</sub> budget unit under this subchapter, in which the NO<sub>x</sub> allowance allocations for the unit are initially recorded and in which are held NO<sub>x</sub> allowances available for use by the unit for a control period for the purpose of meeting the unit's NO<sub>x</sub> budget emissions limitation.

*Compliance certification*—A submission to the Department and the Administrator that is required under this subchapter to report a NO<sub>x</sub> budget source's or a NO<sub>x</sub> budget unit's compliance or noncompliance with this subchapter and that is signed by the NO<sub>x</sub> authorized account representative in accordance with this subchapter.

*Control period*—The period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

*DAHS—automated data acquisition and handling system*—The component of the CEMS, or other emissions monitoring system approved for use under this subchapter and Chapter 139, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by this subchapter.

*Electricity for sale under firm contract to the electric grid*—Electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

*Emissions*—Air contaminants exhausted from a unit or source into the atmosphere as determined in accordance with this subchapter.

*Energy Information Administration*—The Energy Information Administration of the United States Department of Energy.

*Excess emissions*—Any tonnage of NO<sub>x</sub> emitted by a NO<sub>x</sub> budget unit during a control period that exceeds the NO<sub>x</sub> budget emissions limitation for the unit.

*Fossil fuel*—Natural gas, petroleum, coal, or any form of solid, liquid or gaseous fuel derived from this material.

*Fossil fuel-fired*—With regard to a unit, one of the following:

(i) For units that commenced operation before January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1995, or, if a unit had no heat input in 1995, during the last year of operation of the unit prior to 1995.

(ii) For units that commenced operation on or after January 1, 1996, and before January 1, 1997, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during 1996.

(iii) For units that commence operation on or after January 1, 1997, one of the following:

(A) The combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50% of the annual heat input on a Btu basis during any year.

(B) The combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50% of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil fuel-fired" as of the date, during that year, on which the unit begins combusting fossil fuel.

*General account*—A NO<sub>x</sub> Allowance Tracking System account, established under this subchapter, that is not a compliance account or an overdraft account.

*Generator*—A device that produces electricity.

*Heat input*—The product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1 million Btu and multiplied by the fuel feed rate into a combustion device (in mass of fuel/time) as determined in accordance with this subchapter, and does not include the heat derived from preheated combustion air, recirculated flue gases or exhaust from other sources.

*Heat input rate*—The amount of heat input (in mmBtu) divided by unit operating time or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

*Life-of-the-unit, firm power contractual arrangement*—A unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of the unit's total costs, pursuant to a contract for one of the following:

(i) The life of the unit.

(ii) A cumulative term of at least 30 years, including contracts that permit an election for early termination.

(iii) A period equal to or greater than 25 years or 70% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

*Maximum design heat input*—The ability of a unit to combust a stated maximum amount of fuel per hour (in mmBtu/hr) on a steady state basis, as determined by the physical design and physical characteristics of the unit.

*Maximum potential hourly heat input*—An hourly heat input (in mmBtu/hr) used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use 40 CFR Part 75, Appendix D (relating to optional SO<sub>2</sub> emissions data protocol for gas) to report heat input, this value shall be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value shall be reported, in accordance with 40 CFR Part 75, using the maximum potential flow rate and either the maximum carbon dioxide concentration (in % CO<sub>2</sub>) or the minimum oxygen concentration (in % O<sub>2</sub>).

*Maximum potential NO<sub>x</sub> emission rate*—The emission rate of NO<sub>x</sub> (in lb/mmBtu) calculated in accordance with 40 CFR Part 75, Appendix F, Section 3 (relating to procedure for NO<sub>x</sub> emission rate), using the maximum potential NO<sub>x</sub> concentration as defined in 40 CFR Part 75 Appendix A, Section 2 (relating to equipment specifications), and either the maximum O<sub>2</sub> concentration (in % O<sub>2</sub>) or the minimum carbon dioxide concentration (in % CO<sub>2</sub>).

*Maximum rated hourly heat input*—A unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

*Monitoring system*—A monitoring system that meets the requirements of this subchapter, including a CEMS, an excepted monitoring system or an alternative monitoring system.

*Most stringent State or Federal NO<sub>x</sub> emissions limitation*—With regard to a NO<sub>x</sub> budget opt-in source, the lowest NO<sub>x</sub> emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

*Nameplate capacity*—The maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

*NO<sub>x</sub> allowance*—An authorization by the Department under the NO<sub>x</sub> Budget Trading Program to emit up to 1 ton of NO<sub>x</sub> during the control period of the specified year or of any year thereafter, except as provided under § 145.54(f) (relating to compliance). No provision of the NO<sub>x</sub> Budget Trading Program, any permit, or an exemption under § 145.4(b) or § 145.5 and no provision of law will be construed to limit the authority of the Department or the Administrator to terminate or limit the authorization, which does not constitute a property right. For purposes of all sections of this subchapter except §§ 145.41—145.43 and 145.88, NO<sub>x</sub> allowance also includes an authorization to emit up to 1 ton of NO<sub>x</sub> during

the control period of the specified year or of any year thereafter by the Department or the Administrator.

*NO<sub>x</sub> allowance deduction or deduct NO<sub>x</sub> allowances*—The permanent withdrawal of NO<sub>x</sub> allowances from a NO<sub>x</sub> Allowance Tracking System compliance account or overdraft account to account for the number of tons of NO<sub>x</sub> emissions from a NO<sub>x</sub> budget unit for a control period, determined in accordance with this subchapter, or for any other allowance surrender obligation under this subchapter.

*NO<sub>x</sub> allowances held or hold NO<sub>x</sub> allowances*—The NO<sub>x</sub> allowances recorded or submitted for recordation, in accordance with this subchapter, in a NO<sub>x</sub> Allowance Tracking System account.

*NO<sub>x</sub> Allowance Tracking System*—The system for recording allocations, deductions and transfers of NO<sub>x</sub> allowances under the NO<sub>x</sub> Budget Trading Program.

*NO<sub>x</sub> Allowance Tracking System account*—An account in the NO<sub>x</sub> Allowance Tracking System for purposes of recording the allocation, holding, transferring or deducting of NO<sub>x</sub> allowances.

*NO<sub>x</sub> allowance transfer deadline*—Midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO<sub>x</sub> allowances may be submitted for recordation in a NO<sub>x</sub> budget unit's compliance account, or the overdraft account of the source where the unit is located, to meet the unit's NO<sub>x</sub> budget emissions limitation for the control period immediately preceding the deadline.

*NO<sub>x</sub> authorized account representative*—For a NO<sub>x</sub> budget source or NO<sub>x</sub> budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO<sub>x</sub> budget units at the source, in accordance with this subchapter, to represent and legally bind each owner and operator in matters pertaining to the NO<sub>x</sub> Budget Trading Program or, for a general account, the natural person who is authorized, in accordance with this subchapter, to transfer or otherwise dispose of NO<sub>x</sub> allowances held in the general account.

*NO<sub>x</sub> Budget Administrator*—The person or agency designated by the Department to administer the NO<sub>x</sub> Budget Trading Program. This person may be the Administrator of the EPA.

*NO<sub>x</sub> budget emissions limitation*—For a NO<sub>x</sub> budget unit, the tonnage equivalent of the NO<sub>x</sub> allowances available for compliance deduction for the unit and for a control period under § 145.54(a), (b), (e) and (f) adjusted by any deductions of the NO<sub>x</sub> allowances to account for actual heat input under § 145.42(e) (relating to NO<sub>x</sub> allowance allocations) for the control period or to account for excess emissions for a prior control period under § 145.54(d) or to account for withdrawal from the NO<sub>x</sub> Budget Trading Program, or for a change in regulatory status, for a NO<sub>x</sub> budget opt-in source under § 145.86 or § 145.87 (relating to opt-in source withdrawal from NO<sub>x</sub> Budget Trading Program; and opt-in source change in regulatory status).

*NO<sub>x</sub> budget opt-in source*—A unit that has been elected to become a NO<sub>x</sub> budget unit under the NO<sub>x</sub> Budget Trading Program and whose NO<sub>x</sub> budget opt-in approval has been issued and is in effect under this subchapter.

*NO<sub>x</sub> budget source*—A source that includes one or more NO<sub>x</sub> budget units.

*NO<sub>x</sub> Budget Trading Program*—A multistate NO<sub>x</sub> air pollution control and emission reduction program estab-

lished in accordance with this subchapter, as a means of mitigating the interstate transport of ozone and NO<sub>x</sub>, an ozone precursor.

*NO<sub>x</sub> budget unit*—A unit that is subject to the NO<sub>x</sub> Budget Trading Program emissions limitation under § 145.4 or § 145.80 (relating to application for opt-in sources).

*Operating*—With regard to a unit under § 145.80 (relating to application for opt-in sources), having documented heat input for more than 876 hours in the 6 months immediately preceding the submission of an application for an initial NO<sub>x</sub> budget opt-in approval under § 145.83 (relating to applying for NO<sub>x</sub> budget opt-in approval). The unit's documented heat input will be determined in accordance with 40 CFR Part 75 (relating to continuous emission monitoring) if the unit was otherwise subject to 40 CFR Part 75 during that 6-month period or will be based on the best available data reported to the Administrator for the unit if the unit was not otherwise subject to the requirements of 40 CFR Part 75 during that 6-month period.

*Operator*—A person who operates, controls or supervises a NO<sub>x</sub> budget unit, a NO<sub>x</sub> budget source or unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 is submitted and not denied or withdrawn and shall include, but not be limited to, a holding company, utility system or plant manager of a unit or source.

*Opt-in*—To elect to become a NO<sub>x</sub> budget unit under the NO<sub>x</sub> Budget Trading Program through a final, effective NO<sub>x</sub> budget opt-in approval under this subchapter.

*Overdraft account*—The NO<sub>x</sub> Allowance Tracking System account established under this subchapter for each NO<sub>x</sub> budget source where there are two or more NO<sub>x</sub> budget units.

*Owner*—Any of the following persons:

(i) A holder of any portion of the legal or equitable title in a NO<sub>x</sub> budget unit or in a unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 is submitted and not denied or withdrawn.

(ii) A holder of a leasehold interest in a NO<sub>x</sub> budget unit or in a unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 is submitted and not denied or withdrawn.

(iii) A purchaser of power from a NO<sub>x</sub> budget unit or from a unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, an owner may not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO<sub>x</sub> budget unit or the unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 is submitted and not denied or withdrawn.

(iv) With respect to any general account, a person who has an ownership interest with respect to the NO<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the NO<sub>x</sub> authorized account representative to represent that person's ownership interest with respect to NO<sub>x</sub> allowances.

*Percent monitor data availability*—For the purposes of §§ 145.43(a)(1) and 145.84(2) (relating to compliance supplement pool; and opt-in procedures), the total unit

operating hours for which quality-assured data were recorded under this subchapter in a control period, divided by the total unit operating hours during the control period, and multiplied by 100%.

*Potential electrical output capacity*—Thirty-three percent of a unit's maximum design heat input.

*Receive or receipt of*—When referring to the Department, the Administrator or the NO<sub>x</sub> Budget Administrator to come into possession of a document, information or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information or correspondence, by the Department or Administrator in the regular course of business.

*Recordation, record or recorded*—With regard to NO<sub>x</sub> allowances, the movement of NO<sub>x</sub> allowances from one NO<sub>x</sub> Allowance Tracking System account to another, for purposes of allocation, transfer or deduction.

*Reference method*—A direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60, Appendix A (relating to specifications and test).

*Serial number*—When referring to NO<sub>x</sub> allowances, the unique identification number assigned to each NO<sub>x</sub> allowance, under § 145.53(c).

*Source*—A governmental, institutional, commercial or industrial structure, installation, plant, building or facility that emits or has the potential to emit a regulated air pollutant under the Clean Air Act. For purposes of section 502(c) of the Clean Air Act (42 U.S.C.A. § 7661a(c)), a source, including a source with multiple units, shall be considered a single facility.

*State*—One of the 48 contiguous states and the District of Columbia that adopts a NO<sub>x</sub> Budget Trading Program. The term shall have its conventional meaning where the meaning is clear from the context.

*State trading program budget*—The total number of NO<sub>x</sub> tons apportioned to all NO<sub>x</sub> budget units in a given state, in accordance with the NO<sub>x</sub> Budget Trading Program, for use in a given control period.

*Submit or serve*—To send or transmit a document, information or correspondence to the person specified in accordance with the applicable regulation by one of the following methods:

- (i) In person.
- (ii) By United States Postal Service.
- (iii) By other means of dispatch or transmission and delivery. Except where otherwise expressly provided, compliance with any submission, service or mailing deadline shall be determined by the date of dispatch, transmission or mailing and not the date of receipt.

*Ton or tonnage*—A "short ton" (that is, 2,000 pounds). For the purpose of determining compliance with the NO<sub>x</sub> budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with this subchapter, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal 1 ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

*Unit*—A fossil fuel-fired stationary boiler, combustion turbine or combined cycle system.

*Unit operating day*—A calendar day in which a unit combusts any fuel.

*Unit operating hour or hour of unit operation*—Any hour (or fraction of an hour) during which a unit combusts any fuel.

### § 145.3. Measurements, abbreviations and acronyms.

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

*Btu*—British thermal unit.

*hr*—Hour.

*Kw*—Kilowatt electrical.

*Kwh*—Kilowatt hour.

*lb*—Pounds.

*mmBtu*—Million Btu.

*MWe*—Megawatt electrical.

*Ton*—2,000 pounds.

*CO<sub>2</sub>*—Carbon dioxide.

*NO<sub>x</sub>*—Nitrogen oxides.

*O<sub>2</sub>*—Oxygen.

### § 145.4. Applicability.

(a) The following units shall be NO<sub>x</sub> budget units, and any source that includes one or more of the units shall be a NO<sub>x</sub> budget source, subject to the requirements of this subchapter:

(1) *Electric generating units.*

(i) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than 25 MWe and produced electricity for sale under firm contract to the electric grid.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity greater than 25 MWe and produced electricity for sale under firm contract to the electric grid.

(iii) For units that commenced operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

(2) *Nonelectric generating units.*

(i) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1995 or 1996 a generator producing electricity for sale under firm contract to the electric grid.

(ii) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than 250 MMBtu/hr and that did not serve during 1997 or 1998 a generator producing electricity for sale under firm contract to the electric grid.

(iii) For units that commenced operation on or after January 1, 1999, a unit with a maximum design heat input greater than 250 mmBtu/hr that does one of the following:

(A) At no time serves a generator producing electricity for sale.

(B) At any time serves a generator producing electricity for sale, if the generator has a nameplate capacity of 25

MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit.

(b) *Twenty-five ton exemption.*

(1) Notwithstanding subsection (a), a unit under subsection (a)(1) or (2) that has a Federally enforceable permit that includes a NO<sub>x</sub> emission limitation restricting NO<sub>x</sub> emissions during a control period to 25 tons or less and that includes the special provisions in subsection (b)(4) shall be exempt from the requirements of the NO<sub>x</sub> Budget Trading Program, except for this paragraph and §§ 145.2, 145.3, 145.4(a), 145.7, 145.40—145.62. The NO<sub>x</sub> emission limitation under this paragraph shall restrict NO<sub>x</sub> emissions during the control period by limiting unit operating hours or heat input. The restriction on unit operating hours shall be calculated by dividing the permit restriction tonnage by the unit's maximum potential hourly NO<sub>x</sub> mass emissions, which shall equal the unit's maximum rated hourly heat input multiplied by the highest default NO<sub>x</sub> emission rate otherwise applicable to the unit under 40 CFR 75.19 (relating to optional emissions calculation for low mass emissions units). The restriction on heat input shall be calculated by dividing the permit restriction tonnage by the unit's highest default NO<sub>x</sub> emission rate otherwise applicable to the unit under 40 CFR 75.19.

(2) The exemption under paragraph (1) shall become effective under one of the following subparagraphs as follows:

(i) The exemption shall become effective on the date on which the NO<sub>x</sub> emission limitation and the special provisions in the permit under paragraph (1) become final.

(ii) If the NO<sub>x</sub> emission limitation and the special provisions in the permit under paragraph (1) become final during a control period and after the first date on which the unit operates during that control period, the exemption shall become effective on May 1 of the control period, provided that the NO<sub>x</sub> emission limitation and the special provisions apply to the unit as of the first date of operation. If the NO<sub>x</sub> emission limitation and special provisions do not apply to the unit as of the first date of operation, the exemption under paragraph (1) shall become effective on October 1 of the year during which the NO<sub>x</sub> emission limitation and the special provisions become final.

(3) The Department will provide notice to the NO<sub>x</sub> Budget Administrator of the issuance of the permit and, upon request, a copy of the permit.

(4) Special provisions are as follows:

(i) A unit exempt under paragraph (1) shall comply with the restriction on unit operating hours described in paragraph (1) during the control period each year.

(ii) The Department will allocate NO<sub>x</sub> allowances to the unit under §§ 145.41(a)—(c) and 145.42(a)—(c) (relating to timing requirements for NO<sub>x</sub> allowance allocations; and NO<sub>x</sub> allowance allocations) for each control period for which the unit is allocated NO<sub>x</sub> allowances under §§ 145.41(a)—(c) and 145.42(a)—(c) the following shall occur:

(A) The owners and operators of the unit shall specify a general account, in which the NO<sub>x</sub> Budget Administrator will record the NO<sub>x</sub> allowances.

(B) After the NO<sub>x</sub> Budget Administrator records NO<sub>x</sub> allowances under §§ 145.41(a)—(c) and 145.42(a)—(c), the NO<sub>x</sub> Budget Administrator will deduct, from the general account specified in clause (A), NO<sub>x</sub> allowances that are

allocated for the same or a prior control period as the NO<sub>x</sub> allowances allocated to the unit under §§ 145.41(a)—(c) and 145.42(a)—(c) and that equal the NO<sub>x</sub> emission limitation (in tons of NO<sub>x</sub>) on which the unit's exemption under paragraph (1) is based. The NO<sub>x</sub> authorized account representative shall ensure that the general account contains the NO<sub>x</sub> allowances necessary for completion of the deduction.

(iii) A unit exempt under subsection (b) shall report hours of unit operation during the control period in each year to the Department by November 1 of that year.

(iv) For 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (1) shall retain records demonstrating that the conditions of the Federally enforceable permit under paragraph (1) were met, including the restriction on unit operating hours. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or administrator. The owners and operators bear the burden of proof that the unit met the restriction on unit operating hours.

(v) The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of a unit exempt under paragraph (1) shall comply with the requirements of the NO<sub>x</sub> Budget Trading Program concerning all periods for which the exemption is not in effect, even if these requirements arise, or must be complied with, after the exemption takes effect.

(vi) On the earlier of the following dates, a unit exempt under paragraph (1) shall lose its exemption when one of the following occurs:

(A) The date on which the restriction on unit operating hours described in paragraph (1) is removed from the unit's Federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2003.

(B) The first date on which the unit fails to comply, or with regard to which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on unit operating hours described in paragraph (1) during any control period starting in 2003.

(vii) A unit that loses its exemption in accordance with subparagraph (vi) shall be subject to this subchapter. For the purpose of allocating allowances under §§ 145.40—145.43 (relating to State trading program budget) and applying monitoring requirements under §§ 145.70—145.76 (relating to recordkeeping and reporting requirements), the unit shall be treated as commencing operation and, if the unit is covered by subsection (a)(1), commencing commercial operation on the date the unit loses its exemption.

(viii) a unit that is exempt under paragraph (1) is not eligible to be a NO<sub>x</sub> budget opt-in unit under §§ 145.80—145.88 (relating to opt-in process).

**§ 145.5. Retired unit exemption.**

(a) *Application.* This section applies to a NO<sub>x</sub> budget unit, other than a NO<sub>x</sub> budget opt-in source, that is permanently retired.

(b) *Requirements.*

(1) A NO<sub>x</sub> budget unit, other than a NO<sub>x</sub> budget opt-in source, that is permanently retired is exempt from the NO<sub>x</sub> Budget Trading Program, except for the provisions of this section, §§ 145.2, 145.3, 145.4, 145.6, 145.7 and 145.40—145.43, 145.50—145.57 and 145.60—145.62.

(2) The exemption under paragraph (1) shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO<sub>x</sub> authorized account representative (authorized in accordance with this subchapter) shall submit a statement to the Department. A copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the Department) that the unit is permanently retired and will comply with subsection (c).

(3) After receipt of the notice under paragraph (2), the Department will amend any permit issued by the Department covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraph (1) and subsection (c).

(c) *Special provisions.*

(1) A unit exempt under this section may not emit NO<sub>x</sub>, starting on the date that the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with §§ 145.40—145.43 (relating to NO<sub>x</sub> allowance allocations).

(2) A unit exempt under this section may not resume operation unless authorized by the Department. The NO<sub>x</sub> authorized account representative of the source shall submit a restart request to the Department for the unit at least 18 months prior to the date on which the unit is to first resume operation. The restart request shall, at a minimum, contain the following:

(i) Identification of the NO<sub>x</sub> budget source, including the plant name and the Office of Regulatory Information Systems or facility code assigned to the source by the energy information administration, if applicable.

(ii) Identification of each NO<sub>x</sub> budget unit at the NO<sub>x</sub> budget source and whether it is a NO<sub>x</sub> budget unit under § 145.4 or §§ 145.80—145.88 (relating to opt-in process).

(3) The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of a unit exempt under this section shall comply with the requirements of the NO<sub>x</sub> Budget Trading Program concerning all periods for which the exemption is not in effect, even if the requirements arise, or must be complied with, after the exemption takes effect.

(4) A unit that is exempt under this section is not eligible to be a NO<sub>x</sub> budget opt-in source under §§ 145.80—145.88.

(5) For 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(6) Loss of an exemption will be as follows:

(i) On the earlier of the following dates, a unit exempt under subsection (b) shall lose its exemption:

(A) The date on which the NO<sub>x</sub> authorized account representative submits a restart application under paragraph (2).

(B) The date on which the NO<sub>x</sub> authorized account representative is required under paragraph (2) to submit a restart application.

(ii) For the purpose of applying monitoring requirements under §§ 145.70—145.76 (relating to recordkeep-

ing and reporting requirements), a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

**§ 145.6. Standard requirements.**

(a) *Monitoring requirements.*

(1) The owners and operators and the NO<sub>x</sub> authorized account representative of each NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source shall comply with the monitoring requirements of §§ 145.70—145.76 (relating to recordkeeping and recording requirements).

(2) The emissions measurements recorded and reported in accordance with §§ 145.70—145.76 shall be used to determine compliance by the unit with the NO<sub>x</sub> budget emissions limitation under subsection (c).

(b) *NO<sub>x</sub> requirements.*

(1) The owners and operators of each NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source shall hold NO<sub>x</sub> allowances available for compliance deductions under § 145.54 (relating to compliance), as of the NO<sub>x</sub> allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NO<sub>x</sub> emissions for the control period from the unit, as determined in accordance with §§ 145.70—145.76 plus any amount necessary to account for actual heat input under § 145.42(e) (relating to NO<sub>x</sub> allowance allocations) for the control period or to account for excess emissions for a prior control period under § 145.54(d) or to account for withdrawal from the NO<sub>x</sub> Budget Trading Program, or a change in regulatory status, of a NO<sub>x</sub> budget opt-in unit under § 145.86 or § 145.87 (relating to opt-in source withdrawal from NO<sub>x</sub> Budget Trading Program; and opt-in source change in regulatory status).

(2) Each ton of NO<sub>x</sub> emitted in excess of the NO<sub>x</sub> budget emissions limitation shall constitute a separate violation of this subchapter and the act.

(3) A NO<sub>x</sub> budget unit shall be subject to paragraph (1) starting on May 1, 2003, or the date on which the unit commences operation, whichever is later.

(4) NO<sub>x</sub> allowances shall be held in, deducted from or transferred among NO<sub>x</sub> Allowance Tracking System accounts in accordance with §§ 145.40—145.43, 145.50—145.57, 145.60—145.62 and 145.80—145.88.

(5) A NO<sub>x</sub> allowance may not be deducted, to comply with paragraph (1), for a control period in a year prior to the year for which the NO<sub>x</sub> allowance was allocated.

(6) A NO<sub>x</sub> allowance allocated by the Department under the NO<sub>x</sub> Budget Trading Program is a limited authorization to emit 1 ton of NO<sub>x</sub> in accordance with the NO<sub>x</sub> Budget Trading Program. No provision of the NO<sub>x</sub> Budget Trading Program or an exemption under § 145.4(b) or § 145.5 (relating to applicability; and retired unit exemption) and no provision of law limit the authority of the United States or the Department to terminate or limit the authorization.

(7) A NO<sub>x</sub> allowance allocated by the Department under the NO<sub>x</sub> Budget Trading Program does not constitute a property right.

(c) *Excess emissions.* The owners and operators of a NO<sub>x</sub> budget unit that has excess emissions in any control period shall do the following:

(1) Surrender the NO<sub>x</sub> allowances required for deduction under § 145.54(d)(1).



(2) Pay any fine, penalty or assessment or comply with any other remedy imposed under § 145.54(d)(3) or the act.

(d) *Recordkeeping and reporting requirements.*

(1) Unless otherwise provided, the owners and operators of the NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source shall maintain at a central location and provide upon request by the Department or the NO<sub>x</sub> Budget Administrator the following documents for 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Department or the Administrator.

(i) The account certificate of representation for the NO<sub>x</sub> authorized account representative for the source and each NO<sub>x</sub> budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with § 145.13 (relating to account certificate of representation). The certificate and documents shall be retained beyond the 5-year period until the documents are superseded because of the submission of a new account certificate of representation changing the NO<sub>x</sub> authorized account representative.

(ii) The emissions monitoring information, in accordance with §§ 145.70—145.76. To the extent that §§ 145.70—145.76 provides for a 3-year period for recordkeeping, the 3-year period applies.

(iii) Copies of all reports, compliance certifications and other submissions and all records made or required under the NO<sub>x</sub> Budget Trading Program.

(iv) Copies of the documents used to complete any submission under the NO<sub>x</sub> Budget Trading Program or to demonstrate compliance with the NO<sub>x</sub> Budget Trading Program.

(2) The NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source shall submit the reports and compliance certifications required under the NO<sub>x</sub> Budget Trading Program, including those under §§ 145.30, 145.31, 145.70—145.76 and 145.80—145.88.

(e) *Liability.*

(1) A permit revision may not excuse any violation of the requirements of the NO<sub>x</sub> Budget Trading Program that occurs prior to the date that the revision takes effect.

(2) Each NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit shall meet the requirements of the NO<sub>x</sub> Budget Trading Program.

(3) Any provision of the NO<sub>x</sub> Budget Trading Program that applies to a NO<sub>x</sub> budget source (including a provision applicable to the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget source) shall also apply to the owners and operators of the source and of the NO<sub>x</sub> budget units at the source.

(4) Any provision of the NO<sub>x</sub> Budget Trading Program that applies to a NO<sub>x</sub> budget unit (including a provision applicable to the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget unit) shall also apply to the owners and operators of the unit. Except with regard to the requirements applicable to units with a common stack under §§ 145.70—145.76 the owners and operators and the NO<sub>x</sub> authorized account representative of one NO<sub>x</sub> budget unit is not liable for any violation by any other NO<sub>x</sub> budget unit of which they are not owners or operators or the NO<sub>x</sub> authorized account representative and that is located at a

source of which they are not owners or operators or the NO<sub>x</sub> authorized account representative.

(f) *Effect on other authorities.* No provision of the NO<sub>x</sub> Budget Trading Program or an exemption under § 145.4(b) or § 145.5 shall be construed as exempting or excluding the owners and operators and the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget source or NO<sub>x</sub> budget unit from compliance with any other provision of the regulations promulgated under the CAA or the act.

**§ 145.7. Computation of time.**

(a) Unless otherwise stated, any time period scheduled, under the NO<sub>x</sub> Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO<sub>x</sub> Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the NO<sub>x</sub> Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

**NO<sub>x</sub> ACCOUNT**

**§ 145.10. Authorization and responsibilities of the NO<sub>x</sub> authorized account representative.**

(a) Except as provided under § 145.11 (relating to alternate NO<sub>x</sub> authorized account representative), each NO<sub>x</sub> budget source, including all NO<sub>x</sub> budget units at the source, shall have only one NO<sub>x</sub> authorized account representative, with regard to all matters under the NO<sub>x</sub> Budget Trading Program concerning the source or any NO<sub>x</sub> budget unit at the source.

(b) The NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget source shall be selected by an agreement binding on the owners and operators of the source and all NO<sub>x</sub> budget units at the source.

(c) Upon receipt by the Department and the NO<sub>x</sub> Budget Administrator of a complete account certificate of representation under § 145.13 (relating to account certificate of representation), the NO<sub>x</sub> authorized account representative of the source shall represent and, by his representations, actions, inactions or submissions, legally bind each owner and operator of the NO<sub>x</sub> budget source represented and each NO<sub>x</sub> budget unit at the source in all matters pertaining to the NO<sub>x</sub> Budget Trading Program, notwithstanding any agreement between the NO<sub>x</sub> authorized account representative and the owners and operators. The owners and operators shall be bound by any decision or order issued to the NO<sub>x</sub> authorized account representative by the Department, the Administrator or a court regarding the source or unit.

(d) A NO<sub>x</sub> Allowance Tracking System account will not be established for a NO<sub>x</sub> budget unit at a source, until the Department and the NO<sub>x</sub> Budget Administrator have received a complete account certificate of representation under § 145.13 for a NO<sub>x</sub> authorized account representative of the source and the NO<sub>x</sub> budget units at the source.

(e) Document submission requirements are as follows:

(1) Each submission under the NO<sub>x</sub> Budget Trading Program shall be submitted, signed and certified by the NO<sub>x</sub> authorized account representative for each NO<sub>x</sub> budget source on behalf of which the submission is made.

Each submission shall include the following certification statement by the NO<sub>x</sub> authorized account representative:

"I am authorized to make this submission on behalf of the owners and operators of the NO<sub>x</sub> budget sources or NO<sub>x</sub> budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(2) The Department and NO<sub>x</sub> Budget Administrator will accept or act on a submission made on behalf of owner or operators of a NO<sub>x</sub> budget source or a NO<sub>x</sub> budget unit only if the submission has been made, signed and certified in accordance with paragraph (1).

**§ 145.11. Alternate NO<sub>x</sub> authorized account representative.**

(a) An account certificate of representation may designate only one alternate NO<sub>x</sub> authorized account representative who may act on behalf of the NO<sub>x</sub> authorized account representative. The agreement by which the alternate NO<sub>x</sub> authorized account representative is selected shall include a procedure for authorizing the alternate NO<sub>x</sub> authorized account representative to act in lieu of the NO<sub>x</sub> authorized account representative.

(b) Upon receipt by the Department and NO<sub>x</sub> Budget Administrator of a complete account certificate of representation under § 145.13 (relating to account certificate of representation), any representation, action, inaction or submission by the alternate NO<sub>x</sub> authorized account representative shall be deemed to be a representation, action, inaction or submission by the NO<sub>x</sub> authorized account representative.

(c) Except in this section and §§ 145.10(a), 145.12, 145.13 and 145.51, whenever the term "NO<sub>x</sub> authorized account representative" is used in this subchapter, the term shall include the alternate NO<sub>x</sub> authorized account representative.

**§ 145.12. Changing the NO<sub>x</sub> authorized account representative and the alternate NO<sub>x</sub> authorized account representative; changes in the owners and operators.**

(a) *Changing the NO<sub>x</sub> authorized account representative.* The NO<sub>x</sub> authorized account representative may be changed at any time upon receipt by the Department and the NO<sub>x</sub> Budget Administrator of a superseding complete account certificate of representation under § 145.13 (relating to account certificate of representation). Notwithstanding a change, the representations, actions, inactions and submissions by the previous NO<sub>x</sub> authorized account representative prior to the time and date when the Department and the NO<sub>x</sub> Budget Administrator receives the superseding account certificate of representation shall be binding on the new NO<sub>x</sub> authorized account representative and the owners and operators of the NO<sub>x</sub> budget source and the NO<sub>x</sub> budget units at the source.

(b) *Changing the alternate NO<sub>x</sub> authorized account representative.* The alternate NO<sub>x</sub> authorized account representative may be changed at any time upon receipt

by the Department and the NO<sub>x</sub> Budget Administrator of a superseding complete account certificate of representation under § 145.13. Notwithstanding a change, the representations, actions, inactions and submissions by the previous alternate NO<sub>x</sub> authorized account representative prior to the time and date when the Department and the NO<sub>x</sub> Budget Administrator receives the superseding account certificate of representation shall be binding on the new alternate NO<sub>x</sub> authorized account representative and the owners and operators of the NO<sub>x</sub> budget source and the NO<sub>x</sub> budget units at the source.

(c) *Changes in the owners and operators.*

(1) If a new owner or operator of a NO<sub>x</sub> budget source or a NO<sub>x</sub> budget unit is not included in the list of owners and operators submitted in the account certificate of representation, the new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions and submissions of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative of the source or unit, and the decisions, orders, actions and inactions of the Department or the NO<sub>x</sub> Budget Administrator, as if the new owner or operator were included in the list.

(2) Within 30 days following any change in the owners and operators of a NO<sub>x</sub> budget source or a NO<sub>x</sub> budget unit, including the addition of a new owner or operator, the NO<sub>x</sub> authorized account representative or alternate NO<sub>x</sub> authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

**§ 145.13. Account certificate of representation.**

(a) A complete account certificate of representation for a NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative shall include the following elements in a format prescribed by the NO<sub>x</sub> Budget Administrator:

(1) Identification of the NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number and facsimile transmission number (if any) of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative.

(3) A list of the owners and operators of the NO<sub>x</sub> budget source and of each NO<sub>x</sub> budget unit at the source.

(4) The following certification statement by the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative:

"I certify that I was selected as the NO<sub>x</sub> authorized account representative or alternate NO<sub>x</sub> authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO<sub>x</sub> Budget Trading Program on behalf of the owners and operators of the NO<sub>x</sub> budget source and of each NO<sub>x</sub> budget unit at the source and that each owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the Administrator or a court regarding the source or unit."

(5) The signature of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative and the dates signed.

(b) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the account certificate of representation may not be submitted to the Department or Administrator. The Department and Administrator are not under any obligation to review or evaluate the sufficiency of these documents, if submitted.

**§ 145.14. Objections concerning the NO<sub>x</sub> authorized account representative.**

(a) Once a complete account certificate of representation under § 145.13 (relating to account certificate of representation) has been submitted and received, the Department and the NO<sub>x</sub> Budget Administrator will rely on the account certificate of representation unless a superseding complete account certificate of representation under § 145.13 is received by the Department and the NO<sub>x</sub> Budget Administrator.

(b) Except as provided in § 145.12(a) or (b) (relating to changing the NO<sub>x</sub> authorized account representative and the alternate NO<sub>x</sub> authorized account representative; changes in the owners and operators), an objection or other communication submitted to the Department or Administrator concerning the authorization, or any representation, action, inaction or submission of the NO<sub>x</sub> authorized account representative will not affect any representation, action, inaction or submission of the NO<sub>x</sub> authorized account representative or the finality of a decision or order by the Department or Administrator under the NO<sub>x</sub> Budget Trading Program.

(c) The Department and the Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction or submission of a NO<sub>x</sub> authorized account representative, including private legal disputes concerning the proceeds of NO<sub>x</sub> allowance transfers.

**COMPLIANCE CERTIFICATION**

**§ 145.30. Compliance certification report.**

(a) *Applicability and deadline.* For each control period in which one or more NO<sub>x</sub> budget units at a source are subject to the NO<sub>x</sub> budget emissions limitation, the NO<sub>x</sub> authorized account representative of the source shall submit to the Department and the NO<sub>x</sub> Budget Administrator by November 30 of that year, a compliance certification report for the source covering all of the units.

(b) *Contents of report.* The NO<sub>x</sub> authorized account representative shall include in the compliance certification report under subsection (a) the following elements, in a format prescribed by the Department, concerning each unit at the source and subject to the NO<sub>x</sub> budget emissions limitation for the control period covered by the report:

- (1) Identification of each NO<sub>x</sub> budget unit.
- (2) At the NO<sub>x</sub> authorized account representative's option, the serial numbers of the NO<sub>x</sub> allowances that are to be deducted from each unit's compliance account under § 145.54 (relating to compliance) for the control period.
- (3) At the NO<sub>x</sub> authorized account representative's option, for units sharing a common stack and having NO<sub>x</sub> emissions that are not monitored separately or apportioned in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements), the percent-

age of allowances that is to be deducted from each unit's compliance account under § 145.54(e).

(4) The compliance certification under subsection (c).

(c) *Compliance certification.* In the compliance certification report under subsection (a), the NO<sub>x</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO<sub>x</sub> budget units at the source in compliance with the NO<sub>x</sub> Budget Trading Program, whether each NO<sub>x</sub> budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the NO<sub>x</sub> Budget Trading Program applicable to the unit, including the following:

- (1) Whether the unit was operated in compliance with the NO<sub>x</sub> budget emissions limitation.
- (2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains the information necessary to attribute NO<sub>x</sub> emissions to the unit, in accordance with §§ 145.70—145.76.
- (3) Whether all the NO<sub>x</sub> emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with §§ 145.70—145.76. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions has been made.

(4) Whether the facts that form the basis for certification under §§ 145.70—145.76 of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under §§ 145.70—145.76, if any, has changed.

(5) If a change is required to be reported under paragraph (4), specify the nature of the change, the reason for the change, when the change occurred and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

**§ 145.31. Department's action on compliance certifications.**

(a) The Department or the Administrator may review and conduct independent audits concerning any compliance certification or any other submission under the NO<sub>x</sub> Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) NO<sub>x</sub> allowances may be deducted from or transferred to a unit's compliance account or a source's over-draft account based on the information in the compliance certifications or other submissions, as adjusted under subsection (a).

**NO<sub>x</sub> ALLOWANCE ALLOCATIONS**

**§ 145.40. State Trading Program budget.**

(a) In accordance with §§ 145.41 and 145.42 (relating to timing requirements for NO<sub>x</sub> allowance allocations; and NO<sub>x</sub> allowance allocations), the Department will allocate to NO<sub>x</sub> budget units under § 145.4(a) (relating to applicability), for each control period specified in § 145.41, a total number of NO<sub>x</sub> allowances less the sum of the NO<sub>x</sub>

emission limitations (in tons) for each unit exempt under § 145.4(b) that is not allocated allowances under § 145.42(b) or (c) for the control period and whose NO<sub>x</sub> emission limitation (in tons of NO<sub>x</sub>) is not included in the amount calculated under § 145.42(d)(5)(ii)(B). The Pennsylvania NO<sub>x</sub> Trading Program Budget is as follows:

(1) The NO<sub>x</sub> budget for electric generating units under this subchapter is 47,224 tons per season.

(2) The NO<sub>x</sub> budget for nonelectric generating units under this subchapter is 3,619 tons per season.

(b) The NO<sub>x</sub> budget may be adjusted as provided in § 145.90 (relating to emission reduction credit provisions).

**§ 145.41. Timing requirements for NO<sub>x</sub> allowance allocations.**

(a) The Department will submit to the NO<sub>x</sub> Allowance Tracking System the NO<sub>x</sub> allowance allocations, in accordance with § 145.42 (relating to NO<sub>x</sub> allowance allocations), for the control periods in 2003—2007.

(b) By April 1, 2005, the Department will publish the NO<sub>x</sub> allowance allocations in the *Pennsylvania Bulletin*, in accordance with § 145.42(a)—(c), for the control periods 2008—2012.

(c) By April 1, 2010, by April 1 of 2015, and thereafter by April 1 of the year that is 5 years after the last year for which NO<sub>x</sub> allowances allocations are determined, the Department will publish the NO<sub>x</sub> allowance allocations in the *Pennsylvania Bulletin*, in accordance with § 145.42(a)—(c), for the control periods in the years that are 3, 4, 5, 6 and 7 years after the applicable deadline under this subsection.

(d) By April 1, 2003, and April 1 of each year thereafter, the Department will publish the NO<sub>x</sub> allowance allocations in the *Pennsylvania Bulletin*, in accordance with § 145.42(d), for the control period in the year of the applicable deadline under this subsection.

**§ 145.42. NO<sub>x</sub> allowance allocations.**

(a) Unit heat input shall be calculated as follows:

(1) The heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations for each NO<sub>x</sub> budget unit under § 145.4 (relating to applicability) will be as follows:

(i) For a NO<sub>x</sub> allowance allocation under § 145.41(a) (relating to timing requirement for NO<sub>x</sub> allowance allocations).

(A) For a unit under § 145.4(a)(1), the average of the two highest amounts of the unit's heat input for the control periods in 1995—1998.

(B) For a unit under § 145.4(a)(2), the control period in 1995 or, if the Administrator determines that reasonably reliable data are available for control periods in 1996—1998, the average of the two highest amounts of the unit's heat input for the control periods in 1995—1998.

(ii) For a NO<sub>x</sub> allowance allocation under § 145.41(b), the unit's average heat input for the control periods in 2002—2004.

(iii) For a NO<sub>x</sub> allowance allocation under § 145.41(c), the unit's average heat input for the control period in the years that are 4, 5, 6, 7 and 8 years before the first year for which the allocation is being calculated.

(2) The unit's heat input for the control period in each year specified under paragraph (1) will be determined in accordance with 40 CFR Part 75 (relating to continuous

emission monitoring). Notwithstanding the first sentence of this paragraph (2), the following apply:

(i) For a NO<sub>x</sub> allowance allocation under § 145.41(a), the heat input will be determined using the best available data reported to the Administrator for the unit if the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the control period.

(ii) For a NO<sub>x</sub> allowance allocation under § 145.41(b) or (c) for a unit exempt under § 145.4(b), the heat input shall be treated as zero if the unit is exempt under § 145.4(b) during the control period.

(b) For each group of five control periods specified in §§ 145.41(a)—(c), the Department will allocate to all NO<sub>x</sub> budget units in a given state under § 145.4(a)(1) that commenced operation before May 1, 1997, for allocations under § 145.41(a), May 1, 2003, for allocations under § 145.41(b), and May 1 of the year 5 years before the first year for which the allocation under § 145.41(c) is being calculated, a total number of NO<sub>x</sub> allowances equal to 95% of the portion of the State's trading program budget under § 145.40 (relating to State Trading Program budget) covering these units. The Department will allocate in accordance with the following procedures:

(1) The Department will allocate NO<sub>x</sub> allowances to each NO<sub>x</sub> budget unit under § 145.4(a)(1) for each control period in an amount equaling 0.15 lb/mmBtu multiplied by the heat input determined under subsection (a), divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2) If the initial total number of NO<sub>x</sub> allowances allocated to all NO<sub>x</sub> budget units under § 145.4(a)(1) in the state for a control period under subsection (b)(1) does not equal 95% of the portion of the State's trading program budget under § 145.40 covering these units, the Department will adjust the total number of NO<sub>x</sub> allowances allocated to all these NO<sub>x</sub> budget units for the control period under paragraph (1) so that the total number of NO<sub>x</sub> allowances allocated equals 95% of the portion of the State's trading program budget. This adjustment will be made by multiplying each unit's allocation by 95% of the portion of the State's trading program budget; dividing by the total number of NO<sub>x</sub> allowances allocated under paragraph (1) for the control period; and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(c) For each group of five control periods specified in § 145.41(a)—(c), the Department will allocate to all NO<sub>x</sub> budget units in a given state under § 145.4(a)(2) that commenced operation before May 1, 1997, for allocations under § 145.41(a), May 1, 2003, for allocations under § 145.41(b), and May 1 of the year 5 years before the first year for which the allocation under § 145.41(c) is being calculated, a total number of NO<sub>x</sub> allowances equal to 95% of the portion of the State's trading program budget under § 145.40 covering these units. The Department will allocate in accordance with the following procedures:

(1) The Department will allocate NO<sub>x</sub> allowances to each NO<sub>x</sub> budget unit under § 145.4(a)(2) for each control period in an amount equaling 0.17 lb/mmBtu multiplied by the heat input determined under subsection (a), divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2) If the initial total number of NO<sub>x</sub> allowances allocated to all NO<sub>x</sub> budget units under § 145.4(a)(2) in the state for a control period under subsection (c)(1) does not equal 95% of the portion of the State's Trading Program Budget under § 145.40 covering these units, the Administrator will adjust the total number of NO<sub>x</sub> allowances

allocated to all these NO<sub>x</sub> budget units for the control period under paragraph (1) so that the total number of NO<sub>x</sub> allowances allocated equals 95% of the portion of the State's Trading Program Budget under § 145.40 covering these units. This adjustment will be made by multiplying each unit's allocation by 95% of the portion of the State's Trading Program budget under § 145.40 covering these units; dividing by the total number of NO<sub>x</sub> allowances allocated under paragraph (1) for the control period; and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(d) For each control period specified in § 145.41(d), the Department will allocate NO<sub>x</sub> allowances to NO<sub>x</sub> budget units in a given State under § 145.4(a) (except for units exempt under § 145.4(b)) that commence operation, or are projected to commence operation, on or after May 1, 1997 (for control periods under § 145.41(a)); May 1, 2003, (for control periods under § 145.41(b)); and May 1 of the year 5 years before the beginning of the group of 5 years that includes the control period (for control periods under § 145.41(c)). The Department may also use this set-aside to address allocation revisions to units under subsections (a)—(c). The Department will make the allocations under this subsection in accordance with the following procedures:

(1) The Department will establish one allocation set-aside for each control period for each state. Each allocation set-aside will be allocated NO<sub>x</sub> allowances equal to 5% of the tons of NO<sub>x</sub> emission in the state's Trading Program Budget under § 145.40, rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2) The NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget unit specified in this section may submit to the Department a request, in a format specified by the Department, to be allocated NO<sub>x</sub> allowances for the control period. The NO<sub>x</sub> allowance allocation request must be received by the Department on or after the date on which the State permitting authority issues a permit to construct the unit and by January 1 before the control period for which NO<sub>x</sub> allowances are requested.

(3) In a NO<sub>x</sub> allowance allocation request under paragraph (2), the NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget unit under § 145.4(a)(1) may request for the control period NO<sub>x</sub> allowances in an amount that does not exceed the lesser of the following:

(i) 0.15 lb/mmBtu multiplied by the unit's maximum design heat input, multiplied by the lesser of 3,672 hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(ii) The unit's most stringent State or Federal NO<sub>x</sub> emission limitation multiplied by the unit's maximum design heat input, multiplied by the lesser of 3,672 hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(4) In a NO<sub>x</sub> allowance allocation request under paragraph (2), the NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget unit under § 145.4(a)(2) may request for a control period NO<sub>x</sub> allowances in an amount that does not exceed the lesser of the following:

(i) 0.17 lb/mmBtu multiplied by the unit's maximum design heat input, multiplied by the lesser of 3,672 hours

or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(ii) The unit's most stringent state or Federal NO<sub>x</sub> emission limitation multiplied by the unit's maximum design heat input, multiplied by the lesser of 3,672 hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(5) The Department will review each NO<sub>x</sub> allowance allocation request submitted in accordance with paragraph (2) and will allocate NO<sub>x</sub> allowances pursuant to the request as follows:

(i) Upon receipt of the NO<sub>x</sub> allowance allocation request, the Department will make any necessary adjustments to the request to ensure that the requirements of paragraphs (2)—(4) are met.

(ii) The Department will determine the following amounts:

(A) The sum of the NO<sub>x</sub> allowances requested (as adjusted under subparagraph (i)) in all NO<sub>x</sub> allowance allocation requests under paragraph (2) for the control period.

(B) For units exempt under § 145.4(b) in the state that commenced operation, or are projected to commence operation, on or after May 1, 1997 (for control periods under § 145.41(a)); May 1, 2003 (for control periods under § 145.41(b)); and May 1 of the year 5 years before beginning of the group of 5 years that includes the control period (for control periods under § 145.41(c)), the sum of the NO<sub>x</sub> emission limitations (in tons of NO<sub>x</sub>) on which each unit's exemption under § 145.4(b) is based.

(iii) If the number of NO<sub>x</sub> allowances in the allocation set-aside for the control period less the amount under subparagraph (ii)(B) is not less than the amount determined under subparagraph (ii)(A), the Department will allocate the amount of the NO<sub>x</sub> allowances requested (as adjusted under subparagraph (i)) to the NO<sub>x</sub> budget unit for which the allocation request was submitted.

(iv) If the number of NO<sub>x</sub> allowances in the allocation set-aside for the control period less the amount under subparagraph (ii)(B) is less than the amount determined under subparagraph (ii)(A), the Department will allocate, to the NO<sub>x</sub> budget unit for which the allocation request was submitted, the amount of NO<sub>x</sub> allowances requested (as adjusted under subparagraph (i)) multiplied by the number of NO<sub>x</sub> allowances in the allocation set-aside for the control period less the amount determined under subparagraph (ii)(B), divided by the amount determined under subparagraph (ii)(A), and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(e) Beginning in the 2008 control period, a NO<sub>x</sub> budget unit identified in subsection (d) may, upon request to the Department, receive allocations calculated under subsections (b) and (c). For the Department to grant the request, the NO<sub>x</sub> budget unit shall have at least one complete control period of heat input data measured as specified in §§ 145.70—145.75 (relating to recordkeeping and reporting requirements). If heat input data is available from more than one control period but less than the number of control periods specified in subsection (a)(1)(ii) or (iii), the data will be averaged based on the number of available control periods.

(f) The NO<sub>x</sub> Budget Administrator will take the following action for sources that are allocated NO<sub>x</sub> allowances under subsection (d):

(1) The NO<sub>x</sub> Budget Administrator will deduct NO<sub>x</sub> allowances under § 145.54(b), (e) or (f) to account for the actual heat input of the unit during the control period. The NO<sub>x</sub> Budget Administrator will calculate the number of NO<sub>x</sub> allowances to be deducted to account for the unit's actual heat input using the following formulas and rounding to the nearest whole number of NO<sub>x</sub> allowance as appropriate, provided that the number of NO<sub>x</sub> allowances to be deducted shall be zero if the number calculated is less than zero:

NO<sub>x</sub> allowances deducted for actual heat input for a unit under § 145.4(a)(1) = unit's NO<sub>x</sub> allowances allocated for control period – (unit's actual control period heat input × unit's emission rate × 2,000 lb/ton).

NO<sub>x</sub> allowances deducted for actual heat input for a unit under § 145.4(a)(2) = unit's NO<sub>x</sub> allowances allocated for control period – (unit's actual control period heat input × unit's emission rate × 2,000 lb/ton)

where:

“unit's NO<sub>x</sub> allowances allocated for control period” is the number of NO<sub>x</sub> allowances allocated to the unit for the control period under subsection (d).

“unit's actual control period heat input” is the heat input (in mmBtu) of the unit during the control period.

“unit's emission rate” is the emission rate in lb/mmBtu for the unit as determined under paragraphs (3) and (4).

(2) The NO<sub>x</sub> Budget Administrator will transfer any NO<sub>x</sub> allowances deducted under subsection (c)(1) to the allocation set-aside for the control period for which they were allocated.

(g) After making the deductions for compliance under § 145.54(b), (e) or (f) for a control period, the NO<sub>x</sub> Budget Administrator will determine whether any NO<sub>x</sub> allowances remain in the allocation set-aside for the control period. The NO<sub>x</sub> Budget Administrator will allocate these NO<sub>x</sub> allowances to the NO<sub>x</sub> budget units in the state using the following formula and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate:

unit's share of NO<sub>x</sub> allowances remaining in allocation set-aside = total NO<sub>x</sub> allowances remaining in allocation set-aside × (unit's NO<sub>x</sub> allowance allocation ÷ State's Trading Program Budget excluding allocation set-aside)

where:

“total NO<sub>x</sub> allowances remaining in allocation set-aside” is the total number of NO<sub>x</sub> allowances remaining in the allocation set-aside for the control period.

“unit's NO<sub>x</sub> allowance allocation” is the number of NO<sub>x</sub> allowances allocated under subsection (b) or (c) to the unit for the control period to which the allocation set-aside applies.

“State's Trading Program budget excluding allocation set-aside” is the State's Trading Program budget under § 145.40 for the control period to which the allocation set-aside applies multiplied by 95%, rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(h) If the Department determines that NO<sub>x</sub> allowances were allocated under subsection (b), (c) or (d) for a control period and the recipient of the allocation is not actually a NO<sub>x</sub> budget unit under § 145.4(a), the Department will notify the NO<sub>x</sub> authorized account representative and then will act in accordance with the following procedures:

(1) The NO<sub>x</sub> Budget Administrator will not record these NO<sub>x</sub> allowances for the control period in an account under § 145.53 (relating to recordation of NO<sub>x</sub> allowance allocations).

(i) If the NO<sub>x</sub> Budget Administrator already recorded these NO<sub>x</sub> allowances for the control period in an account under § 145.53 and if the NO<sub>x</sub> Budget Administrator makes this determination before making all deductions under § 145.54 (except deductions under § 145.54(d)(2)) for the control period, the NO<sub>x</sub> Budget Administrator will deduct from the account NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as the NO<sub>x</sub> allowances allocated to the recipient for the control period. The NO<sub>x</sub> authorized account representative shall ensure that the account contains the NO<sub>x</sub> allowances necessary for completion of the deduction. If the account does not contain the necessary NO<sub>x</sub> allowances, the NO<sub>x</sub> Budget Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in the account.

(ii) If the NO<sub>x</sub> Budget Administrator already recorded the NO<sub>x</sub> allowances for the control period in an account under § 145.53 and if the NO<sub>x</sub> Budget Administrator makes this determination after making all deductions under § 145.54 (except deductions under § 145.54(d)(2)) for the control period, then the NO<sub>x</sub> Budget Administrator will apply subparagraph (i) to any subsequent control period for which NO<sub>x</sub> allowances were allocated to the recipient.

(2) The NO<sub>x</sub> Budget Administrator will transfer the NO<sub>x</sub> allowances that are not recorded, or that are deducted, under paragraph (1) to an allocation set-aside for the state in which the source is located.

(i) The Department will publish for comment a list of the allocations in the *Pennsylvania Bulletin*.

#### § 145.43. Compliance supplement pool.

(a) For any NO<sub>x</sub> budget unit that reduces its NO<sub>x</sub> emission rate in the 2001 or 2002 control period, the owners and operators may request early reduction credits in accordance with the following requirements:

(1) Each NO<sub>x</sub> budget unit for which the owners and operators intend to request, or request, any early reduction credits in accordance with paragraph (4) shall monitor and report NO<sub>x</sub> emissions in accordance with this subchapter starting in the 2000 control period and for each control period for which the early reduction credits are requested. The unit's percent monitor data availability may not be less than 90% during the 2000 control period, and the unit shall be in compliance with applicable state or Federal NO<sub>x</sub> emission control requirements during 2000–2002.

(2) NO<sub>x</sub> emission rate and heat input under paragraphs (3) and (4) shall be determined in accordance with this subchapter.

(3) Each NO<sub>x</sub> budget unit for which the owners and operators intend to request, or request, any early reduction credits under paragraph (4) shall reduce its NO<sub>x</sub> emission rate, for each control period for which early

reduction credits are requested, to less than both 0.25 lb/mmBtu and 80% the unit's NO<sub>x</sub> emission rate in the 2000 control period.

(4) The NO<sub>x</sub> authorized account representative of an NO<sub>x</sub> budget unit that meets the requirements of paragraphs (1) and (3) may submit to the Department a request for early reduction credits for the unit based on NO<sub>x</sub> emission rate reductions made by the unit in the control period for 2001 or 2002.

(i) In the early reduction credit request, the NO<sub>x</sub> authorized account representative may request early reduction credits for the control period in an amount equal to the unit's heat input for the control period multiplied by the difference between 0.25 lb/mmBtu and the unit's NO<sub>x</sub> emission rate for the control period, divided by 2000 lb/ton, and rounded to the nearest whole number of tons.

(ii) The early reduction credit request shall be submitted, in a format specified by the Department, by February 1, 2003. Requests submitted after February 1, 2003, will not be accepted.

(b) For any NO<sub>x</sub> budget unit that is subject to the requirements of §§ 123.101—123.120 (relating to NO<sub>x</sub> allowance requirements), the owners and operators may request early reduction credits in accordance with the following requirements:

(1) The NO<sub>x</sub> authorized account representative of the unit may submit to the Department a request for early reduction credits in an amount equal to the amount of banked allowances under §§ 123.101—123.120 that were allocated for the control period in 2001 or 2002 and are held by the unit, in accordance §§ 123.101—123.120, as of the date of submission of the request. During the entire control period in 2001 or 2002 for which the allowances were allocated, the unit shall have monitored and reported NO<sub>x</sub> emissions in accordance the Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program (January 28, 1997).

(2) The early reduction credit request under paragraph (1) shall be submitted, in a format specified by the Department, by February 1, 2003. Requests submitted after February 1, 2003, will not be accepted.

(3) The NO<sub>x</sub> authorized account representative of the unit may not submit a request for early reduction credits under paragraph (1) for banked allowances under the Ozone Transport Commission NO<sub>x</sub> Budget Program that were allocated for any control period during which the unit made NO<sub>x</sub> emission reductions for which he submits a request for early reduction credits under subsection (a) for the unit.

(c) For a NO<sub>x</sub> budget unit that is subject to the requirements of §§ 123.101—123.120 that installs selective catalytic reduction or selective noncatalytic reduction to reduce NO<sub>x</sub> emissions after May 1999, the owners and operators may request control equipment early reduction credits in accordance with the following requirements:

(1) Each NO<sub>x</sub> budget unit for which the owners and operators intend to request, or request early reduction credits in accordance with this subsection shall monitor and report NO<sub>x</sub> emissions in accordance with this chapter.

(2) The unit shall be in compliance with applicable State or Federal NO<sub>x</sub> control requirements.

(3) NO<sub>x</sub> emission rate and heat input under this subsection shall be determined in accordance with this subchapter.

(4) Each NO<sub>x</sub> budget unit shall reduce its NO<sub>x</sub> emissions, for each control period for which early reduction credits are requested, to less than the allowances for the unit established in Chapter 123, Appendix E.

(5) The early reduction credit request shall be submitted, in a format specified by the Department, by February 1, 2003. Requests submitted after February 1, 2003, will not be accepted.

(d) For a NO<sub>x</sub> budget unit that installs and operates innovative control technology, the owners and operators may request innovative technology early reduction credits in accordance with the following requirements:

(1) For purposes of this subsection, innovative control technology is any technology that reduces the emissions of multiple air contaminants, including, at a minimum, NO<sub>x</sub>, SO<sub>2</sub> and mercury, through the application of technology or technology improvements not previously applied to NO<sub>x</sub> budget units in an amount greater than any applicable state or Federal requirement.

(2) The unit shall be in compliance with any applicable State or Federal NO<sub>x</sub> control requirements.

(3) NO<sub>x</sub> emission rate and heat input under this subsection shall be determined in accordance with this subchapter.

(4) The owners and operators of each NO<sub>x</sub> budget unit shall submit a proposal for the development, design and testing of innovative control technology including milestones for completing each phase of the proposal along with a proposal and justification for the number of innovative early reduction credits requested based on the overall air quality benefits of the innovative technology.

(5) The innovative technology proposal shall be completed by and the early reduction credits used by November 30, 2004.

(6) Failure to complete any phase of the proposal by the milestone date established under this section shall result in a loss of allowances in an amount equal to the amount of the innovative early reduction credits granted to the NO<sub>x</sub> budget unit.

(7) The early reduction credit request shall be submitted, in a format specified by the Department, by February 1, 2003. Requests submitted after February 1, 2003, will not be accepted.

(e) The Department will review each early reduction credit request submitted in accordance with subsections (a)—(d) and will allocate NO<sub>x</sub> allowances to NO<sub>x</sub> budget units in a given state and covered by the request as follows:

(1) Upon receipt of each early reduction credit request, the Department will make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirements of subsections (a)—(d).

(2) After February 1, 2003, the Department will publish in the *Pennsylvania Bulletin* a statement of the total number of early reduction credits requested by NO<sub>x</sub> budget units in the State.

(3) Pennsylvania's compliance supplement pool is 15,763 NO<sub>x</sub> allowances.

(i) 1,576 NO<sub>x</sub> allowances are available for the control equipment early reduction credits established under subsection (c).

(ii) 1,576 NO<sub>x</sub> allowances are available for the innovative technology early reduction credits established under subsection (d).

(iii) 12,611 NO<sub>x</sub> allowances are available for the early reduction credits established under subsections (a) and (b).

(iv) Unused early reduction credits established under subparagraphs (i) and (ii) shall be available for the early reduction credits established under subsections (a) and (b).

(v) The compliance supplement pool for upwind states is listed in § 145.100(b) (relating to applicability to upwind states).

(4) If the compliance supplement pool for each of the categories of early reduction credits established in paragraph (3) has a number of NO<sub>x</sub> allowances not less than the amount of early reduction credits in all early reduction credit requests received under subsections (a)—(d) (as adjusted under subsection (e)(1)) submitted by February 1, 2003, the Department will allocate to each NO<sub>x</sub> budget unit covered by the request one allowance for each early reduction credit requested (as adjusted under paragraph (1)).

(5) If the compliance supplement pool has a smaller number of NO<sub>x</sub> allowances for any of the categories of early reduction credits established in paragraph (3) than the amount of early reduction credits in all early reduction requests under subsections (a)—(d) for 2001 and 2002 (as adjusted under paragraph (1)) submitted by February 1, 2003, the Department will allocate NO<sub>x</sub> allowances for each of the categories established in paragraph (3) to each NO<sub>x</sub> budget unit covered by the requests according to the following formula and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate. This prorata allocation will be performed for allocations under subsections (c) and (d) and any requests for NO<sub>x</sub> allowances that are not fully allocated shall be available for allocation under subsections (a) and (b) if they otherwise qualify under those subsections:

$$\text{unit's allocation for early reduction credits} = \frac{\text{unit's adjusted early reduction credits} \times (\text{State's compliance supplement pool})}{\text{total adjusted early reduction credits for all units}}$$

where:

“unit's allocation for early reduction credits” is the number of NO<sub>x</sub> allowances allocated to the unit for early reduction credits.

“unit's adjusted early reduction credits” is the amount of early reduction credits requested for the unit for 2001 and 2002 in early reduction credit requests under subsection (a)—(d), as adjusted under paragraph (1).

“States compliance supplement pool” is the number of NO<sub>x</sub> allowances for each category of early reduction credits established in paragraph (3).

“total adjusted early reduction credits for all units” is the amount of early reduction credits requested for all units for 2001 and 2002 in early reduction credit requests under subsections (a)—(d), as adjusted under paragraph (1).

(6) By April 1, 2003, the Department will determine the allocations under paragraph (4) or (5). The Department will make available to the public each determination of NO<sub>x</sub> allowance allocations and will provide an opportunity for comment. Based on these comments, the

Department will adjust each determination to the extent necessary to ensure that it is in accordance with paragraph (1), (4) or (5).

(7) By May 1, 2003, the NO<sub>x</sub> Budget Administrator will record the allocations under paragraph (3) or (5).

(8) NO<sub>x</sub> allowances recorded under paragraph (7) may be deducted for compliance under § 145.54 (relating to compliance) for the control period in 2003 or 2004. Notwithstanding § 145.55(a) (relating to banking), the NO<sub>x</sub> Budget Administrator will deduct as retired any NO<sub>x</sub> allowance that is recorded under paragraph (7) and that is not deducted for compliance under § 145.54 for the control period in 2003 or 2004.

(9) NO<sub>x</sub> allowances recorded under paragraph (7) are treated as banked allowances in 2004 for the purposes of §§ 145.54(f) and 145.55(b).

### ACCOUNTING PROCESS FOR DEPOSIT, USE AND TRANSFER OF ALLOWANCES

#### § 145.50. NO<sub>x</sub> Allowance Tracking System accounts.

(a) *Nature and function of compliance accounts and overdraft accounts.* Consistent with § 145.51(a) (relating to establishment of accounts), the NO<sub>x</sub> Budget Administrator will establish one compliance account for each NO<sub>x</sub> budget unit and one overdraft account for each source with two or more NO<sub>x</sub> budget units. Allocations of NO<sub>x</sub> allowances under §§ 145.40—145.42 or § 145.88 (relating to NO<sub>x</sub> allowance allocations; and opt-in source change in regulatory status) and deductions or transfers of NO<sub>x</sub> allowances under § 145.31, § 145.54, § 145.56, §§ 145.60—145.62 or §§ 145.80—145.88 will be recorded in the compliance accounts or overdraft accounts.

(b) *Nature and function of general accounts.* Consistent with § 145.51(b) (relating to establishment of accounts), the NO<sub>x</sub> Budget Administrator will establish, upon request, a general account for any person. Transfers of allowances under §§ 145.60—145.62 (relating to NO<sub>x</sub> allowance transfers) will be recorded in the general account.

#### § 145.51. Establishment of accounts.

(a) *Compliance accounts and overdraft accounts.* Upon receipt of a complete account certificate of representation under § 145.13 (relating to account certificate of representation), the NO<sub>x</sub> Budget Administrator will establish the following:

(1) A compliance account for each NO<sub>x</sub> budget unit for which the account certificate of representation was submitted.

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NO<sub>x</sub> budget units.

(b) *General accounts.*

(1) *Elements for account.*

(i) A person may apply to open a general account for the purpose of holding and transferring allowances. A complete application for a general account shall be submitted to the NO<sub>x</sub> Budget Administrator and shall include the following elements in a format prescribed by the NO<sub>x</sub> Budget Administrator:

(A) The name, mailing address, e-mail address (if any), telephone number and facsimile transmission number (if any) of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative.

(B) The organization name and type of organization.



(C) A list of all persons subject to a binding agreement for the NO<sub>x</sub> authorized account representative or any alternate NO<sub>x</sub> authorized account representative to represent their ownership interest with respect to the allowances held in the general account.

(D) The following certification statement by the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative:

“I certify that I was selected as the NO<sub>x</sub> authorized account representative or the NO<sub>x</sub> alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO<sub>x</sub> Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Department, Administrator or a court regarding the general account.”

(E) The signature of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative and the dates signed.

(i) Unless otherwise required by the NO<sub>x</sub> Budget Administrator, documents of agreement referred to in the account certificate of representation may not be submitted to the NO<sub>x</sub> Budget Administrator. The Department or NO<sub>x</sub> Budget Administrator are not under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(2) *Receipt of complete application.* Upon receipt by the NO<sub>x</sub> Budget Administrator of a complete application for a general account under paragraph (1):

(i) The NO<sub>x</sub> Budget Administrator will establish a general account for the person for whom the application is submitted.

(ii) The NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative for the general account shall represent and, by his representations, actions, inactions or submissions, legally bind each person who has an ownership interest with respect to NO<sub>x</sub> allowances held in the general account in all matters pertaining to the NO<sub>x</sub> Budget Trading Program, notwithstanding an agreement between the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative and the person. This person shall be bound by any order or decision issued to the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative by the Department, the Administrator or a court regarding the general account.

(iii) Each submission concerning the general account shall be submitted, signed and certified by the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative for the persons having an ownership interest with respect to NO<sub>x</sub> allowances held in the general account. Each submission shall include the following certification statement by the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative:

“I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO<sub>x</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this docu-

ment and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

(iv) The NO<sub>x</sub> Budget Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed and certified in accordance with subparagraph (iii).

(3) *Representative designation.*

(i) An application for a general account may designate only one NO<sub>x</sub> authorized account representative and one alternate NO<sub>x</sub> authorized account representative who may act on behalf of the NO<sub>x</sub> authorized account representative. The agreement by which the alternate NO<sub>x</sub> authorized account representative is selected shall include a procedure for authorizing the alternate NO<sub>x</sub> authorized account representative to act in lieu of the NO<sub>x</sub> authorized account representative.

(ii) Upon receipt by the NO<sub>x</sub> Budget Administrator of a complete application for a general account under paragraph (1), any representation, action, inaction or submission by an alternate NO<sub>x</sub> authorized account representative shall be deemed to be a representation, action, inaction or submission by the NO<sub>x</sub> authorized account representative.

(4) *Revising the account representative.*

(i) The NO<sub>x</sub> authorized account representative for a general account may be changed at any time upon receipt by the NO<sub>x</sub> Budget Administrator of a superseding complete application for a general account under paragraph (1). Notwithstanding a change, the representations, actions, inactions and submissions by the previous NO<sub>x</sub> authorized account representative prior to the time and date when the NO<sub>x</sub> Budget Administrator receives the superseding application for a general account shall be binding on the new NO<sub>x</sub> authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(ii) The alternate NO<sub>x</sub> authorized account representative for a general account may be changed at any time upon receipt by the NO<sub>x</sub> Budget Administrator of a superseding complete application for a general account under paragraph (1). Notwithstanding a change, the representations, actions, inactions and submissions by the previous alternate NO<sub>x</sub> authorized account representative prior to the time and date when the NO<sub>x</sub> Budget Administrator receives the superseding application for a general account shall be binding on the new alternate NO<sub>x</sub> authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(iii) A revision of ownership listing shall include the following:

(A) If a new person having an ownership interest with respect to NO<sub>x</sub> allowances in the general account is not included in the list of persons in the account certificate of representation, the new person shall be subject to and bound by the account certificate of representation, the representation, actions, inactions and submissions of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative of the source or

unit, and the decisions, orders, actions and inactions of the NO<sub>x</sub> Budget Administrator, as if the new person were included in the list.

(B) Within 30 days following any change in the persons having an ownership interest with respect to NO<sub>x</sub> allowances in the general account, including the addition of persons, the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO<sub>x</sub> allowances in the general account to include the change.

(5) *Reliance on application.*

(i) Once a complete application for a general account under paragraph (1) has been submitted and received, the NO<sub>x</sub> Budget Administrator will rely on the application until a superseding complete application for a general account under paragraph (1) is received by the NO<sub>x</sub> Budget Administrator.

(ii) Except as provided in paragraph (4), no objection or other communication submitted to the NO<sub>x</sub> Budget Administrator concerning the authorization, or any representation, action, inaction or submission of the NO<sub>x</sub> authorized account representative or any alternate NO<sub>x</sub> authorized account representative for a general account will affect any representation, action, inaction or submission of the NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative or the finality of a decision or order by the Department or NO<sub>x</sub> Budget Administrator under the NO<sub>x</sub> Budget Trading Program.

(iii) The Department or NO<sub>x</sub> Budget Administrator will not adjudicate a private legal dispute concerning the authorization or representation, action, inaction or submission of the NO<sub>x</sub> authorized account representative or any alternate NO<sub>x</sub> authorized account representative for a general account, including private legal disputes concerning the proceeds of NO<sub>x</sub> allowance transfers.

(c) *Account identification.* The NO<sub>x</sub> Budget Administrator will assign a unique identifying number to each account established under subsection (a) or (b).

**§ 145.52. NO<sub>x</sub> Allowance Tracking System responsibilities of NO<sub>x</sub> authorized account representative.**

(a) *Establishment of account.* Following the establishment of a NO<sub>x</sub> Allowance Tracking System account, the submissions to the Department or the NO<sub>x</sub> Budget Administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO<sub>x</sub> allowances in the account, shall be made only by the NO<sub>x</sub> authorized account representative for the account.

(b) *Authorized account representative identification.* The NO<sub>x</sub> Budget Administrator will assign a unique identifying number to each NO<sub>x</sub> authorized account representative.

**§ 145.53. Recordation of NO<sub>x</sub> allowance allocations.**

(a) The NO<sub>x</sub> Budget Administrator will record the NO<sub>x</sub> allowances for 2003 in the NO<sub>x</sub> budget units' compliance accounts and the allocation set-asides, as allocated under §§ 145.40—145.43 (relating to NO<sub>x</sub> allowance allocations). The NO<sub>x</sub> Budget Administrator will also record the NO<sub>x</sub> allowances allocated under § 145.88(a)(1) (relating to NO<sub>x</sub> allowance allocations to opt-in units) for each NO<sub>x</sub> budget opt-in source in its compliance account. NO<sub>x</sub> allowances under § 145.4(b)(4)(ii) or § 145.5(c)(2) (relat-

ing to applicability; and retired unit exemption) will be recorded in the general account specified by the owners and operators of the unit.

(b) By May 1, 2001, the NO<sub>x</sub> Budget Administrator will record the NO<sub>x</sub> allowances for 2004 for a NO<sub>x</sub> budget unit allocated under §§ 145.40—145.43 in the unit's compliance account, except for NO<sub>x</sub> allowances under § 145.4(b)(4)(ii) or § 145.5(c)(2), which will be recorded in the general account specified by the owners and operators of the unit. The NO<sub>x</sub> Budget Administrator will record NO<sub>x</sub> allowances for 2004 for a NO<sub>x</sub> budget opt-in unit in the unit's compliance account as allocated under § 145.88(a).

(c) By May 1, 2002, the NO<sub>x</sub> Budget Administrator will record the NO<sub>x</sub> allowances for 2005 for a NO<sub>x</sub> budget unit allocated under §§ 145.40—145.43 in the unit's compliance account, except for NO<sub>x</sub> allowances under § 145.4(b)(4)(ii) or § 145.5(c)(2), which will be recorded in the general account specified by the owners and operators of the unit. The NO<sub>x</sub> Budget Administrator will record NO<sub>x</sub> allowances for 2005 for a NO<sub>x</sub> budget opt-in unit in the unit's compliance account as allocated under § 145.88(a) (relating to NO<sub>x</sub> allowances allocations to opt-in units).

(d) By May 1, 2003, the NO<sub>x</sub> Budget Administrator will record the NO<sub>x</sub> allowances for 2006 for a NO<sub>x</sub> budget unit allocated under §§ 145.40—145.43 in the unit's compliance account, except for NO<sub>x</sub> allowances under § 145.4(b)(4)(ii) or § 145.5(c)(2), which will be recorded in the general account specified by the owners and operators of the unit. The NO<sub>x</sub> Budget Administrator will record NO<sub>x</sub> allowances for 2006 for a NO<sub>x</sub> budget opt-in unit in the unit's compliance account as allocated under § 145.88(a).

(e) Each year starting with 2004, after the NO<sub>x</sub> Budget Administrator has made all deductions from a NO<sub>x</sub> budget unit's compliance account and the overdraft account under § 145.54 (relating to compliance) (except deductions under § 145.54(d)(2)), the NO<sub>x</sub> Budget Administrator will record the following:

(1) NO<sub>x</sub> allowances, in the compliance account, as allocated to the unit under §§ 145.40—145.43 for the third year after the year of the control period for which the deductions were or could have been made.

(2) NO<sub>x</sub> allowances, in the general account specified by the owners and operators of the unit, as allocated under § 145.4(b)(4)(ii) or § 145.5(c)(2) for the third year after the year of the control period for which the deductions are or could have been made.

(3) NO<sub>x</sub> allowances, in the compliance account, as allocated to the unit under § 145.88(a).

(f) Each NO<sub>x</sub> allowance will be assigned a unique identification number that will include digits identifying the year for which the NO<sub>x</sub> allowance is allocated.

**§ 145.54. Compliance.**

(a) *NO<sub>x</sub> allowance transfer deadline.* The NO<sub>x</sub> allowances are available to be deducted for compliance with a unit's NO<sub>x</sub> budget emissions limitation for a control period in a given year only if the NO<sub>x</sub> allowances meet the following conditions:

(1) The allowances are allocated for a control period in a prior year or the same year.

(2) The allowances are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO<sub>x</sub> allowance transfer deadline

for that control period or are transferred into the compliance account or overdraft account by a NO<sub>x</sub> allowance transfer correctly submitted for recordation under § 145.60 (relating to submission of NO<sub>x</sub> allowance transfers) by the NO<sub>x</sub> allowance transfer deadline for that control period.

(b) *Deductions for compliance.*

(1) Following the recordation, in accordance with § 145.61 (relating to NO<sub>x</sub> transfer recordation), of NO<sub>x</sub> allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO<sub>x</sub> allowance transfer deadline for a control period, the NO<sub>x</sub> Budget Administrator will deduct NO<sub>x</sub> allowances available under subsection (a) to cover the unit's NO<sub>x</sub> emissions (as determined in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements)), or to account for actual heat input under § 145.42(e) (relating to NO<sub>x</sub> allowance allocations), for the control period:

(i) From the compliance account.

(ii) Only if no more NO<sub>x</sub> allowances available under subsection (a) remain in the compliance account, from the overdraft account. In deducting allowances for units at the source from the overdraft account, the NO<sub>x</sub> Budget Administrator will begin with the unit having the compliance account with the lowest NO<sub>x</sub> Allowance Tracking System account number and end with the unit having the compliance account with the highest NO<sub>x</sub> Allowance Tracking System account number (with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters).

(2) NO<sub>x</sub> allowances will be deducted first under subparagraph (i) and then under subparagraph (ii):

(i) Until the number of NO<sub>x</sub> allowances deducted for the control period equals the number of tons of NO<sub>x</sub> emissions, determined in accordance with §§ 145.70—145.76, from the unit for the control period for which compliance is being determined, plus the number of NO<sub>x</sub> allowances required for deduction to account for actual heat input under § 145.42(e) for the control period.

(ii) Until no more NO<sub>x</sub> allowances available under subsection (a) remain in the respective account.

(c) *Allowance identification.*

(1) *Identification of NO<sub>x</sub> allowances by serial number.* The NO<sub>x</sub> authorized account representative for each compliance account may identify by serial number the NO<sub>x</sub> allowances to be deducted from the unit's compliance account under subsection (b), (d), (e) or (f). The identification shall be made in the compliance certification report submitted in accordance with § 145.30 (relating to compliance certification report).

(2) *First-in, first-out.* NO<sub>x</sub> allowances will be deducted for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO<sub>x</sub> allowances by serial number under paragraph (1), or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Those NO<sub>x</sub> allowances that were allocated for the control period to the unit under §§ 145.40—145.43 or §§ 145.80—145.88 (relating to NO<sub>x</sub> allowance allocations; and opt-in process).

(ii) Those NO<sub>x</sub> allowances that were allocated for the control period to any unit and transferred and recorded in

the account under §§ 145.60—145.62 (relating to NO<sub>x</sub> allowance transfers), in order of their date of recordation.

(iii) Those NO<sub>x</sub> allowances that were allocated for a prior control period to the unit under §§ 145.40—145.43 or §§ 145.80—145.88.

(iv) Those NO<sub>x</sub> allowances that were allocated for a prior control period to any unit and transferred and recorded in the account under §§ 145.60—145.62, in order of their date of recordation.

(d) *Deductions for excess emissions.*

(1) After making the deductions for compliance under subsection (b), the NO<sub>x</sub> Budget Administrator will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO<sub>x</sub> allowances, allocated for a control period after the control period in which the unit has excess emissions, equal to three times the number of the unit's excess emissions.

(2) If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the NO<sub>x</sub> Budget Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(3) An allowance deduction required under subsection (d) does not affect the liability of the owners and operators of the NO<sub>x</sub> budget unit for any fine, penalty or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or the act. The following guidelines will be followed in assessing fines, penalties or other obligations:

(i) For purposes of determining the number of days of violation, if a NO<sub>x</sub> budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(ii) Each ton of excess emissions is a separate violation.

(e) *Deductions for units sharing a common stack.* In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with §§ 145.70—145.76:

(1) The NO<sub>x</sub> authorized account representative of the units may identify the percentage of NO<sub>x</sub> allowances to be deducted from each unit's compliance account to cover the unit's share of NO<sub>x</sub> emissions from the common stack for a control period. The identification shall be made in the compliance certification report submitted in accordance with § 145.30.

(2) Notwithstanding subsection (b)(2)(i), the NO<sub>x</sub> Budget Administrator will deduct NO<sub>x</sub> allowances for each unit until the number of NO<sub>x</sub> allowances deducted equals the unit's identified percentage (under paragraph (1)) of the number of tons of NO<sub>x</sub> emissions, as determined in accordance with §§ 145.70—145.76, from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each unit, plus the number of allowances required for deduction to account for actual heat input under § 145.42(e) for the control period.

(f) *Deduction of banked allowances.* Each year starting in 2005, after the NO<sub>x</sub> Budget Administrator has completed the designation of banked allowances under § 145.55(b) (relating to banking) and before May 1 of the year, the NO<sub>x</sub> Budget Administrator will determine the

extent to which banked NO<sub>x</sub> allowances otherwise available under subsection (a) are available for compliance in the control period for the current year as follows:

(1) The NO<sub>x</sub> Budget Administrator will determine the total number of banked NO<sub>x</sub> allowances held in compliance accounts, overdraft accounts or general accounts.

(2) If the total number of banked NO<sub>x</sub> allowances determined, under paragraph (1), to be held in compliance accounts, overdraft accounts or general accounts is less than or equal to 10% of the sum of the trading program budgets under § 145.40 (relating to State Trading Program budget) for all states for the control period, any banked NO<sub>x</sub> allowance may be deducted for compliance in accordance with subsections (a)—(e).

(3) If the total number of banked NO<sub>x</sub> allowances determined, under paragraph (1) to be held in compliance accounts, overdraft accounts or general accounts exceeds 10% of the sum of the trading program budgets under § 145.40 for Pennsylvania and the trading program budgets approved by the administrator for other states participating in the NO<sub>x</sub> budget trading program for the control period, any banked allowance may be deducted for compliance in accordance with subsections (a)—(e), except as follows:

(i) The NO<sub>x</sub> Budget Administrator will determine the following ratio: 0.10 multiplied by the sum of the trading program budgets under § 145.40 for all states for the control period and divided by the total number of banked NO<sub>x</sub> allowances determined, under paragraph (1), to be held in compliance accounts, overdraft accounts, or general accounts.

(ii) The NO<sub>x</sub> Budget Administrator will multiply the number of banked NO<sub>x</sub> allowances in each compliance account or overdraft account by the ratio determined under subparagraph (i). The resulting product is the number of banked NO<sub>x</sub> allowances in the account that may be deducted for compliance in accordance with subsections (a)—(e), except that, if the NO<sub>x</sub> allowances are used to make a deduction under subsection (b) or (e), two (rather than one), these NO<sub>x</sub> allowances shall authorize up to 1 ton of NO<sub>x</sub> emissions during the control period and shall be deducted for each deduction of one NO<sub>x</sub> allowance required under subsection (b) or (e).

(g) The NO<sub>x</sub> Budget Administrator will record in the appropriate compliance account or overdraft account all deductions from the account under subsection (b), (d) or (f).

#### § 145.55. Banking.

NO<sub>x</sub> allowances may be banked for future use or transfer in a compliance account, an overdraft account or a general account, as follows:

(1) A NO<sub>x</sub> allowance that is held in a compliance account, an overdraft account or a general account will remain in the account until the NO<sub>x</sub> allowance is deducted or transferred under § 145.31, § 145.54, § 145.56, §§ 145.60—145.62 or §§ 145.80—145.88.

(2) The NO<sub>x</sub> Budget Administrator will designate, as a "banked" NO<sub>x</sub> allowance, a NO<sub>x</sub> allowance that remains in a compliance account, an overdraft account or a general account after deductions have been made for a given control period from the compliance account or overdraft account under § 145.54 (relating to compliance) (except deductions under § 145.54(d)(2)) and that were allocated for that control period or a control period in a prior year).

#### § 145.56. Account error.

The NO<sub>x</sub> Budget Administrator may correct any error in any NO<sub>x</sub> Allowance Tracking System account. Within 10 business days of making the correction, the NO<sub>x</sub> Budget Administrator will notify the NO<sub>x</sub> authorized account representative for the account.

#### § 145.57. Closing of general accounts.

(a) The NO<sub>x</sub> authorized account representative of a general account may instruct the NO<sub>x</sub> Budget Administrator to close the account by submitting a statement requesting deletion of the account from the NO<sub>x</sub> Allowance Tracking System and by correctly submitting for recordation under § 145.60 (relating to submission of NO<sub>x</sub> allowance transfers) an allowance transfer of all NO<sub>x</sub> allowances in the account to one or more other NO<sub>x</sub> Allowance Tracking System accounts.

(b) If a general account shows no activity for 1 year or more and does not contain any NO<sub>x</sub> allowances, the NO<sub>x</sub> Budget Administrator may notify the NO<sub>x</sub> authorized account representative for the account that the account will be closed and deleted from the NO<sub>x</sub> Allowance Tracking System following 20 business days after the notice is sent. The account will be closed after the 20-day period unless before the end of the 20-day period the NO<sub>x</sub> Budget Administrator receives a correctly submitted transfer of NO<sub>x</sub> allowances into the account under § 145.60 or a statement submitted by the NO<sub>x</sub> authorized account representative requesting that the account should not be closed.

### NO<sub>x</sub> ALLOWANCE TRANSFERS

#### § 145.60. Submission of NO<sub>x</sub> allowance transfers.

The NO<sub>x</sub> authorized account representatives seeking recordation of a NO<sub>x</sub> allowance transfer shall submit the transfer to the NO<sub>x</sub> Budget Administrator. To be considered correctly submitted, the NO<sub>x</sub> allowance transfer shall include the following elements in a format specified by the NO<sub>x</sub> Budget Administrator:

(1) The numbers identifying both the transferor and transferee accounts.

(2) A specification by serial number of each NO<sub>x</sub> allowance to be transferred.

(3) The printed name and signature of the NO<sub>x</sub> authorized account representative of the transferor account and the date signed.

#### § 145.61. NO<sub>x</sub> transfer recordation.

(a) Within 5 business days of receiving a NO<sub>x</sub> allowance transfer, except as provided in subsection (b), the NO<sub>x</sub> Budget Administrator will record a NO<sub>x</sub> allowance transfer by moving each NO<sub>x</sub> allowance from the transferor account to the transferee account as specified by the request, if the following conditions are met (relating to submission of NO<sub>x</sub> allowance transfers):

(1) The transfer is correctly submitted under § 145.60 (relating to submission of NO<sub>x</sub> allowance transfers).

(2) The transferor account includes each NO<sub>x</sub> allowance identified by serial number in the transfer.

(b) A NO<sub>x</sub> allowance transfer that is submitted for recordation following the NO<sub>x</sub> allowance transfer deadline and that includes any NO<sub>x</sub> allowances allocated for a control period prior to or the same as the control period to which the NO<sub>x</sub> allowance transfer deadline applies will not be recorded until after completion of the process of recordation of NO<sub>x</sub> allowance allocations in § 145.53

(relating to recordation of NO<sub>x</sub> allowance allocations) in the same year as the NO<sub>x</sub> allowance transfer deadline.

(c) A NO<sub>x</sub> allowance transfer submitted for recordation that fails to meet the requirements of subsection (a) will not be recorded.

**§ 145.62. Notification.**

(a) *Notification of recordation.* Within 5 business days of recordation of a NO<sub>x</sub> allowance transfer under § 145.61 (relating to NO<sub>x</sub> transfer recordation), the NO<sub>x</sub> Budget Administrator will notify each party to the transfer. Notice will be given to the NO<sub>x</sub> authorized account representatives of both the transferor and transferee accounts.

(b) *Notification of nonrecordation.* Within 10 business days of receipt of a NO<sub>x</sub> allowance transfer that fails to meet the requirements of § 145.61(a), the NO<sub>x</sub> Budget Administrator will notify the NO<sub>x</sub> authorized account representatives of both accounts subject to the transfer of:

- (1) A decision not to record the transfer.
- (2) The reasons for the nonrecordation.

(c) *Resubmission.* Nothing in this section precludes the submission of a NO<sub>x</sub> allowance transfer for recordation following notification of nonrecordation.

**RECORDKEEPING AND REPORTING REQUIREMENTS**

**§ 145.70. General monitoring requirements.**

The owners and operators, and to the extent applicable, the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget unit, shall comply with the monitoring and reporting requirements as provided in this section and §§ 145.71—145.76 (relating to recordkeeping and reporting requirements) and in 40 CFR Part 75, Subpart H (relating to continuous emission monitoring). For purposes of complying with these requirements, the definitions in § 145.2 (relating to definitions) and in 40 CFR 72.2 (relating to definitions) apply, and the terms “affected unit,” “designated representative” and “continuous emission monitoring system” (or “CEMS”) in 40 CFR Part 75 shall be replaced by the terms “NO<sub>x</sub> budget unit,” “NO<sub>x</sub> authorized account representative” and “continuous emission monitoring system” (or “CEMS”), respectively, as defined in § 145.2. The owner and operator of a unit that is not a NO<sub>x</sub> budget unit but that is monitored under 40 CFR 75.72(b)(2)(ii) shall comply with the monitoring, recordkeeping and reporting requirements for a NO<sub>x</sub> budget unit under this subchapter.

(1) *Requirements for installation, certification and data accounting.* The owner or operator of each NO<sub>x</sub> budget unit shall meet the following requirements. These provisions also apply to a unit for which an application for a NO<sub>x</sub> budget opt-in approval is submitted and not denied or withdrawn, as provided in §§ 145.80—145.88 (relating to opt-in process).

(i) Install all monitoring systems required under this subchapter for monitoring NO<sub>x</sub> mass emissions. This includes all systems required to monitor NO<sub>x</sub> emission rate, NO<sub>x</sub> concentration, heat input rate and stack flow rate, in accordance with 40 CFR Part 75, Subpart H.

(ii) Install the monitoring systems for monitoring heat input.

(iii) Successfully complete the certification tests required under § 145.71 (relating to initial certification and recertification procedures) and meet all other provisions

of this subchapter and 40 CFR Part 75 applicable to the monitoring systems under subparagraphs (i) and (ii).

(iv) Record, report and quality-assure the data from the monitoring systems under subparagraphs (i) and (ii).

(2) *Compliance dates.* The owner or operator shall meet the requirements of paragraph (1)(i)—(iii) on or before the following dates and shall record and report data on and after the following dates:

(i) NO<sub>x</sub> budget units for which the owner or operator intends to apply for early reduction credits under § 145.43(a) or (c) (relating to compliance supplement pool) shall comply with this section and §§ 145.71—145.76 by May 1, 2000, except that compliance with § 123.108 (relating to source emissions monitoring requirements) may be used as an alternative monitoring method for the 2000 control period. If the owner or operator of a NO<sub>x</sub> budget unit fails to meet this deadline, the owner or operator is not eligible to apply for early reduction credits under § 145.43(a) or (c) and is subject to the deadline under subparagraph (ii).

(ii) Except for NO<sub>x</sub> budget units under subparagraph (i), NO<sub>x</sub> budget units under § 145.4 (relating to applicability) that commence operation before January 1, 2002, shall comply with this section and §§ 145.71—145.76 by May 1, 2002.

(iii) NO<sub>x</sub> budget units under § 145.4(a)(1) that commence operation on or after January 1, 2002, and that report on an annual basis under § 145.74(d) (relating to recordkeeping and reporting) shall comply with the requirements of this section and §§ 145.71—145.76 by the later of the following dates:

(A) May 1, 2002.

(B) Ninety days after the date on which the unit commences commercial operation.

(iv) NO<sub>x</sub> budget units under § 145.4(a)(1) that commence operation on or after January 1, 2002, and that report on a control season basis under § 145.74(d)(2)(ii) shall comply with this section and §§ 145.71—145.76 within 90 days after the date on which the unit commences commercial operation, provided that this date is during a control period. If this date does not occur during a control period, the applicable deadline is May 1 immediately following this date.

(v) For the owner or operator of a NO<sub>x</sub> budget unit under § 145.4(a)(2) that commences operation on or after January 1, 2002, and that reports on an annual basis under § 145.72(d) (relating to out of control periods), by the later of the following dates:

(A) May 1, 2002.

(B) One hundred-eighty days after the date on which the unit commences operation.

(vi) For the owner or operator of a NO<sub>x</sub> budget unit under § 145.4(a)(2) that commences operation on or after January 1, 2002, and that reports on a control period basis under § 145.72(d)(2)(ii) (relating to out of control periods), by 180 days after the date on which the unit commences operation, provided that this date is during a control period. If this date does not occur during a control period, the applicable deadline is May 1 immediately following this date.

(vii) For a NO<sub>x</sub> budget unit with a new stack or flue for which construction is completed after the applicable deadline under subparagraph (i), (ii), (iii), (iv), (v) or (vi) or §§ 145.80—145.88 and that reports on an annual basis

under § 145.72(d), 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue.

(viii) For the owner or operator of a NO<sub>x</sub> budget unit that has a new stack or flue for which construction is completed after the applicable deadline under subparagraph (i), (ii), (iii), (iv), (v) or (vi) or §§ 145.80—145.88 and that reports on a control period basis under § 145.72(d)(2)(ii), by 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue, provided that this date is during a control period. If this date does not occur during the control period, the applicable deadline is May 1 immediately following this date.

(ix) For a unit for which an application for a NO<sub>x</sub> budget opt-in approval is submitted and not denied or withdrawn, the compliance dates specified under §§ 145.80—145.88.

(3) *Reporting data prior to initial certification.* The owner or operator of a NO<sub>x</sub> budget unit under paragraph (2)(iii), (iv), (v) or (vi) shall determine, record and report NO<sub>x</sub> mass emissions, heat input rate, and any other values required to determine NO<sub>x</sub> mass emissions (for example, NO<sub>x</sub> emission rate and heat input rate, or NO<sub>x</sub> concentration and stack flow rate) in accordance with 40 CFR 75.70(g) (relating to NO<sub>x</sub> mass emissions provisions), from the date and hour that the unit starts operating until the date and hour on which the continuous emission monitoring system, excepted monitoring system under 40 CFR Part 75, Appendix D or E, or excepted monitoring system under 40 CFR 75.19 (relating to optional SO<sub>2</sub>, NO<sub>x</sub>, and CO<sub>2</sub> emissions calculation for low mass emissions units) is provisionally certified.

(4) *Prohibitions.*

(i) An owner or operator of a NO<sub>x</sub> budget unit or a non-NO<sub>x</sub> budget unit may not use an alternative monitoring system, alternative reference method or another alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with § 145.75 (relating to petitions).

(ii) An owner or operator of a NO<sub>x</sub> budget unit or a non-NO<sub>x</sub> budget unit may not operate the unit so as to discharge, or allow to be discharged, NO<sub>x</sub> emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this subchapter and 40 CFR Part 75 except as provided for in 40 CFR 75.74 (relating to annual and ozone season monitoring and reporting requirements).

(iii) An owner or operator of a NO<sub>x</sub> budget unit or a non-NO<sub>x</sub> budget unit may not disrupt the continuous emission monitoring system, a portion thereof or another approved emission monitoring method, and thereby avoid monitoring and recording NO<sub>x</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this subchapter and 40 CFR Part 75 except as provided for in 40 CFR 75.74.

(iv) An owner or operator of a NO<sub>x</sub> budget unit or a non-NO<sub>x</sub> budget unit may not retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subchapter, except under one of the following circumstances:

(A) During the period that the unit is covered by an exemption under § 145.4(b) or § 145.5 (relating to applicability; and retired unit exemption) that is in effect.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this subchapter and 40 CFR Part 75, by the Department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The NO<sub>x</sub> authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with § 145.71(b)(2) (relating to initial certification and recertification procedures).

(5) Notwithstanding the provisions of this section and §§ 145.71—145.76, sources that are also subject to the monitoring provisions of Chapter 139 (relating to sampling and testing) shall demonstrate compliance with those provisions in addition to the provisions of this section and §§ 145.71—145.76.

**§ 145.71. Initial certification and recertification procedures.**

(a) The owner or operator of a NO<sub>x</sub> budget unit that is subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR Part 75 (relating to continuous emission monitoring), except that:

(1) If, prior to January 1, 1998, the Administrator approved a petition under 40 CFR 75.17(a) or (b) (relating to specific provisions for monitoring emissions from common, bypass, and multiple stacks for NO<sub>x</sub> emission rate) for apportioning the NO<sub>x</sub> emission rate measured in a common stack or a petition under 40 CFR 75.66 (relating to petitions to the Administrator) for an alternative to a requirement in 40 CFR 75.17, the NO<sub>x</sub> authorized account representative shall resubmit the petition to the Administrator under § 145.75(a) (relating to petitions) to determine if the approval applies under the NO<sub>x</sub> Budget Trading Program.

(2) For additional CEMS required under the common stack provisions in 40 CFR 75.72 (relating to determination of NO<sub>x</sub> mass emissions), or for NO<sub>x</sub> concentration CEMS used under 40 CFR 75.71(a)(2) (relating to specific provisions for monitoring NO<sub>x</sub> emission rate and heat input for the purpose of calculating NO<sub>x</sub> mass emissions), the owner or operator shall meet the requirements of subsection (b).

(b) The owner or operator of a NO<sub>x</sub> budget unit that is not subject to an acid rain emissions limitation shall comply with the following initial certification and recertification procedures. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 (relating to optional SO<sub>2</sub>, NO<sub>x</sub> and CO<sub>2</sub> emissions calculation for low mass emissions unit) or that qualifies to use an alternative monitoring system under 40 CFR Part 75, Subpart E (relating to alternative monitoring systems) shall comply with the following procedures, as modified by subsection (c) or (d). The owner or operator of a NO<sub>x</sub> budget unit that is subject to an acid rain emissions limitation, but requires additional CEMS under the common stack provisions in 40 CFR 75.72, or that uses a NO<sub>x</sub> concentration CEMS under 40 CFR 75.71(a)(2) also shall comply with the following initial certification and recertification procedures:

(1) *Requirements for initial certification.* The owner or operator shall ensure that each monitoring system required by 40 CFR Part 75, Subpart H (relating to NO<sub>x</sub> mass emissions provisions) (which includes the automated

data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 (relating to certification and recertification procedures). The owner or operator shall ensure that the applicable certification tests are successfully completed by the deadlines specified in § 145.70(2) (relating to general monitoring requirements). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this subchapter in a location where no monitoring system was previously installed, initial certification according to 40 CFR 75.20 is required.

(2) *Requirements for recertification.* Whenever the owner or operator makes a replacement, modification or change in a certified monitoring system that may significantly affect the ability of the system to accurately measure or record NO<sub>x</sub> mass emissions or heat input rate or to meet the requirements of 40 CFR 75.21 (relating to quality assurance and quality control requirements) or 40 CFR Part 75, Appendix B (relating to quality assurance and quality control), the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Whenever the owner or operator makes a replacement, modification or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to 40 CFR 75.20(b). Examples of changes which require recertification include: replacement of the analyzer, change in location or orientation of the sampling probe or site or changing of flow rate monitor polynomial coefficients.

(3) *Certification approval process for initial certifications and recertification.*

(i) *Notification of certification.* The NO<sub>x</sub> authorized account representative shall submit to the Department and the appropriate EPA regional office a written notice of the dates of certification in accordance with § 145.73 (relating to notification).

(ii) *Certification application.* The NO<sub>x</sub> authorized account representative shall submit to the Department and the appropriate EPA regional office a certification application for each monitoring system required under 40 CFR Part 75 Subpart H. A complete certification application shall include the information specified in 40 CFR Part 75 Subpart H.

(iii) *Provisional certification.* Except for units using the low mass emission excepted methodology under 40 CFR 75.19, the provisional certification date for a monitor shall be determined using the procedures in 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the NO<sub>x</sub> Budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under subparagraph (ii). Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), if the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.

(iv) *Certification application formal approval process.* The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days after receipt of the complete certification application under subparagraph (ii). If the

Department does not issue the notice within the 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the NO<sub>x</sub> Budget Trading Program.

(A) *Approval notice.* If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(B) *Incomplete application notice.* A certification application will be considered complete when all of the applicable information required to be submitted under subparagraph (ii) has been received by the Department. If the certification application is not complete, the Department will issue a written notice of incompleteness that sets a date by which the NO<sub>x</sub> authorized account representative must submit the additional information required to complete the certification application. If the NO<sub>x</sub> authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under clause (C). The 120-day review period may not begin prior to receipt of a complete certification application.

(C) *Disapproval notice.* If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this section and §§ 145.70 and 145.72—145.76, or if the certification application is incomplete and the requirement for disapproval under clause (B) has been met, the Department will issue a written notice of disapproval of the certification application. Upon issuance of the notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof will not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The owner or operator shall follow the procedures for loss of certification in subparagraph (v) for each monitoring system or component thereof which is disapproved for initial certification.

(D) *Audit decertification.* The Department may issue a notice of disapproval of the certification status of a monitor in accordance with § 145.72(b).

(v) *Procedures for loss of certification.* If the Department issues a notice of disapproval of a certification application under subparagraph (iv)(C) or a notice of disapproval of certification status under subparagraph (iv)(D), the following apply:

(A) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), (b)(5), (h)(4) or 75.21(e) and continuing until the time, date and hour specified under 40 CFR 75.20(a)(5)(i):

(I) For units using or intending to monitor for NO<sub>x</sub> emission rate and heat input rate or for units using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential NO<sub>x</sub> emission rate and the maximum potential hourly heat input of the unit.

(II) For units intending to monitor for NO<sub>x</sub> mass emissions using a NO<sub>x</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration

of NO<sub>x</sub> and the maximum potential flow rate of the unit under 40 CFR Part 75, Appendix A Section 2 (relating to instrument span).

(B) The NO<sub>x</sub> authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (i) and (ii).

(C) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, within 30 unit operating days after the date of issuance of the notice of disapproval.

(c) This subsection applies to initial certification and recertification procedures for low mass emission units using the excepted methodologies under 40 CFR 75.19. The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under 40 CFR 75.19 and not subject to an acid rain emission limitation shall meet the applicable general operating requirements of 40 CFR 75.10 (relating to general operating requirements) and the applicable requirements of 40 CFR 75.19. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of subsection (b), except that the excepted methodology shall be deemed provisionally certified for use under the NO<sub>x</sub> Budget Trading Program, as of one of the following dates:

(i) For a unit that does not have monitoring equipment initially certified or recertified for the NO<sub>x</sub> budget trading program as of the date on which the NO<sub>x</sub> authorized account representative submits the certification application under 40 CFR 75.19, starting on the date of the submission until the completion of the period for the Department's review.

(ii) For a unit that has monitoring equipment initially certified or recertified for the NO<sub>x</sub> Budget Trading Program as of the date on which the NO<sub>x</sub> authorized account representative submits the certification application under 40 CFR 75.19 for the unit and that reports data on an annual basis under § 145.74(d) (relating to recordkeeping and reporting), starting January 1 of the year after the year of the submission until the completion of the period for the Department's review.

(iii) For a unit that has monitoring equipment initially certified or recertified for the NO<sub>x</sub> budget trading program as of the date on which the NO<sub>x</sub> authorized account representative submits the certification application under 40 CFR 75.19 for the unit and that reports on a control season basis under § 145.74(d), starting May 1 of the control period after the year of the submission until the completion of the period for the Department's review.

(d) This subsection applies to certification/recertification procedures for alternative monitoring systems. The NO<sub>x</sub> authorized account representative representing the owner or operator of each unit not subject to an acid rain emissions limitation applying to monitor using an alternative monitoring system approved by the NO<sub>x</sub> Budget Administrator under 40 CFR Part 75, Subpart E (relating to alternative monitoring systems) shall apply for certification to the Department prior to use of the system under the NO<sub>x</sub> Trading Program. The NO<sub>x</sub> authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subsection (b). The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subsection (b) and 40 CFR 75.20(f).

#### § 145.72. Out of control periods.

(a) *Quality assurance requirements.* Whenever a monitoring system fails to meet the quality assurance or data validation requirements of 40 CFR Part 75 (relating to quality assurance and quality control procedures), data shall be substituted using the applicable procedures in 40 CFR Part 75 Subpart D, Appendix D or Appendix E (relating to missing data substitution procedures; optional SO<sub>2</sub> emissions data protocol for gas-fired and oil-fired units; and optional NO<sub>x</sub> emissions estimation protocol for gas-fired peaking units and oil-fired peaking units).

(b) *Audit decertification.* Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under § 145.71 (relating to initial certification and recertification procedures) or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department will issue a notice of disapproval of the certification status of the system or component. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component will not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in § 145.71 for each disapproved system.

#### § 145.73. Notifications.

The NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR 75.61 (relating to notification), except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the Department.

#### § 145.74. Recordkeeping and reporting.

(a) *General provisions.*

(1) In addition to the requirements of Chapter 127 (relating to construction, modification, reactivation and operation of sources), the NO<sub>x</sub> authorized account representative shall comply with the recordkeeping and reporting requirements in this section and with the requirements of § 145.10(e) (relating to authorization and responsibilities of the NO<sub>x</sub> authorized account representative).

(2) If the NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget unit subject to an acid rain emission limitation who signed and certified any submission that is made under 40 CFR Part 75, Subpart F or G (relating to recordkeeping requirements; and reporting requirements) and which includes data and information required under this subchapter or 40 CFR Part 75, Subpart H (relating to NO<sub>x</sub> mass emissions provisions) is not the same person as the designated representative or the alternative designated representative for the unit under 40 CFR Part 72 (relating to permits regulation), the submission shall also be signed by the designated representative or the alternative designated representative.



(b) *Monitoring plans.*

(1) The owner or operator of a unit subject to an acid rain emissions limitation shall comply with 40 CFR 75.62 (relating to monitoring plan), except that the monitoring plan shall also include all of the information required by 40 CFR Part 75, Subpart H.

(2) The owner or operator of a unit that is not subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62, except that the monitoring plan is only required to include the information required by 40 CFR Part 75, Subpart H.

(c) *Certification applications.* The NO<sub>x</sub> authorized account representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under § 145.71 (relating to initial certification and recertification procedures) including the information required under 40 CFR Part 75, Subpart H.

(d) *Quarterly reports.* The NO<sub>x</sub> authorized account representative shall submit quarterly reports, as follows:

(1) NO<sub>x</sub> budget units subject to an acid rain emission limitation shall meet the annual reporting requirements of this subchapter. The NO<sub>x</sub> authorized account representative shall submit a quarterly report for each calendar quarter beginning with one of the following:

(i) For units that elect to comply with the early reduction credit provisions under § 145.43 (relating to compliance supplement pool), the calendar quarter that includes the date of initial provisional certification under § 145.71(b)(3)(iii) or (c). Data shall be recorded and reported from the date and hour corresponding to the date and hour of provisional certification.

(ii) For units commencing operation on or before May 1, 2002, and that is not subject to subparagraph (i), the earlier of the calendar quarter that includes the date of initial provisional certification under § 145.71(b)(3)(iii) or (c) or, if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2002.

(iii) For a unit that commences operation after May 1, 2002, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(2) If a NO<sub>x</sub> budget unit is not subject to an acid rain emission limitation, the NO<sub>x</sub> authorized account representative shall do either of the following:

(i) Meet all the requirements of 40 CFR Part 75 related to monitoring and reporting NO<sub>x</sub> mass emissions during the entire year and meet the reporting deadlines specified in paragraph (1).

(ii) Submit quarterly reports covering the period May 1–September 30 of each year and including the data described in 40 CFR 75.74(c)(6) (relating to annual and ozone monitoring and reporting requirement). The NO<sub>x</sub> authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

(A) For units that intend to apply or apply for early reduction credits under § 145.43, the calendar quarter that includes the date of initial provisional certification under § 145.71(b)(3)(iii) and (c). Data shall be recorded and reported from the date and hour of provisional certification.

(B) For units commencing operation on or before May 1, 2002, and are not subject to subparagraph (i), the calendar quarter covering May 1 through June 30, 2002. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of initial provisional certification under § 145.71(b)(3)(iii) or (c) or the first hour of May 1, 2002.

(C) For units that commence operation after May 1, 2002, and during a control period, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(D) For units that commence operation after May 1, 2002, and not during a control period, the calendar quarter covering the first control period after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of initial provisional certification under § 145.71(b)(3)(iii) or (c) or the first hour of May 1 of the first control period after the unit commences operation.

(3) The NO<sub>x</sub> authorized account representative shall submit each quarterly report to the Department and NO<sub>x</sub> Budget Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR Part 75, Subpart H and 40 CFR 75.64 (relating to quarterly reports).

(i) For units subject to an acid rain emissions limitation, quarterly reports shall include all of the data and information required in 40 CFR Part 75, Subpart H for each NO<sub>x</sub> budget unit (or group of units using a common stack) as well as information required in 40 CFR Part 75, Subpart G (relating to reporting requirements).

(ii) For units not subject to an acid rain emissions limitation, quarterly reports are only required to include the data and information required in 40 CFR Part 75, Subpart H for each NO<sub>x</sub> budget unit (or group of units using a common stack).

(4) The NO<sub>x</sub> authorized account representative shall submit to the Department and NO<sub>x</sub> Budget Administrator a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that the following conditions have been met:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this subchapter and 40 CFR Part 75, including the quality assurance procedures and specifications.

(ii) For a unit with add-on NO<sub>x</sub> emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1) (relating to units with add-on emission controls), the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR Part 75, Appendix B and the substitute values do not systematically underestimate NO<sub>x</sub> emissions.

(iii) For a unit that is reporting on a control period basis under subparagraph (ii), the NO<sub>x</sub> emission rate and NO<sub>x</sub> concentration values substituted for missing data under 40 CFR Part 75, Subpart D (relating to missing data substitution procedures) are calculated using only values from a control period and do not systematically underestimate NO<sub>x</sub> emissions.

**§ 145.75. Petitions.**

(a) The NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget unit may submit a petition under 40 CFR 75.66 (relating to petitions to the Administrator) to the Administrator requesting approval to apply an alternative to any requirement of this section and §§ 145.70—145.74 and 145.76.

(b) Application of an alternative to any requirement of this section and §§ 145.70—145.74 and 145.76 is in accordance with this section and §§ 145.70—145.74 and 145.76 only to the extent that the petition is approved by the Administrator under 40 CFR 75.66.

**§ 145.76. Additional requirements to provide heat input data.**

The owner or operator of a unit that monitors and reports NO<sub>x</sub> mass emissions using a NO<sub>x</sub> concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures in 40 CFR Part 75 (relating to continuous emission monitoring).

**OPT-IN PROCESS****§ 145.80. Applicability for opt-in sources.**

A unit that is not a NO<sub>x</sub> budget unit under § 145.4(a) (relating to applicability), is not a unit exempt under § 145.4(b), vents all of its emissions to a stack, and is operating, may qualify, under this section and §§ 145.81—145.88 (relating to opt-in process), to become a NO<sub>x</sub> budget opt-in source. A unit that is a NO<sub>x</sub> budget unit under § 145.4(a), is covered by a retired unit exemption under §§ 145.4(b) or 145.5 (relating to retired unit exemption) that is in effect, or is not operating is not eligible to become a NO<sub>x</sub> budget opt-in unit.

**§ 145.81. Opt-in source general provisions.**

Except as otherwise provided, a NO<sub>x</sub> budget opt-in unit shall be treated as a NO<sub>x</sub> budget unit for purposes of applying §§ 145.1—145.7, 145.10—145.14, 145.30, 145.31, 145.40—145.43, 145.50—145.57, 145.60—145.62 and 145.70—145.76.

**§ 145.82. NO<sub>x</sub> authorized account representative for opt-in sources.**

A unit for which an application for a NO<sub>x</sub> budget opt-in approval is submitted, or a NO<sub>x</sub> budget opt-in unit, located at the same source as one or more NO<sub>x</sub> budget units, shall have the same NO<sub>x</sub> authorized account representative as the NO<sub>x</sub> budget units.

**§ 145.83. Applying for a NO<sub>x</sub> budget opt-in approval.**

To apply for a NO<sub>x</sub> budget opt-in approval, the NO<sub>x</sub> authorized account representative of a unit qualified under § 145.80 (relating to applicability for opt-in sources) may submit the following to the Department at any time, except as provided under § 145.86(g) (relating to opt-in source withdrawal from NO<sub>x</sub> budget trading program):

(1) A complete NO<sub>x</sub> budget opt-in approval application containing the following:

(i) Identification of the source, including plant name and the Office of Regulatory Information Systems or facility code assigned to the source by the Energy Information Administration, if applicable.

(ii) Identification of each opt-in unit at the source.

(iii) The standard requirements under § 145.6 (relating to standard requirements).

(iv) The following certification statements by the NO<sub>x</sub> authorized account representative:

(A) "I certify that each unit for which this application is submitted under §§ 145.80—145.88 is not a NO<sub>x</sub> budget unit under § 145.4 and is not covered by a retired unit exemption under § 145.5 that is in effect."

(B) If the application is for an initial NO<sub>x</sub> budget opt-in approval, "I certify that each unit for which this approval application is submitted under §§ 145.80—145.88 is currently operating, as that term is defined under § 145.2."

(2) A monitoring plan submitted in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements).

(3) A complete account certificate of representation under § 145.13 (relating to account certificate of representation), if no NO<sub>x</sub> authorized account representative has been previously designated for the unit.

**§ 145.84. Opt-in process.**

The Department will issue or deny a NO<sub>x</sub> budget opt-in approval for a unit for which an application for a NO<sub>x</sub> budget opt-in approval under § 145.83 (relating to applying for a NO<sub>x</sub> budget opt-in approval) is submitted, in accordance with the following:

(1) *Interim review of monitoring plan.* The Department will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO<sub>x</sub> budget opt-in approval under § 145.83. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input rate of the unit are monitored and reported in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements). A determination of sufficiency will not be construed as acceptance or approval of the unit's monitoring plan.

(2) *Plan sufficiency.* If the Department determines that the unit's monitoring plan is sufficient under paragraph (1) and after completion of monitoring system certification under §§ 145.70—145.76, the NO<sub>x</sub> emissions rate and the heat input of the unit shall be monitored and reported in accordance with §§ 145.70—145.76 for one full control period during which monitoring system availability is not less than 90% and during which the unit is in compliance with applicable State or Federal NO<sub>x</sub> emissions or emissions-related requirements. Solely for purposes of applying this requirement, the unit shall be treated as a NO<sub>x</sub> budget unit prior to issuance of a NO<sub>x</sub> budget opt-in approval covering the unit.

(3) *Base line heat rate.* Based on the information monitored and reported under paragraph (2), the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the unit's baseline NO<sub>x</sub> emissions rate shall be calculated as the unit's total NO<sub>x</sub> mass emissions (in pounds) for the control period divided by the unit's baseline heat input.

(4) *Proposed approval.* After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under paragraph (3), the Department will propose approval of the application.

(5) *Issuance of NO<sub>x</sub> budget opt-in approval.* The Department will issue the NO<sub>x</sub> budget opt-in approval if the unit meets the requirements of this subchapter.

(6) *Nonqualification of unit.* Notwithstanding paragraphs (1)—(5), if at any time before issuance of a NO<sub>x</sub> budget opt-in approval for the unit, the Department

determines that the unit does not qualify as a NO<sub>x</sub> budget opt-in source under § 145.80 (relating to applicability for opt-in sources), the Department will issue a denial of a NO<sub>x</sub> budget opt-in approval for the unit.

(7) *Withdrawal of application for a NO<sub>x</sub> budget opt-in approval.* A NO<sub>x</sub> authorized account representative of a unit may withdraw its application for a NO<sub>x</sub> budget opt-in approval under § 145.83 at any time prior to the issuance of the final NO<sub>x</sub> budget opt-in approval. Once the application for a NO<sub>x</sub> budget opt-in approval is withdrawn, a NO<sub>x</sub> authorized account representative wanting to reapply shall submit a new application for a NO<sub>x</sub> budget opt-in approval under § 145.83.

(8) *Effective date.* The effective date of the initial NO<sub>x</sub> budget opt-in approval is May 1 of the first control period starting after the issuance of the initial NO<sub>x</sub> budget opt-in approval by the Department. The unit shall be a NO<sub>x</sub> budget opt-in source and a NO<sub>x</sub> budget unit as of the effective date of the initial NO<sub>x</sub> budget opt-in approval.

**§ 145.85. NO<sub>x</sub> budget opt-in application contents.**

(a) Each NO<sub>x</sub> budget opt-in approval will contain all elements required for a complete NO<sub>x</sub> budget opt-in approval application under § 145.83 (relating to applying for a NO<sub>x</sub> budget opt-in approval).

(b) Each NO<sub>x</sub> budget opt-in approval shall incorporate the requirements of this subchapter.

**§ 145.86. Opt-in source withdrawal from NO<sub>x</sub> Budget Trading Program.**

(a) *Requesting withdrawal.* To withdraw from the NO<sub>x</sub> Budget Trading Program, the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget opt-in unit shall submit to the Department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a NO<sub>x</sub> budget opt-in source covered by a request under subsection (a) may withdraw from the NO<sub>x</sub> Budget Trading Program and the NO<sub>x</sub> budget opt-in approval may be terminated under subsection (e), the following conditions shall be met:

(1) For the control period immediately before the withdrawal is to be effective, the NO<sub>x</sub> authorized account representative shall submit or shall have submitted to the Department an annual compliance certification report in accordance with § 145.30 (relating to compliance certification report).

(2) If the NO<sub>x</sub> budget opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the NO<sub>x</sub> Budget Administrator will deduct or have deducted from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, the full amount required under § 145.54(d) (relating to compliance) for the control period.

(3) After the requirements for withdrawal under paragraphs (1) and (2) are met, the NO<sub>x</sub> Budget Administrator will deduct from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to that source under § 145.88 (relating to NO<sub>x</sub> allowance allocations to opt-in units) for any control period for which the withdrawal is to be effective. The NO<sub>x</sub> Budget

Administrator will close the NO<sub>x</sub> budget opt-in unit's compliance account and transfer any remaining allowances to a new general account specified by the owners and operators of the NO<sub>x</sub> budget opt-in unit.

(c) *Withdrawal from program.* A NO<sub>x</sub> budget opt-in unit that withdraws from the NO<sub>x</sub> Budget Trading Program shall comply with the requirements under the NO<sub>x</sub> Budget Trading Program concerning all years for which the NO<sub>x</sub> budget opt-in unit was a NO<sub>x</sub> budget opt-in unit, even if the requirements arise or must be complied with after the withdrawal takes effect.

(d) *Notification.*

(1) After the requirements for withdrawal under subsections (a) and (b) are met (including deduction of the full amount of NO<sub>x</sub> allowances required), the Department will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget opt-in unit of the acceptance of the withdrawal of the NO<sub>x</sub> budget opt-in unit as of a specified effective date that is after the requirements have been met and that is prior to May 1 or after September 30.

(2) If the requirements for withdrawal under subsections (a) and (b) are not met, the Department will issue a notification to the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget opt-in unit that the NO<sub>x</sub> budget opt-in unit's request to withdraw is denied. If the NO<sub>x</sub> budget opt-in unit's request to withdraw is denied, the NO<sub>x</sub> budget opt-in unit shall remain subject to the requirements for a NO<sub>x</sub> budget opt-in unit.

(e) *Approval amendment.* After the Department issues a notification under subsection (d)(1) that the requirements for withdrawal have been met, the Department will revise the NO<sub>x</sub> budget opt-in approval covering the NO<sub>x</sub> budget opt-in unit to terminate the NO<sub>x</sub> budget opt-in approval as of the effective date specified under subsection (d)(1). A NO<sub>x</sub> budget opt-in unit shall continue to be a NO<sub>x</sub> budget opt-in unit until the effective date of the termination.

(f) *Reapplication upon failure to meet conditions of withdrawal.* If the Department denies the NO<sub>x</sub> budget opt-in source's request to withdraw, the NO<sub>x</sub> authorized account representative may submit another request to withdraw in accordance with subsections (a) and (b).

(g) *Ability to return to the NO<sub>x</sub> Budget Trading Program.* Once a NO<sub>x</sub> budget opt-in unit withdraws from the NO<sub>x</sub> Budget Trading Program and its NO<sub>x</sub> budget opt-in approval is terminated under this section, the NO<sub>x</sub> authorized account representative may not submit another application for a NO<sub>x</sub> budget opt-in approval under § 145.83 (relating to applying for a NO<sub>x</sub> budget opt-in approval) for the unit prior to the date that is 4 years after the date on which the terminated NO<sub>x</sub> budget opt-in approval became effective.

**§ 145.87. Opt-in unit change in regulatory status.**

(a) *Notification.* When a NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under § 145.4(a) (relating to applicability), the NO<sub>x</sub> authorized account representative shall notify in writing the Department and the Administrator of the change in the NO<sub>x</sub> budget opt-in unit's regulatory status, within 30 days of the change.

(b) *Department's and NO<sub>x</sub> Budget Administrator's action.*

(1) *Units with active applications.*

(i) *Revision of approval.* When the NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under § 145.4(a), the

Department will revise the NO<sub>x</sub> budget opt-in unit's NO<sub>x</sub> budget opt-in approval to meet the requirements of this subchapter as of an effective date that is the date on which the NO<sub>x</sub> budget opt-in unit becomes a NO<sub>x</sub> budget unit under § 145.4(a).

(ii) *Compliance account.*

(A) The NO<sub>x</sub> Budget Administrator will deduct from the compliance account for the NO<sub>x</sub> budget unit under subparagraph (i), or the overdraft account of the NO<sub>x</sub> budget source where the unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as the following:

(I) NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget unit (as a NO<sub>x</sub> budget opt-in unit) under § 145.88 (relating to NO<sub>x</sub> allowance allocations to opt-in units) for any control period after the last control period during which the unit's NO<sub>x</sub> budget opt-in approval was effective.

(II) If the effective date of the NO<sub>x</sub> budget approval revision under subparagraph (i) is during a control period, the NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget unit (as a NO<sub>x</sub> budget opt-in unit) under § 145.88 for the control period multiplied by the number of days, in the control period, starting with the effective date of the approval revision under subparagraph (i), divided by the total number of days in the control period and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(B) The NO<sub>x</sub> authorized account representative shall ensure that the compliance account of the NO<sub>x</sub> budget unit under subparagraph (i), or the overdraft account of the NO<sub>x</sub> budget source where the unit is located, includes the NO<sub>x</sub> allowances necessary for completion of the deduction under clause (A). If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the NO<sub>x</sub> Budget Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(iii) *Allocations.*

(A) For every control period during which the NO<sub>x</sub> budget approval revised under subparagraph (i) is effective, the NO<sub>x</sub> budget unit under subparagraph (i) will be treated, solely for purposes of NO<sub>x</sub> allowance allocations under § 145.42 (relating to NO<sub>x</sub> allowance allocations), as a unit that commenced operation on the effective date of the NO<sub>x</sub> budget approval revision under subparagraph (i) and will be allocated NO<sub>x</sub> allowances under § 145.42. The unit's deadline under § 145.84(b) (relating to opt-in process) for meeting monitoring requirements in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements) will not be changed by the change in the unit's regulatory status or by the revision of the NO<sub>x</sub> budget approval under subparagraph (i).

(B) Notwithstanding clause (A), if the effective date of the NO<sub>x</sub> budget approval revision under subparagraph (i) is during a control period, the following number of NO<sub>x</sub> allowances will be allocated to the NO<sub>x</sub> budget unit under subparagraph (i) under § 145.42 for the control period: the number of NO<sub>x</sub> allowances otherwise allocated to the NO<sub>x</sub> budget unit under § 145.42 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the approval revision under subparagraph (i), divided by the total number of days in the control period, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2) *Units with expired approvals.*

(i) When the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget opt-in unit does not renew its NO<sub>x</sub> budget opt-in approval under § 145.83 (relating to applying for a NO<sub>x</sub> opt-in approval), the NO<sub>x</sub> Budget Administrator will deduct from the NO<sub>x</sub> budget opt-in unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget opt-in unit under § 145.88 for any control period after the last control period for which the NO<sub>x</sub> budget opt-in approval is effective. The NO<sub>x</sub> authorized account representative shall ensure that the NO<sub>x</sub> budget opt-in unit's compliance account or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located includes the NO<sub>x</sub> allowances necessary for completion of the deduction. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> allowances, the NO<sub>x</sub> Budget Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.

(ii) After the deduction under subparagraph (i) is completed, the NO<sub>x</sub> Budget Administrator will close the NO<sub>x</sub> budget opt-in unit's compliance account. If any NO<sub>x</sub> allowances remain in the compliance account after completion of the deduction and any deduction under § 145.54 (relating to compliance), the NO<sub>x</sub> Budget Administrator will close the NO<sub>x</sub> budget opt-in source's compliance account and will establish, and transfer any remaining allowances to a general account specified by the owners and operators of the NO<sub>x</sub> budget opt-in unit.

**§ 145.88. NO<sub>x</sub> allowance allocations to opt-in units.**

(a) *NO<sub>x</sub> allowance allocation.*

(1) By April 1 immediately before the first control period for which the NO<sub>x</sub> budget opt-in approval is effective, the Department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit and submit to the NO<sub>x</sub> Allowance Tracking System the allocation for the control period in accordance with subsection (b).

(2) By no later than April 1, after the first control period for which the NO<sub>x</sub> budget opt-in approval is in effect, and April 1 of each year thereafter, the Department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit, and submit to the NO<sub>x</sub> Allowance Tracking System allocations for the next control period, in accordance with subsection (b).

(3) The Department will publish in the *Pennsylvania Bulletin* each determination of NO<sub>x</sub> allowance allocations under paragraphs (1) and (2) and will provide an opportunity for submission of objections to the determination. Objections shall be limited to addressing whether the determination is in accordance with subsection (b). Based on objections, the Department will adjust each determination to the extent necessary to ensure that it is in accordance with subsection (b).

(b) *Allocation procedures.* For each control period for which the NO<sub>x</sub> budget opt-in unit has an approved NO<sub>x</sub> budget opt-in approval, the NO<sub>x</sub> budget opt-in unit will be allocated NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations will be the lesser of one of the following:

(i) The NO<sub>x</sub> budget opt-in unit's baseline heat input determined under § 145.84(c) (relating to opt-in process).

(ii) The NO<sub>x</sub> budget opt-in unit's heat input, as determined in accordance with §§ 145.70—145.76 (relating to recordkeeping and reporting requirements), for the control period in the year prior to the year of the control period for which the NO<sub>x</sub> allocations are being calculated.

(2) The Department will allocate NO<sub>x</sub> allowances to the NO<sub>x</sub> budget opt-in unit in an amount equaling the heat input (in mmBtu) determined under paragraph (1) multiplied by the lesser of one of the following:

(i) The NO<sub>x</sub> budget opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 145.84(c) divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(ii) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the NO<sub>x</sub> budget opt-in unit during the control period divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

**EMISSION REDUCTION CREDIT PROVISIONS**

**§ 145.90. Emission reduction credit provisions.**

(a) NO<sub>x</sub> budget units may create, transfer and use emission reduction credits (ERCs) in accordance with Chapter 127 (relating to construction, modification, reactivation and operation of sources) and this section. ERCs may not be used to satisfy NO<sub>x</sub> allowance requirements.

(b) A NO<sub>x</sub> budget unit may transfer NO<sub>x</sub> ERCs to a NO<sub>x</sub> budget unit if the new or modified NO<sub>x</sub> budget unit's ozone season (May 1 through September 30) allowable emissions do not exceed the ozone season portion of the baseline emissions which were used to generate the NO<sub>x</sub> ERCs.

(c) A NO<sub>x</sub> budget unit may transfer NO<sub>x</sub> ERCs to a non-NO<sub>x</sub> budget unit under the following conditions:

(1) The non-NO<sub>x</sub> budget unit's ozone season (May 1—September 30) allowable emissions may not exceed the ozone season portion of the baseline emissions which were used to generate the NO<sub>x</sub> ERCs.

(2) The NO<sub>x</sub> allowance tracking system account for NO<sub>x</sub> budget units which generated ERCs transferred to non-NO<sub>x</sub> budget units, including prior to the date of publication in the *Pennsylvania Bulletin*, shall have a corresponding number of NO<sub>x</sub> allowances retired that reflect the transfer of emissions regulated under this subchapter to the non-NO<sub>x</sub> budget units. The amount of annual NO<sub>x</sub> allowances deducted shall be equivalent to that portion of the non-NO<sub>x</sub> budget unit's NO<sub>x</sub> control period allowable emissions which were provided for by the NO<sub>x</sub> ERCs from the NO<sub>x</sub> budget unit.

(3) Allocations for NO<sub>x</sub> allowance control periods following 2002 to the NO<sub>x</sub> ERC generating source may not include the allowances identified in paragraph (2).

**INTERSTATE POLLUTION TRANSPORT REDUCTION REQUIREMENTS**

**§ 145.100. Applicability to upwind states.**

(a) This subchapter applies to NO<sub>x</sub> budget units located in the States of Ohio, West Virginia, Virginia, Maryland,

Delaware, New Jersey, New York or North Carolina or located in Washington, D.C.

(b) The NO<sub>x</sub> trading program budget for each state for a control period will equal the total number of tons of NO<sub>x</sub> emissions apportioned to the NO<sub>x</sub> budget units in each state as follows:

<i>State</i>	<i>Electric Generating Units</i>	<i>Nonelectric Generating Units</i>
Ohio	45,432	4,103
West Virginia	26,859	2,184
Virginia	17,091	4,104
Maryland	14,519	1,013
Delaware	4,306	232
Washington, D.C.	207	26
North Carolina	31,212	2,329
New Jersey	9,716	4,838
New York	16,081	156

(c) The compliance supplement pool for each state is:

<i>State</i>	<i>Allowance</i>
Ohio	22,301
West Virginia	16,709
Virginia	5,504
Maryland	3,882
Delaware	168
New Jersey	1,550
New York	1,379
North Carolina	10,737
Washington, D.C.	0

(d) Any provision to the contrary notwithstanding, this section is not applicable if one of the following applies:

(1) NO<sub>x</sub> budget units in the state or Washington, D.C. are required to comply with an emission limitation established by the EPA under section 126 of the CAA (42 U.S.C.A. § 7416).

(2) The state or Washington, D.C. submits a state implementation plan that the EPA expressly determines meets the requirements of section 110(a)(2)(D)(i)(I) of the CAA (42 U.S.C.A. § 7410(a)(2)(D)(i)(I)).

(3) The EPA promulgates a Federal implementation plan for the state or Washington, D.C. to expressly meet the requirements of section 110(a)(2)(D)(i)(I) of the CAA.

[Pa.B. Doc. No. 00-1632. Filed for public inspection September 22, 2000, 9:00 a.m.]

# PROPOSED RULEMAKING

## BOARD OF CLAIMS

[61 PA. CODE CH. 899]  
Rules of Procedure

The Board of Claims (Board) under 72 P. S. §§ 4651-1—4651-10 and section 204(1) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)) intends to amend its rules of procedure, Rules 899.101—899.701 by final order, proposed rulemaking omitted.

The rules of procedure govern practice before the Board. The amendments will affect two rules. First, Rule 899.201(b) will be amended to reduce the number of copies of a claim which are required to be filed with the Board from an original and four copies to an original and three copies. Second, the amendment will repeal Rule 899.201(d) which states that a claim is timely only if received within 6 months after it accrued. Repeal of this rule is necessary because Rule 899.201(d) no longer accurately states the applicable statute of limitations for all actions before the Board. For claims involving contracts covered by 62 Pa.C.S. Part I (relating to the Procurement Code), the applicable statute of limitations is found in 62 Pa.C.S. § 1712 (relating to authority to resolve contract and breach of contract controversies). For all other claims within the Board's jurisdiction, the applicable statute of limitations can be found in 72 P. S. § 4651-6.

Interested persons may submit comments or suggestions to the Board of Claims, 200 North Third Street, Suite 700, Harrisburg, PA 17101-1518, or by contacting Connie Rode at (717) 787-3325 within 15 days of the publication of this notice in the *Pennsylvania Bulletin*.

DAVID C. CLIPPER,  
Chief Administrative Judge

### Annex A

#### TITLE 61. REVENUE

#### PART VI. BOARD OF CLAIMS

#### CHAPTER 899. RULES OF PROCEDURE

#### Subchapter B. PLEADINGS

#### Rule 899.201. Statement of claim.

(a) A plaintiff shall prepare a concise and specific written statement of the claim, signed and verified by the plaintiff. The caption of the claim shall contain the full names of all parties to the claim. Each claim shall contain the name, address, telephone number and Supreme Court Identification Number of counsel for the plaintiff.

(b) The plaintiff shall file an original and three copies of the claim with the Board, accompanied by a \$50 check made payable to the Commonwealth of Pennsylvania.

(c) Service of the claim and any amended claim will be made by the Board. The Board will serve one copy of the

claim and any amended claim to the defendant involved, and one copy to the Attorney General.

[Pa.B. Doc. No. 00-1633. Filed for public inspection September 22, 2000, 9:00 a.m.]

## DEPARTMENT OF REVENUE

[61 PA. CODE CH. 33]

### Sales and Use Tax; Partial Refunds for Bad Debts

The Department of Revenue (Department), under authority contained in section 270 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7270), proposes to amend § 33.3 (relating to cancellations, returns, allowances and exchanges) and add § 33.5 (relating to partial refunds for bad debts) to read as set forth in Annex A.

#### *Purpose of Proposed Rulemaking*

This proposed rulemaking explains the application of section 247.1 of the TRC (72 P. S. § 7247.1) relating to partial refund of Sales Tax attributed to bad debts.

#### *Explanation of Regulatory Requirements*

Section 33.3(d) is deleted because it is in direct conflict with section 247.1 of the TRC.

Section 33.5(a) provides definitions of "affiliated entity," "bad debt," "discount amount" and "purchase price" for use in the section. Filing of a petition for partial refund is explained in § 33.5(b). Subsection (b)(3) provides a listing of supporting records that the vendor shall retain and make available to the Department upon its request. Section 33.5(c) provides an example that suggests how to determine the partial refund amount when the purchaser makes no payment on account and when the purchaser makes a partial payment on account.

#### *Affected Parties*

Taxpayers filing petitions for refund of Sales Tax paid to the Department that is attributed to a bad debt may be affected by the proposed rulemaking

#### *Fiscal Impact*

The Department has determined that the proposed rulemaking will have no significant fiscal impact on the Commonwealth.

#### *Paperwork*

The proposed rulemaking will not require significant additional paperwork for the public or the Commonwealth. Additional paperwork may be required to calculate the partial refund amount; however, the amount is undeterminable.

#### *Effectiveness/Sunset Date*

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

scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed rulemaking to Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 8, 2000, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

ROBERT A. JUDGE, SR., Secretary

Fiscal Note: 15-415. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE II. SALES AND USE TAX

CHAPTER 33. COMPUTATION OF TAX

§ 33.3. Cancellations, returns, allowances and exchanges.

\* \* \* \* \*

[ (d) Bad debts. A seller may not be permitted to take a sales tax credit for amounts representing bad debts or uncollectible accounts. The tax remains due upon the original purchase price of the property sold. ]

(Editor's Note: The Department is proposing to add § 33.5 (relating to partial refunds for bad debts), which has been printed in regular text to enhance readability.)

§ 33.5. Partial refunds for bad debts.

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

Affiliated entity—A corporation that is part of the same affiliated group as the vendor, as defined in section 1504(a)(1) of the IRC (26 U.S.C.A. § 1504(a)(1)).

Bad debt—The portion of the purchase price that the vendor determined to be uncollectible and wrote off as such, either in whole or in part on the vendor's books, and which was deducted for Federal income tax purposes.

Discount amount—The amount of credit granted to a vendor by the Department under section 227 of the TRC (72 P. S. § 7227), for the collection and timely payment of the Sales Tax and timely filing of the return.

Purchase price—The total value of anything paid or delivered, or promised to be paid or delivered, whether it be money or otherwise, in complete performance of a sale at retail or purchase at retail, as purchase price is defined in section 201(g) of the TRC (72 P. S. § 7201(g)), but not including interest, finance charges and expenses incurred in attempting to collect any amount receivable.

(b) Filing a petition for partial refund.

(1) A vendor may file with the Board of Appeals a petition for a refund of one-third of the Sales Tax paid to the Department attributable to amounts deducted as a bad debt on Federal Income Tax returns required to be filed after January 1 and before December 31, 1999, less one-third of the discount amount. Thereafter, a vendor may petition for a refund of two-thirds of the Sales Tax paid to the Department attributable to amounts deducted as a bad debt on Federal Income Tax returns required to be filed after January 1, 2000, less two-thirds of the discount amount. See Chapter 7 (relating to Board of Appeals). The vendor shall file the petition in accordance with section 253 of the TRC (72 P. S. § 7253).

(2) A vendor may assign the right to file a petition for refund attributable to a bad debt only to an affiliated entity.

Example: Company P owns 100% of Company R which operates as a retailer in this Commonwealth. Company P also owns 100% of Company F, which has an agreement with Company R pursuant to which Company F issues credit cards to customers of Company R. The credit cards bear Company R's name and are used exclusively for purchases at Company R stores. Company R may assign to Company F its right to petition for partial refund of tax attributable to bad debts of Company R's customers, when Company R's customers fail to pay amounts charged on their "Company R" credit cards, the unpaid amounts are written off as bad debts and are deducted for Federal Income Tax purposes.

(3) The vendor or affiliated entity bears the burden of establishing the validity of a bad debt deduction. The vendor shall retain supporting records and make those records available upon request by the Department. At a minimum, the vendor shall retain records that substantiate the following:

(i) The name or account number of the purchaser and the date of the sale giving rise to the bad debt.

(ii) A description and the purchase price of the property that is the subject of the debt and the amount of Sales Tax the vendor charged.

(iii) The date or period when the vendor remitted the Sales Tax to the Department.

(iv) The dates and amounts of any payments the purchaser made on the debt or account.

(v) That the purchaser failed to pay the purchase price of the property or service that is the subject of the bad debt.

(vi) That the vendor wrote off the bad debt on its books and records.

(vii) That the bad debt was deducted on a Federal Income Tax return required to be filed after January 1, 1999, in accordance with section 166 of the IRC (26 U.S.C.A. § 166) for a refund of one-third of the Sales Tax paid attributable to the bad debt.

(viii) That the bad debt was deducted on a Federal Income Tax return required to be filed after January 1, 2000, in accordance with section 166 of the IRC for a refund of two-thirds of the Sales Tax paid attributable to the bad debt.

(ix) That the vendor assigned its rights to an affiliated entity, if applicable.

(4) If the vendor or affiliated entity that has received a bad debt refund later collects on a bad debt, in whole or in part, the vendor or the affiliated entity shall remit to the Department, with the first return filed after the collection, that proportion of the bad debt refund which is represented by the amount of taxable purchase price collected, divided by the total taxable purchase price previously treated as a bad debt for refund purposes.

(c) *Examples for determining the partial refund amount, using as a basis a one-third refund.*

(1) *No payment on account.* When the purchaser makes no payment on account, the vendor calculates one-third of the Sales Tax it paid to the Department on a bad debt and, if applicable, subtracts one-third of the discount amount to yield the amount of the bad debt refund.

*Example: Purchase on account*

Sale of Tools	\$200	Taxable Purchase on Account
	<u>12</u>	Sales Tax Remitted by Vendor
	\$212	Total Purchase Price

$\frac{\$12}{3} = \$4$  Partial Refund, less one-third of any discount allowed by the Department

(2) *Partial payment on account.* When the purchaser makes partial payment on account:

(i) If a transaction combines both taxable and nontaxable components and the purchaser has made a partial payment on the debt, the vendor shall allocate the partial payment proportionally between the taxable and nontaxable components of the transaction.

*Example: Purchase on account*

Clothing	\$200	Nontaxable Purchase
Tools	<u>800</u>	Taxable Purchase
	\$1,000	Combined Purchase Price
	48	Sales Tax on \$800
	<u>\$1,048</u>	Total Price

Partial Payment on account: \$500

Allocation of Partial Payment:

$\frac{\$ 800 \text{ Taxable Purchase}}{\$1,000 \text{ Combined Purchase Price}} = 80\%$ , Taxable Portion

$80\% \times \$500 \text{ Partial Payment} = \$400$  of the Partial Payment Allocated to Taxable Purchase and Tax

(ii) The vendor shall prorate any partial payment on a taxable transaction or on the taxable portion of a transaction between the original purchase price and the Sales Tax due on the sale. For example, continuing with the original transaction:

Amount Allocable to Taxable Purchase = \$400

To prorate \$400 between purchase price and Sales Tax divide by 1.06:

$\frac{\$400}{1.06} = \$377.36$  Amount of Partial Payment related to Taxable Purchase Price

$\$800 \text{ Taxable Price less } \$377.36 \text{ paid} = \$422.64 \text{ Bad Debt}$

(iii) The vendor shall then compute one-third of the Sales Tax paid on a bad debt and subtract one third of the discount amount to yield the amount of the bad debt refund.

$\$422.64 \times .06 = \$25.36$  Sales Tax paid by vendor to the Department attributable to Bad Debt

$\frac{1}{3} \times \$25.36 = \$8.45$  Sales Tax Partial Refund Amount less 1/3 of the discount taken, if any.

[Pa.B. Doc. No. 00-1634. Filed for public inspection September 22, 2000, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 23]

#### Processing Rulemaking Petitions

The Environmental Quality Board (Board) has adopted amendments to its statement of policy establishing procedures for the processing of rulemaking petitions, in Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). These procedures apply to the processing of petitions to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a regulation administered and enforced by the Department of Environmental Protection (Department), in accordance with section 1920-A of the Administrative Code of the 1929 (71 P. S. 510-20).

The Board adopted the final amendments at its meeting of June 20, 2000.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information contact Sharon K. Trostle, Regulatory Coordinator, Department of Environmental Protection, 15th Floor, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-1303, or Richard P. Mather, Director, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The final statement of policy is available electronically through the Department's website (<http://www.dep.state.pa.us>).

#### C. *Statutory Authority*

The authority for the amendments is section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### D. *Purpose of the Amendments*

The amendments clarify a number of sections of the statement of policy, particularly with respect to petitions for the redesignation of streams under Chapter 93 (relating to water quality standards) and The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

A notice of proposed amendments to the policy was published on April 1 with a 30-day public comment period that closed on May 1. There were no public comments received. One change was made to the final amendments in § 23.5 (relating to Board determination) at the suggestion of Senator Mary Jo White, a member of the Board. This change is summarized in the corresponding paragraph in this Preamble.

#### *Section 23.1. Petitions.*

This section is amended to clarify the information that petitioners must submit to meet the completeness requirements of the policy. Paragraph (5) contains the data submission requirements necessary for stream redesigna-

tion petitions. These requirements more closely reflect the provisions of the antidegradation regulations in Chapter 93. Adding this information in § 23.1 negates the need for Appendix A, which has been deleted. In addition, the text of § 23.9 (relating to special procedures) is updated and relocated as new subsection (b).

#### *Section 23.3. Notification.*

Section 23.3 has been revised to clarify that the Department's determination that a petition is inappropriate for submittal to the Board is based on the petition not meeting each of the three conditions in § 23.2 (relating to Departmental review).

#### *Section 23.5. Board Determination.*

This section provides conditions under which the Board may refuse to accept a petition. Paragraph (3) was amended in the final version of the policy to clarify that a petition can be rejected by the Board if the requested action is not appropriate due to policy or regulatory considerations.

#### *Section 23.6. Notice of Acceptance and Department Report.*

This section adds language pertaining to the Department's responsibility to publish notice of acceptance of a petition in the *Pennsylvania Bulletin* within 30 days from the date of acceptance by the Board. Paragraph (1) clarifies the steps the Department will take in preparing an evaluation report for those petitions that are not stream petitions, and it maintains the 60-day time period for preparation of the report. Paragraph (2) is new and applies to stream redesignation petitions. It indicates that the Department will publish notice of its intent to assess the waters subject to the evaluation before a draft evaluation report is prepared. There is no time requirement for preparation of a draft evaluation report because the period of assessment for each stream will vary depending upon the amount of data that will need to be collected.

#### *Section 23.8. Board Consideration.*

Section 23.8 clarifies that the Department will prepare a recommendation based on its report and any comments received from the petitioner following the petitioner's 30-day review opportunity on the report. The section further clarifies that the recommendation will be in the form of a proposed rulemaking if a change to a regulation is recommended. The proposed rulemaking is to be developed for Board consideration within 6 months from the date the report was mailed to the petitioner. If no change to a regulation is recommended, the Department will present its recommendation to the Board at the first meeting that is held at least 45 days after the Department has mailed its report to the petitioner.

JAMES M. SEIF,  
*Chairperson*

*(Editor's Note: The regulations of the Department, 25 Pa. Code Chapter 23, are amended by amending a statement of policy in §§ 23.1—23.8 and by deleting § 23.9 and Appendix A to read as set forth in Annex A.)*

**Fiscal Note:** 7-510. No fiscal impact; (8) recommends adoption.

## Annex A

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

**Subpart A. PRELIMINARY PROVISIONS**

**ARTICLE I. ADMINISTRATIVE PROVISIONS**

**CHAPTER 23. ENVIRONMENTAL QUALITY BOARD POLICY FOR PROCESSING PETITIONS—STATEMENT OF POLICY**

**§ 23.1. Petitions.**

(a) Petitions shall be submitted on forms supplied by the Department to the Secretary of the Department of Environmental Protection, Rachel Carson State Office Building, Post Office Box 2063, Harrisburg, Pennsylvania 17105-2063, and shall contain the following information:

(1) The petitioner's name, address and telephone number.

(2) A description of the action requested in the petition and one of the following:

(i) Suggested regulatory language if the petition requests that the EQB adopt or amend regulations.

(ii) A specific citation to the regulations to be repealed if the petition requests that the EQB repeal existing regulations.

(3) The reason the petitioner is requesting this action from the EQB, including factual and legal contentions as well as supporting documentation which establish the petitioner's justification for the requested action by the EQB.

(4) The types of persons, businesses and organizations likely to be impacted by this proposal.

(5) For petitions for redesignation of streams under Chapter 93 (relating to water quality standards) and The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the petition shall include the following information to satisfy paragraph (3):

(i) A clear delineation of the watershed or stream segment to be redesignated, both in narrative form and on a map.

(ii) The current designated uses of the watershed or segment.

(iii) The requested designated uses of the watershed or segment.

(iv) Available technical data on instream conditions for the following: water chemistry, the aquatic community (benthic macroinvertebrates or fishes, or both) or instream habitat. If these data are not included, provide a description of the data sources investigated.

(v) A description of existing and proposed point and nonpoint source discharges and their impact on water quality or the aquatic community, or both. The names, locations and permit numbers of point source discharges and a description of the types and locations of nonpoint source discharges should be listed.

(vi) Information regarding any of the qualifiers for designation as High Quality Waters (HQ) or Exceptional Value Waters (EV) in § 93.4b (relating to qualifying as high quality or exceptional value waters) used as a basis for the requested designation.

(vii) A general description of land use and development patterns in the watershed. Examples include the amount

or percentage of public lands (including ownership) and the amount or percentage of various land use types (such as residential, commercial, industrial, agricultural and the like).

(viii) The names of all municipalities through which the watershed or segment flows, including an official contact name and address.

(ix) Locational information relevant to subparagraphs (iv)—(viii) (except for contact names and addresses) displayed on maps, if possible.

(b) The general procedures in this chapter apply to petitions unless the EQB adopts specific procedures for a particular type of petition. Special procedures have been adopted for petitions requesting that the EQB designate an area as unsuitable for mining activity. These petitions are reviewed under Chapter 86 (relating to surface and underground coal mining; general).

**§ 23.2. Departmental review.**

The Department will examine the petition to determine if it meets the following conditions:

(1) The petition is complete as required by § 23.1 (relating to petitions).

(2) The petition requests an action that can be taken by the EQB.

(3) The requested action does not conflict with Federal law.

**§ 23.3. Notification.**

The Department will notify the EQB and petitioner of its determination within 30 days of receipt of the petition. If the Department determines that the petition is not appropriate for submittal to the EQB because it does not meet each of the conditions in § 23.2 (relating to Departmental review), the Department's notification shall state the reasons for its determination and give the petitioner 30 days to complete the petition or modify the request.

**§ 23.4. Oral presentation.**

At the next EQB meeting occurring at least 15 days after the Department's determination that a petition is appropriate for consideration by the EQB, the Chairperson of the EQB shall inform the EQB of the petition for rulemaking, the nature of the request and the petitioner. The Chairperson shall give the petitioner or the petitioner's representative the opportunity to make a 5-minute oral presentation on why the EQB should accept the petition. The Department will also make a recommendation on whether the EQB should accept the petition.

**§ 23.5. Board determination.**

The EQB may refuse to accept a petition if it determines that one or more of the following conditions exist:

(1) The EQB has within the previous 2 years considered the issue addressed by the petition for rulemaking as part of an earlier decision concerning the adoption, amendment or deletion of a regulation.

(2) The action requested by the petitioner concerns a matter currently in litigation.

(3) The requested action is not appropriate for rulemaking by the EQB due to policy or regulatory considerations.

(4) The petition involves an issue previously considered by the EQB, and it does not contain information that is new or sufficiently different to warrant reconsideration of that decision. If a petition does present new or suffi-

ciently different information, this information must have been either unavailable at the time of the EQB's previous decision or not contained in the record of the proceeding in which the previous decision was made.

**§ 23.6. Notice of acceptance and Department report.**

If the EQB accepts the petition, a notice of acceptance will be published in the *Pennsylvania Bulletin* within 30 days. In addition, a report will be prepared in accordance with one of the following procedures:

(1) *Petitions other than stream redesignation petitions.* The Department will prepare a report evaluating the petition within 60 days. If the report cannot be completed within the 60-day period, at the next EQB meeting the Department will state how much additional time is necessary to complete the report. The Department's report will include a recommendation on whether the EQB should approve the action requested in the petition. If the recommendation is to change a regulation, the report will also specify the anticipated date that the EQB will consider a proposed rulemaking.

(2) *Stream redesignation petitions.* The Department will publish notice of its intent to assess the waters subject to evaluation. The notice will include a request for submittal of technical data that interested persons have. Following the assessment and review of all technical

data, the Department will prepare a draft evaluation report.

**§ 23.7. Response to report.**

Upon completing the report, the Department will send a copy of the report to the petitioner. Within 30 days of the mailing of the report, the petitioner may submit to the Department a written response to the report.

**§ 23.8. Board consideration.**

The Department will prepare a recommendation to the EQB based on the report and comments received from the petitioner. If regulatory amendments are recommended, the Department will develop a proposed rulemaking for EQB consideration within 6 months after the Department mailed its report to the petitioner. If regulatory amendments are not recommended, the Department will present its recommendation and basis to the EQB at the first meeting occurring at least 45 days after the Department mailed its report to the petitioner.

**§ 23.9. (Reserved).**

**APPENDIX A. (Reserved)**

[Pa.B. Doc. No. 00-1635. Filed for public inspection September 22, 2000, 9:00 a.m.]

# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Meeting and Public Hearing

The Delaware River Basin Commission (DRBC) will hold an informal conference followed by a public hearing on Thursday, September 28, 2000. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held in Bellevue Hall at the Bellevue State Park, 911 Philadelphia Pike, Wilmington, Delaware.

The conference among the Commissioners and staff will begin at 10 a.m. Topics of discussion will include the Delaware Water Supply Coordinating Council Progress Report of May 31, 2000; and the DRBC's requirements for review and approval of projects under Section 3.8 and Article 13 of the Compact, with a focus on the possible need to expand Commission review to certain pre-Compact projects. Summaries of the following six meetings will be presented: inaugural meetings of the Monitoring Advisory Committee and Flood Advisory Committee on September 6 and 7, respectively; meeting of the Water Management Advisory Committee on September 12, including discussion of a proposal to amend DRBC metering regulations; presentation by the Coalition of Municipal/Industrial Dischargers on August 28; meeting of the Toxics Advisory Committee on September 20; and meeting of the Flow Management Technical Advisory Committee on September 21. Also scheduled for the conference session are a summary of the Christina River Basin TMDL hearings and, time permitting, a presentation on the Pocono Creek Goal-Based Watershed Management Pilot Study.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include, in addition to the dockets listed below, proposed resolutions to: temporarily modify Docket No. D-77-20 CP (Revision No. 3) to provide additional releases from Cannonsville Reservoir; and approve Fiscal Year 2000 budget adjustments.

The dockets scheduled for public hearing are as follows:

1. *New York State Department of Environmental Conservation D-77-20 CP (Revision No. 3)*. An application to temporarily modify the operating plan for the Schedule of Release Rates from Cannonsville, Pepacton and Neversink Reservoirs in Delaware and Sullivan Counties, New York.

2. *Wilmington Country Club D-90-38 RENEWAL*. A renewal of a combined surface and ground water withdrawal project to supply up to 24.4 million gallons (mg)/30 days of water to the applicant's golf course irrigation system. Up to 4.32 mg/30 days can be supplied from Wells Nos. 1-3 in the Wissahickon Formation, and up to 24.4 mg/30 days from an existing surface water intake on Wilson Run, a tributary of Brandywine Creek. Commission approval on June 27, 1990 was limited to 10 years. The applicant requests that the total withdrawal from all sources remain limited to 24.4 mg/30 days. The project is located near the Village of Montchanin, New Castle County, Delaware.

3. *Telford Borough Authority D-95-40 CP*. A project to rerate the applicant's existing 0.95 million gallons per

day (mgd) extended aeration sewage treatment plant (STP) to 1.1 mgd. The STP is located off Fourth Street in Franconia Township, Montgomery County, Pennsylvania and will continue to serve portions of Franconia Township and Telford and Souderton Boroughs in Montgomery County, as well as portions of West Rockhill and Hilltown Townships in Bucks County. The STP will continue to discharge to Indian Creek in the East Branch Perkiomen Creek watershed via the existing outfall structure.

4. *Conectiv Energy, Inc. D-2000-12 CP*. A project to increase the electric power generation capacity from 450 megawatts (MW) to 1000 MW at the applicant's Hay Road Power Complex, which includes the Edge Moor and Hay Road Stations, and increase the associated consumptive water use. The applicant proposes the phased construction of three gas-fired and one steam-powered generation units (Nos. 5, 6, 7 and 8, respectively) on the Brownfield site located just east of Hay Road in the City of Wilmington, New Castle County, Delaware that will supply electric power to the Pennsylvania-Jersey-Maryland power grid. As with its Hay Road station, the project will utilize the Edge Moor station non-contact cooling water discharge (to Water Quality Zone 5) as its source for cooling tower make-up and will not require an increase in the existing allowable withdrawal for the Complex. The applicant estimates that up to 7.2 mgd of water supply will be diverted from the discharge channel and that approximately 67 percent (4.8 mgd) will be consumptively used. Cooling tower blowdown will be discharged to the existing man-made cooling water discharge channel in the Delaware River Water Quality Zone 5.

5. *Calpine Construction Finance Company D-2000-14 CP*. A project to construct a 544 MW combined-cycle electric generating station on the applicant's 19-acre site between State Route 61 and the Conrail railroad lines in Ontelaunee Township, Berks County, Pennsylvania. The natural gas-fired facility will transfer electric power to the GPU North Temple substation approximately one mile away. The Reading Area Water Authority (RAWA) will supply approximately 4.0 mgd of water from its Ontelaunee Reservoir, located approximately three miles north, to the applicant's facility for cooling tower make-up and steam, of which 0.35 mgd will be treated and discharged to the Schuylkill River. The applicant also proposes to offset its consumptive use of approximately 3.6 mgd via use of Ontelaunee Reservoir storage.

6. *Realen Homes D-2000-26 CP*. A ground water withdrawal project to supply a combined total to 3.7 mg/30 days of water to the applicant's proposed Ridgelea residential development from new Wells Nos. SW-1 and SW-2 in the Stockton Formation. The project is located in South Coventry Township, Chester County in the Southeastern Pennsylvania Ground Water Protected Area.

7. *Maidencreek Township Authority D-2000-28 CP*. A project to expand the applicant's secondary treatment 0.45 mgd STP to an annual average 0.8 mgd. The proposed oxidation ditch system is designed to treat a maximum monthly flow of 1.0 mgd for residential and industrial connections in portions of Maidencreek and Ontelaunee Townships, both in Berks County, Pennsylvania. The STP is located off Willow Creek Road, approximately one-quarter mile northwest of its intersection with East Huller Lane. Treated effluent will continue to be discharged to Willow Creek, a tributary of Maiden Creek in the Schuylkill River watershed.

8. *FPL Energy Marcus Hook, L. P. D-2000-44.* A project to construct a nominal 750 MW gas-fired combined cycle electric generating station at SUNOCO's Marcus Hook Refinery, located along the Delaware River in Water Quality Zone 4 in Marcus Hook Borough, Delaware County, Pennsylvania. The applicant requests an allocation of up to 11 mgd of surface water to be diverted via SUNOCO's existing intake on the Delaware River (no increase in SUNOCO'S allocation is necessary). Maximum monthly usage is expected to be approximately 9.4 mgd. Up to 2.34 mgd of project wastewater will be conveyed to the DELCORA sewage treatment plant for treatment and discharge to the Delaware River. The proposed electric power station will provide electricity to the Pennsylvania-Jersey-Maryland power grid and also will supply steam to SUNOCO.

9. *Reading Area Water Authority D-2000-59 CP.* A new Operating Plan for the applicant's Ontelaunee Reservoir due to the decommissioning of its 0.945 MW hydroelectric facilities approved via Docket No. D-86-72 CP on August 3, 1988. Operation of the hydroelectric turbines has become cost ineffective and depletes storage in the Reservoir. The turbines will be removed from service and Docket No. D-86-72 CP will be rescinded. RAWA proposes to initiate a staged release program to conserve storage by varying releases depending upon the volume of storage available. The new release program is designed to meet streamflow objectives for Maiden Creek while storage continues to provide for existing and future water demand in the RAWA service area. Ontelaunee Reservoir is located on Maiden Creek in Ontelaunee Township, Berks County, Pennsylvania.

10. *Jefferson Township Sewer Authority D-2000-61 CP.* A project to transfer up to 410,000 gpd of raw wastewater from Jefferson Township, Lackawanna County, Pennsylvania in the Delaware River Basin, to the Scranton Sewer Authority STP in the City of Scranton, also in Lackawanna County, for discharge to the Susquehanna River Basin. Approximately 385,840 gpd of the wastewater originates from ground water sources within the Delaware River Basin, and therefore, is considered an exportation. The project will replace failing on-lot disposal systems serving portions of Jefferson Township, which straddles the Basin divide. The project is proposed as an alternative to a 410,000 gpd STP previously approved for in-Basin discharge (in the Wallenpaupack Creek water-

shed) via Docket No. D-97-6 CP on November 19, 1997.

In addition to the public hearing, the Commission will address the following at its 1:30 p.m. business meeting: minutes of the July 26, 2000 business meeting; announcements; report on hydrologic conditions in the basin; reports by the Executive Director and General Counsel; and resolutions to: approve the Delaware Water Supply Coordinating Council Progress Report of May 31, 2000 as satisfying the requirements of DRBC Docket Nos. D-96-50 CP, D-90-110 CP, and D-97-48 CP to develop a preliminary Integrated Resources Supply Plan by July 1, 2000; approve a grant agreement between the DRBC and the State of New Jersey for the Lower Delaware Watershed Region Program Grant: Tidal Rancocas Creek Hydrodynamic Model; authorize the Executive Director to contract with the U. S. Geological Survey, the Montgomery County Planning Commission and the U. S. Army Corps of Engineers to complete tasks outlined in an amendment to an agreement between the Delaware River Basin Commission and the Commonwealth of Pennsylvania Department of Environmental Protection; and approve continued funding for a monitoring program for the tidal Schuylkill River in cooperation with the Academy of Natural Sciences of Philadelphia. Time also will be reserved for public dialogue.

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

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at (609) 883-9500 ext. 203 or through the New Jersey Relay Service at (800) 852-7899 (TTY) to discuss how the Commission may accommodate their needs.

PAMELA M. BUSH, Esq.,  
Secretary

[Pa.B. Doc. No. 00-1636. Filed for public inspection September 22, 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 September 12, 2000.

### BANKING INSTITUTIONS

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-6-00	Irwin Bank & Trust Company Irwin Westmoreland County	Pennsylvania Avenue Commons 20 N. Pennsylvania Ave. Greensburg Westmoreland County (Trust Office)	Filed

## NOTICES

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-8-00	U. S. Bank Johnstown Cambria County	Oakley Park 2 Suite 202, R. R. 7 Greensburg Unity Township Westmoreland County	Approved
9-8-00	Firsttrust Savings Bank Conshohocken Montgomery County	Cherry Tree Corporate Center Ste. 535 535 Route 38 Cherry Hill Camden County New Jersey	Filed
9-5-00	U. S. Bank Johnstown Cambria County	722 S. Atherton St. State College Centre County (Temporary mobile unit in use as a non-mobile facility.)	Opened

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-8-00	Northwest Savings Bank Warren Warren County	<i>To:</i> 1054 East Main St. Palmyra North Londonderry Twp. Lebanon County  <i>From:</i> 1048 East Main St. Palmyra North Londonderry Twp. Lebanon County	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-5-00	Farmers First Bank Lititz Lancaster County	100 W. Market St. Marietta Lancaster County	Effective
9-8-00	Main Street Bank Reading Berks County	3321 Willow Lane Macungie Lehigh County	Approved
9-8-00	Main Street Bank Reading Berks County	Route 61 Schuylkill Haven Schuylkill County	Approved

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
9-8-00	The Glen Rock State Bank Glen Rock York County	Amendment to Article 6 provides for an increase in the number of authorized shares from 2,000,000 to 4,000,000.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

DAVID E. ZUERN,  
*Secretary*

### Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2000

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of October 2000, is 8 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which such individual owns and

which such individual occupies or has occupied as his principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in Pennsylvania. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 5.86 to which was added 2.50 percentage points for a total of 8.36 that by law is rounded off to the nearest quarter at 8 1/4%.

DAVID E. ZUERN,  
Secretary

[Pa.B. Doc. No. 00-1638. Filed for public inspection September 22, 2000, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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### APPLICATIONS

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### 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 wastewater into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations the Department of Environmental Protection (Department) proposes to issue a permit to discharge subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day 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 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 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.

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

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

**PA 0058114.** Sewage, **Cheryl A. and Shirley J. Newton**, 228 Green Tree Tavern Road, North Wales, PA 19454.

This application is for issuance of an NPDES permit to discharge treated sewage from Newton Residence STP in Upper Salford Township, **Montgomery County**. This is a new discharge to an unnamed tributary to Vaughn Run.

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

The first downstream potable water supply intake from this facility is the Philadelphia Suburban Water Company in Upper Providence Township.

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	20	40
Total Nitrogen	10	20
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 Standard Units at all times	

*Other Conditions:*

The EPA Waiver is in effect.

**PA 0026018.** Sewage, **Borough of West Chester**, 401 East Gay Street, West Chester, PA 19380.

This application is for Renewal of an NPDES permit to discharge treated sewage from West Chester Borough's Taylor Run WWTP in East Bradford Township, **Chester County**. This is existing discharge to Taylor Run.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation. The proposed effluent limits for Outfall 001, based on an average flow of 1.5 mgd 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>	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		15.0
Phosphorus (as P)			
(4-1 to 10-31)	2.0		4.0
Total Residual Chlorine	0.05		0.12
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 Standard Units at all times		

*Other Conditions:*

The EPA Waiver is not in effect.

Conditions for future permit modifications.

Effective disinfection.

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

**PA 0009571.** SIC Codes 2026, 2024, 2023, Industrial Waste, **Fairmont Products**, 15 Kishacoquillas Street, Belleville, PA 17004-0977.

This application is for renewal of an NPDES permit for existing discharge of treated industrial waste to Little Kishacoquillas Creek, in Union Township, **Mifflin County**.

The receiving stream is classified for cold 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 United Water Company located on the Susquehanna River located in Harrisburg. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfalls 001, 002, 003 and 004 for a total design flow of 0.267 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 at all times	
Total Residual Chlorine	0.5	XXX	1.6
Temperature (Discharge)	XXX	monitor and report	XXX

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

The EPA waiver is in effect.

**PA 0009733.** SIC Code 4911, Industrial Waste, **PECO Energy Company**, Peach Bottom Atomic Power Station, 965 Chesterbrook Boulevard 62A-2, Wayne, PA 19087.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to the Susquehanna River, in Peach Bottom Township, **York County**.



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

The proposed effluent limits for Outfall 001 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0	
Total Residual Chlorine	XXX	XXX	0.2
Temperature		monitor and report	
Clam-Trol (CT-1)		monitor and report	
Clam-Trol (CT-2)		monitor and report	

The proposed effluent limits for Outfall 301 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	100	100
Oil and Grease	15	20	30

The proposed effluent limits for Outfall 401 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	100	100
Oil and Grease	15	20	30

The proposed effluent limits for Outfall 501 for a design flow of 0.048 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Total Phosphorus	2	4
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 100,000/100 ml as a geometric average

The proposed effluent limits for Outfall 002 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Discharge limited to raw intake screen backwash only. All debris collected on the intake screens shall be collected and not discharged back to the river.		

The proposed effluent limits for Outfall 601 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	100	100
Oil and Grease	15	20	30

The proposed effluent limits for Outfall 003 are:

<i>Parameter</i>	<i>Composite Sample (mg/l)</i>	<i>Grab Sample (mg/l)</i>
CBOD <sub>5</sub>		monitor and report
COD		monitor and report
TSS		monitor and report
Total Phosphorus		monitor and report
TKN		monitor and report
Dissolved Iron		monitor and report
Oil and Grease		monitor and report
pH (S. U.)		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 not in effect.

**PA 0088501.** SIC Code 4952, Sewage, **Pennsylvania Department of Transportation**, Adams County Welcome Center, 2140 Herr Street, Harrisburg, PA 17103-1699.

This application is for issuance of an NPDES permit for new discharge of treated sewage to Plum Run, in Watershed 13-D, in Cumberland Township, **Adams 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 Frederick located in Frederick, Maryland. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.011 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	13	26
Total Phosphorus	2	4
Total Residual Chlorine	0.5	1.6
Dissolved Oxygen	minimum of 5.0 at all times	
pH	from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	24,000/100 ml as a geometric average	

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.

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

**PA 0094536.** Sewage. **Forest Hills School District**, P. O. Box 158, Sidman, PA 15955-0158.

This application is for renewal of an NPDES permit to discharge treated sewage from the Forest Hills Middle School STP in Croyle Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of South Fork Little Conemaugh, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Saltsburg Municipal Waterworks.

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

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	7.0			14.0
(11-1 to 4-30)	14.0			28.0
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	monitor and report			
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0094994.** Sewage, **Kennywood Entertainment Partners, L. P.**, 4800 Kennywood Boulevard, West Mifflin, PA 15122.

This application is for renewal of an NPDES permit to discharge treated sewage from Idlewild Park Sewage Treatment Plant in Ligonier, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Loyalhanna Creek, which are classified as a trout stock fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Latrobe Municipal Authority.

*Outfall 001:* existing discharge, design flow of 0.004 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> Day	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)	2000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0204366.** Sewage. **SFX Entertainment and Pavilion**, 2825 Penn Avenue, Pittsburgh, PA 15222.

This application is for renewal of an NPDES permit to discharge treated sewage from the Star Lake Amphitheatre STP in Hanover Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary to Harmon 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: City of Wheeling.

*Outfall 001:* existing discharge, design flow of 0.018 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> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	8.5			17.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	3,000/100 ml as a geometric mean			
Total Residual Chlorine				
(5-1 to 10-31)	0.35			0.9
(11-1 to 4-30)	0.45			1.0
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0216666.** Sewage, **Cyprus Cumberland Resources**, P. O. Box 1020, Waynesburg, PA 15370.

This application is for renewal of an NPDES permit to discharge treated sewage from the Cumberland Mine Main Portal STP in Whiteley Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Whiteley Creek, which are classified as a trout stock 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: Masontown Municipal Water Works.

*Outfall 002:* existing discharge, design flow of 0.02 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> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	4.0			8.0
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	0.13			0.3
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA 0004181.** Industrial Waste, SIC 3317, **Damascus Tube Company**, 795 Reynolds Industrial Park, Greenville, PA 16125.

This application is for renewal of an NPDES Permit, to discharge treated I. W., noncontact and contact cooling water and stormwater to the Shenango River in Pymatuning Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Sharpsville Municipal Authority on the Shenango River located at Sharpsville, approximately 8 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.005 mgd, are:

*Suboutfall No. 101*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Chromium	XX	XX	
Nickel	XX	XX	
Total Suspended Solids	XX	XX	
pH		6.0 to 9.0 at all times	

The proposed discharge limits, based on a design flow of 0.0013 mgd, are:

*Suboutfall No. 301*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Total Suspended Solids	20		40
pH		6.0 to 9.0 at all times	

The proposed discharge limits, based on a design flow of 0.080 mgd, are:

*Outfall No. 001*

This discharge shall consist of wastewater from Suboutfalls 101 and 301, noncontact cooling water and stormwater.

The proposed discharge limits, based on a design flow of 0.003 mgd, are:

*Suboutfall No. 202*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Total Suspended Solids	20		40
pH		6.0 to 9.0 at all times	

The proposed discharge limits, based on a design flow of 0.0071 mgd are:

*Outfall No. 002*

This discharge shall consist of wastewater from Suboutfall 202, noncontact cooling water, boiler blowdown and stormwater.

The proposed discharge limits, based on a design flow of n/a mgd, are:

*Outfall No. 003*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This discharge shall consist of uncontaminated stormwater runoff only.			

XX—Monitor and report

The EPA waiver is in effect.

**PA 0031879.** Sewage. **Pittsburgh District Church of the Nazarene—Mt. Chestnut District Center Sewage Treatment Plant**, 177 North Road, Butler, PA 16001.

This application is for renewal of an NPDES Permit, to discharge treated sewage to Unnamed Tributary to Mulligan Run in Franklin 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 the Harmony Borough water intake on Little Connoquenessing Creek located at Harmony Borough, approximately 12 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.0295 mgd, are:

*Outfall No. 001*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Total Phosphorus (4-1 to 10-31)	2	4
Ammonia-Nitrogen (5-1 to 10-31)	2.5	5
(11-1 to 4-30)	7.5	15
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	0.5	1.2
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0103896.** Industrial Waste, SIC 4953. **County Landfill, Inc.**, P. O. Box 237, Leeper, PA 16233.

This application is for renewal of an NPDES Permit, to discharge treated industrial waste to Unnamed Tributary to Walley Run in Farmington Township, **Clarion 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 Allegheny River and Emlenton Water Company located on Emlenton, approximately 75 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.03 mgd, are:

*Outfall No. 001*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	37	140	140
Total Suspended Solids	27	88	88
NH <sub>3</sub> -N	4.9	10	12.3
Fecal Coliform (5-1 to 9-30)	200/100 ml at all times		
(10-1 to 4-30)	2,000/100 ml at all times		
Oil and Grease	15		30
Antimony	0.071	0.142	0.177
Aluminum	0.275	0.55	0.687
Barium	0.3	0.6	0.75
Total Iron	3.5	7	8.75
Managanese	1	2	2.5

*Northcentral Region: Environmental Program Manager, Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3666.*

**PA 0010031.** Industrial Waste, SIC 4911, **Reliant Energy Mid-Atlantic Power Holdings, LLC**, P. O. Box 1050, 1001 Broad Street, Johnstown, PA 15907-1050.

This proposed action is for renewal of an NPDES permit for an existing discharge of untreated cooling water, storm water, leachate, treated process water, sewage and coal pile runoff from the Shawville Steam Electric Station to the West Branch of the Susquehanna River in Bradford Township, **Clearfield County**.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pennsylvania American Water Co. located at Milton approximately 150 river miles downstream.

Outfall 001, Outfall 002, Outfall 003, Outfall 009, Outfall 010 and Outfall 012: All outfalls consist of stormwater runoff from various areas of the plant site. Monitoring only is required for total suspended solids, total copper, total nickel, total zinc, dissolved iron, oil and grease and pH.

Internal monitoring point 101, Internal monitoring point 201 and Internal monitoring point 102: IMP 101 consists of an emergency overflow of stormwater from the surge/settling pond at the north ash disposal site. IMP 201 consists of an overflow of the leachate and seepage collection area at the toe of the north ash disposal site. IMP 102 consists of an emergency overflow of the leachate pump station. Monitoring only is required for flow, total suspended solids, total iron, total manganese, total aluminum, total zinc and pH.

Internal monitoring point 205: consists of the discharge from the sewage treatment plant and is based on the design flow of 0.009 mgd.

The proposed effluent limits are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
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	
pH	greater than 6.0 at all times	

Internal monitoring point 405: consists of effluent from the industrial waste treatment system. The proposed effluent limits, based on a design flow of 1.3 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30.0	100.0	
Oil and Grease	15.0	20.0	30.0
Total Iron	1.8	3.6	4.5
Total Manganese	2.1	4.2	5.3
Total Aluminum	3.7	7.4	9.3
Total Zinc	0.3	0.6	0.8
pH	6.0 to 9.0 at all times		

Outfall 008 and Outfall 008A: outfall 008 consists of the discharge of once through cooling water.

Outfall 008A is a portion of this discharge used during the winter for deicing the plant intake.

The proposed effluent limits, based on a design flow of 424 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Chlorine Residual	limitation effective when chlorine is used		0.20
Temperature	monitor only influent and effluent		

*Other Conditions:*

The permittee is to conduct biological/chemical stream inventories biennially to determine if the West Branch of the Susquehanna River at Shawville has recovered from its acid condition.

There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

The EPA waiver is not in effect.

**PA 0228303. Bear Hollow Subdivision Homeowners Association**, 165 Waltimyer Road, Turbotville, PA 17772, SIC 4952, Delaware Township, **Northumberland County**.

This proposed action is for issuance of an NPDES permit for a new discharge of treated sewage to unnamed tributary of Delaware Run in Delaware Township, Northumberland County.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton.

The proposed effluent limits for Outfall 001, based on a design flow of 0.0016 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
TSS	20	40
Total Chlorine Residual	2	4.6
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	200/100 ml as a geometric average	
pH	6.0—9.0 at all times	

*Other Conditions:* none

The EPA waiver is in effect.

**Request for Comment for the Proposed Total Maximum Daily Load (TMDL) for Stephen Foster Lake**

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL, established in accordance with the requirements of section 303(d) of the Clean Water Act. Stephen Foster Lake was listed on

Pennsylvania's 1996 section 303(d) list because of impairments of designated uses due to sedimentation (Total Suspended Solids—TSS) and excess nutrients (Phosphorus) loads to the lake.

The Department currently does not have water quality criteria for nutrients or sediment. Therefore, the Department established a water quality objective for nutrients and sediment. The water quality objective for phosphorus was established using the Trophic Status Index (TSI) rating system established by Carlson. The water quality objectives for TSS were set based on the original lake design sediment storage capacity. These water quality objectives were set with the expectation that they could be reasonably achieved.

The TMDL sets allowable loading rates for both TSS and phosphorus for each land use category identified. The basis of information used in establishment of this TMDL is the Phase One Clean Lakes Study completed by Coastal Environmental in 1996.

The following table shows the current loading to the lake and the necessary reductions to meet the TMDL. The loads are expressed in pounds per year.

<i>Parameter</i>	<i>Existing Load (lb/yr)</i>	<i>TMDL Load (lb/yr)</i>	<i>% Reduction to meet TMDL</i>
Total Phosphorus	2,714	1,372	49
Total Suspended Solids	1,427,420	686,104	52

The data and all supporting data used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact: Daniel L. Alters, Water Programs Manager, Water Management Program, Northcentral Regional Office, Pennsylvania Department of Environmental Protection, 208 West Third Street—Suite 101, Williamsport, PA 17701-6448, phone: (570) 327-0530, e-mail: Alters.Daniel@dep.state.pa.us.

This proposed TMDL can be viewed and printed from this website: [www.dep.state.pa.us/dep/deputate/watermgmt/WC/Subjects/WQStandards/TMDL/TMDLs.htm](http://www.dep.state.pa.us/dep/deputate/watermgmt/WC/Subjects/WQStandards/TMDL/TMDLs.htm).

Please note that at the current time attachments and appendices must be requested through paper mail.

Written comments will be accepted at the above address and must be postmarked by November 22, 2000.

Additionally, the Department will accommodate small group meetings of interested parties to discuss this TMDL. A meeting can be arranged by contacting Jeff Gocek, Sanitary Engineer II (Northcentral Regional Office) at (570) 327-3665.

The Department will consider all comments in developing the final TMDL, which will be submitted to EPA for approval.

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### Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

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The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements. The updates 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.

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*Southeast Regional Office: Water Management Program, Program Manager, 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 0029980	Sleighton School 485 Valley Road Glen Mills, PA 19342	Delaware County Middletown Township	Rocky Run	

**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 of the protester, identification of the plan or application to which the protest is addressed and a concise statement or protest in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest or protests. Each protester will be notified in writing of the time and place of any scheduled hearing or conference concerning the plan, action or application to which the protest relates. 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.

**Industrial waste and sewerage applications under  
The Clean Streams Law (35 P. S. §§ 691.1—  
691.1001).**

*Northeast Regional Office: Water Management Program  
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790,  
(570) 826-2511.*

**A. 3500403.** Sewerage. **South Abington Sewer Authority**, 104 Shady Lane Road, P. O. Box 259, Chinchilla, PA 18410. Application to upgrade pump station located in South Abington Township, **Lackawanna County**. Application received in the Regional Office—September 6, 2000.

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

**WQM Permit No. 0999415.** Sewerage. **Daniel F. Ruff**, P. O. Box 57, Ottsville, PA 18942. Applicant is requesting approval for the construction and operation of a sewage treatment plant to serve Harrow Station, a commercial development located in Nockamixon Township, **Bucks County**.

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

**0686401.** Sewerage. **Amendment 00-2** submitted by **City of Reading**, Bureau of Wastewater Treatment, 815 Washington Street, Reading, PA 19601-3690 in Reading City, **Berks County** to replace the 19th Ward Pump Station was received in the Southcentral Region on August 28, 2000.

**0500408.** Sewerage, submitted by **Southern Cove Joint Municipal Authority**, P. O. Box 223, Woodbury, PA 16695 in Woodbury Borough, **Bedford County** to construct a wastewater collection system consisting of approximately 49,000 LF of wastewater mains and two pump stations was received in the Southcentral Region on August 30, 2000.

**0700403.** Sewerage, submitted by **Allegheny Township Sewer and Water Authority**, 3131 Old Sixth Avenue Road, North, Duncansville, PA 16635 in Allegheny Township, **Blair County** to replace approximately 43,000 lineal feet of existing sanitary sewer pipe and appurtenances in the Foot-of-Ten area was received in the Southcentral Region on September 5, 2000.

**3600407.** Sewerage, submitted by **Columbia Municipal Authority**, 308 Locust Street, Columbia, PA 17512 in Columbia Borough, **Lancaster County** to upgrade the operations of a wastewater treatment plant was received in the Southcentral Region on August 29, 2000.

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

**0400410.** Sewerage, **Kevin Fantone**, 629 10th Avenue, New Brighton, PA 15066. Application for the construction and operation of a small flow sewage treatment plant to serve the Fantone Residence located in Daugherty Township, **Beaver County**.

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

**WQM Permit No. 1600405.** Sewerage. **Strattanville Borough Municipal Authority**, P. O. Box 139, Strattanville, PA 16258-0139. This project is for sewage treatment plant lagoon improvements in the Borough of Strattanville, **Clarion County**.

**INDIVIDUAL PERMITS**

**(PAS)**

**NPDES Individual**

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the



relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

**NPDES Permit PAS10-G433.** Stormwater. **Pulte Home Corporation**, 1210 Northbrook Drive, Suite 150, Trevoise, PA 19053, has applied to discharge stormwater from a construction activity located in Schuylkill Township, **Chester County**, to Unnamed Tributary of Pickering Creek (HQ-TSF).

**NPDES Permit PAS10-G434.** Stormwater. **Charles Hurchalla**, 223 Autumn Drive, Exton, PA 19341, has applied to discharge stormwater from a construction activity located in Upper Uwchlan Township, **Chester County**, to March and East Brandywine Creeks (HQ-TSF-MF).

**NPDES Permit PAS10-G435.** Stormwater. **Pulte Homes Corporation**, 1210 Northbrook Drive, Trevoise, PA 19053, has applied to discharge stormwater from a construction activity located in Upper Uwchlan Township, **Chester County**, to Pickering Creek (HG-TSF).

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

*Carbon County Conservation District, District Manager, 5664 Interchange Road, Lehighton, PA 18235-5114, (610) 377-4894.*

**NPDES Permit PAS101322.** Stormwater. **Jim Thorpe K-8 School**, 140 West 10th Street, Jim Thorpe, PA 18229 has applied to discharge stormwater from a construction activity located in Kidder Township, **Carbon County** to Dilldown Creek.

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

**NPDES Permit PAS102514.** Stormwater. **GKN Sintered Metals, Inc.**, P. O. Box D, St. Marys, PA 15857, has applied to discharge stormwater from a construction activity located in Fox Township, **Elk County**, to Byrnes Run (EV).

**NPDES Permit PAS102701.** Stormwater. **Pennsylvania General Energy, Corp.**, 208 Liberty Street, Warren, PA 16365, has applied to discharge stormwater from a construction activity located in Jenks and Kingsley Townships, **Forest County**, to Salmon Creek (HQ), Little Salmon Creek (HQ) and Guiton Run (HQ).

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### General CAFO NPDES Permit

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

**PAG123504. Longacre Farm (Mark Wagner)**, 6397 High Street, East Petersburg, PA 17520. Mark Wagner has submitted an application for a general NPDES permit for a proposed concentrated animal feeding operation (CAFO) known as Longacre Farm, located on Path Valley Road in Fannett Township, **Franklin County**. The CAFO is situated near an unnamed tributary of Dry Run, which is classified for Cold Water Fishes (CWF) and Migratory Fishes (MF). The CAFO will be designed to maintain an animal population of approximately 577 animal equivalent units (AEUs) consisting of 4,400 wean to finish swine. These animals will be housed in two barns. Manure will be collected through slatted floors in reinforced concrete manure storage facilities beneath each barn. The total capacity of the manure storage facilities will be 1.5 million gallons including 2 feet of freeboard. Prior to operation of the manure storage facilities, the design engineer will be required to submit certification that the facilities were properly constructed. Manure will be pumped from the facilities and spread onto fields rented out by Longacre Farm in accordance with the approved Nutrient Management Plan. Excess manure will be managed through an agreement with a manure broker. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations including the Final CAFO Strategy, the Department has made a tentative determination to issue a general NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and proposed draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The Environmental Protection Agency (EPA) permit review waiver provision under 40 CFR 123.24(e) applies to this general NPDES permit.

Persons wishing to comment on the proposed permit are invited to submit written comments to the above address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based. A public meeting/hearing may be held if the Department considers the public response or interest 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 the determination may be appealed to the Environmental Hearing Board.

**PAG123503, Mountain View No. 1 Farm (George Christianson)**, 411 Chestnut Street, Lebanon, PA 17042.

George Christianson has submitted an application for a general NPDES permit for a concentrated animal feeding operation (CAFO) known as Mountain View No. 1 Farm, located on Frystown Road in Bethel Township, **Berks County**. The CAFO is situated near an unnamed tributary of Little Swatara Creek, which is classified for Cold Water Fishes (CWF). The CAFO will be designed to maintain an animal population of approximately 967 animal equivalent units (AEUs) consisting of 7,700 wean to finish swine (with a non-standard average weight of 131 lbs). A two-stage HPDE-lined manure storage facility with a total capacity of 3.15 million gallons has been constructed at the CAFO. As part of the application process, the design engineer will be required to submit certification that the manure storage facilities were properly constructed. Manure will be pumped from the facilities and spread onto fields rented out by Mountain View No. 1 Farm in accordance with the approved Nutrient Management Plan. Excess manure will be exported through a manure broker agreement. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations including the Final CAFO Strategy, the Department has made a tentative determination to issue a general NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and proposed permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The Environmental Protection Agency (EPA) permit review waiver provision under 40 CFR 123.24(e) applies to this general NPDES permit.

Persons wishing to comment on the proposed permit are invited to submit written comments to the above address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based. A public meeting/hearing may be held if the Department considers the public response or interest 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 the determination may be appealed to the Environmental Hearing Board.

## 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.*

**0900508.** Public Water Supply. **Quakertown Borough**, P. O. Box 727, Quakertown, PA 18951. This propo-

posal involves the Construction of Well No. 8 with chlorination and corrosion control treatment in Quakertown Borough, **Bucks County**.

*Northeast Regional office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**3900504.** Public Water Supply. **Great Spring Waters of America, Inc.**, David Thorpe, 405 Nestle Way, Breinigsville, PA 18031. This proposal involves the addition of production lines 7 and 8 to fill .5 to 2 liter pet containers. It is located in Upper Macungie Township, **Lehigh County**. Engineer: Gary Toplak PE.

**5200502.** Public Water Supply. **Hemlock Farms Community Association**, Mike Sibio, Community Manager, 1007 Hemlock Farms Community Assn., Hawley, PA 18428. This proposal involves the construction of Well No. 4 with wellhouse; treatment facilities and distribution system improvements; the remediation of Well No. 10 to remove surface water influence; and the construction of a 1.0 mg storage tank. It is located in Blooming Grove Township, **Pike County**. Engineer: Roswell S. McMullen PE—Emtech Engineering Inc.

**3546481.** Public Water Supply. **Sweet Arrow Springs**, Frederick B. Dewey, Jr., President, Harrisburg Dairies, Inc., 2001 Herr Street, P. O. Box 2001, Harrisburg, PA 17105-2001. This proposal involves the transfer of ownership from Harrisburg Dairies, Inc., to Sweet Arrow Springs, LLC. It is located in Pine Grove Township, **Schuylkill 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—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. 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's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following Notice of Intent to Remediate:

*Northeast Regional Field Office: Joseph A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**PPL—Distribution Pole # 34127S48059** (105 W. Maple St., Valley View, PA), Hegins Township, **Schuylkill County**. PPL Generation LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The notice indicates that the site will be remediated to meet the Statewide human health standard. A Final Report was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notice.

## **SOLID AND HAZARDOUS WASTE RESIDUAL WASTE PROCESSING FACILITIES**

**Application received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1001); The Administrative Code of 1929 (71 P. S. §§ 510-5, 520-17 and 510-20); 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 for 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.*

**General Permit Application No. WMGR070. American Asphalt Paving Co.,** 500 Chase Road, Shavertown, PA 18708-9622. General Permit Number WMGR070 for the beneficial use of residual waste from air pollution devices at the facility. They will be used to form the core of dikes, pipe bedding and backfill. The Department accepted the application as administratively complete on September 13, 2000.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application may contact the Division at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

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

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

**100549. Waste Management Disposal Services of Pennsylvania, Inc.,** 1425 Sell Road, Pottstown, PA 19464. The Phase 1 component of a waste application was submitted for a vertical expansion on the Eastern Expansion of the Pottstown Landfill (east side of Sell Road) located in Douglass and West Pottsgrove Townships, **Berks and Montgomery Counties**, respectively. Also included is a request for a renewal of the Eastern Expansion Landfill permit to continue disposal operations in this area of the landfill. Application was received in the Southeast Regional Office on August 22, 2000.

**100549. Waste Management Disposal Services of Pennsylvania, Inc.,** 1425 Sell Road, Pottstown, PA 19464. The Phase I component of a waste application was submitted for modification of, and vertical expansion on, closed portions of the Pottstown Landfill (west side of Sell Road) located in Douglass and West Pottsgrove Townships, **Berks and Montgomery Counties**, respectively. Also included is a request for a renewal of disposal operations on this currently closed area of the landfill. Application was received in the Southeast Regional Office on August 22, 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.*

**35-318-081: BEMIS—MActac Inc.** (East Cory Street, P. O. Box 1106, Scranton, PA 18501) for operation of a hot melt coater in Moosic Borough, **Lackawanna County**.

**40-310-027A: Pikes Creek Sand & Stone Inc.** (P. O. Box 330, Sweet Valley, PA 18656) for operation of a stone crushing plant and associated air cleaning device in Lehman Township, **Luzerne County**.

**48-320-005C: The Mack Printing Group** (1991 Northampton Street, Easton, PA 18042) for operation of printing presses and associated air cleaning device in Wilson Borough, **Northampton County**.

**13-313-026A: Ametek/Westchester Plastics** (Box 9, Green Acres Industrial Park, Nesquehoning, PA 18240) for operation of an extruder and associated air cleaning device in Nesquehoning Borough, **Carbon County**.

**13-313-030A: Ametek/Westchester Plastics** (Box 9, Green Acres Industrial Park, Nesquehoning, PA 18240) for operation of two extrusion lines and associated air cleaning device in Nesquehoning Borough, **Carbon County**.

**40-399-028A: Intersil Corp.** (125 Crestwood Road, Mountaintop, PA 18707) for operation of fabrication lines and associated air cleaning device in Wright Township, **Luzerne County**.

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

**10-330A: Butler Veterinary Associates Pet Crematory** (1761 North Main Street Extension, Butler, PA 16001) for operation of a pet crematory in Center Township, **Butler County**.

**10-326B: Oesterling Sandblasting & Painting, Inc.** (686 Glennwood Way, Butler, PA 16001) for operation of a spray paint booth in Center Township, **Butler County**.

**25-984A: Harrison Machine Co.** (3118 Station Road, Erie, PA 16510) for operation of two dip tanks and one spray booth in Wesleyville, **Erie County**.

**37-307A: Hobel Brothers Co./Slippery Rock Salvage** (214 Gardner Avenue, New Castle, PA 16107) for operation of an enclosed steel ingot cutting operation in New Castle, **Lawrence County**.

**37-308A: Glacial Sand and Gravel Co.** (Route 108, P. O. Box 1022, Kittanning, PA 16201) for operation of a non-metallic mineral processing facility in Plain Grove and Scott Townships, **Lawrence County**.

**61-308-001A: Vertical Seal Co.** (R. D. 1, Box 147, Pleasantville, PA 16341) for operation of two babbitt melting pots in Oil Creek Township, **Venango County**.

## AIR QUALITY

### OPERATING PERMITS

#### Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F 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 below. For additional information, contact the regional office noted below.

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

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

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

**46-00079: Naval Air Station Joint Reserve Base** (County Line Road and Route 611, Willow Grove, PA 19090) in Horsham Township, **Montgomery County**. The facility's major emission points include boilers, aerospace surface coating processes, miscellaneous cleaning

operations, and paint booths which emit major levels of Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NO<sub>x</sub>).

**23-00040: Buckeye Pipe Line Co. L. P.** (3398 Garnet Mine Road, Boothwyn, PA 19061-0917) in Bethel Township, **Delaware County**. The facility's major emission points include one oil/water separator, one gasoline air stripper, 11 floating-roof storage tanks, eight fixed-roof storage tanks, and associated sumps, pumps, flanges and a back-up generator.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**55-00005: Wood-Mode, Inc.** (One Second Street, Kreamer, PA 17833) for their wood household furniture manufacturing facility (Kreamer Plant) in Middlecreek Township, **Snyder County**. The facility's main sources include 27 spray booths, hand wipe stain application stations, hand wipe and repair stations, cleanup and washoff operations, lumber drying operations, veneering operations, a wood waste/number 2 oil/natural gas-fired boiler, a wood waste-fired boiler, woodworking areas, and wood waste handling systems. The air contaminant emissions from these operations are controlled by a thermal oxidizer, fabric collectors and multiclones. The facility has the potential to emit major quantities of carbon monoxide (CO), hazardous air pollutants (HAPs), volatile organic compounds (VOCs), and particulate matter (PM-10). As a result of the potential to emit, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility emits nitrogen oxides (NO<sub>x</sub>) and sulfur oxides (SO<sub>x</sub>) below the major emission thresholds. This facility is also subject to the requirements of Reasonably Available Control Technology (RACT) for VOC emissions, and 40 CFR Part 63 Subpart JJ for Maximum Achievable Control Technology (MACT).

**49-00007: Merck & Co., Inc.** (P. O. Box 600, Danville, PA 17821) for their medicinals and botanicals manufacturing facility (Cherokee Plant) in Riverside Borough, **Northumberland County**. The facility's main sources include three natural gas/number 2 fuel oil-fired boilers, asparaginase, avermectin and antibiotic campaign operations, xanthan gum operations, a wastewater detoxification system, a wastewater treatment plant, sludge incineration and drying operations, a waste solvent incinerator, storage vessels, and emergency generators and other combustion units. The air contaminant emissions from these operations are controlled by scrubbers, fabric collectors, condensers, an afterburner, and a fume incinerator. The facility has the potential to emit major quantities of hazardous air pollutants (HAPs), volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>) and carbon monoxide (CO). As a result of the potential to emit, the Merck & Co., Inc. Cherokee Plant is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G. The facility emits particulate matter (PM-10) below the major emission thresholds. This facility is also subject to the requirements of Reasonably Available Control Technology (RACT) for NO<sub>x</sub> and VOC emissions, and 40 CFR Part 63 Subparts GGG, MMM and H for Maximum Achievable Control Technology (MACT).

**59-00004: Ward Manufacturing Co., Blossburg Plants 1, 2 and 3** (115 Gulick Street, P. O. Box 9, Blossburg, PA 16912-0009) for their Malleable Gray Iron Foundry facility in Blossburg Borough, **Tioga County**. The facility's major air contamination sources are natural gas fired heaters and annealing ovens, grinding and sanding operations, core-making equipment, and a 168 MMBTU/HR cupola used to melt scrap metal in order to make moldings. This facility has the potential to emit major quantities of Carbon Monoxide (CO), Particulate Matter (PM), Hazardous Air Pollutant (Lead), and Volatile Organic Compounds (VOCs). As a result of the potential emissions, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is also subject to Reasonably Available Control Technology (RACT) requirements for VOC emissions. The facility has the potential to emit sulfur oxides (SO<sub>x</sub>), and nitrogen oxides (NO<sub>x</sub>) below the major emission thresholds.

**18-00011: Croda, Inc., Bald Eagle Township Plant** (P. O. Box 178, Mill Hall, PA 17751-0178) for their synthesized organic chemical intermediates manufacturing facility in Bald Eagle Township, **Clinton County**. The facility's main air contaminant sources are natural gas/number 2 oil fired boilers and heaters, a super refined oils process and reactor room processes producing chemical intermediates for the personal care, household, pharmaceutical, and manufacturing industries, which have the potential to emit major quantities of Sulfur Oxides (SO<sub>x</sub>), Hazardous Air Pollutants (HAPs), and Volatile Organic Compounds (VOCs). As a result of the potential emissions, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G, and Maximum Achievable Control Technology (MACT) requirements for their reactor room processes. The facility is also subject to Reasonably Available Control Technology (RACT) requirements for VOC emissions. The facility has the potential to emit carbon monoxide (CO), particulate matter (PM), and nitrogen oxides (NO<sub>x</sub>) below the major emission thresholds.

**08-00003: Masonite Corp.** (P. O. Box 311, Towanda, PA 18848) for manufacturer of hardboard products including molded doorfacing panels and exterior trim board in Wysox Township, **Bradford County**. The facility's main emissions sources include one (1) natural gas fired boiler, two (2) natural gas/wood fired boilers, surface coating operations, three (3) hardboard press lines, numerous wood working operations, natural gas fired process dryers and ovens, 33 storage tanks, and related process equipment. The facility has the potential to emit major quantities of Nitrogen Oxides (NO<sub>x</sub>), volatile organic compounds (VOC), particulate matter <10 μm (PM10), hazardous air pollutants (HAPs) and carbon monoxide (CO). As a result of these potential emissions the facility is a major stationary source as defined in Title 1, Part D of the Clean Air Act Amendments. The facility is therefore subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is also subject to all applicable Reasonably Available Control Technology (RACT) requirements for NO<sub>x</sub> and VOC emissions sources. The facility emits Sulfur Oxides (SO<sub>x</sub>) below the major emission threshold.

### Nitrogen Oxides (NO<sub>x</sub>) Allowance Program

#### Proposed Revisions to Title V/State Only Operating Permits to include Conditions relating to NO<sub>x</sub> Allowance Requirements in 25 Pa. Code §§ 123.101—123.120.

The Department of Environmental Protection (Department) has revised the following Operating Permit to include the GP F-2 Unit as an opt-in source and provide NO<sub>x</sub> allowances based on the average NO<sub>x</sub> emissions from the previous two NO<sub>x</sub> control periods in accordance with 25 Pa. Code § 123.116.

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

Copies of these permits and other relevant information are available for review at the address given below:

*Bureau of Air Quality: Division of Permits, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.*

**95-038: Sunoco Inc. (R&M)** (3144 Passyunk Avenue, Philadelphia, PA 19145-5208) located in the City of Philadelphia, **Philadelphia County**.

*NO<sub>x</sub> affected Sources:*

GP F-2                      Point ID:                      Allowance: 51

#### PLAN APPROVALS

#### Applications received and intent to issue Plan Approvals 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.*

**40-309-036C: Schott Glass Technologies, Inc.** (400 York Avenue, Duryea, PA 18642) for modification of four glass melting pots in Duryea Borough, **Luzerne County**.

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

**06-03030A: Bally Ribbon Mills** (23 North 7th Street, Bally, PA 19503) for modification of the boiler house in Bally, **Berks County**. One of the boilers is subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Stream Generating Units.

**28-05015A: IESI Blue Ridge Landfill Corp.** (P. O. Box 399, Scotland, PA 17254) for installation of a landfill gas extraction well, interconnect piping, condensate traps

and knock-outs controlled by an enclosed ground flare. The landfill is located in Greene Township, **Franklin County**.

**36-310-023F: Compass Quarries, Inc. d/b/a Independence Construction Materials** (47 McIlvaine Road, Paradise, PA 17562) for modification of an existing Agricultural Limestone Pulverizing Plant at the Paradise Quarry in Paradise Township, **Lancaster County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

**67-03096: FCI Interconnections** (25 Grumbacher Road, York, PA 17402) for construction of a small hard chromium electroplating tank controlled by a composite mesh-pad system located in Manchester Township, **York County**. This source is subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

**67-05004A: P. H. Glatfelter Co.** (228 Main Street, Spring Grove, PA 17362) for installation of a hardpiping system to convey pulp mill process condensates from the pulp mill to the wastewater treatment plant, where it will be discharged below the liquid level surface of the No. 1 aeration basin. This source is subject to 40 CFR Part 63, Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry. This facility is located in Spring Grove Borough, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**49-00014: Jeraco Enterprises, Inc.** (135 Sodom Road, Milton, PA 17847) for construction of three fiberglass automotive accessory surface coating spray booths in Milton Borough, **Northumberland County**. Jeraco Enterprises, Inc. is a major facility for which a Title V Operating Permit Application has been submitted but for which no Title V operating permit has yet been issued.

The information provided by the applicant indicates that the subject air contamination sources will potentially emit up to 18.0 tons of volatile organic compounds (VOCs) per 12 consecutive month period, of which up to 15.0 tons may be a combination of hazardous air pollutants (HAPs). These air contamination sources will also emit a negligible amount of 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 "best available technology" requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to approve the application and issue a plan approval to construct. If the plan approval is issued and if the respective three surface coating spray booths are subsequently found to be in compliance with all applicable regulatory requirements and plan approval conditions, the plan approval will be incorporated into an operating permit via administrative amendment in accordance with 25 Pa. Code § 127.450.

In order to ensure compliance with all applicable standards, the Department proposes to place the following requirements in the respective plan approval.

1. This plan approval is issued for the construction of three surface coating spray booths, the particulate matter emissions from each of which shall be controlled by a dual stage polyester paint collector.

2. Only high volume low pressure spray guns shall be used to apply coatings in the respective spray booths.

3. All clear surface coatings (transparent top coats) applied in the respective spray booths shall contain no more than 5.00 pounds of VOCs per gallon of coating.

4. All surface coatings applied in the respective spray booths shall contain no more than 6.68 pounds of VOCs per gallon of coating. Note, clear surface coatings are also subject to a limitation of 5.00 pounds of VOCs per gallon of coating.

5. Acetone shall be the only solvent used to clean the respective spray booths and associated spray equipment.

6. All solvent used for spray line cleaning shall be flushed into closed containers. Under no circumstances shall solvent be removed from spray lines by spraying through a spray gun. All containers of solvent and waste solvent shall be kept closed when not in actual use and all solvent-laden rags, etc. shall be stored in closed containers when not in actual use. Under no circumstances shall waste solvent be intentionally disposed of via evaporation or shall solvent-laden rags, etc. be treated or pretreated prior to disposal or reuse by subjecting them to air drying or any other means of solvent removal which would cause solvent to be unnecessarily evaporated into the air.

7. Water based strippable spray booth coating shall be used to minimize the use of acetone for cleanup. The VOC content of the strippable spray booth coating shall not exceed 0.24 pounds per gallon of coating. The strippable spray booth coating shall contain no HAPs.

8. The particulate matter concentration of the exhaust from the spray booths shall not exceed 0.01 grains per dry standard cubic foot.

9. Each of the dual stage polyester paint collectors shall be equipped with a full set of filters any time the respective spray booth is in operation.

10. The total combined VOC emissions from the three spray booths, including the VOC emissions from the application of surface coatings as well as from strippable spray booth coatings, shall not exceed 18 tons per 12 consecutive month period.

11. The total combined emission of HAPs from the three spray booths shall not exceed 15 tons per 12 consecutive month period. Additionally, the emission of any single HAP from the three spray booths shall not exceed 6 tons per 12 consecutive month period.

12. The VOC emissions from the entire surface coating operation at this facility shall not exceed 30 tons per 12 consecutive month period, 1,000 pounds per day or 100 pounds per hour.

13. The acetone emissions from cleanup operations associated with the three spray booths shall not exceed 1.5 tons per 12 consecutive month period.

14. The company shall maintain comprehensive accurate records on a daily basis to ensure compliance with all emissions limitations contained herein. All records generated under this condition shall be retained on site for at least 5 years and shall be made available to Department personnel upon request.

15. The company shall submit a quarterly report to the Department to demonstrate compliance with all emissions limitations contained herein.

In accordance with Section 127.45 of Chapter 127 of Article III of the Rules and Regulations of the Depart-

ment of Environmental Protection, 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.

Any person 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-49-0014A; 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 its 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, by the *Pennsylvania Bulletin*, by letter, or by telephone, where the Department determines the 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.

**TLC Services** (621 Smith Road, Mansfield, PA 16933) has submitted an application to the Department of Environmental Protection (Department) for approval to construct a crematory incinerator equipped with a secondary chamber in Tioga Township, **Tioga County**. The information provided by the applicant and the Department's own analysis indicates that this operation may potentially result in the emission of up to 1.06 tons per year (tpy) of nitrogen oxides, 0.02 tpy of volatile organic compounds (VOCs) and 0.14 tpy of sulfur dioxide. A preliminary review of the information submitted by TLC Services indicates that the proposed construction will meet all applicable air quality requirements including the "best available technology" requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to approve the application and issue a plan approval to construct the respective crematory incinerator equipped with a secondary chamber. If the plan approval is issued and the incinerator is subsequently found to be

operating in compliance with all applicable regulatory requirements and plan approval conditions, an operating permit will be issued for the incinerator.

In order to ensure compliance with all applicable standards, the Department proposes to place the following requirements in the respective plan approval.

1. The crematory incinerator is to be constructed in accordance with the plans submitted with the application.
2. This plan approval is issued for the construction of an "All Crematory" model 2500 Elite crematory incinerator equipped with a secondary combustion chamber.
3. Only human remains and associated wood, cardboard, etc. containers for holding the remains shall be incinerated in this crematory incinerator. Under no circumstances shall this incinerator be used for the incineration of hospital waste, infectious waste or any other type of waste other than human remains and associated containers.
4. The particulate matter emissions from the crematory incinerator shall not exceed 0.08 grains per dry standard cubic foot corrected to 7% oxygen.
5. The visible emissions from the crematory incinerator shall not equal or exceed 10% opacity for a period or periods aggregating more than 3 minutes in any 1 hour or equal or exceed 30% opacity at any time.
6. A secondary combustion chamber temperature of at least 1800°F shall be maintained at any time that cremation is occurring.
7. The crematory incinerator shall be equipped with instrumentation to continuously monitor and record the secondary combustion chamber temperature at any time the incinerator is in operation. These records shall be retained for at least 5 years and be made available to the Department upon request.

In accordance with Section 127.45 of Chapter 127 of Article III of the Rules and Regulations of the Department of Environmental Protection, the conditions listed in this plan approval do one or more of the following:

1. Identify the source 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.

Any person wishing to protest the issuance of plan approval or provide the Department with additional information which he/she believes should be considered in the Department's review of the respective plan approval application may do so by submitting the protest or information in writing to the Department at the address listed. Each protest or comment should include the following: name, address and telephone number of the person submitting the comments; identification of the proposed Plan Approval No. 59-301-019; and a concise statement explaining the relevancy of the information or any objections to the issuance of the plan approval.

A public hearing may be held, if the Department in its discretion decides that such a hearing is warranted based on the information received. All persons protesting the issuance of plan approval, submitting comments or re-

questing 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, by the *Pennsylvania Bulletin*, by letter or by telephone, where the Department determines such 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 comments, protests or a request 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 Andrew T. Eldred, Air Pollution Control Engineer, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (570) 321-6575.

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

**65-926A: Crow's Nest Synfuels, L. P.** (13 Elm Street, Cohasset, MA 02025) for installation of coal preparation at the Bovard Plant in North Huntingdon, **Westmoreland County**.

**04-707A: Quality Aggregates Inc./Colona Terminal Service** (200 Neville Road, Pittsburgh, PA 15225) for installation of a coal unloading facility at the Colona Dock in Monaca Borough, **Beaver County**.

**56-282A: Rollock, Inc.** (156 Rollock Road, Stoystown, PA 15563) for installation of a baghouse in Stoystown Borough, **Somerset County**.

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to these applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's



newspaper advertisement, as provided by 25 Pa. Code §§ 86.31—86.34 and 77.121—77.123 (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 above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

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

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

*Coal Applications Received:*

**40990202C. HUD, Inc. t/a Emerald Anthracite** (P. O. Box 27, 200 East Front Street, Nanticoke, PA 18634), correction to an existing coal refuse reprocessing operation for an incidental boundary correction of 9.4 acres for a total of 104.2 acres, receiving stream—Nanticoke Creek. Application received September 1, 2000.

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

**03743701. Canterbury Coal Co.** (R. D. 1, Box 119, Avonmore, PA 15618), to revise the permit for the Number 5 Coal Refuse Disposal Area in Kiskiminetas Township, **Armstrong County** to revise the permit to allow disposal in an additional 8.3 acres of permitted area and to obtain a road variance to dispose of refuse 100' from T-508, no additional discharges. Application received June 7, 2000.

**03940401. Keystone Coal Mining Corp.** (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Keystone Number 2 CRDA in Plumcreek Township, **Armstrong County** to renew the existing coal refuse disposal permit, no additional discharges. Application received July 13, 2000.

**03743701. Canterbury Coal Co.** (R. D. 1, Box 119, Avonmore, PA 15618), to renew the permit for the Coal Refuse Disposal Area Number 5 in Kiskiminetas Township, **Armstrong County** to renew the existing permit

for the Number 5 CRDA, no additional discharges. Application received August 3, 2000.

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

**10950102. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Renewal of an existing bituminous surface strip operation in Lancaster and Franklin Townships, **Butler and Beaver Counties** affecting 110.0 acres. Receiving streams: Three unnamed tributaries of Doe Run. Application for reclamation only. Application received September 7, 2000.

**10950104. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Renewal of an existing bituminous surface strip operation in Jackson and New Sewickley Townships, **Butler and Beaver Counties** affecting 71.5 acres. Receiving streams: Unnamed tributary to Muntz Run. Application for reclamation only. Application received September 7, 2000.

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

**32000107. Kraynak Coal Company** (R. D. 1, Box 158, 3124 Firetower Road, Mahaffey, PA 15757), commencement, operation and restoration of bituminous surface-auger mine in Grant Township, **Indiana County**, affecting 38.0 acres, receiving stream East Run to Little Mahoning Creek to Mahoning Creek to the Allegheny River, application received August 25, 2000.

**11001104. Permit Revision. Alverda Enterprises, Inc.** (P. O. Box 87, Alverda, PA 15701), to utilize an existing stream crossing on an unnamed tributary to Brubaker Run situated on the property of Matthew and Amy Dillon in Elder Township, **Cambria County**, for the purpose of entering and conducting exploration activities throughout the site. Application received August 30, 2000.

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

*Small Noncoal (Industrial Mineral) Bond Release Application:*

**50900803. Kitner Brothers, Inc.** (70 Victory Lane, Shermans Dale, PA 17090), Stage I and II bond release for a small quarry operation in Northeast Madison Township, **Perry County** affecting 4.0 acres for \$4000 on property owned by Karen M. Balaban and Elizabeth Balaban. Application received August 31, 2000.

**45880807. John E. Heller** (1233 Heller's Lane, Long Pond, PA 18334), Stage I and II bond release for a small quarry operation in Tunkhannock Township, **Monroe County** affecting 1.0 acres for \$1,000 on property owned by Kathy Shutovich. Application received September 5, 2000.

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

*Noncoal Applications Received:*

**60000301. Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), commencement, operation and restoration of a quarry operation in Buffalo Township, **Union County** affecting 63.7 acres, receiving stream—Buffalo Creek. Application received September 1, 2000.

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

*Large Industrial Minerals Applications Received:*

**31000301. New Enterprise Stone & Lime Company, Inc.** (Box 77, Church Street, New Enterprise, PA

16664), commencement, operation and restoration of bituminous surface mine in Cromwell Township, **Huntingdon County**, affecting 72.6 acres, receiving stream Shade Creek, application received August 25, 2000.

## APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

### ENCROACHMENTS

The following permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317 as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

### **Application 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.**

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

**E23-401**, Encroachment. **Ridley Township**, 100 E Mac Dade Blvd., Folsom, PA 19033-2511. To construct and maintain a 5-foot wide by 42-foot long single span pedestrian foot bridge across Stoney Creek (WWF-MF). The structure will replace an existing deteriorated bridge located approximately 200 feet northeast of the intersection of Sutton Avenue and Melrose Terrace, (Lansdowne, PA USGS Quadrangle N: 4.4 inches; W: 10.2 inches) in Redley Township, **Delaware County**.

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E52-162**, Encroachment. **Blooming Grove Hunting and Fishing Club**, P. O. Box 380, Hawley, PA 18428-0380. To construct and maintain a road crossing of Shohola Creek (HQ-CWF), consisting of an 18.6-foot by 5.3-foot open bottom aluminum box culvert for the purpose of providing access to hunting grounds. The project is located approximately 2.5 miles south of Interstate 84 and 0.6 mile west S. R. 0402. (Promised Land, PA Quadrangle N: 15.2 inches; W: 2.1 inches), Blooming Grove Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers). This application reopens a closed file.

**E52-165**, Encroachment. **The Forest Lake Club**, R. R. 1, Box 333, Hawley, PA 18428-9718. To remove two existing boathouses and to construct and maintain two boathouses, having dimensions of 60 feet by 25 feet each in Wolf Lake (HQ-CWF). Each boathouse will be supported on a 60-foot by 6-foot concrete pad poured along the shore and pressure-treated piers set on the lake bottom. The project is located approximately 0.5 mile northwest of the intersection of S. R. 4003 and T-441. Narrowsburg, NY-PA Quadrangle N: 5.8 inches; W: 13.5 inches), Lackawaxen Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

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

**E06-543**, Encroachment. **Kutztown Borough**, 105 Railroad Street, Kutztown, PA 19530. To construct and maintain a building for public works facility along the right bank's 100-year floodplain of Sacony Creek located in the area bounded by Perch Street, Railroad Street and Roeller Alley (Kutztown, PA Quadrangle N: 3.8 inches; W: 3.78 inches) in Kutztown Borough, **Berks County**.

**E22-417**, Encroachment. **W. Hess, Hess Enterprises**, 13 Aberdeen Shopping Plaza, Aberdeen, MD 21001. To construct and maintain: (1) two stream enclosures on an unnamed tributary to Swatara Creek (WWF). One is a reinforced concrete box culvert having a rise of 8.0 feet, a span of 12.0 feet and a length of 140 feet. The other is a reinforced concrete box culvert having a rise of 6.0 feet, a span of 12.0 feet and a length of 190 feet; and (2) a 48- to 54-inch storm sewer pipe across a wetland as part of developing Phase 1 of the Lytle Farms Residential and Industrial Development located at the intersection of Colebrook Road and SR 0230 (Middletown, PA Quadrangle N: 13.0 inches; W: 6.0 inches) in Londonderry Township, **Dauphin County**.

**E29-080**, Encroachment. **Fulton Industrial Development Association**, 100 Lincoln Way East, McConnellsburg, PA 17233. To: (1) construct and maintain a twin cell box culvert with each cell having an opening of 8 feet x 6 feet; (2) impact 0.32 acre of wetlands; and (3) construct and maintain a sewer line crossing in and along a tributary to Big Cove Creek (CWF) at a point approximately 1,700 feet upstream of US Route 522 for the purpose of constructing an access to the proposed South Central Business Park (McConnellsburg, PA Quadrangle N: 9.1 inches; W: 17.4 inches) in Ayr Township, **Fulton County**. The applicant proposed to create 0.32 acre of replacement wetlands.

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

**E17-349**, Encroachment. **Robert J. Hutton**, 711 Florence Street, Philipsburg, PA 16866-2409. Moshannon Creek CWF. The project is located at 711 Florence Street 3 blocks west of the Presque Isle Street intersection in Chesterfield Borough, **Clearfield County** (Philipsburg PA Quadrangle N: 3.9; W: 14.2). The purpose of the project is to place fill in 0.01 acre of an isolated PEM wetland for the construction of a residential home. The wetland fill is classified as "de minimis" and does not require replacement. United States Army Corps. of Engineers Baltimore.

**E19-206 JP**, Encroachment. **PA Dept. of Transportation**, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754. To remove the existing structure and to construct and maintain a single span reinforced

concrete spread box beam bridge with a normal span of 17 meters and an average underclearance of 2.45 meters across Hemlock Creek located 1 kilometer north on SR 4003 from SR 4005 (Bloomsburg, PA Quadrangle N: 0.9 inches; W: 16.5 inches) in Hemlock Township, **Columbia County**. This project proposes to permanently impact 10 meters of Hemlock Creek which is designated a Cold Water Fishery.

**E55-167**, Encroachment. **James A. Trutt**, P. O. Box 243, Vicksburg, PA 17883. To construct and maintain a steel I-beam bridge with two 20-foot spans, a 2-foot wide center pier and a 5-foot underclearance across Dry Run located 1,500 feet downstream of the SR 1001 bridge over Dry Run (Middleburg, PA Quadrangle, N: 19.9 inches; W: 7.2 inches) in Center Township, **Snyder County**. This project proposes to permanently impact Dry Run, which is designated a Cold Water Fishery.

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

**E11-285**, Encroachment. **Lower Yoder Township, Cambria County**, 128 J Street, Johnstown, PA 15906. To remove the existing failed gabion baskets and to construct and maintain cable concrete mats in and along 175 feet of St. Clair Run (CWF) for the purpose of stabilizing both streambanks and invert. The project begins immediately downstream of the existing masonry wall located approximately 185 feet downstream of Falcon Drive (Johnstown, PA Quadrangle N: 15.45 inches; W: 12.9 inches) in Lower Yoder Township, **Cambria County**.

**E30-193**, 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 1.0-foot depressed, 20.0-foot x 7.42-foot single cell concrete box culvert in Bulldog Run (WWF) for the purpose of improving transportation safety and roadway standards. The project includes the placement and maintenance of fill in a de minimis area of palustrine emergent wetland equal to 0.015 acre, the temporary placement and maintenance of fill in 0.010 acre of palustrine emergent wetlands and the construction and maintenance of a temporary roadway crossing consisting of two 95-inch x 67-inch C. M. Plate Pipe Arch Culverts in Bulldog Run, and 18-inch outfall pipe, and a 15-inch outfall pipe along Bulldog Run. The project is located on S. R. 3013, Section C00, Station 12 + 01.20 (Holbrook, PA Quadrangle N: 0.9 inch; W: 2.9 inches) in Wayne Township, **Greene County**.

**E02-1317**, Encroachment. **Ashley Hill Associates**, P. O. Box 11067, Pittsburgh, PA 15237. To place and maintain fill in a de minimis area of wetlands (PEM/PSS) adjacent to an unnamed tributary to Rinaman Run (CWF) for the purpose of constructing lots 110 and 111 on the Ashley Hill Plan of Lots located on the south side of Ashley Court, just south of the intersection of Ashley Hill Drive and Ashley Court (Emsworth, PA Quadrangle N: 19.1 inches; W: 6.7 inches) in McCandless Township, **Allegheny County**.

#### DAM SAFETY

**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.**

*Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**D52-066A**. Dam. **Bureau of Forestry, Department of Conservation and Natural Resources**, (P. O. Box 8552, Harrisburg, PA 17105-8552). To modify, operate, and maintain Lily Pond Dam, across Cross Brook, (EV) impacting a de minimis area of wetlands less than 0.01 acre (PEM) and 25 feet of stream, for the purpose of raising the dam crest 3.5 feet and replacing the existing spillway with a 45 foot long concrete ogee weir spillway. Modifications will not change the existing normal pool level. (Milford, PA Quadrangle N: 19.9 inches; W: 14.6 inches) in Milford Township, **Pike County**.

**D63-114A**. Dam. **Maple Creek Mining, Inc.** (Spinner Shaft, 981 Route 917). To modify, operate and maintain Maple Creek Slurry Pond 3, Dam No. 1 across a tributary to Pigeon Creek (WWF), for the purpose of the disposal of waste slurry (Monongahela, PA Quadrangle N: 11.95 inches; W: 14.8 inches) in Carroll Township, **Washington County**.

#### WATER QUALITY CERTIFICATION

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.*

Certification Request Initiated by: **Department of the Army, United States Army Corps of Engineers**, P. O. Box 1715, Baltimore, MD 21203-1715, Attention: Robert W. Lindner, Chief, Planning Division.

Project Description/Location: The project, known as the Scranton Local Flood Protection Project, will protect the communities of Plot and Green Ridge, **Lackawanna County**, Pennsylvania, against a 100-year flood event on the Lackawanna River. The Water Quality Certification is being requested for the following specific activities: construction of earth levees, mechanically stabilized earth wall sections, a concrete floodwall, road closure structures, and interior drainage structures. No dredging is planned as part of this project. Long-term operation and maintenance of the project will be the responsibility of the City of Scranton.

#### ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appro-

appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.100).**

*Permits Issued:*

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

**NPDES Permit No. PA0058068.** Sewage. **Terry Schnable**, 3234 Rockhill Road, Perkiomenville, PA 18074. Is authorized to discharge from a facility located in Upper Frederick Township, **Montgomery County** to an unnamed tributary to Perkiomen Creek.

**WQM Permit No. 4600415.** Sewage. **Terry Schnable**, 3234 Rockhill Road, Perkiomenville, PA 18074. Sewerage. Applicant is granted approval for the construction and operation of a residential wastewater treatment plant located in Upper Frederick Township, **Montgomery County**.

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Permit No. 4500404.** Sewerage. **Stroud Township Sewer Authority**, 1211 North Fifth Street, Stroudsburg, PA 18360. Permit to construct a low pressure sewer system serving Woodwind Estates with connection to the existing Stroud Township Sewer Authority collection system, located in Stroudsburg Borough, **Monroe County**.

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

**Permit No. PA0083160.** Sewerage. **Peifer & Gross, Inc.**, (Anchor Mobile Estates), P. O. Box 506, Elizabethtown, PA 17022 is authorized to discharge from a facility located in Butler Township, **Adams County** to the receiving waters named Willoughby Run. (Watershed 13-D).

**Permit No. PA0083399.** Sewerage. **Outdoor World Corporation, c/o Resorts USA, Inc.**, P. O. Box 447, Bushkill, PA 18324-0447 is authorized to discharge from a facility located in Dover Township, **York County** to the receiving waters named Conewago Creek.

**Permit No. PA0082163.** Sewerage. **New Life for Girls**, Box D-700, Dover, PA 17315 is authorized to discharge from a facility located in Conewago Township, **York County** to the receiving waters named Laurel Run.

**Permit No. PA0027405.** Sewerage. **Ephrata Borough Authority** (Wastewater Treatment Plant 1), 114 East Main Street, Ephrata, PA 17522 is authorized to discharge from a facility located in Ephrata Borough, **Lancaster County** to the receiving waters named Cocalico Creek.

**Permit No. PA0052531.** Sewerage. **Columbia Petroleum Corporation** (Sinking Spring Bulk Storage Terminal), P. O. Box 278, Richland, PA 17087-0278 is authorized to discharge from a facility located in Spring Township, **Berks County** to the receiving waters named Cacoosing Creek.

**Permit No. PA0083330.** Sewerage. **Wayne Township Board of Supervisors**, 3055 Ferguson Valley Road, McVeytown, PA 17051 is authorized to discharge from a facility located in Wayne Township, **Mifflin County** to the receiving waters named Juniata River. (Watershed 12-A).

**Permit No. PA00008869.** Sewerage. **P. H. Glatfelter Company**, 228 South Main Street, Spring Grove, PA 17362-0500 is authorized to discharge from a facility located in Spring Grove Borough, **York County** to the receiving waters named Codorus Creek (Watershed 7-H).

**Permit No. 6700406.** Sewage. **Windsor Township**, 1480 Windsor Road, P. O. Box 458, Red Lion, PA 17356. This permit approves the construction of a Pump Station in Windsor Township, **York County**.

**Permit No. 0699403 Amendment 00-1.** Sewage. **Borough of Wyomissing**, 22 Reading Boulevard, Wyomissing, PA 19610. This permit approves the construction of a Pump Station in Wyomissing Borough, **Berks County**.

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

**NPDES Permit No. PA0002054-A5.** Industrial Waste. **Reliant Energy**, 1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907-1050 is authorized to start construction of the rock filter and sump from a facility located at the Seward Generating Station, East Wheatfield Township, **Indiana County** to receiving waters named Conemaugh River.

**NPDES Permit No. PA0216763.** Industrial Waste. **Somerset Borough-Coxes Creek Water Treatment Plant**, 340 West Union Street, Somerset, PA 15501 is authorized to discharge from a facility located at Somerset Borough-Coxes Creek Water Treatment Plant, Somerset Township, **Somerset County** to receiving waters named Unnamed Tributary to West Branch of Coxes Creek.

**NPDES Permit No. PA0032611.** Sewage. **Portage Area Sewer Authority**, 606 Cambria Street, Portage, PA 15946 is authorized to discharge from a facility located at Portage Area Sewage Treatment Plant, Portage Township, **Cambria County** to receiving waters named Little Conemaugh River.

**NPDES Permit No. PA0218413.** Sewage. **Economy Borough Municipal Authority**, 2860 Conway-Wallrose Road, Baden, PA 15005 is authorized to discharge from a facility located at the Big Sewickley Creek STP, Economy Borough, **Beaver County**.

**NPDES Permit No. PA0218561.** Sewage. **Cambria County Commissioners**, Courthouse, 200 South Center Street, Ebensburg, PA 15931 is authorized to discharge from a facility located at Duman Lake Park Sewage Treatment Plant, Barr Township, **Cambria County** to receiving waters named Crooked Run.

**Permit No. 465S97, Amendment No. 1.** Sewage. **Ohiopyle Borough**, P. O. Box 83, Ohiopyle, PA 15470. Construction of Sewage Treatment Plant located in Ohiopyle Borough, **Fayette County** to serve Ohiopyle Borough STP.

**Permit No. 3200402.** Sewerage. **Green Township Municipal Authority**, Box 129, Commodore, PA 15729. Construction of a Sanitary Sewer/Pump Station located in

Green Township, **Indiana County** to serve Dixon Run Pump Station.

**Permit No. 6570401, Amendment No. 1.** Sewage. **Aluminum Company of America, Inc., Alcoa Technical Center**, 100 Technical Drive, Alcoa Center, PA 15069-0001. Construction of Research and Development Facility located in Upper Burrell Township, **Westmoreland County** to serve Alcoa Technical Center, Polishing Pond (Sanitary Wastewater Treatment Plant).

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

**WQM Permit No. 1000202.** Industrial Waste. **Denny's Superette**, 1021 Arborville Drive, Gibsonia, PA 15044. This project is for the extraction of recovered groundwater from six recovery wells for filtration and treatment prior to discharge in Cranberry Township, **Butler County**.

**INDIVIDUAL PERMITS  
(PAR)**

The following parties have submitted: (1) Notices of Intent (NOIs) for Coverage under General NPDES Permit(s) to discharge wastewater into the surface 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 EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

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

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater From Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional 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 Discharge Resulting From Hydrostatic Testing of Tanks and Pipelines
PAG-11	(TO BE ANNOUNCED)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

*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>
Lynn Township Lehigh County	PAR10Q144	Lawrence Heintzelman 7188 Gun Club Road New Tripoli, PA 18066	Ontelaunee Creek CWF	Lehigh CD (610) 391-9583
Rice Township Luzerne County	PAR10R196	Ice Ponds North Corp. 714 E. Mountain Ave. Pen Argyl, PA 18072	Little Wapwallopen Creek	Luzerne CD (570) 674-7991
Hanover Twp. Plymouth Boro. Larksville Boro. Luzerne County	PAR10R207	Engineering District 4-0 P. O. Box 111 Scranton, PA 18501	Susquehanna River	Luzerne CD (570) 674-7991
Borough of East Stroudsburg Monroe County	PAR10S029	East Stroudsburg Univ. Intramural Soccer Field East Stroudsburg Univ. 200 Prospect St. East Stroudsburg, PA 18301	UNT Brodhead Crk., TSF, MF	Monroe CD (570) 629-3060

<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>
Northampton Boro. Northampton County	PAR10U142	Matthew Sorrentino Castle Holdings, Inc. 428 N. 15th St. Allentown, PA 18102	Dry Run CWF	Northampton CD (610) 746-1971
Blossburg Boro Covington Township Richmond Township Tioga County	PAR106636	PA Dept. of Transportation Engineering Dist. 3-0 P. O. Box 218 Montoursville, PA 17754	Tioga River	Tioga County CD 29 East Ave. Wellsboro, PA 16901 (570) 724-1801 X 5
Harborcreek Township Lawrence Park Township Erie County	PAR10K169	Harborcreek Township Supervisors 5601 Buffalo Road Harborcreek, PA 16241	Unnamed Tributary to Lake Erie (CWF)	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Union Township Lawrence County	PAR103740	Lowe's Companies Incorporated David Yost Site Development Manager 3000 Corporate Exchange Drive, Suite 310 Columbus, OH 43232	Private storm sewer	Lawrence Conservation District Lawrence Co. Government Center 430 Court Street New Castle, PA 16101-3593 (724) 652-4512
Rockland Township Venango County	PAR107014-1	Steven E. Morris Handsome Lake Energy, LLC 11 Market Place, Suite 200 Baltimore, MD 21202-7110 and Michael A. Palo Francis Palo, Inc. 309 South Fourth Avenue Clarion, PA 16214	Unnamed Tributaries to the Allegheny River and Pine Run	Venango Conservation District R. D. 2, Box 108 Franklin, PA 16323 (814) 676-2832

*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>
City of Philadelphia Philadelphia County	PAR600065	JT's Auto Parts 3505 South 61st Street Philadelphia, PA 19153	Tributary to the Schuylkill River	DEP Southeast Region Water Management 555 North Lane Conshohocken, PA 19428 (610) 832-6126
Lansdale Borough Montgomery County	PAR600063	Joe Mattero Recycling 316 West 7th Street Lansdale, PA 19446	Unnamed Tributary to West Branch of Neshaminy Creek	DEP Southeast Region Water Management 555 North Lane Conshohocken, PA 19428 (610) 832-6126
Upper Merion Township Montgomery County	PAR600062	Rossi Auto Salvage, Inc. 1700 DeKalb Street King of Prussia, PA 19406	Schuylkill River	DEP Southeast Region Water Management 555 North Lane Conshohocken, PA 19428 (610) 832-6126
Northampton Borough Northampton County	PAR702213	Northampton Generating Co., L. P. 1 Horwith Drive Northampton, PA 18067	Hokendaqua Creek	Northeast Office 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

<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>
North Cornwall Township Lebanon County	PAR203544	Bigbee Steel and Tank Company Bigbee North 99 West Elizabethtown Road Manheim, PA 17545	Quittapahilla Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York Township York County	PAR113525	Columbia Products 465 Locust Street Dallastown, PA 17313	Mill Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York City York County	PAR603520	Consolidated Scrap Resources—Princess St. P. O. Box 1761 Harrisburg, PA 17105	UNT to Codorus Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*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>
Former Jack's Exxon/Present CVS Drug Store 815 New Berwick Hwy (US Rt. 15) Bloomsburg, PA 17815 Town of Bloomsburg Columbia County	PAG054807	Park Street Developers, LLC 10 Crossroads Plaza West Hartford, CT 06117	Neals Run to North Branch of the Susquehanna River	Northcentral Regional Office Environmental Cleanup 208 W. Third St., Ste. 101 Williamsport, PA 17701-6448 (570) 321-6550
Former Dandy Mart #13 1429 High St. and Wildwood Blvd. Williamsport, PA 17701 City of Williamsport Lycoming County	PAG054810	Williams Oil Company, Inc. York Avenue North P. O. Box 207 Towanda, PA 18848	West Branch of the Susquehanna River	Northcentral Regional Office Environmental Cleanup 208 W. Third St., Ste. 101 Williamsport, PA 17701-6448 (570) 321-6550

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

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

**Permit No. 4899506.** Public Water Supply. **East Allen Township Municipal Authority**, Charles Wert, Chairperson, 3444 Nor-Bath Blvd., Northampton, PA 18067. This proposal involves the permitting of an existing unpermitted community water system consisting wells, manganese, sequesting, a booster pump station with finished water storage and disinfection. It is located in East Allen Township, **Northampton County**. Permit issued on July 22, 2000.

**Permit No. 5200501.** Public Water Supply. **PAWC-Silver Water System**, Steven Seidl, Vice President, Eng., 800 West Hersheypark Drive, Hershey, PA 17033. This proposal involves the construction of two new wells (no. 3 and 4) as new sources of supply for the Silver Water System at Marcel Lake Estates. A new treatment facility will be constructed to sequester manganese through the addition of a polyphosphate; remove radon

via aeration; and provide disinfection via the addition of sodium hypochlorite. It is located in Delaware Township, **Pike County**. Permit issued on July 30, 2000.

**Permit No. 4000501.** Public Water Supply. **Four Seasons Water Company**, William Shoening, 487 Treasure Lake, Dubois, PA 15801. This proposal involves the construction of a new 250,000 gallon finished water storage tank; the construction of two new production wells, chemical treatment facilities, and booster station; and the construction of 12,830 linear feet of distribution system piping to a 408 time share resort complex, located in Butler Township, **Luzerne County**. Permit issued on August 4, 2000.

**Permit No. 5400502.** Public Water Supply. **Sammy's Mobile Home Park**, James D. Wagner, P. O. Box 388, Lionville, PA 19353. This proposal involves permitting of a new well source which was constructed and utilized as an emergency source when capacity of the original well source diminished. It is located in North Manheim Township, **Schuylkill County**. Permit issued on August 7, 2000.

**Permit No. 4000502.** Public Water Supply. **College Misericordia**, Larry Baltz, Director, 301 Lake Street, Dallas, PA 18612. This proposal involves the installation of hypochlorinators for disinfection and chemical feed

pumps for corrosion control treatment using zinc orthophosphate. It is located in **Luzerne County**. Permit issued on August 18, 2000.

**4800502.** Public Water Supply. **East Bangor Municipal Authority**, Arthur Weaver, Sr., Chairperson, P. O. Box 539, East Bangor, PA 18013. This proposal involves treating an existing, permitted well (Well no. 4) to correct the corrosive nature of the water. The proposal is to add 25% sodium hydroxide for pH adjustment and zinc orthophosphate for corrosion control. Separate chemical feed pumps are to be utilized and located inside the existing pump control building. It is located in East Bangor, **Northampton County**. Permit issued on September 1, 2000.

**Minor Permit Amendment.** Public Water Supply. **PAWC**, 800 West Hershey Park Drive, Hershey, PA 17033 Steven J. Seidl, V.P. Ceasetown/Crystal interconnection. It is located in Hanover Township, **Luzerne County**. Permit issued on July 26, 2000.

**Operations Permit No. 2640025** issued on August 31, 2000, to **Roamingwood Sewer and Water**, located in Salem Township, **Wayne County**.

**Operations Permit No. 2450034** issued on August 16, 2000, to **Stroudsburg Municipal Authority**, located in Stroud Township, **Monroe County**.

**Operations Permit No. 2409002** issued on August 30, 2000, to **PAWC**, located in Newport Township, **Luzerne County**.

**Operations Permit No. 2520050** issued on August 18, 2000, to **Pocono Mountain Lake Forest**, located in Delaware Township, **Pike County**.

**Operations Permit No. 2660017** issued on August 15, 2000, to **National Utilities, Inc.**, For Rivercrest-Highfields Section II, located in Tunkhannock Township, **Wyoming County**.

**Operations Permit No. 2359008** issued on August 30, 2000, to **PAWC**, for Oakwood Estates Pumping Station, located in the City of Scranton, **Lackawanna County**.

**Operations Permit No. 2359008** issued on August 30, 2000, to **PAWC**, for Dunmore No. 7 and Dunmore No. 1, raw water pumping station, located in Dunmore Borough, **Lackawanna County**.

**Operations Permit No. 2400115** issued on August 28, 2000, for **Meadows Complex**, located in Dallas Borough, **Luzerne County**.

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

**Permit No. 6799502.** Public water supply. **Dillsburg Borough Authority, York County**. *Responsible Official:* Sheldon Williams, Authority Manager. *Type of Facility:* Operation Permit authorizes utilization of Well No. 5 and ancillary facilities at a rate of 400 gallons per minute. Treatment will include addition of a hypochlorite solution for disinfection and phosphates for corrosion control. *Consulting Engineer:* David A. Brinjac, P.E., Brinjac, Kambic & Associates, Inc., 114 North Second St., Harrisburg, PA 17101. *Permit to Operate Issued:* September 5, 2000.

**Permit No. 6799505.** Public water supply. **Wrightsville Borough Municipal Authority, York County**. *Responsible Official:* Everett Smeltzer, Jr. *Type of Facility:* An Operation Permit has been issued for

operation of two upflow clarifiers and an increase in the permitted capacity of the filter plant to 0.648 MGD. *Consulting Engineer:* John A. Klinedinst, P.E., C. S. Davidson, Inc., 38 North Duke Street, York, PA 17401. *Permit to Operate Issued:* July 21, 2000.

**Permit No. 0699507.** Public water supply. **Big Spring Venting, Berks County**. *Responsible Official:* David Weaver. *Type of Facility:* Operation of a vented water system utilizing Big Spring well as a source of supply. *Consulting Engineer:* Dennis M. Martin, **Martin Water Conditioning**, 740 East Lincoln Ave., Myerstown, PA 17067. *Permit to Operate Issued:* September 5, 2000.

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

**Permit No. 1000501.** Public Water Supply. **High View Estates**, 1734 Oneida Valley Road, Karns City, PA 16041 has been issued a permit for their existing, unpermitted public water system (Wells #1 and #2) in Washington Township, **Butler County**. *Type of Facility:* Community Water Supply. *Consulting Engineer:* William J. McGarvey, P.E., McGarvey Engineering, 172 Woodcrest Rd., Butler, PA 16002. *Permit to Construct Issued:* September 7, 2000.

## HAZARDOUS SITES CLEAN-UP

### Under the Act of October 18, 1988

#### Notice of Proposed Interim Response, Darnley Site, Greene Township, Beaver County.

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA), is proposing a response action for the Darnley Site, located at 105 Francis Drive, **Greene Township**. The Darnley Site is approximately one acre in size and was used for the disposal of hazardous and residual wastes.

The Department performed two previous actions at the Darnley Site, an Emergency Removal and a Site Investigation. During the Emergency Removal, more than 100,000 gallons of waste were removed from the site as well as visible contaminated surface soils. The investigation was performed at the site to evaluate remaining contamination and the associated risks. During the investigation an on-site fill area was identified containing chromium, lead, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, dibenzo(a,h)anthracene, chlorobenzene, 1,1-dichloroethane, indeno(1,2,3-cd)pyrene, naphthalene, and tetrachloroethene in excess of the Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2) standards for residential direct contact and/or the soil to groundwater standards for a used aquifer. Phenanthrene was identified in stream sediments at levels above the Effects Range Median, lead, copper, chromium, selenium and zinc were found in surface water in excess of Fish and Aquatic Life Criteria, and groundwater contained site contaminants with 1,1-dichloroethane above Act 2 groundwater standards. These conditions pose direct contact and ingestion threats to human health and the environment.

The purpose of the proposed response is to: (1) prevent the migration of contaminants from the source into the surface water, stream sediments and groundwater; (2) eliminate the threats to human health from direct contact and ingestion; and (3) protect the environment.

The Department considered the following options: (1) no action, (2) restricting access by fencing the site,



(3) on-site cement stabilization of the waste, (4) excavation and offsite disposal.

Options 1 and 2 would allow waste and contaminated media to remain on-site and in contact with the groundwater. Threats to the environment would remain and human health threats would continue. Option 2 would reduce direct contact threats but neither option would reduce the volume or migration of contaminants.

Option 3, cement stabilization, is feasible, would increase the volume of contaminated media and would reduce its mobility and effective toxicity. This option would limit future use of the site and would require deed restrictions. This option would likely be less cost effective than option 4. Option 4 would remove the identified source of contamination and thereby limit transport of contaminants into the groundwater, surface water and stream sediments, reducing or eliminating threats to human health and the environment.

The Department proposes that option 4 be implemented.

This notice is being provided under section 506(b) of HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the Department of Environmental Protection (DEP) Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 and is available from 9 a.m. to 4 p.m.

The administrative record will be open for comment from September 23 until December 23. Persons may submit written comments into the record during this time only and may do so by sending them to Gary Mechtly, Environmental Chemist, PA DEP, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them to this office in person.

In addition, persons may present oral comment for inclusion in the administrative record, at a public hearing. The Department will hold the hearing on October 26 at 7 p.m. at the Hookstown Grange—upstairs room, 1198 State Route 168, Hookstown, PA. Persons wishing to present comments must register with Betsy Mallison before October 24 at (412) 442-4000, or in writing at PA DEP, 400 Waterfront Drive, Pittsburgh, PA 15222.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Betsy Mallison at (412) 442-4182 through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

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

For further information concerning the final report, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection 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 of Environmental Protection has received the following final reports:

*Northeast Regional Field Office: Joseph A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**PPL—Distribution Pole No. 34127S48059** (105 W. Maple St., Valley View, PA), Hegins Township, **Schuylkill County**. PPL Generation LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The report was submitted to document remediation of the site to meet the Statewide health standard. A Notice of Intent to Remediate was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notice.

### SOLID AND HAZARDOUS WASTE

#### LICENSE TO TRANSPORT HAZARDOUS WASTE

**Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

*Bureau of Land Recycling and Waste Management: Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Wills Trucking, Inc.**, 3185 Columbia Road, Richfield, OH 44286; License No. **PA-AH 0295**; renewal license issued September 5, 2000.

**License expired under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

*Bureau of Land Recycling and Waste Management: Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Guardian Express, Inc.**, P. O. Box 27, Wapkoneta, OH 45895-0027; License No. **PA-AH 0535**; license expired on August 31, 2000.

**Qualified Transport Corporation**, P. O. Box 288, Port Allen, LA 70767; License No. **PA-AH 0598**; license expired on August 31, 2000.

### HAZARDOUS WASTE, TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Proposed actions on applications for permit under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.**

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

Persons wishing to comment on the proposed permit actions are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public notice. All comments received within this 45 day period will be considered in the formulation of the final determination regarding an application. All 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 any 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 45 day comment period, the Regional Solid Waste 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.

*Draft Permits Prepared:*

**PAD002312791. Sunoco, Inc. (R&M),** Frankford Plant, Margaret and Bermuda Streets, Philadelphia, PA 19137. The draft permit is for the 10-year renewal of the RCRA Part B Permit for Sunoco's Frankford Plant located in the City of Philadelphia. Operations subject to the draft permit include tank and container storage of hazardous waste generated onsite at the petrochemical facility.

**PAD00429589. GROWS Landfill Post-Closure Permit Modifications,** GROWS Landfill, Falls Township, Bucks County. A draft permit has been prepared to settle the EHB Docket No. 2000-063-MG appeal of the Department's February 9, 2000, permit action concerning the GROWS Landfill Post-Closure Permit. The changes proposed in this draft are intended to clarify and eliminate confusion in certain permit conditions relating to groundwater monitoring, assessment and abatement requirements.

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

*Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653.*

**Permit No. PAD003043353. Cherokee Plant, Merck & Company, Inc.** (P. O. Box 600, Danville, PA 17821). Permit modification to the RCRA Part B Permit for a new incinerator and storage tanks. Site located in Riverside Borough, Northumberland County issued in the regional office on September 6, 2000.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

*Regional Office: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Permit I. D. 101657. Coplay Aggregate Products, Inc.,** P. O. Box 58, Northampton, PA 18067. A permit allowing the construction and operation of a municipal waste processing facility, located in Whitehall Township, Lehigh County, for the receipt and processing of clean, uncontaminated construction/demolition waste within the 0.54 acre permit area. Coplay Aggregate Products, Inc. may utilize the scale and access roads located on the Mine Drainage Permit #302689 39880302A1C2 per the relevant approval conditions and the conditions of this permit. This permit does not authorize any change to the existing Mine Drainage Permit and its conditions. No other waste type or treatment/processing activity is approved under this permit. No other area shall be used for the storage, staging of construction/demolition waste or for the parking of loaded waste vehicles. The permit was issued in the Regional Office on September 5, 2000.

### PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE

#### INFECTIOUS OR CHEMOTHERAPEUTIC WASTE

**Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

*Bureau of Land Recycling and Waste Management: Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**The Williamsport Hospital,** 777 Rural Avenue, Williamsport, PA 17701; License No. **PA-HC 0186**; renewal license issued September 8, 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.**

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

**46-312-024GP: Accupac** (1501 Industrial Boulevard, Mainland, PA 19451) on September 7, 2000, for a Webster Boiler in Towamencin Township, Montgomery County.

**46-320-034GP: North Wales Press** (411 Elm Street, North Wales, PA 19454) on September 8, 2000, for Lithographic Printing Presses in North Wales Borough, Montgomery County.

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**64-310-009GP: Haines & Kibblehouse Inc.** (Honesdale Materials, P. O. Box 196, Skippack, PA 19474) on September 7, 2000, for construction and operation of a portable stone crushing plant and associated air cleaning device in Lebanon Township, **Wayne County**.

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

**25-069: Engelhard Corp.** (1729 East Avenue, Erie, PA 16503) on August 31, 2000, for operation of natural gas fired boiler in Erie, **Erie County**.

**33-169: Dominion Exploration & Production, Inc., Hudson Compressor Station** (Magees Mills Road, Punxsutawney, PA 15767) for operation of a natural gas fired compressor engine in Punxsutawney, **Jefferson County**.

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**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.**

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

**46-00016: Handy & Harman Tube Co., Inc.** (701 West Township Line Road, Norristown, PA 19403) on August 28, 2000, for operation of a Facility Title V Operating Permit in East Norriton Township, **Montgomery County**.

**23-00037: Sun Refining Co., Inc. (R&M)** (Hog Island Road, Philadelphia, PA 19153) on August 30, 2000, for operation of a facility Title V Operating Permit in Tinicum Township, **Delaware County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**55-00002: Department of Public Welfare, Selinsgrove Center** (Box 500, Selinsgrove, PA 17870) issued a revised Title V Operating Permit on August 14, 2000, to allow the firing of natural gas or coal in the boiler that was previously permitted only fire coal in Shamokin Dam Borough, **Snyder County**.

**49-00014: Jeraco Enterprises, Inc.** (135 Sodom Road, Milton, PA 17847) issued a Title V Operating Permit on September 8, 2000, for operating of a fiberglass reinforced plastic truck accessories manufacturing facility in Milton Borough, **Northumberland County**.

**19-00001: Magee Rieter Automotive Systems** (480 West Fifth Street, Bloomsburg, PA 17815) issued a Title V Operating Permit on September 7, 2000, for operation of an automotive carpet manufacturing facility in Bloomsburg, **Columbia County**.

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

**10-312-013A: Witco Corp.** (Route 268, P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a stripper heater in Fairview Township, **Butler County**.

**10-037A: Witco Corp.** (Route 268 P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a flash drum first stage flare in Fairview Township, **Butler County**.

**10-037B: Witco Corp.** (Route 268, P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a fractionator vent in Fairview Township, **Butler County**.

**10-037C: Witco Corp.** (Route 269, P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a low pressure spray chamber 2nd stage flare in Fairview Township, **Butler County**.

**10-037D: Witco Corp.** (Route 269, P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a lo cat hydrogen recovery unit vent in Fairview Township, **Butler County**.

**10-037E: Witco Corp.** (Route 268, P. O. Box 336, Petrolia, PA 16050) on August 31, 2000, for a feed heater in Fairview Township, **Butler County**.

**24-00009: Willamette Industries, Inc.** (100 Center Street, Johnsonburg, PA 15845) issued a Title V Operating Permit on September 5, 2000, for the company's facility in Johnsonburg Borough, **Elk County**.

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**Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**49-00045: Ameristeel** (20 North Industrial Park Road, Milton, PA 17847) on August 18, 2000, for operation of a shot blast booth and associated process equipment formerly owned and operated by Milton Rebar Coating Company, Inc. in Milton Borough, **Northumberland County**.

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**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.**

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

**24-00009: Willamette Industries, Inc.** (100 Center Street, Johnsonburg, PA 15845) in Johnsonburg Borough, **Elk County** for modification of their Title V Operating Permit issued on September 5, 2000, for inclusion of a condition from Plan Approval 24-315-009A (the temporary venting of C10<sub>2</sub> emissions to the C10<sub>2</sub> generator scrubber during period of bleach plant scrubber outages). Plan approval 24-315-009A condition is as follows:

This Plan Approval is for the temporary venting of C10<sub>2</sub> emissions from the two C10<sub>2</sub> storage tanks to the C10<sub>2</sub> generator scrubber during periods of bleach plant scrubber outages.

#### PLAN APPROVALS

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**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.**

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*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**54-301-041: Woodland Crematorium, Inc.** (461 Woodland Drive, Auburn, PA 17922) on September 11, 2000, for construction of a crematory incinerator and associated air cleaning device in South Manheim Township, **Schuylkill County**.

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

**06-01003H: Lucent Technologies, Inc.** (P. O. Box 13396, Reading, PA 19612-3396) on September 6, 2000, for construction of an acid etch sink controlled by a wetted packed bed scrubber at the Reading Plant in Muhlenberg Township, **Berks County**.

**06-03120: Memorial Park for Pets** (57 Host Road, Womelsdorf, PA 19567) on September 5, 2000, for construction of a pet crematory in Tulpehocken Township, **Berks County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**12-399-016: Micron Research Corp.** (P. O. Box 269, Emporium, PA 15834) on August 14, 2000, for construction of a carbon graphite manufacturing operation in Shippen Township, **Cameron County**.

**53-0003D: Dominion Transmission Corp.** (625 Liberty Avenue, Pittsburgh, PA 15222-3199) on August 14, 2000, for construction of four 3,200 horsepower natural gas-fired reciprocating internal combustion compressor engines and associated air cleaning devices (convertors), a 12.8 million BTU per hour natural gas-fired regeneration heater equipped with a low NO<sub>x</sub> burner and flue gas recirculation, a 536 horsepower natural gas-fired emergency generator and a 3 million BTU per hour natural gas-fired boiler at the Greenlick Compressor Station in Stewardson Township, **Potter County**. These sources are subject to the emission reduction credit (ERC) requirements of the Department's New Source Review (NSR) regulations.

**08-399-001C: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848) on August 16, 2000, for installation of air cleaning devices [four fabric collectors and four absolute filters] on various pieces of tungsten and molybdenum alloy swaging, wire drawing, annealing, etc. equipment in North Towanda Township, **Bradford County**.

**08-302-040A: Taylor Packing Co., Inc.** (P. O. Box 188, Wyalusing, PA 18853) on August 22, 2000, for construction of a 24.5 million BTU per hour natural gas/#2 fuel oil fired boiler equipped with a low NO<sub>x</sub> burner and flue gas recirculation in Wyalusing Township, **Bradford County**. This boiler is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

**49-0007A: Merck & Co., Inc.** (P. O. Box 660, Danville, PA 17821-0600) on August 29, 2000, for installation of air cleaning devices (subsurface fill lines, high level interlocks, emergency vents, vacuum breakers and flame arrestors) on six 100,000 gallon Avermectin wastewater detoxification system tanks as well as for modification of a wastewater treatment plant (increase of 4.5 tons per year in actual volatile organic compound emissions) in Riverside Borough, **Northumberland County**.

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**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.**

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

**67-05070A: Graham Packaging Co., L. P.** (420-B Emig Road, York, PA 17402) on August 28, 2000, to authorize temporary operation of a barrier bottle production line, covered under this Plan Approval until December 26, 2000, in Manchester Township, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**53-0003C: Dominion Transmission Corp.** (625 Liberty Avenue, Pittsburgh, PA 15222-3199) on September 5, 2000, to extend authorization to operate four natural gas-fired reciprocating internal combustion compressor engines (Engines 1, 2, 3 and 4) on a temporary basis until January 3, 2001, at the Greenlick Compressor Station in Stewardson Township, **Potter County**.

**18-0004B: Dominion Transmission Corp.** (625 Liberty Avenue, Pittsburgh, PA 15222-3199) on September 5, 2000, to extend authorization to operate two natural gas-fired reciprocating internal combustion compressor engines (Engines 12 and 13) on a temporary basis until January 3, 2001, at the Leidy Compressor Station in Leidy Township, **Clinton County**.

**49-309-008D: Watsonstown Brick Co.** (P. O. Box 68, Watsonstown, PA 17777) on September 5, 2000, to extend authorization to operate a shale impact mill and a shale roll crusher on a temporary basis until January 3, 2001, in Delaware Township, **Northumberland County**.

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

**04-504A: Mitsui/ZCA Zinc Powders Co.** (300 Frankfort Road, Monaca, PA 15061) for operation of High Purity Zinc Powder Plant at ZCA Monaca in Potter Township, **Beaver County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4401—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

*Coal Permits Issued:*

**40820210R3. Jeddo-Highland Coal Company**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing coal refuse reprocessing operation in Jenkins Township, **Luzerne County** affecting 13.15 acres, receiving stream—none. Renewal issued September 6, 2000.

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

**10743701. Beth Energy Mines, Inc.**, (P. O. Box 29, Ebensburg, PA 15931), to renew the permit for the Fawn #91 CRDA in Clinton Township, **Butler County** to renew the existing permit for reclamation only, no additional discharges. Permit issued October 28, 2000.

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

**26850107. Oak Run Coal, Inc.** (P. O. Box 576, Uniontown, PA 15401). Permit renewal issued for reclamation only of a bituminous surface mine located in Georges Township, **Fayette County**, affecting 124.7 acres. Receiving streams: Muddy Run to Georges Creek. Application received: July 12, 2000. Renewal issued: September 6, 2000.

**26900110. Robert Sperko** (208 Plummer Road, McClellandtown, PA 15458). Permit renewal issued for reclamation only of a bituminous surface mine located in German Township, **Fayette County**, affecting 90 acres. Receiving streams: Browns Run and its unnamed tributaries. Application received: July 18, 2000. Renewal issued: September 6, 2000.

**65000101. V. P. Smith Co., Inc.** (P. O. Box 242, Ligonier, PA 15658). Permit issued for commencement, operation, and reclamation of a bituminous surface mine located in Fairfield Township, **Westmoreland County**, affecting 23.0 acres. Receiving streams: two unnamed tributaries to Hypocrite Creek. Application received: May 10, 2000. Permit issued: September 6, 2000.

*Noncoal (Industrial Minerals) Permits Issued:*

**26840301. Norman Thomson** (P. O. Box 10, Lemont Furnace, PA 15456). NPDES renewal issued for discharge at a noncoal surface mine located in North Union Township, **Fayette County**, affecting 50.2 acres. Receiving streams: unnamed tributary to Cove Run. NPDES renewal application received: July 19, 2000. NPDES renewal issued: September 7, 2000.

## ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

The Department of Environmental Protection has taken the following actions on previously received permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental

Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rule of practice and procedure may be obtained from the Board. The appeal form and the Board's rule of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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**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 (35 U.S.C.A. § 1341(a)).** (*Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.*)

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*Permits Issued and Actions on 401 Certifications:*

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

**E09-804, Encroachment Permit. Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. To remove an existing bridge guardhouse structure and to construct, operate and maintain a new pump station at the same location located in and along the 100-year floodplain of the Delaware River. The site is located at point approximately 100 feet west of the Bridge Street (SR 179) Crossing over the Delaware River, (Lambertville, PA/NJ Quadrangle N: 20.8 inches; W: 10.6 inches) in New Hope Borough, **Bucks County**.

**E15-624, Encroachment Permit. Wolfson-Verrichia Group, Inc.** 621 East Germantown Pike, Norristown, PA 19401. To perform the following activities associated with construction of the Exton Center (a.k.a. Main Street at Exton Center):

1. To modify and relocate approximately 1,100 linear feet of unnamed tributary to Indian King Run, tributary to Valley Creek (CWF, MF) by placing approximately 1,045 linear feet of 36-inch HDPE stream enclosure to facilitate the construction of a retail facility and associated parking facilities. This activity will impact 0.13 acre of wetland (PFO).

2. To construct, operate and maintain a non-jurisdictional dam across an unnamed tributary to Indian King Run, a tributary to Valley Creek, which will impact approximately 166 linear feet of stream channel. The facility will be temporarily utilized as a sedimentation basin (Basin 3) during construction and then, permanently converted to a stormwater management basin.

3. To place fill within 0.38 acre of wetland (PEM) to facilitate vehicular access and to install and maintain several utility line crossings associated with construction of Buildings 6 and 7.

4. To construct, operate and maintain an on-stream non-jurisdictional dam, which will replace an existing non-jurisdictional dam across an unnamed tributary of Valley Creek. This work also includes excavation within the stream channel and floodway to increase the size of the reservoir storage area. This activity will impact 310 linear feet of stream channel and approximately 0.24 acre of wetland (PSS). Approximately 0.58 acre of wetland

(POW/SS) will be temporarily drained as a result of this activity. The facility will be temporarily utilized as a sedimentation basin (Basin 1) during construction and then, permanently converted to a stormwater management basin.

5. To place fill within 0.37 acre of wetland (PSS) adjacent to Valley Creek, a tributary to the East Branch of the Brandywine Creek (WWF-MF), to accommodate parking facilities associated with a proposed Cinema Complex.

The proposed site is located approximately 250 linear feet southwest of the intersection of Pottstown Pike (S. R. 0100) and Lincoln Highway (S. R. 0030) (Downingtown, PA Quadrangle N: 4.50 inches; W: 0.70 inch) in West Whiteland Township, **Chester County**. The applicant proposes to construct 1.30 acres of replacement wetlands in accordance with submitted plans.

**E23-385**, Encroachment Permit. **Sun Company, Inc.**, 3144 Passyunk Avenue, Philadelphia, PA 19145-5299. To realign and maintain a 190 linear-foot segment of Marcus Hook Creek (WWF) and to construct and maintain approximately 190 linear feet of retaining wall along the south bank of this stream. This work will occur at the Read Boyd Farm site and is intended for containing existing pits and waste piles from direct contact with surface water. The site is located approximately 1,500 feet east of the Interstate 95 interchange with Market Street (Marcus Hook, PA-NJ USGS (Quadrangle N: 15.25 inches, W: 6.5 inches) in Upper Chichester Township, **Delaware County**. This permit was issued under Section 105.13(e) "small projects."

This permit also includes 401 Water Quality Certification.

**E23-395**, Encroachment Permit. **Harper Associates**, 6 East Hinckley Avenue, Ridley Park, PA 19078-0384. To construct and maintain the following activities associated with the Ridley Shopping Center:

1. To extend and maintain the upstream side of an existing 10-foot by 5-foot stream enclosure by 990 linear feet in and along an unnamed tributary to Little Crum Creek (WWF).

2. To install and maintain a 320 linear-foot stream enclosure consisting of a 54-inch RCP in and along an unnamed tributary to Little Crum Creek to facilitate stormwater management improvements and a proposed parking lot.

3. To place fill in 0.24 acre of wetlands.

The site is located approximately 500 feet southeast of the intersection of MacDade Boulevard and Monta Vista Avenue, Lansdowne, PA USGS Quadrangle (N: 2.0 inches; W: 10.8 inches) in Ridley Township, **Delaware County**.

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E45-380**, Encroachment. **Pennsylvania Game Commission**, P. O. Box 220, Dallas, PA 18612-0220. To construct and maintain a prefabricated bridge deck across Trout Creek attached to the existing railroad bridge abutments to provide access to a timber harvesting operation west of Bradys Lake. The bridge will have a single span of 34 feet and an underclearance of approximately 16 feet and is located in S.G.L. No. 127, approximately 2,500 feet downstream from Bradys Lake

(Thornhurst, PA Quadrangle N: 5.9 inches; W: 5.1 inches) in Coolbaugh Township, **Monroe County**.

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

**E36-689**, Encroachment. **Newport Square Associates**, Mike Glass, 600 Olde Hickory Rd. Lancaster, PA 17601. To construct and maintain a 17.5-foot reinforced concrete extension onto the downstream end of the existing 46 linear feet reinforced concrete box culvert having a 12-foot span x 4.5-foot rise across Moores Run (WWF) on Newport Road to widen the roadway for public safety (Lititz, PA Quadrangle N: 7.0 inches; W: 5.5 inches) in Warwick Township, **Lancaster County**. 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.*

**E41-460**, Encroachment. **Transcontinental Gas Pipeline Corporation**, 2800 Post Oak Boulevard Level Ten, Houston, TX 77056. To repair, operate and maintain an existing 24-inch diameter gas pipeline beneath Larry's Creek for the transmission of natural gas. The repair work shall consist of constructing a concrete jacket over the existing pipeline, which shall not exceed a maximum of 90 feet. If Larry's Creek is flowing at the time of the repair operations, the injection rate of the concrete into the jacket in cubic yards per hour shall not exceed the stream flow in cubic yards per minute. The project is located along the western right-of-way of SR 0287 approximately 500-feet south of Zinck Road and SR 0287 intersection (Salladasburg, PA Quadrangle N: 1.7 inches; W: 5.5 inches) in Mifflin Township, Lycoming County. This permit also authorizes the restoration of Larry's Creek steamed through scour repair and cross-vane installation. The permittee shall implement an impermeable membrane or equally effective measure to ensure stream flow is not lost to the voids within the R-8 riprap. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E57-087**, Encroachment. **Pennsylvania Game Commission**, P. O. Box 220, Dallas, PA 18612. To construct, operate and maintain a rock-based ford crossing Bloody Run to provide access for timber management operations in State Game Lands No. 13. The ford crossing shall be constructed and maintained with R-4 rip-rap on the graded stream bank approaches and No. 3 stone wearing surface at a maximum height of 3-inches across the stream channel. The project is located along the northern right-of-way of S. R. 2003 approximately 0.75-mile east of Shingle Mill Road and S. R. 2003 intersections (Elk Grove, PA Quadrangle N: 10.5 inches; W: 7.3 inches) in Davidson Township, Sullivan County. The ford crossing authorized by this permit shall not be used for any commercial activities between October 1 and December 31. In lieu of restricted ford crossing use during periods of wild trout spawning, this permit also authorizes the construction, operation and maintenance and removal of a temporary bridge across Bloody Run. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E26-268**, Encroachment. **Blaney Farms**, P. O. Box 640, Perryopolis, PA 15473. To place and maintain approximately 950 LF 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 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 Farms, Inc. This permit was issued under Section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

#### DAM SAFETY

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); section 302 of the Flood Plain Management Act (32 P. S. § 679.302); 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)).**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**D65-188-DEP, BAR Development Company** (772 Pine Valley Drive, Pittsburgh, PA 15239). To construct, operate and maintain Lake Ridge Estates Dam located across a tributary to Turtle Creek. The proposed 2.3 acre lake will be constructed for recreational and stormwater use (Pittsburgh, PA Quadrangle, N: 10.6 inches, W: 3.6 inches), in Murraysville Borough, **Westmoreland County**.

#### ENVIRONMENTAL ASSESSMENT

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**EA63-002CO**. Environmental Assessment. **Don Blackert**, 485 Horne Run Road, Amity, PA 15311. To construct a nonjurisdictional dam across a tributary to Horne Run (TSF) for recreation impacting approximately 420 linear feet of stream channel. The dam will be located approximately 3,200 feet southwest of the intersection of State Route 19 and Horne Run Road (Amity, PA Quadrangle, N: 13.1 inches, W: 12.5 inches).

**EA32-002CO**. Environmental Assessment. **Mark Lepert**, Course Superintendent, Indiana Country Club, P. O. Box 277, 495 Country Club Road, Indiana, PA 15701-0277. To construct a non-jurisdictional dam across a tributary to Ramsey Run (CWF) directly and indirectly impacting 0.48 acre of wetlands and 900 linear feet of stream channel for irrigation and recreation. The proposed dam will be located approximately 1,800 feet downstream of the existing lower pond on the club grounds (Ernest, PA Quadrangle, N: 0.75 inch, W: 0.50 inch), in White Township, **Indiana County**.

#### SPECIAL NOTICES

**Notice of Planning Grant Awards Under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101**

The Department of Environmental Protection, hereby announces the following grants to counties under the Municipal Waste Planning, Recycling and Waste Reduction Act (53 Pa. S. §§ 4000.101—4000.1904) sections 5208 and 901 of the Waste Tire Recycling Act/Small Business

and Household Pollution Prevention Act (Act 190 of 1996). The awards listed here are based upon applications received by the Department in 2000.

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

#### ACT 101, SECTION 901 PLANNING GRANT

<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
<b>NORTHEAST REGION</b>		
MONROE COUNTY	Plan Revision	\$70,431

#### Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of August 2000 the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in Pennsylvania. The period of certification is 2 years. (For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
James Forshey	2020 Bellmeade Drive Altoona, PA 16602	Testing
Howard Meyer	2530 Wedgemere Street Pittsburgh, PA 15226	Testing
Donna Moles	207 Dekalb Street Norristown, PA 19401	Testing
Jeffrey Nicholls	P. O. Box 400 Henryville, PA 18332	Testing
Kevin Radziul	84 Longcross Road Limerick, PA 19468	Mitigation

[Pa.B. Doc. No. 00-1639. Filed for public inspection September 22, 2000, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on DEP's world wide web site ([www.dep.state.pa.us](http://www.dep.state.pa.us)) at the public participation center. The "July 2000 Inventory" heading is the governor's list of nonregulatory documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 2000.

#### *Downloading/Ordering Paper Copies of DEP Technical Guidance*

Persons can download all guidance documents from our website at [www.dep.state.pa.us](http://www.dep.state.pa.us). We strongly encourage utilizing Internet access if possible. If you do not have access to the Internet, copies of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory can be ordered by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Please check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number are listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

#### *Draft Guidance*

DEP ID: 400-5900-117 Title: Standard Operating Procedures for the Acceptance, Collection, Transport, Storage and Disposition of Elemental Mercury by DEP Staff Description: DEP's staff will follow the standard operating procedure for the acceptance, collection, transport, storage, and disposition of elemental mercury set forth in the Procedure section of this guidance document. Anticipated Effective Date: November 11, 2000, Contact: Charles High at (717) 787-5028.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 00-1640. Filed for public inspection September 22, 2000, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Carlisle Hospital for Exception to 28 Pa. Code §§ 553.2, 555.1 and 555.31; Chapters 557, 559, 561, 563, 565, 567 and 569

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carlisle Hospital has requested an exception to the requirements of 28 Pa. Code § 553.2 that requires an ambulatory surgical facility to be an individual, partnership, association, a corporation or a combination thereof, § 555.1 medical staff, § 555.31 anesthesia services, Chapter 557 reporting of Quality Assurance activi-

ties, Chapter 559 Nursing Services, Chapter 561 Pharmaceutical Services, Chapter 563 Medical Records, Chapter 565 Radiology and Laboratory Services, Chapter 567 Environmental Services, Chapter 569 Fire and Safety Services.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Pennsylvania Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, Fax: (717) 772-2163, e-mail address: [jinks@state.pa.us](mailto:jinks@state.pa.us). Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed above.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN,  
*Secretary*

[Pa.B. Doc. No. 00-1641. Filed for public inspection September 22, 2000, 9:00 a.m.]

### Hearing Aid Advisory Council Meeting

The Hearing Aid Advisory Council, established by section 201 of the Hearing Aid Sales Registration Law (35 P.S. § 6700-201) is scheduled to hold a meeting on October 5, 2000 from 9 a.m. to 12 p.m. at 132 Kline Plaza, Suite A, Harrisburg, PA 17104.

For additional information or persons with a disability who desire to attend and require an auxiliary aid service or other accommodation to do so should contact John Hair, Director of the Bureau of Community Program Licensure and Certification at (717) 783-8665. V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 00-1642. Filed for public inspection September 22, 2000, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding

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



The Federal Highway Administration, the Pennsylvania Department of Transportation and Butler County are planning the replacement of the Buhl Bridge, which carries T-415 (Old Route 0068) over Connoquenessing Creek in Forward Township, Butler County.

The subject project is considered a Level 4 Categorical Exclusion in accordance with 23 CFR Part 771.117(d), Item 3 as published in the August 28, 1987 *Federal Register*.

The Buhl Bridge is eligible for listing in the National Register of Historic Places and is therefore, a Section 2002/Section 4(f) resource. The subject project will have an adverse effect on the Buhl Bridge. Based upon studies, there is no prudent and feasible alternative to the bridge project.

Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation (CEE)/Programmatic Section 4(f) Evaluation and in the executed Memorandum of Agreement, which is included in the CEE/Programmatic Section 4(f). Mitigation measures include the following:

- A marketing plan will be prepared for the sale and relocation of the Buhl Bridge.
- A Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) recordation/documentation will be completed as required by HABS/HAER.

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

No adverse environmental effect is likely to result from this bridge project.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 00-1643. Filed for public inspection September 22, 2000, 9:00 a.m.]

## Retention of Engineering Firms

### Allegheny County

#### Project Reference No. 08430AG

The Department will retain an engineering firm to provide construction management support services and a supplementary construction inspection staff of approximately forty-five (45) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S. R. 3069, Sections A05 and 012, Allegheny County Local Name: Liberty Bridge. This project involves a deck overlay and dam and bearing repairs on the inbound lanes of the Liberty Bridge in the City of Pittsburgh.
2. S. R. 0885, Sections A08, A11, A12, A13, and A19, Allegheny County. Local Name: Boulevard of the Allies/Boulevard of the Allies Bridge Nos. 1, 2, 3 and 4. This project consists of the rehabilitation of four (4) structures along the outbound lanes of the Boulevard of the Allies between the Liberty Bridge and the Parkway East (I-376) and resurfacing the eastbound/outbound lanes of the Boulevard of the Allies. S. R. 0885, Section A08 includes

resurfacing of the eastbound/ outbound lanes, construction of new parapets, concrete reconstruction and new sign structures. S. R. 0885, Section A11 is the replacement of existing concrete channel beams with a new retaining wall. S. R. 0885, Section A12 is the rehabilitation and replacement of existing concrete cantilever structures with a new retaining wall. S. R. 0885, Sections A13 and A19 projects include a concrete slab replacement. All sections will have a new "F" type parapet. The project is located in the City of Pittsburgh.

3. S. R. 0028, Sections A26, A27 and A28, Allegheny County Local Name: PA 28. S. R. 0028, Section A28 is on the Interstate Expressway Program for concrete patching, asphalt overlay, shoulder repair, drainage, guiderail updates and pavement markings. S. R. 0028, Section A26 is the rehabilitation of the Kittanning Pike Bridge and S. R. 0028, Section A27 is the rehabilitation of the Scouts Reserve Bridge. Both rehabilitations include deck replacements and minor substructure repair. The limits of the project are from Ravine Street to Highland Park Southbound on PA 28. The project is located in the Borough of Sharpsburg.

4. S. R. 0008, Section A05, Allegheny County Local Name: PA 8: Kittanning-Saxonburg Bridge. This project is the reconstruction and realignment of S. R. 0008 between Kittanning Street and Saxonburg Boulevard. Includes construction of seven (7) retaining walls in addition to major excavation. This project also involves the replacement of the Grant Street Structure with a prestressed box beam bridge. The project includes guiderail, median barrier, mountable curb, Superpave items and a new drainage system. There are major utility relocations associated with this project. This project is located in the Borough of Etna and the Township of Shaler.

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 anticipated duration of construction is eighteen (18) months with the expiration date established as thirty (30) days after the Acceptance Certificate (CS-4138) has been issued to the construction contractor for the last project within the agreement.

The construction Management Support/Inspection Services Team (CMSI) will be required to provide, but not limited to, the following services:

- Implement a project control system to document, monitor, evaluate and resolve field construction problems.
- Develop, monitor and maintain a master CPM schedule.
- Monitor and maintain the contractors' CPM schedule.
- Prepare and distribute construction summary reports.
- Establish and maintain a system of document control.
- Conduct regular progress meetings.

- Attend scheduled pre-bid and pre-construction meetings.
- Review cost estimates and coordinate value engineering efforts.
- Draft and prepare correspondence for PennDot signature.
- Evaluate change orders and provide claim avoidance evaluations.
- Coordinate and participate in community relations.
- Establish and coordinate necessary interaction among the project's designers, contractors, traveling public, communities, public and private agencies, utility companies, local government and PennDOT.
- Take preconstruction and progressional project photographs and videos.
- Monitor all environmental issues, including but not limited to, wetland mitigation, noise complaints, borrow and waste site locations, erosion and sedimentation control plans, earth disturbance permits, air and water quality and any complaints due to vibrations.
- Provide structural and roadway control services, including but not limited to, review of false work submittals, deck replacement/removal plans, shop drawings, and demolition procedures.
- Coordinate and resolve all traffic issues in conjunction with PennDOT personnel.
- Implement a reporting system to record and comment on fieldwork and schedule of the man CMSI team.
- Provide specialized services in the following areas:
  - A. Archaeological monitoring during construction.
  - B. Concrete and steel evaluation and testing.
  - C. Public information and graphs.
  - D. Paint/Coatings testing and evaluation.
  - E. Soils engineering, sampling and testing.
  - F. Hazardous materials monitoring and testing.
  - G. Construction safety monitoring services.
  - H. Incident management.
- Assist in development, data input and approval process of work orders.
- Complete auditing of project records in accordance with Department regulations.
- Provide development and maintenance of Web Pages for each project to display information, including graphs.
- Provide sufficient personnel to provide construction inspection responsibilities under the Department's Inspector-In-Charge. The construction inspection responsibilities may be performed by the consultant's in-house personnel, joint venture or the use of subconsultant(s).

Resumes will be required and reviewed for experience in all phases of construction management support services for the following personnel:

- Project Manger (1)
- Assistant Project Manager (1)
- Construction Engineers (2)

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 resumes for the following individuals with emphasis on experience in all phases of construction management support services (number of individuals):
  - (1) Project Manager, P.E. required
  - (1) Assistant Project Manager
  - (2) Construction Engineers
  - Overall experience
  - Length of time in the performance of CM support service responsibilities
  - Signed commitment of availability for project assignment
  - Length of service with the consulting firm
  - Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of Traffic, soils, bridge rehabilitations, retaining walls, concrete, asphalt paving, major excavation, drainage, sign structures, guiderail, utility relocations, construction documentation procedures and "CDS" operations.
- b. Understanding of Department's requirements, policies, and specifications.
- c. Past Performance of similar work with the District and Statewide.
- d. Number of NICET certified inspectors in each payroll classification.
- e. 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)	3 (3)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	8 (8)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	25 (17)
Technical Assistant—1 (TA-1) (NICET Highway Construction Level 1 or equivalent)	5 (0)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	4 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one (1) 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-1)	\$13.80
(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 six 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>
36	Cellular Phones (for Engineer's employees only)
5	Digital Cameras

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 (Digital) 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 (2) 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	4
TCIS	10
TCI	30

This project reference assignment is considered complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided (any pages beyond 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. Raymond S. Hack, P.E., District Engineer  
 Engineering District 11-0  
 45 Thoms Run Road  
 Bridgeville, PA 15017  
 Attention: Brian A. Krul

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, phone number (412) 429-3801, fax number (412) 429-4933.

### **Crawford County**

#### **Project Reference No. 08430AG2614**

The Department will retain an engineering firm for a multi-phase, specific project agreement to provide highway capacity and safety analyses, an alternatives analysis, condition survey reports, environmental studies, preliminary engineering, final design, shop drawing review and consultation during construction for S. R. 0079, Section A06 (Meadville Interchange, I-79/Exit 36) in Vernon Township, Crawford County, Engineering District 1-0.

The primary purpose of this project is to increase the capacity and safety of the interchange area through a series of geometric improvements, lighting, signing, pavement markings and other upgrades.

The selected firm will be required, but not limited to: attend an agency scoping field view(s); prepare the appropriate environmental documents; perform field surveys; prepare a location study and alternatives analysis and identify a preferred alternative; prepare plans, profiles, typical sections and cross-sections; perform a soils and geological investigation; erosion and sedimentation control plans; preliminary design submission; value engineering studies; right-of-way plan submission; utility submission; traffic investigations; type, size and location report(s); prepare structure designs with associated permits; final roadway design; landscaping and roadside development plans; construction plans; and prepare a PS&E (plans, specifications and estimate) submission. Coordination and attendance at various public meetings is required. The consultant will be required to provide material and attend a safety review meeting, attend various field views and provide efficient project management. Services during construction will include, but not limited to; construction consultation, alternatives review and shop drawing review.

It is essential that the selected firm be comprised of a multi-disciplinary team who are capable of performing all manner of engineering and environmental studies and documentation that may be required for a transportation improvement project. Communication skills will be important when coordinating with local officials, area residents, business owners and special interest organizations. 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 the consultant team. The specific experience of individuals and available staffing for this assignment will be considered.
- b) Method of controlling the quality of submissions. Consideration will be given to coordination between disciplines, subconsultants, etc.
- c) Past record of performance with regard to work quality, cost control and ability to meet schedules.
- d) Project management skills and public involvement experience and the ability to work effectively with the Department.
- e) Understanding of the Department's requirements, Design Manuals, policies and specifications.

The goal for Disadvantaged Business Enterprise (DBE) participation for this assignment shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation for this assignment is contained in the General Requirements and Information Section after the advertised project(s).

This project reference assignment is considered complex. The letter-of-interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one-sided, plus an organization chart (up to 11" x 17" in size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter-of-Interest submission shall be sent to:

Mr. John L. Baker, P.E., District Engineer  
Engineering District 1-0  
255 Elm Street  
P. O. Box 398  
Oil City, PA 16301  
Attn: Mr. Michael L. McMullen, P.E.

The Letter-of-Interest submission for this project reference number must be received at the address listed above by 4:30PM prevailing time on the twentieth (20th) day following the date of this Notice. Three (3) copies of the letter-of-interest must be included in the submission to the Engineering District 1-0 office.

Any technical questions concerning the requirements for this project should be directed to: Mr. Michael L. McMullen, P.E., Engineering District 1-0, at (814) 678-7077 or fax number (814) 678-7030.

### **Washington and Westmoreland Counties**

#### **Project Reference No. 08430AG2615**

The Department will shortlist a minimum of seven (7) engineering firms from the acceptable letters of interest and retain three (3) firms to provide preliminary engineering, environmental studies, final design and services during construction (shop drawing review, construction consultation and plans recordation) on the following project(s):

1. S. R. 0070, Section N20, Westmoreland County Local Name: I-70 over S. R. 3014 Project This project involves the replacement of a three span continuous I-beam bridge (segment 0554, offset 2042) carrying I-70 over S. R. 3014 in Hempfield Township, Westmoreland County. S. R. 0070 is classified as urban interstate with an ADT of over 26,000 vehicles and 29% trucks. The posted speed limit is 55 mph and the design speed is 70 mph. S. R. 3014 is classified as local urban and the current ADT is 534 vehicles with 14% trucks. The proposed limits of work are from segment 0554, offset 0100 to segment 0560, offset 1700 for a length of 4017 ft. The project setting is rural with rolling terrain.

The purpose of the project is to replace the existing structure over S. R. 3014 and widen the roadway template by increasing the median width from 4 feet to 10 feet. The existing vertical clear is 14'-6" and lateral clearance is 3'-0". The total span length is 142 feet. Grade adjustments to I-70 will be required in order to accommodate the proposed roadway template. A R. C. arch culvert located just east of the subject bridge (seg. 0554/2314) carries a branch of Sewickley Creek under I-70, S. R. 3014 and Twp. Rd. 512. The arch has a vertical opening of approx. 9 ft. and a horizontal opening of 10 ft. The culvert is 425 ft. long and is under 40 ft. of fill under I-70 and 10 ft. under S. R. 3014 and Twp. Rd. 512. Investigate any impacts to the culvert as a result of the proposed roadway adjustments. Approach roadway work will be

limited to providing transition of the proposed template and any required geometric adjustments necessary to meet current standards. Consideration will be given to future maintenance of traffic under construction when developing the roadway and bridge templates.

2. S. R. 0070, Section 10Q, Westmoreland County Local Name: I-70 over Wheeling & Lake Erie Railroad Project. This project involves the replacement of a three span concrete encased steel I-beam bridge (segment 0434, offset 1283) carrying I-70 over the Wheeling & Lake Erie Railroad in Rostraver Township, Westmoreland County. S. R. 0070 is classified as rural interstate with an ADT of over 26,000 vehicles and 29% trucks. The posted speed limit is 55 mph and the design speed is 60 mph. The proposed limits of work are from segment 0430, offset 2320 to segment 0440, offset 0957 for a length of 3900 feet. The project setting is rural with rolling terrain.

The purpose of the project is to replace the existing three (3) span structure over the W & LE Railroad and widen the roadway template by increasing the median width from 4 feet to 10 feet. The existing vertical clear is 22'-6" and lateral clearance is 13'-0". The existing abutments are skewed between 33 and 34 degrees, and the total span length is 182 ft. Grade adjustments to I-70 may be required in order to accommodate the proposed roadway template. Future considerations for extending the excel and decel lanes from the Arnold City Interchange (Exit 21) westward will be studied and how it effects the proposed bridge and/or roadway templates. Consideration will also be given to future maintenance of traffic under construction when developing the roadway and bridge templates. Approach roadway work to the west of the subject bridge will consist of transitioning the proposed template into the existing and incorporating any adjustments due to current design standards.

3. S. R. 0070, Section W20, Washington County Local Name: I-70 over S. R. 1049 (Turnback Road) Project This project involves the replacement of a single span P/S adjacent box beam bridge (segment 0220, offset 1332) carrying I-70 over S. R. 1049 in South Strabane Township, Washington County. S. R. 0070 is classified as rural interstate with an ADT of over 26,000 vehicles and 28% trucks. The posted speed limit is 55 mph and the design speed is 70 mph. S. R. 1049 is classified as rural local state route south of I-70 and a turnback local township road to the north. The current ADT is 534 with 14% trucks. The proposed limits of work are from segment 0214, offset 1470 to segment 0224, offset 0770 for a length of 4000 ft. The project setting is rural with rolling terrain. The South Strabane Township Municipal Building is located near the northwest corner of the structure.

The purpose of the project is to replace the existing single span structure over S. R. 1049 and widen the roadway template by increasing the median width from 4 feet to 10 feet. The existing vertical clear is 12'-6" and lateral clearance is 4'-0". Grade adjustments to I-70 will be required in order to accommodate the required vertical under clear of 14'-6" and proposed roadway template. An existing overhead sign structure will require upgrading or replacement. A R. C. box culvert (12 ft. span) carrying a branch of Little Chartiers Creek under I-70 (seg. 0220/0692) may require investigation due to the proposed approach roadway adjustments. The approach roadway work is limited to transitioning from the proposed template to the existing and any improvements required due to current standards. Consideration will be given to future maintenance of traffic under construction when developing the roadway and bridge templates.

During December of 1999 and March of 2000, long wall mining took place under the subject bridge on I-70. Prior to any mining activities the bridge inspection reports indicated the near left and far right wingwalls and abutment stem had tilted up to 18". Steel inclined braces were installed as temporary supports. Subsequent to long wall mining, settlement of a few inches has been recorded. No functional problems have been observed to date.

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) Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience. The specific experience of individuals employed by the firm shall be considered.
- b) Available staffing for this assignment and the ability to meet the Department's needs.
- c) Specialized experience and technical competence of firm.
- d) Location of Consultant with respect to the District Office.

The firm selected may be required to provide a variety of engineering services as indicated below, but not limited to:

- a) All studies necessary for the preparation of a Categorical Exclusion Evaluation Level 1b (or Level 2 if circumstances warrant) and associated documents including: cultural resource surveys, wetland delineation and evaluation, Section 106 documents, hazardous waste reports, archaeological surveys, etc.
- b) Preliminary engineering including, but not limited to: field surveys; public/local officials coordination; traffic studies; type, size and location; design field view; roadway design; hydrologic and hydraulic report; E & S plans; soils and geological reconnaissance; traffic control plans; right-of-way investigation and coordination with utility companies.
- c) Preparation of final design activities including, but not limited to: foundation submission/core borings/geotechnical engineering report; final structure and roadway plans; signing and pavement/delineation marking plans; contour grading plan; final traffic control plan; pavement and drainage design; final right-of-way plan; specifications and cost estimate preparation.
- d) Engineering services during construction including shop drawing reviews, consultation service and review of contractor's alternate design.

All engineering services for this project will be performed in accordance with current Department English Design Standards.

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).

These project reference assignments are considered moderately complex to 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:

Mr. Michael H. Dufalla, P.E., District Engineer  
Engineering District 12-0  
North Gallatin Avenue Extension  
Uniontown, PA 15401  
Attention: Mr. Jerome F. Bendo

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 these project should be directed to Mr. Jerome F. Bendo, phone number (724) 439-7377, fax number (724) 430-4401.

#### 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. 00-1644. Filed for public inspection September 22, 2000, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Designation of Water Subject to Special Fishing Regulations

The Fish and Boat Commission (Commission) has designated Beaverdam (Run) Reservoir, Cambria County, as a water to be regulated and managed under 58 Pa. Code §§ 65.9 and 65.111 (relating to big bass special regulations; and panfish enhancement special regulation) for sunfish, yellow perch and crappie. These designations will go into effect upon publication of this notice in the *Pennsylvania Bulletin*.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 00-1645. Filed for public inspection September 22, 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, September 7, 2000, and took the following actions:

#### *Regulations Approved:*

Department of State #16-22: Campaign Finance Forms (amends 4 Pa. Code §§ 174.1, 176.2, 176.8, 177.1, 177.2 and 177.9).

Department of Health #10-143: Emergency Medical Services (amends 28 Pa. Code Chapters 1001—1015).

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, July 13, 2000, and took the following action:

#### *Regulation Disapproved:*

State Board of Medicine and State Board of Nursing #16A-499: Certified Registered Nurse Practitioners Prescriptive Authority (adds 49 Pa. Code §§ 18.53—18.57 and 21.283—21.287).

*Commissioners Voting:* John R. McGinley, Jr., Chairperson, Alvin C. Bush, Vice Chairperson, by Phone, Arthur Coccodrilli, Robert J. Harbison, III, John F. Mizner

Public Meeting held  
September 7, 2000

*Department of State—Campaign Finance Forms; Regulation No. 16-22*

On February 22, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking amends 4 Pa. Code §§ 174.1, 176.2, 176.8, 177.1, 177.2 and 177.9. It was published in the March 4, 2000, *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 7, 2000.

The final regulation amends references to official campaign reporting forms and adds a new provision that allows filers to submit their reports on diskette, provided the filing meets the Department's technical specifications. It also deletes the reporting forms from the regulation.

We have determined this regulation is consistent with the statutory authority of the Department of State (25 P. S. § 2621(a)) 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; Alvin C. Bush, Vice Chairperson, by Phone; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Proxy

Public Meeting held  
September 7, 2000

*Department of Health—Emergency Medical Services; Regulation No. 10-143*

On January 29, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking amends 28 Pa. Code Chapters 1001—1015. The proposed regulation was published in the February 13, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 7, 2000.

This rulemaking is a comprehensive revision of the procedures, rules and standards of the Emergency Medical Services system administered by the Department. The primary impetus for this rulemaking is Act 82 of 1994 which amended the Emergency Medical Services Act.

We have determined this regulation is consistent with the statutory authority of the Department (35 P. S. § 6937.1) 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; Alvin C. Bush, Vice Chairperson, by proxy; Arthur Coccodrilli, dissenting; Robert J. Harbison, III; John F. Mizner, dissenting

Public Meeting held  
July 13, 2000

*Regulation No. 16A-499 State Board of Medicine and State Board of Nursing—Certified Registered Nurse Practitioners Prescriptive Authority*

On September 17, 1999, the Independent Regulatory Review Commission (Commission) received this joint proposed regulation from the State Board of Medicine and the State Board of Nursing (Boards). This rulemaking adds 49 Pa. Code §§ 18.53—18.57 and 21.283—21.287. The proposed regulation was published in the October 2, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 6, 2000.

This rulemaking will authorize Certified Registered Nurse Practitioners (CRNP) to prescribe and dispense drugs. In order for a CRNP to prescribe and dispense drugs, the regulations establish education requirements, specify categories of drugs CRNPs may and may not prescribe, require collaborative agreements with physicians, specify CRNP identification requirements and specify physician supervision requirements.

The final regulation contains significant amendments to the proposed version of the regulation. There are three areas that do not meet our criteria as explained below.

First, the Boards added a 2:1 ratio of CRNPs to physicians in §§ 18.57 and 21.287 of the final regulation. This ratio raises questions concerning protection of the public health, need and reasonableness (71 P. S. § 745.5a(i)(2) and (3)). These provisions were not in the proposed regulation.

Commentators believe the 2:1 ratio will unnecessarily restrict the availability of healthcare, particularly in underserved rural and urban areas. They also observe that the regulation requires part-time CRNPs to meet the same ratio as full-time CRNPs.

The Preamble does not explain how the 2:1 ratio was determined. The Boards state that CRNPs prescribing drugs is the norm in 42 states. Commentators have stated that only two of those states use a ratio, and that the ratio is higher than the 2:1 ratio in this regulation. The Boards should amend or delete this requirement or explain why it is appropriate.

Second, the waiver process in §§ 18.57(a) and 21.287(a) lacks clarity (71 P. S. § 745.5a(i)(3)). The provision allows a physician to “apply for a waiver . . . for good cause, as determined by the Boards.” This is new language added to the final regulation.

Commentators believe the waiver process is not clearly defined in the regulation. The regulation should be amended to state how to apply to the Boards for a waiver, what information is required, and what criteria the Boards will use to evaluate a request for waiver.

Finally, the requirement in §§ 18.53(2) and 21.283(2) for “a specific course in advanced pharmacology of not less than 45 hours” does not reasonably allow existing CRNPs to comply, would impose unnecessary costs on them, and would impose adverse effects on competition (71 P. S. § 745.5a(i)(1) and (3)). Prior to 1992, pharmacology was integrated into other courses in the CRNP curricula. Approximately 40% of practicing CRNPs may

not be able to document a “specific” course, even though they may have had equivalent education. A further concern is that the Boards will allow more favorable treatment for out-of-State equivalency for CRNP certification under existing §§ 18.42 and 21.272 (relating to Certification by endorsement; currently licensed), but would foreclose the opportunity for Pennsylvania’s CRNPs to demonstrate an equivalency of the 45-hour advanced pharmacology course. The regulation should allow all CRNPs the opportunity to demonstrate an equivalency of the 45-hour advanced pharmacology course to the Boards.

We have determined this regulation is consistent with the statutory authority of the State Board of Medicine (63 P. S. § 422.15(b)) and the State Board of Nursing (63 P. S. § 212) 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. 00-1646. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Notice of Comments Issued**

Section 5(d) and (g) of the Regulatory Review Act (71 P. S. § 745.5(d) and (g)) provide that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committees’ comment period. The Commission’s Comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (75 P. S. § 745.5a(h) and (i)).

The Commission issued Comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted by the date indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Final-Form Submission Issued Deadline</i>	
63-7	State Ethics Commission Procedure	9/07/00	8/07/02
6-269	Department of Education Charter School Services and Programs for Children With Disabilities	9/07/00	8/07/02

**State Ethics Commission Regulation No. 63-7  
Procedure**

**September 7, 2000**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The State Ethics Commission (SEC) must respond to these comments when it submits the final-form regulation. If the



final-form regulation is not delivered by August 7, 2002, the regulation will be deemed withdrawn.

**1. Sections 17.3. Creditors, 17.4. Income, 17.5. Gifts, and 17.6. Expense reimbursement.—Clarity.**

Subsection (a) in each of these sections references “65 Pa.C.S. § 1105(d) (relating to powers and duties of commission).” (Emphasis added.) However, Section 1105 of the statute is entitled “Statement of financial interests,” and Section 1105(d) is entitled “Cost-of-living adjustments.” The SEC should amend the final regulation so that titles in the citations are consistent with the titles in the statute.

**2. Section 21.6. Confidentiality.—Legislative intent; Need; Reasonableness**

Paragraphs (1) through (8) of this section repeat the exceptions to the confidentiality provision in the Public Official and Employee Ethics Act (65 Pa.C.S. § 1108(k)(1)—(8)). The SEC designed Paragraphs (9) and (10) to reflect the decisions of the United States Supreme Court and lower Federal courts. These decisions have upheld the First Amendment right of the news media to publish information regarding confidential proceedings such as grand jury and judicial review board investigations, and the right of an individual to disclose his or her own testimony in such confidential proceedings to a third party.

Senate Counsels Stephen C. MacNett and C. J. Hafner have commented that Paragraph (9) may include situations that should not be exempt. We agree with their concern, and believe the same concern applies to Paragraph (10) as well. As drafted, Paragraphs (9) and (10) are not consistent with legislative intent, as they could render the statutory confidentiality provision meaningless.

In addition, we question the reasonableness and need for these provisions, as they far exceed the exceptions allowed under current precedent. As proposed, this regulation would allow disclosure of any information acquired as a result of participation in a SEC investigative proceeding. To be consistent with federal court decisions and existing law, exceptions should be limited to the news media and to individuals who disclose their own testimony.

**Department of Education Regulation No. 6-269  
Charter School Services and Programs for Children  
With Disabilities**

**September 7, 2000**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which has not been met. The Department of Education (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by August 7, 2002, the regulation will be deemed withdrawn.

**1. General.—Clarity.**

This regulation contains the defined term “children with disabilities.” However, the text of Sections 711.6—711.9, 711.21, 711.22, 711.42—711.44 and 711.62 uses other terms such as “students,” “person,” “handicapped child,” “child,” “children” and “student or young child.” For clarity, the Department should review these sections and use the defined term consistently.

**2. Section 711.1. Definitions.—Consistency with the statute and Clarity.**

*Charter school*

The definition of this term differs from the definition included in the Charter School Law of 1997 (Act) (24 P.S. 17-1703-A). For clarity, the Department should consider including only the statutory citation of terms that are also defined in the Act.

Additionally, the definition in the regulation contains a reference to the term “regional charter schools.” In the Act, the term “regional charter schools” is a separately defined term. For consistency with the statute, the Department should include a definition of the term “regional charter schools” in the final-form regulation or cite the Act.

*At-risk student*

This term is defined but it is not used in the text of the regulation. Therefore, the Department should delete the term in the final-form regulation.

**3. Section 711.2. Purpose and intent.—Clarity.**

This section should clarify that, under Section 1732-A of the Act, charter schools are exempt from the requirements of Chapter 14 (relating to special education).

**4. Section 711.3. Incorporation of Federal laws.—Reasonableness and Clarity.**

We have a number of concerns with this section. First, Subsection (a) includes the phrase “Charter schools assume the duty to ensure that a FAPE is available to a child with a disability in compliance with . . . its implementing regulations in Title 34 CFR Part 300 . . . or Section 504. . . .” (Emphasis added.) Why did the Department use “or” instead of “and” in this instance?

Second, in Subsection (b), the Department is incorporating by reference 21 different citations of Title 34 CFR Part 300. The title and the listing are confusing. It would improve the clarity of this regulation if the Department moved each incorporation by reference to the corresponding sections of the regulation under the applicable subject areas.

Third, commentators have suggested that the following citations to Title 34 CFR should be included in the final-form regulation. These include: 300.138, relating to participation in assessments; 300.139, relating to reports relating to assessments; and 300.574, relating to children’s rights. The Department should incorporate these provisions by reference, or explain why they should not be incorporated.

Fourth, Subsection (c) begins with the phrase “Except as expressly provided in this chapter. . . .” This phrase is confusing. We were unable to find any sections in the proposed rulemaking where the citations to the sections of Title 34 CFR were not incorporated by reference. For clarity, the Department should delete this phrase.

Finally, the title of this section, “Incorporation of Federal laws” is misleading. All of the incorporations by reference are to Federal regulations. The Department should consider revising the title of this section to reflect this distinction.

**5. Section 711.4. Supervision.—Clarity.**

*SEA and Department*

Subsection (a) states “the Commonwealth, through the Department as the SEA” will provide general supervision. This language is redundant in that both the terms “SEA”

and Department" are defined in this regulation. For clarity, the Department should review this subsection and other sections in the regulation and use one defined term consistently.

#### *Monitoring*

Subsection (b) provides "the Department will establish and implement methods of administration, including effective and proper methods of monitoring. . . ." It is not clear from this language what constitutes "effective and proper methods of monitoring." Further it is not clear how the Department will "ensure compliance." We suggest that the Department describe in this section the actions for monitoring and ensuring compliance that will be taken by the Offices of Special Education and Education Initiatives.

#### **6. Section 711.5. Personnel.—Clarity.**

This section requires persons who provide services in charter schools to have "appropriate certification, notwithstanding Section 1724-A of the act." (Emphasis added.) The word "notwithstanding" should be replaced by the words "in accordance with" to more clearly convey the Department's intent.

#### **7. Section 711.6. Annual report.—Reasonableness and Clarity.**

Subsection (a) specifically lists the information that the annual report must contain. One of the commentators remarked that the annual report should include additional information similar to that provided by school districts. For example, reporting requirements should include: the age and type of exceptionality for each enrolled student; the level of intervention provided to each student; certification of staff providing services to each student; and programs and services available to students with disabilities.

School districts already provide such detailed information in their plans. The Department should decide whether incorporating these suggested reporting requirements in the requirements for charter schools' annual reports is necessary.

#### **8. Section 711.7. Enrollment.—Clarity.**

Subsection (b) states that the charter schools "may establish reasonable criteria" to evaluate prospective students. The phrase "reasonable criteria" is vague. The Department should clarify this phrase in the final-form regulation.

#### **9. Section 711.8. Education records.—Clarity.**

Subsection (a) requires that the educational records should be forwarded when a child with a disability transfers schools. This section should emphasize that all of the student's educational records should be transferred.

Additionally, there is nothing that indicates the educational records are confidential. The Department should consider adding language requiring the confidentiality of educational records if it isn't already protected by another statute or regulation. If this is the case, the appropriate statute or regulation should be cross-referenced.

#### **10. Section 711.9. Payments.—Clarity.**

Subsection (a)(1) uses the term "school entity." The Department should include or reference the statutory definition of this term in the final-form regulation.

#### **11. Section 711.21. Child find.—Consistency with statute and Clarity.**

Subsection (a) requires all charter schools to "establish written policies and procedures to ensure that all children

with disabilities that are enrolled in the charter school . . . are identified and evaluated." Federal regulations, specifically Title 34 CFR Part 300.125(a)(i), add the requirement that children with disabilities that are enrolled in a charter school are also "located." For consistency with Federal regulations, the Department should amend Subsection (a) to reflect that children with disabilities enrolled in a charter school are "identified, located and evaluated."

#### **12. Section 711.22. Evaluation and reevaluation.—Clarity.**

This section contains the phrase "unless a shorter period is required by existing law." From our discussions with the Department, the only requirement for reevaluating "students with disabilities" more often than every 3 years is found in the consent decree in *PARC v. The Commonwealth*, 334 F. Supp. 1257(1971). The requirements found in the consent decree should be included in the final-form regulation.

Parents and teachers of a child with a disability have the right, under Title 34 CFR Part 300 to request an evaluation or reevaluation of a child with a disability at any time. This fact should be clearly stated in a separate provision.

#### **13. Section 711.41. IEP.—Reasonableness and Clarity.**

##### *Adopting and developing an IEP*

This section makes charter schools responsible to ensure that transferring students with disabilities receive "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." We have two concerns with this section.

First, in this section, the Department should clarify who is responsible for developing a new IEP, or reference the IEP regulations that contain the specifics for IEP development.

Second, Section 711.41 should require the persons responsible for IEP development in a charter school to use IDEA procedures to develop a new IEP.

#### **14. Section 711.42. Transportation.—Clarity.**

Subsection (a) states, "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 . . ." (Emphasis added.) This subsection is unclear. Does this mean that the child's school district of residence is not responsible for transportation unless the child's IEP recommends such service? The Department should clarify this subsection in the final-form regulation.

#### **15. Section 711.43. Educational placement.—Statutory authority and Clarity.**

Subsection (a) states "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." We have two concerns regarding this subsection.

First, Subsection (a) parallels Section 13-1376(a) of the Public School Code (24 P. S. § 13-1376(a)), which requires public school districts to pay for a child with a disability's education if the child's IEP requires placement in another institution better able to handle that child's needs. However, this provision is not applicable to charter schools

under Sections 1715-A(1) and (7) and 1732-A of the Act. Therefore, we object to the Department's intention to shift this obligation to charter schools.

Section 1715-A of the Act states, "A charter school shall only be subject to the laws and regulations as provided for in Section 1732-A<sup>1</sup> or <sup>2</sup> as otherwise provided for in this article." Section 1732-A(a) of the Act references specific statutory and regulatory provisions that apply to charter schools. Additionally, Section 1732-A(c)(2) authorizes the Secretary of Education to ensure that charter schools comply with "... Federal laws and regulations governing children with disabilities." Neither of these provisions authorizes the Department to impose the requirement in Subsection (a).

Therefore, we ask the Department to provide a citation to the specific statutory provision or Federal regulation which requires charter schools to pay for a child with a disability's education if the child's IEP requires placement in another institution. If the requirement is not supported by specific statutory authority as required by Section 1715-A, this subsection should be deleted. Additionally, the term "IEP team" in Subsection (a) is unclear. The Department should define this term in either this section, or Section 711.1, relating to definitions.

**16. Section 711.44. ESY.—Clarity.**

*"Recoupment" and "regression"*

Paragraphs (4)(i)—(iii) outline factors in addition to "recoupment" and "regression." It is unclear why these factors were included. It is also unclear as to how these factors will be measured in children with disabilities. The Department should explain how these factors were derived, and how they will be measured, in the final-form regulation.

Additionally, there are a number of terms and phrases that are unclear in Section 711.44. These include: "at least" in Paragraph (6); "pay particular attention" in Paragraph (7); "relevant" in Paragraph (8); "others having direct contact with the student" in Subsection (9)(2); "appropriate" in Paragraph (11)(iii); and "motivation and trust" and "irreversible withdrawal" in Subsection (4)(iii). The Department should provide specific criteria for determining these standards or delete them in the final-form regulation.

**17. Section 711.61. Suspension and expulsion.—Reasonableness and Clarity.**

*Suspension and expulsion*

This section deals with the suspension and expulsion of a child with a disability from a charter school. Subsections (a), (b) and (d) cross-reference Chapter 12 (22 Pa. Code § 12) as the proper procedure for suspending or expelling a child with a disability. However, Chapter 12 does not mention any specific requirements that must be met to suspend or expel a child with a disability. We understand that schools cannot apply normal discipline guidelines to special education students unless procedural requirements mandated under Federal law have been met.

Title 34 CFR Parts 300.520—300.529 expressly state the requirements for the suspension and expulsion of a child with a disability. These requirements are more detailed about the process for suspension and expulsion than the process outlined in Section 711.61 of the proposed rulemaking. Therefore, in addition to referencing Chapter 12, the Department should incorporate by reference 34 CFR Parts 300.520—300.529 in this section of the final-form regulation.

**18. Section 711.62. Procedural safeguards.—Clarity.**  
*Hearings*

This section provides the hearing process for charter schools. Are hearings the only available avenue for grievances against charter schools? Would mediation be available? If so, the Department should list the available options in the final-form regulation.

Also, the phrase "without delay" in Paragraph (2) is unclear. The Department should include a minimum time frame in the final-form regulation.

[Pa.B. Doc. No. 00-1647. Filed for public inspection September 22, 2000, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Keystone Health Plan Central; Group Prescription Drug Premium Rates; Rate Filing

Keystone Health Plan Central requests approval to increase its group prescription drug premium rates for its fully insured business, with proposed effective dates of October 1, 2000, through December 31, 2001. The generic drug plan will apply to all groups.

The requested rate increases range from 12.9% to 45.1%, with an average rate increase of 32.1%. The increases will affect approximately 80,300 members.

The anticipated total annual premium revenue will increase to \$34.9 million, with these premium rate increases.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Pennsylvania Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 00-1648. Filed for public inspection September 22, 2000, 9:00 a.m.]

## MILK MARKETING BOARD

### Milk Marketing Area No. 4; Hearing and Presubmission Schedule

Notice is hereby given under the provisions of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), that the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 4 on November 1, 2000, commencing at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

*Purpose of the Hearing*

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement, as set forth in section G of Official General Order No. A-900. Testimony and exhibits will also be accepted relative to shrinkage

and sales of bulk milk and bulk cream, and cream processing costs; over-price premiums; and adjustments to Class II prices.

*Entries of Appearance*

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons that may be affected by the Board order fixing prices in Area No. 4 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on September 29, 2000, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made. Thereafter documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with the Board, by 4 p.m. on September 29, 2000, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

*Witnesses, Exhibits, Presentation of Evidence*

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on October 24, 2000, each party shall file with the Board seven copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 27, 2000, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code §§ 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

*Requests for data from Board staff*

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on October 2, 2000.

*Board's filing address*

The filing address for the Board is Pennsylvania Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Individuals requiring this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

LYNDA J. BOWMAN,  
*Executive Secretary*

[Pa.B. Doc. No. 00-1649. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Milk Marketing Area No. 5; Hearing and Presubmission Schedule**

Notice is hereby given under the provisions of the Milk Marketing Law (31 P.S. §§ 700j-101—700j-1302), that the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 5 on November 1, 2000, commencing at 11 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

*Purpose of the Hearing*

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement, as set forth in section G of Official General Order No. A-887, as amended by section B of Official General Order No. A-887 (CRO 3). The Board will also receive testimony and evidence relative to shrinkage and sales of bulk milk and bulk cream, and cream processing costs; over-price premiums, and adjustments to Class II prices. In addition, the Board will receive evidence concerning in-store handling costs and a reasonable rate of return to retailers.

*Entries of Appearance*

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons that may be affected by the Board order fixing prices in Area No. 5 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on September 29, 2000, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made. Thereafter documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with the Board, by 4 p.m. on September 29, 2000, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

*Witnesses, Exhibits, Presentation of Evidence*

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on October 24, 2000, each party shall file with the Board seven copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which

each witness will testify. A witness offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 27, 2000, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

#### *Requests for data from Board staff*

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on October 2, 2000.

#### *Board's filing address*

The filing address for the Board is Pennsylvania Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Individuals requiring this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

LYNDA J. BOWMAN,  
*Executive Secretary*

[Pa.B. Doc. No. 00-1650. Filed for public inspection September 22, 2000, 9:00 a.m.]

### **Over-Order Premium; Hearing and Presubmission Schedule for all Milk Marketing Areas**

Notice is hereby given under the provisions of the Milk Marketing Law (31 P.S. §§ 700j-101—700j-1302), that the Commonwealth of Pennsylvania, Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on October 4, 2000, at 10 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the level of the over-order premium for the months of November and December, 2000.

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on September 26, 2000, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25; or (2) if unrepresented by counsel, filing with the Board on or before 1 p.m. on September 26, 2000, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the

parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on September 29, 2000, each party shall file with the Board seven copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 2, 2000, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

LYNDA J. BOWMAN,  
*Secretary*

[Pa.B. Doc. No. 00-1651. Filed for public inspection September 22, 2000, 9:00 a.m.]

### **Over-Order Premium; Hearing and Presubmission Schedule for All Milk Marketing Areas**

Notice is hereby given under the provisions of the Milk Marketing Law (31 P.S. §§ 700j-101—700j-1302), that the Commonwealth of Pennsylvania, Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on November 8, 2000, at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the continuation of the over-order premium that is scheduled to expire on December 31, 2000, and whether an adjustment should be made to the level of the current over-order premium.

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on October 6, 2000, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25; or (2) if unrepresented by counsel, filing with the Board on or before 1 p.m. on October 6, 2000, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on October 26, 2000, each party shall file with the Board seven copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on November 1, 2000, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Individuals requiring this information in an alternate format should call (717) 787-4194 or 800-654-5984 (PA Relay Service for TDD Users).

LYNDA J. BOWMAN,  
*Executive Secretary*

[Pa.B. Doc. No. 00-1652. Filed for public inspection September 22, 2000, 9:00 a.m.]

## PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

### Request for Proposals

The Pennsylvania Infrastructure Investment Authority (PENNVEST) is requesting proposals to provide full financial advisory services over a 4-year period for all of PENNVEST's drinking water, wastewater and stormwater financing programs, including the State Revolving Funds established under the Clean Water Act and the Drinking Water Act, as amended. The request for proposals will be available on September 25, 2000, and can be obtained from Elaine Keisling or Jerry Allen, Director of Administrative Services, (717) 783-4494, PENNVEST, 22 South Third Street, Harrisburg, PA 17101. PENNVEST is an equal opportunity employer. Contractor will be re-

quired to comply with all applicable equal employment opportunity laws and regulations.

PAUL K. MARCHETTI,  
*Executive Director*

[Pa.B. Doc. No. 00-1653. Filed for public inspection September 22, 2000, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before October 16, 2000, as set forth in 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00117205. Arnold Volunteer Ambulance Service, t/d/b/a Arnold Specialty Coach** (101 EMS Square, Arnold, Westmoreland County, PA 15068), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Westmoreland, and from points in said county, and the county of Allegheny, to points in Pennsylvania, and vice versa. *Attorney:* Christie M. Mellott, 5002 Lenker Street, Suite 202, Mechanicsburg, PA 17055.

**A-00117207. Cory Harris** (P. O. Box 3402, Erie, Erie County, PA 16508)—persons, in paratransit service: (1) between points in the city of Erie, Erie County, and within an airline distance of 90 statute miles of the limits thereof, and from points in said area, to points in Pennsylvania, and return; and (2) between points in the township of Harmony, Butler County, and within an airline distance of 90 statute miles of the limits thereof, and from points in said area, to points in Pennsylvania, and return. *Attorney:* Bruce G. Sandmeyer, 4036 West Lake Road, Erie, PA 16505.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00117202. DBH Transportation, Inc.** (1625 North Fifth Street, Reading, Berks County, PA 19610), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the city of Reading, Berks County, and points in said county within an airline distance of 5 statute miles of the limits of said city, and from points in said city and area to points in Pennsylva-

nia, and return; which is to be a transfer of all the right authorized under the certificate issued at A-00111102 to At Your Service Limousine Company, Inc., subject to the same limitations and conditions. *Attorney:* Lisa A. Thompson, P. O. Box 6286, Wyomissing, PA 19610.

**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-00096231, Folder 2, Am-D. Veterans Cab Co., Inc.** (R. D. 6, Box 401, Latrobe, Westmoreland County, PA 15650), a corporation of the Commonwealth of Pennsylvania, inter alia—persons in paratransit service: (1) between points in the boroughs of Mt. Pleasant, Donegal and Scottdale, and the townships of East Huntingdon, South Huntingdon, Mt. Pleasant and Donegal, Westmoreland County, and from points in said boroughs and townships, to points in the counties of Westmoreland, Fayette and Allegheny, and return; and (2) between points in the township of Salem and the borough of New Alexandria, Westmoreland County, and from points in said borough and township, to points in the counties of Westmoreland and Allegheny, and return. Application for Temporary Authority has been filed seeking the rights cited above.

**A-00106109, Folder 2, Am-B. Greensburg Yellow Cab Co., t/d/b/a Yellow Cab of Greensburg** (951 West Pittsburgh Street, Greensburg, Westmoreland County, PA 15601), a corporation of the Commonwealth of Pennsylvania, inter alia—persons, in paratransit service, between points in the city of Greensburg, the boroughs of South Greensburg, Southwest Greensburg, Youngwood, New Stanton, Madison, Arona, Hunker and Mt. Pleasant, the townships of Hempfield, East Huntingdon and Mt. Pleasant, all located in Westmoreland County, to points in the township of Hempfield, and within an airline distance of 5 statute miles of the limits of said township, and return: *So as to permit* the transportation of persons, in paratransit service: (1) between points in the city of Jeannette, and within an airline distance of 3 statute miles of the limits of the said city and from points in the said area to points in Pennsylvania, and return; (2) between points in the boroughs of Penn, Adamsburg, Delmont, Murrysville, and Export and the townships of Penn, Hempfield and Sewickley, all in Westmoreland County, and from points in said boroughs and townships, to points in Pennsylvania, and return. Application has been filed for temporary authority for the rights cited above.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1654. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Telecommunications**

**A-310824F0002. Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and DSLNET Communications LLC d/b/a DSL.NET.** Joint petition of Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and DSLNET Communications LLC d/b/a DSL.NET for approval of Amendments Nos. 1, 2, 3 to Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and DSLNET Communications LLC d/b/a DSL.NET, by its counsel, filed on September 6, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and DSLNET Communications LLC d/b/a DSL.NET Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1655. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Telecommunications**

**A-310183F0002. Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Sprint Communications LP.** Joint petition of Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Sprint Communications LP for approval of Amendment No. 1 to Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Sprint Communications LP, by its counsel, filed on September 6, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Sprint Communications LP joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1656. Filed for public inspection September 22, 2000, 9:00 a.m.]

**Telecommunications**

**A-310437F0002. Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and US West Enterprise, Inc. d/b/a Enterprise America, Inc.** Joint petition of Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and US West Enterprise, Inc. d/b/a

Interprise America, Inc. for approval of Amendment No. 1 to Interconnection Agreement under Section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and US West Interprise, Inc. d/b/a Interprise America, Inc., by its counsel, filed on September 6, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and US West Interprise, Inc. d/b/a Interprise America, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 00-1657. Filed for public inspection September 22, 2000. 9:00 a.m.]

## TURNPIKE COMMISSION

### Retention of an Engineering or Construction Management Firm

#### **Construction Inspection/Project Management Services for the Roadway Reconstruction and Bridge Rehabilitation and Replacement between Mileposts 0.00 and 10.00 Lawrence and Beaver Counties, Pennsylvania**

#### **Reference No. 1-120**

The Pennsylvania Turnpike Commission will retain an Engineering or Construction Management firm with full depth highway pavement replacement inspection experience to provide a staff of approximately 15 field inspection personnel for the complete construction inspection, management, administration and documentation for the Roadway Reconstruction and Bridge Replacement or Rehabilitation between Mileposts 0.00 and 10.00, in Lawrence and Beaver Counties. Construction documents were prepared using metric units. Construction will include the reconstruction of the roadway which will be made up of two 3.6 meter width shoulders, 11.4 meter width median, and four 3.6 meter width travel lanes with a Superpave Binder and Wearing Course. Additional work includes the replacement of several overhead bridge structures that will be constructed in advance of the roadway reconstruction, installation of an Asphalt Permeable Base Course, and the replacement of the existing drainage structures. The total estimated cost of this construction is \$68,000,000. The Consultant Agreement is anticipated to start in January 2001 and terminate in December 2003.

The selected firm will be required to provide a full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. The selected firm will be required to attend the prebid meeting and preconstruction

conference, write all project correspondence, and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Turnpike's Construction documentation System (CDS) to document the construction progress. The selected firm will also be expected to prepare current and final estimates for payment to contractors, prepare change orders, conduct monthly job conferences, monitor monthly progress, provide liaison with affected utilities, communities and the press, conduct semifinal and final inspections, and determine the final quantities for each contract item. The Construction Management team will also be expected to handle public relation activities for the project, which would include but may not limited to, development and maintenance of a project web site, press conferences, answering customer questions, informational brochures, and other duties as required.

Eighty percent of the inspection staff assigned to this Commission constructed project must meet the following Requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies, (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.
2. Be registered as a professional engineer by the Commonwealth of Pennsylvania with 1 year highway inspection experience acceptable to the Commission.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.
4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.
5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from High School or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for High School graduation.

*Experience*—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

The Commission reserves the right to place Commission personnel on the project to assist the Construction Manager with various Construction Management duties.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The Team must clearly demonstrate an ability to analyze available data to make decisions, completing the project in a timely and cost effective manner.
- b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should



identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

f. Other factors, if any, specific to the project.

The Turnpike Commission is committed to the inclusion of disadvantaged, minority, and woman firms in contracting opportunities. The minimum participation level for DBE/MBE/WBEs in this contract will be 10% total. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in this contract, in their letter of interest. If the selected firm does not meet the minimum requirement for DBE/MBE/WBE participation, they will be required to demonstrate good faith efforts to achieve the required level. Proposed DBE/MBE/WBE firms must be certified by the Pennsylvania Department of Transportation at the time of the submission of the letter of interest. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Office of Equal Opportunity Development, Pennsylvania Turnpike Commission by calling (717) 939-9551 Ext. 4241.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by e-mail at mwagner@paturnpike.com.

**Construction Inspection / Project Management  
Services for the Roadway Reconstruction and  
Bridge Rehabilitation and Replacement  
between Mileposts 214.00 and 227.00  
Cumberland County, Pennsylvania**

**Reference No. 3-133**

The Pennsylvania Turnpike Commission will retain an Engineering or Construction Management firm with full depth highway pavement replacement inspection experience to provide a staff of approximately 15 field inspection personnel for the complete construction inspection, management, administration and documentation for the Roadway Reconstruction and Bridge Replacement or Rehabilitation between Mileposts 214.00 and 227.00, in Cumberland County. Construction documents were prepared using English units. Construction will include the reconstruction of the roadway which will be made up of two 12 foot width shoulders, 38 foot width median, and four 12 foot width travel lanes with a Superpave Binder and Wearing Course. Additional work includes the replacement of several overhead bridge structures that will be constructed in advance of the roadway reconstruction, installation of an Asphalt Permeable Base Course, and the replacement of the existing drainage structures. The total estimated cost of this construction is \$110,000,000. The Consultant Agreement is anticipated to start in January 2001 and terminate in December 2004.

The selected firm will be required to provide a full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians, and clerical staff to support the field functions. The selected firm will

be required to attend the prebid meeting and preconstruction conference, write all project correspondence, and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Turnpike's Construction documentation System (CDS) to document the construction progress. The selected firm will also be expected to prepare current and final estimates for payment to contractors, prepare change orders, conduct monthly job conferences, monitor monthly progress, provide liaison with affected utilities, communities and the press, conduct semifinal and final inspections, and determine the final quantities for each contract item. The Construction Management team will also be expected to handle public relation activities for the project, which would include but may not be limited to, development and maintenance of a project web site, press conferences, answering customer questions, informational brochures and other duties as required.

Eighty percent of the inspection staff assigned to this Commission constructed project must meet the following Requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies, (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.
2. Be registered as a professional engineer by the Commonwealth of Pennsylvania with 1 year highway inspection experience acceptable to the Commission.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.
4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.
5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from high school or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for high school graduation.

*Experience*—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

The Commission reserves the right to place Commission personnel on the project to assist the Construction Manager with various Construction Management duties.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The Team must clearly demonstrate an ability to analyze available data to make decisions, completing the project in a timely and cost effective manner.
- b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should

identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

f. Other factors, if any, specific to the project.

The Turnpike Commission is committed to the inclusion of disadvantaged, minority, and woman firms in contracting opportunities. The minimum participation level for DBE/MBE/WBEs in this contract will be 10% total. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in this contract, in their letter of interest. If the selected firm does not meet the minimum requirement for DBE/MBE/WBE participation, they will be required to demonstrate good faith efforts to achieve the required level. Proposed DBE/MBE/WBE firms must be certified by the Pennsylvania Department of Transportation at the time of the submission of the letter of interest. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Office of Equal Opportunity Development, Pennsylvania Turnpike Commission by calling (717) 939-9551 Ext. 4241.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by e-mail at mwagner@paturnpike.com.

**Construction Management and Inspection Services  
Norristown Interchange Reconstruction  
and Expansion  
Montgomery County, Pennsylvania**

**Reference No. 4-057**

The Pennsylvania Turnpike Commission will retain an Engineering or Construction Management firm with interchange rehabilitation inspection experience to provide a staff of approximately four field inspection personnel for the complete construction inspection, management, administration and documentation for the Norristown Interchange, in Montgomery County. Construction will include the modification and expansion of the Norristown Interchange. The total cost of this construction contract is \$5,500,000. The Construction Management Agreement is anticipated to start in April of 2001, and terminate in November of 2002.

The selected firm will be required to provide a full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions, and also be capable of incorporating and utilizing PTC inspectors if the Commission, at its discretion, chooses to assign one or more PTC inspectors to this Project. The selected firm will also be required to perform constructability reviews of the project documents, attend the prebid meeting and preconstruction conference, write all project correspondence, and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Turnpike's Construction Documentation System (CDS) to document the construction work, prepare cur-

rent and final estimates for payment to the construction contractor, prepare change orders, conduct monthly job conferences, monitor the monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine the final quantities of each contract item, and perform other duties as may be required.

Eighty percent of the inspection staff assigned to this Commission constructed project must meet the following Requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies, (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.

2. Be registered as a professional engineer by the Commonwealth of Pennsylvania with 1 year highway inspection experience acceptable to the Commission.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.

4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.

5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from High School or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for High School graduation.

*Experience*—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The Team must clearly demonstrate an ability to analyze available data to make decisions, completing the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by e-mail at mwagner@paturnpike.com.

#### 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. The Letters of Interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified).

2. A three page expression of interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for each project and provide explanation that the firm has successfully completed similar type projects of the same magnitude.

3. An organization chart for the Project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultant's listed in the letter of interest will require written approval from the Commission.

4. Tabulation of workload for the prime consultant and all subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

5. An Annual Qualification Package similar to the one submitted to the Pennsylvania Department of Transportation for the current year that is in the same District as this project or one that is best suited for this project.

The Annual Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and attached to the back of the letter of interest (subs to follow primes):

- Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (limit to one (1) 8 1/2 x 11 page, one side, per person). Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in the Commonwealth as provided by the Department of State for firms with out-of-state headquarters or corporations not incorporated in Pennsylvania.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a Joint Venture responds to a project advertisement, the Commission will not accept separate letters of interest from joint venture constituents. A firm will not be permitted to submit a letter of interest on more than one 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 subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the above services are invited to submit a letter of interest and required information to Michael W. Flack, P.E., Assistant Chief Engineer for Construction, at the PA Turnpike Commission Administration Building located at 176 Kost Road, Carlisle, PA 17013-0779. (FedEx address: 176 Kost Road, Carlisle, PA 17013-0779) (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The letter of interest and required information must be received by 12 p.m. (noon), Friday, October 13, 2000. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable letters of interest received in response to these solicitations, one firm will be selected for each project. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Selection Committee. Technical Proposals or Requests for Proposals will not be requested prior to selection.

The Commission reserves the right to reject all letters of interest, to cancel solicitation requested under this notice, and/or to re-advertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 00-1658. Filed for public inspection September 22, 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

#### Legal Services & Consultation—26

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)  
Vendor Services Section  
717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

**GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!**

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

**Contact: Bureau of Contracts and Public Records**

Pennsylvania State Treasury  
Room G13 Finance Building  
Harrisburg, PA 17120  
717-787-2990  
1-800-252-4700

BARBARA HAFER,  
State Treasurer

**Commodities**

**proc-00-29** Tape, Magic Mend, 3/4" x 1296" without dispenser—Car # MMM810-3/4 x 1296". No substitutes. DPW Warehouse No. 45430-6 required for warehouse stock replenishment.

**Department:** Public Welfare  
**Location:** Department of Public Welfare, Div. of Office Svs. Supplies Mgmt., Operations, 905 Elmerton Avenue, Harrisburg, PA 17110  
**Duration:** Approximately 45 days  
**Contact:** Bethanne Trowbridge, (717) 783-1083

**1155110** Trailer, Dump, 6' x 10', Deck Over (Tilt), 10,000 lb. For a copy of bid package fax request to (717) 787-0725.

**Department:** Corrections  
**Location:** Cambridge Springs, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**6505-08** Infant Feeding, Food Supplements and Formulas. For a copy of bid package fax request to (717) 787-0725. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

**Department:** General Services  
**Location:** Various  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**1134070** Birth and Death Certificates. For a copy of bid package fax request to (717) 787-0725.

**Department:** Health  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**1149210** Custom Made Wheelchairs. For a copy of bid package fax request to (717) 787-0725. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

**Department:** Public Welfare  
**Location:** Altoona Center, Altoona, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**1085230** Shirts, Silvertan Color; Short Sleeve; To be Elbeco Model 2212-3 Duty Plus with fused, banded dress collar; Male and Female; No Substitution. For a copy of bid package fax request to (717) 787-0725.

**Department:** Game Commission  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**1120120** Design, printing, processing, imaging and mailing of the "Statement for Recipients of PA Unemployment Compensation Payments." For a copy of bid package fax request to (717) 787-0725.

**Department:** Labor and Industry  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**1152200** Rifles, 223 Caliber, Semi-Automatic, With 20" Barrel, Fixed Stock, Fixed Handle, Flash Suppressor, Match-H-Bar, 3 "LE" 20 Round Magazines for each rifle, Colt-15 Model MT-6601C. No Substitute. For a copy of bid package fax request to (717) 787-0725.

**Department:** State Police  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

**00301R01-12** Shippensburg University is seeking vendors interested in bidding on a furnish and install emergency generator project. Bid due date will be October 13, 2000. Vendors interested in receiving a bid package should fax their request to (717) 477-1350 Zora Frank, Purchasing Manager, Shippensburg University, Shippensburg, PA 17257. If you have any questions, call Zora Frank at (717) 477-1386.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA  
**Duration:** Indeterminate 2000-2001  
**Contact:** Zora Frank, (717) 477-1386

**1144200** Pyrolysis Autosampler CDS Analytical No. AS25005 or approved equal. To include Dynamic Communication (DC) Software No. 10A2-5013. For a copy of bid package fax request to (717) 787-0725.

**Department:** State Police  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-2001  
**Contact:** Vendor Services, (717) 787-2199

# SERVICES

## Computer—08

### 09-C-00 RFP for Career/Link Assessment System.

**Department:** Labor and Industry  
**Location:** Department of Labor and Industry, Seventh and Forster Streets, Harrisburg, PA 17120  
**Duration:** 1 year with renewal options  
**Contact:** Cherianita Thomas/JB, (717) 787-2877

## Construction—09

**SP 3800123** Services required to perform trail improvements and provide a 60'-0" long by 8'-0" wide curb to curb three span glulam timber panel bridge. The bridge is to be installed at Promised Land State Park, Pike County, over Wallenpaupack Creek at the Lower Lake Dam.

**Department:** Conservation and Natural Resources  
**Location:** Promised Land State Park  
**Duration:** All work to be completed within 14 weeks from notice to proceed.  
**Contact:** Pamela Stouffer, (717) 783-0760

**DGS570-27ST4REBID** Project Title: Western Pennsylvania State Correctional Institution. Brief Description: All work necessary to construct central utility plant except Plumbing, HVAC, Fire Protection, Electrical and Electronic Security. Estimated Range: \$500,000 to \$1,000,000. General Construction. Plans Deposit: \$250 per set payable to: P. J. Dick 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 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 \$75.00 per set or provide your express mail account number to the office listed below. Mail requests to: P. J. Dick, Inc., SCI Western PA, 421 LaBelle Road, East Millsboro, PA 15433. Tel: (724) 785-2066. Bid Date: Wednesday, September 27, 2000 at 11 a.m. A Prebid Conference has been scheduled for Tuesday, September 19, 2000 at 10 a.m. at the field office of P. J. Dick Incorporated, 421 Labelle Road, East Millsboro, PA 15433. All bidders, and other interested parties, that wish to visit the Project Work Site shall schedule appointments to do so with the Construction Manager. Only those with such an appointment shall be permitted access to the site. The Construction Insurance Information Form and the Construction Information Form Summary Table should both be completed and submitted with the bid. If there is some deficiency in the information submitted with the bid, the Department reserves the right to request clarification and/or supporting documentation from the bidder. If the Department requests clarification or supporting documentation, the bidder will be notified by fax or express mail. The bidder will be allowed 2 business days from receipt of the Department's request within which to provide the clarification or supporting documentation. If the information is not provided within the 2 days, the bid will be rejected as non-responsive. The 2-day time period will be strictly enforced. No extensions will be granted. If the bidder provides clarification or supporting documentation, it does not mean that the bidder will be awarded the contract.

**Department:** General Services  
**Location:** 421 Labelle Road (State Route 4020), Luzerne Township, Fayette County, PA  
**Duration:** 540 calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**ESU405-00-CCSDWK** Concrete Sidewalk and Pavement Construction. This is a requirements contract on an as needed basis and work orders are not guaranteed. Gen. Prime \$0 to \$250K. Fax your request for a bid package to (570) 422-3232, Ann Zaffuto, Procurement and Contracting. All responsible bidders are invited to participate including MBE/WBE firms. Bid Opening October 31, 2000, 2 p.m. The work may consist of the installation of new, or the replacement of existing, concrete curbs, sidewalks, slabs, steps, wheelchair ramps, and driveway ramps, and any related earthwork, asphalt paving, stormwater piping and slab jacking.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, East Stroudsburg, PA 18301  
**Duration:** 1 year  
**Contact:** Ann Zaffuto, (570) 422-3595

**FDC-405-752.1** All General Construction work for a new collection, conveyance, treatment and sewage disposal system at Fort Washington State Park in Montgomery County. Work includes 78 L.F. of 4" PVC, 4020 L.F. of 6" PVC, 940 L.F. of 8" PVC and 2338 L.F. of 1 1/2" PVC Pipe; manholes, frames and covers, grinder pump station; flow meter pit; restoration and bituminous paving. Note: Request for Bid Documents will be taken on or after September 25, 2000.

**Department:** Conservation and Natural Resources  
**Location:** White Marsh Township  
**Duration:** 180 days  
**Contact:** Construction Management Section, (717) 787-5055

**FDC-405-752.4** All Electrical Work associated with the construction of a sewage collection system and a grinder pump station. Work also includes level controls, magnetic flow meter and a kiosk. Note: Request for Bid Documents will be taken on or after September 25, 2000.

**Department:** Conservation and Natural Resources  
**Location:** White Marsh Township  
**Duration:** 180 days  
**Contact:** Construction Management Section, (717) 787-5055

**DGSA999-120** Project Title: Upgrade Electrical Power Supply—Rolling Stock Hall. Brief Description: Upgrade selected electrical items. Estimated Range: Under \$100,000.00. 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 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. (717) 787-3923. Bid Date: Wednesday, October 4, 2000, at 2 p.m.

**Department:** General Services  
**Location:** Railroad Museum of Pennsylvania, Strasburg, Lancaster County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

**TSC00-0010** Contractor will supply a variety of ipe wood for the construction of two gazebos at the College.

**Department:** Education  
**Location:** Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602  
**Duration:** September 11, 2000 to December 31, 2000  
**Contact:** Earla Ament, (717) 396-7163

**DGSA205-7** Project Title: Garage and Storage Building Renovations. Brief Description: Renovations to garage and storage building. Estimated Range: \$100,000 to \$500,000. General, HVAC, 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 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. (717) 787-3923. Bid Date: Wednesday, October 11, 2000 at 11 a.m.

**Department:** General Services  
**Location:** PA State Police—Punxsutawney Headquarters, Punxsutawney, Jefferson County, PA  
**Duration:** 150 calendar days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

## Elevator—13

**TSC00-0011** Model 030 Ercollina Super Top Bender and Tooling Sets.

**Department:** Education  
**Location:** Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602  
**Duration:** September 11, 2000 to December 31, 2000  
**Contact:** Earla Ament, (717) 896-7163

## Engineering—14

**08430AG2614** A multiphase agreement to provide highway capacity and safety analysis, an alternatives analysis, condition survey reports, environmental studies, preliminary engineering, final design, shop drawing review and construction consultation for project S. R. 0079, Section A06 in Vernon Township, Crawford County. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or [www.statecontracts.com](http://www.statecontracts.com) under via Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 1-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

**08430AG2615** Retain three firms to provide environmental studies, preliminary engineering, final design and services during construction for three separate projects on S. R. 0070, Sections N20, 10Q and W20 in Washington and Westmoreland Counties. Details concerning this project may be found under Department of Transportation—Retention of Engineering Firms in the *Pennsylvania Bulletin*, or [www.statecontracts.com](http://www.statecontracts.com) under via Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 12-0  
**Duration:** 30 days after construction completion  
**Contact:** N/A

**08430AG2613** To provide construction management support services and construction inspection for projects: S. R. 3069, Sections A05 and 012; S. R. 0885, Sections A08, A11, A12, A13 and A19; S. R. 0028, Sections A26, A27 and A28; and S. R. 0008, Section A05 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](http://www.statecontracts.com) under via Retention of Engineering Firm Data.

**Department:** Transportation  
**Location:** Engineering District 11-0  
**Duration:** 30 days after the construction completion  
**Contact:** N/A

## Environmental Maintenance—15

**OSM 19(4036, 4040)101.1** Abandoned Mine Reclamation, Ashland Northwest and North, involves approximately 8,780 CY backfilling mine openings and 5.7 acres seeding. Federal funds are available under the 27 million PA 2000 Abandoned Mine Land Grant. This project issues September 22, 2000; payment in the amount of \$10 must be received before bid documents will be sent.

**Department:** Environmental Protection  
**Location:** Conyngham Township, Columbia County  
**Duration:** 100 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

**BF 453-101.1** Abandoned Mine Land Reclamation, Benjamin Coal Company involves approximately 4 acres ditch removal/selective grading, 8 acres seeding, and removal of a pond. This project issues September 22, 2000; payment in the amount of \$10 must be received before bid documents will be sent.

**Department:** Environmental Protection  
**Location:** Bell Township, Clearfield County  
**Duration:** 360 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

**OSM 54(2010)102.1** Abandoned Mine Reclamation, Sheridan North, involves approximately 5,725 CY drainage excavation, 160 CY class AAA cement concrete and 1.9 acres seeding. This project issues September 22, 2000; payment in the amount of \$10 must be received before bid documents will be sent. Federal funds are available under the \$27 million PA 2000 Abandoned Mine Land Grant.

**Department:** Environmental Protection  
**Location:** Porter Township, Schuylkill County  
**Duration:** 260 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

**FC-63H** Rehabilitation of Well No. 2 at the Benner Spring Fish Culture Station, Benner Township, Centre County, PA.

**Department:** Fish and Boat Commission  
**Location:** Benner Spring Fish Culture Station, Benner Township  
**Duration:** Work to be completed within 60 days after receipt of notice to proceed  
**Contact:** Amos C. Ferguson, Engineer, (814) 359-5105

## Food—19

**LBP-2001-06** Frozen Seafood: Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center. Will be bid on a quarterly basis. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**1759** Meat Products—all items listed below may be bid on a quarterly basis—all amounts are approximate for entire 9 month period (plus additional related items as required) diced chicken—9,600 lb.; salami turkey—1,200 lb.; minute steaks—4,320 lb.; liver—2,430 lb.; turkey roast—11,550 lb.; turkey ham—4,200 lb.; bologna turkey—1,200 lb.; clams—4,416 lb.; ham—3,600 lb.; kielbasa—2,340 lb.; hot dogs—4,800 lb.; meatballs—7,200 lb.; seafood cakes—4,500 lb.; chicken patties—3,600 lb.; chicken quarters—21,120 lb.

**Department:** Corrections  
**Location:** State Correctional Institution, P. O. Box 180, Muncy, PA 17756  
**Duration:** October 1, 2000 through June 30, 2001  
**Contact:** Cindy Lyons, (570) 546-3171

**1767** Vegetable Products: all items listed below may be bid on a quarterly basis—all amounts are approximate for entire 9 month period. (Plus additional related items as required. These are frozen items). Broccoli—4,680 lbs.; brussel sprouts—2,184 lbs.; cauliflower—1,400 lbs.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 405, Muncy, PA 17756  
**Duration:** October 1, 2000 through June 30, 2001  
**Contact:** Cindy Lyons, (570) 546-3171

**LBP-2001-04** Poultry and Poultry Products: Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans' Center. Please send fax request to (570) 961-4400. Will be bid on a quarterly basis.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**LBP-2001-08** Miscellaneous Frozen Food Items: Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center. Will be bid on a quarterly basis. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**1768** Cheese Products—all items listed below may be bid on a quarterly basis—all amounts are approximate for 9 month period. (Plus additional related items as required). Sliced cheese—2,600 lbs.; cheddar cheese—1,850 lbs.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 405, Muncy, PA 17756  
**Duration:** October 1, 2000 through June 30, 2001  
**Contact:** Cindy Lyons, (570) 546-3171

**LBP-2001-07** Bread and Rolls: quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center. Will be bid on a quarterly basis. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**LBP-2001-05** Ice cream, sherbert, etc.: Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center. Please send fax request to (570) 961-4400. Will be bid on a quarterly basis.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**LBP-2001-01** Meat and Meat Products—Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans' Center. Will be bid on a quarterly basis. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**LBP-2001-02** Dairy Products and Drinks: Cheese, butter, margarine, cottage cheese, sour cream, etc. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans' Center. Will be bid on a quarterly basis. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

**LBP-2001-03** Fresh Fruits and Vegetables: Quantities, specifications and delivery dates can be obtained from the Northeastern Veterans Center. Please send fax request to (570) 961-4400.

**Department:** Military Affairs  
**Location:** Northeastern Veterans' Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Barbara Partyka—Purchasing Agent, (570) 961-4354

## HVAC—22

**2500NRM No. 4** Part for Riley Traveling Grate Stoker, Model 6059—Grate Clip No. HF-639. To include any other related item during this period.

**Department:** Corrections  
**Location:** State Correctional Institution, 1000 Follies Road, Dallas, PA 18612  
**Duration:** October 1, 2000 through June 30, 2001  
**Contact:** Robert G. Berkey, Purchasing Agent, (570) 675-1101, Ext. 325

**030-0318** For the preventive maintenance of the Wellsboro Maintenance office boiler system. Service company must be able to respond within two hours of notification.

**Department:** Transportation  
**Location:** Maintenance District 3-7, 6 Berwart Street, Wellsboro, PA 16901  
**Duration:** One year with 4 one year renewals  
**Contact:** Mark Foust, (570) 724-4261

**KUFR-0001** Kutztown University is seeking qualified general, mechanical, plumbing and electrical contractors for a unit price contract who are able to perform maintenance and repairs to the Building Equipment Systems and Utility Systems at Kutztown University. Proposals are available for a nonrefundable fee of \$15 from: Barbara Barish, Contract Specialist, Office of Planning and Construction, Kutztown, PA 19530. Phone: (610) 683-4602. Proposals are available September 11, 2000, through preproposal meeting. A preproposal meeting has been scheduled for September 26, 2000 at 10 a.m. in Room OM-26 in the Old Main Building. Proposals are to be received no later than 3 p.m. on October 11, 2000, in the Office of Planning and Construction, Room 229. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 365 days after Notice to Proceed (4 renewal options)  
**Contact:** Barbara Barish, (610) 683-4602

**032-CH0651** For the preventive maintenance of the boiler systems. Service company must be within a 2 hour radius of the facility.

**Department:** Transportation  
**Location:** Sullivan County, District 3-6, Park and Maple Streets, Laporte, PA 18626  
**Duration:** 1 year with four 1 year renewals  
**Contact:** Christine H. Hohman, (570) 368-4392

**032-CH0650** For the preventive maintenance of the boiler systems. Service company must be within a 2 hour radius of the facility.

**Department:** Transportation  
**Location:** Lycoming County, District 3-2, 716 Jordan Avenue, Montoursville, PA 17754  
**Duration:** 1 year with four 1 year renewals  
**Contact:** Christine H. Hohman, (570) 368-4392

**Inq. No. 112-00** Provide and install one 40 h.p., 3500 r.p.m. 2 stage horizontal base mounted end suction centrifugal boiler feed pump. A site visit will be required prior to bidding.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** 4 weeks after receiving order  
**Contact:** Sue Brown, Purchasing Agent, (610) 313-1026

**11093500011** Vendor to provide all equipment, parts and labor to perform repair services, annual cleanings and quarterly inspections to 12 oil burners operated by the State Correctional Inst. Graterford.

**Department:** Corrections  
**Location:** State Correctional Inst. Graterford, Box 246, Rt. 29, Graterford, PA 19426  
**Duration:** 3 years  
**Contact:** Kelly Richardson, (610) 489-4151

**100600** Remove and dispose of existing furnaces and furnish and install wood, coal and oil combination furnaces at three maintenance headquarters in Huntingdon County.

**Department:** Conservation and Natural Resources  
**Location:** Greenwood and Whipple Dam Forest Maintenance Headquarters in Jackson Township, Huntingdon County and Trough Creek Forest Maintenance Headquarters in Todd Township, Huntingdon County.  
**Duration:** 30 days after notice to proceed.  
**Contact:** Samuel J. Bricker, (814) 643-2340

## Lodging—27

**350S04** The Department of Transportation is soliciting interested contractors, available within the Wilkes-Barre/Scranton/Hazleton/Bloomsburg Area, Pennsylvania, to provide hotel facilities, food and equipment services for its Bureau of Office Services' Purchasing Academy to be conducted on Tuesday, November 14, 2000, through Thursday, November 16, 2000. The number of persons participating in this Academy is anticipated to be between 70 and 90. A bid package may be obtained by faxing your request to Vikki Mahoney at (717) 783-7971. Include in your request: Reference SBC 350S04; your company name; address; phone number and fax number.

**Department:** Transportation  
**Location:** Within the Wilkes-Barre/Scranton/Hazleton/Bloomsburg Area, PA  
**Duration:** 6 Months  
**Contact:** Tonja Jackson, (717) 783-8910

## Property Maintenance—33

**win-807** The contractor shall furnish and install 16-gauge stainless steel 2" x 4" framing complete with 1/2" polycarbonate glazing to replace a total of 3 serving line/dishwash station security window units at the State Correctional Institution at Greensburg. The overall dimensions of each of the 3 security window frames to be replaced are 183-3/4" long x 47-1/2" high, 72" long x 48-1/4" high, and 108" long x 48-1/4" high.

**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, R. D. # 10, Box 10, Route 119 South, Greensburg, PA 15601-8999  
**Duration:** October 30, 2000, to June 30, 2001  
**Contact:** Gena Hainesworth, (724) 837-4397, Ext. 254

**00882121** Contractor to remove existing E.P.D.M. adhered roof and insulation; furnish and install min. 1 1/2" thick foam to roof deck; apply foam at edges, penetrations and all flashings; seal all new foam with an elastomeric coating and broadcast granular over the elastomeric coating; furnish and install new aluminum cap over existing limestone coping where shown on the drawing; repair and replace grout at the existing coping stone bed joint where shown on the drawing; furnish and install new concrete roof decking to the match existing where the chimney is to be removed by DPW's Maintenance Staff.

**Department:** Public Welfare  
**Location:** South Mountain Restoration Center, 10058 South Mountain Road, South Mountain, PA 17261  
**Duration:** 120 calendar days from the effective date of contract  
**Contact:** Jennifer Karper, Financial Manager, (717) 749-4012



**050322** Pesticide spraying in the counties of Berks, Carbon, Lehigh, Monroe, Northampton and Schuylkill as directed by the District Roadside Specialist or his designee. Shall include the men and equipment to apply the pesticides. All requests for a bid proposal shall be requested by the close of business of October 2, 2000.

**Department:** Transportation  
**Location:** Throughout Engineering District 5-0 (Berks, Carbon, Lehigh, Monroe, Northampton, Schuylkill Counties)  
**Duration:** 2 year contract with three 1 year renewals  
**Contact:** Timothy R. Kaercher, (610) 798-4189

**sp386400003** Reroof Park Office building at White Clay Creek Preserve, Landenberg, PA.

**Department:** Conservation and Natural Resources  
**Location:** White Clay Creek Preserve, P. O. Box 172, Goodhope and Flint Hill Roads, Landenberg, PA 19350  
**Duration:** June 30, 2001  
**Contact:** Alice A. Begley, (215) 453-5016

**09-B-00** Furnish Snow Removal Services as needed on premises occupied by the Uniontown Job Center situated at 32 Iowa Street, Uniontown, PA.

**Department:** Labor and Industry  
**Location:** Department of Labor and Industry, Uniontown Job Center, 32 Iowa Street, Uniontown, PA 15401  
**Duration:** November 1, 2000 to April 30, 2001 This is a 1 year contract with three 1 year renewals  
**Contact:** Cherianita Thomas/BF, (717) 787-2877

**00676-000-99-AS-3 Re-Bid** Project involves preparation and painting of a historic wood clapboard building. All work will conform to the secretary of the interior standards for the treatment of historic structures. A prebid meeting will be held on October 17, 2000, at 1 p.m. at Washington Crossing Historic Park, Washington Crossing, PA, Bucks County, for all firms interested in submitting bids for the project. For directions contact the Project Manager at (717) 787-7788 or the site at (215) 493-4076. All interested bidders should submit a \$25 (nonrefundable) check and a request for a bid package in writing to: PA Historical and Museum Commission, Division of Architecture, Room 526, 3rd and North Streets, Harrisburg, PA 17120—Attention: Judi Yingling, (717) 772-2401. All proposals are due on Friday, October 27, 2000, at 11:45 a.m. Bid opening will be held in the Division of Architecture and Preservation, Commonwealth Keystone Building, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053.

**Department:** Historical and Museum Commission  
**Location:** Washington Crossing Historic Park, P. O. Box 103, Washington Crossing, PA 18977  
**Duration:** November 1, 2000 to October 31, 2001  
**Contact:** Judi Yingling, (717) 772-2401

**00671044** Supply all labor, scaffolding, tools, materials, equipment and appurtenances to repair/replace a portion of roof on building number 35. A site visit is required prior to bidding.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** 120 calendar days from the effective date of the contract  
**Contact:** Sue Brown, Purchasing Agent, (610) 313-1026

**00676-000-99-AS-4 Re-Bid** Project involves construction of a wood deck, restoration of wood shutters, restoration and fabrication of wood window sashes for a historic building. All work will conform to the secretary of the interior standards for the treatment of historic structures. A prebid meeting will be held on October 17, 2000 at 11 a.m. at Washington Crossing Historic Park, Washington Crossing, PA, Bucks County, for all firms interested in submitting bids for the project. For directions contact the Project Manager at (717) 787-7788 or the site at (215) 493-4076. All interested bidders should submit a \$25 (nonrefundable) check and a request for a bid package in writing to: PA Historical and Museum Commission, Division of Architecture, Room 526, 3rd and North Streets, Harrisburg, PA 17120—Attention: Judi Yingling, (717) 772-2401. All proposals are due on Friday, October 27, 2000, at 11:45 a.m. Bid opening will be held in the Division of Architecture and Preservation, Commonwealth Keystone Building, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053.

**Department:** Historical and Museum Commission  
**Location:** Washington Crossing Historic Park, P. O. Box 103, Washington County, PA 18977  
**Duration:** November 1, 2000 to October 31, 2001  
**Contact:** Judi Yingling, (717) 772-2401

## Real Estate—35

**93094** State-owned real estate for sale Chambersburg National Guard Armory. The Department of General Services will accept bids for the purchase of a 2.27-acre parcel of the Chambersburg Armory property located on Lincoln Way West (S. R. 0030). The property is located in Hamilton Township, Franklin County. Bids are due November 3, 2000. Interested parties wishing to receive a copy of solicitation Number 93094 should view the Department of General Services' website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call (717) 705-5764.

**Department:** General Services  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 2000-2001  
**Contact:** Bradley Swartz, (717) 705-5764

## Sanitation—36

**1000-081** Provide licensed operator on site 5 days per week to operate sewage treatment and drinking water plants at two rest areas on Interstate 80 in Jefferson County. The contractor must provide all required chemicals, lubricates and laboratory testing to operate facilities in conjunction with State and Federal Laws and Permits. Please fax requests for bid packages to Diane Spence at (724) 357-2872.

**Department:** Transportation  
**Location:** Rest Areas Number 25 and 26 on I-80 in Jefferson County  
**Duration:** 1 year (12 month) with three 1-year renewals  
**Contact:** Diane Spence, (724) 357-7987

**SPC 332050** Collection and disposal of solid waste from Frances Slocum State Park, Luzerne County, PA.

**Department:** Conservation and Natural Resources  
**Location:** Frances Slocum State Park, 565 Mt. Olivet Road, Wyoming, PA 18644  
**Duration:** November 1, 2000 through October 31, 2003  
**Contact:** Park Office, (570) 696-3525

## Security—37

**6000-06500** 68 each—Folger Adams number 17 Food Pass Locks USP, 68 each—Folger Adams number 17-4F Keeper/Pull USP, 20 each—Folger Adams number 5000 Paracentric Key Blanks. Or approved equal.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233  
**Duration:** 60 Days  
**Contact:** Carol Schaeffer, Purchasing Agent, (412) 761-1955, Ext. 291

## Vehicle, Heavy Duty—38

**401-BL-610.3** Project 401-BL-610.3: Replacement of Maintenance Hydraulic Vehicle Lift. Provide labor, equipment, and material necessary to replace an existing in ground hydraulic automotive lift with a new 16,000 pound capacity hydraulic lift. To obtain a copy of the bid documents submit a \$75 nonrefundable deposit to Spillman Farmer Architects, Suite 1000, One Bethlehem Plaza, Bethlehem, PA 18016—Attention: Barry Pell, (610) 865-2621.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA 17815  
**Duration:** 30 days  
**Contact:** Joseph C. Quinn, (570) 389-4311

**Miscellaneous—39**

**6104-00-01** Furnish and install approximately 630 feet of chain link fence around maintenance building complex. Site visit recommended.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of State Parks, Chapman State Park, RR 2, Box 1610, Clarendon, PA 16313-9607  
**Duration:** Work to be completed within 45 days after receipt of purchase order  
**Contact:** Dorothy M. Krupa, Park Manager, (814) 723-0250

**99-12 (REBID)** The Department of Transportation is reissuing a Request for Proposals (RFP) to solicit contractors interested in performing highway beautification services (such as, litter and debris removal, sweeping, graffiti removal, landscaping, and vegetation management) on sections of primary high-volume, urbanized highways and to market and recruit individuals or businesses to sponsor sections of these highways. All previous recipients of this RFP will automatically receive a copy of the reissued RFP. Interested contractors may request a copy of the RFP by faxing their name, company name, address, telephone number, and fax number to Vikki Mahoney at (717) 783-7971. Please reference "RFP 99-12 (REBID)" on your request.

**Department:** Transportation  
**Location:** Throughout the Commonwealth of Pennsylvania  
**Duration:** Multiyear with option to renew  
**Contact:** Darlene Greenawald, (717) 705-6476

**00671048** Subscription service for magazines and journals.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** January 1, 2001 through December 31, 2001  
**Contact:** Sue Brown, Purchasing Agent, (610) 313-1026

**RFP Number 2000-07** The State System of Higher Education, Office of the Chancellor is soliciting proposals from vendors to provide Executive Search Consultant Services. Proposals must be submitted by October 13, 2000, 3 p.m. Interested vendors may obtain a copy of the RFP by contacting Linda Venneri, Procurement Manager at [Ivenneri@sshechan.edu](mailto:Ivenneri@sshechan.edu) or go to [http://www.sshechan.edu/Procurement/index.htm#\\_Procurement\\_3](http://www.sshechan.edu/Procurement/index.htm#_Procurement_3) or call (717) 720-4135. Participation by Minority/Women Business Enterprises is encouraged.

**Department:** State System of Higher Education  
**Location:** Dauphin County  
**Duration:** Undetermined  
**Contact:** Linda Venneri, (717) 720-4135

**2500-Tree Removal** SCI-Dallas requires a vendor to remove approximately 40 to 50 oak and other assorted hardwood trees already cut from the grounds of the Institution. A site visit for potential vendors is required.

**Department:** Corrections  
**Location:** State Correctional Institution, 1000 Follies Road, Dallas, PA 18612  
**Duration:** October 15 to December 31, 2000  
**Contact:** Robert Faneck, Business Manager, (570) 675-1105, Ext. 215

**fm0093** Repointing one story office and garage.

**Department:** Transportation  
**Location:** PENNDOT, SR 0188, Jefferson Road, Waynesburg, PA  
**Duration:** 120 days after award  
**Contact:** Karen Marcheka, (724) 439-7429

**RFP Number 2000-06** The State System of Higher Education, Office of the Chancellor is soliciting proposals from vendors to provide assessment and evaluation services of the Guaranteed Free Training program, which is administered by the Workforce and Economic Development Network of Pennsylvania (WEDnetPA). Proposals must be submitted by October 2, 2000, 3 p.m. Interested vendors may obtain a copy of the RFP by contacting Linda Venneri, Procurement Manager, at [Ivenneri@sshechan.edu](mailto:Ivenneri@sshechan.edu) or go to [www.sshechan.edu/Procurement/Index.htm](http://www.sshechan.edu/Procurement/Index.htm), or call (717) 720-4135. Participation by Minority/Women Business Enterprises is encouraged.

**Department:** State System of Higher Education  
**Location:** Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110  
**Duration:** Indeterminate 2000-2001  
**Contact:** Linda Venneri, (717) 720-4135

[Pa.B. Doc. No. 00-1659. Filed for public inspection September 22, 2000, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
7240-03	9/11/00	Busch Systems International Inc.	2,825,500.00
7240-03	9/11/00	Covered Bridge Organic Inc.	608,600.00
7240-03	9/11/00	Xpedx-Harrisburg	922,000.00
7240-03	9/11/00	Norseman Plastic Ltd.	270,000.00
9120-05	9/07/00	Amerada Hess Corp.	2,000,000.00
9120-05	9/07/00	VP Energy Inc.	2,000,000.00
9120-05	9/07/00	National Fuel Resources Inc.	2,000,000.00
9120-05	9/07/00	First Energy Services	2,000,000.00
9120-05	9/07/00	Mid-American Natural Resources Inc.	2,000,000.00
9905-13 RIP No. 1	9/11/00	Correctional Industries	3,695.00
9905-13 RIP No. 1	9/11/00	Rocal Inc.	16,939.50
1011040-01	9/11/00	The Reynolds and Reynolds Co.	117,127.64
1046110-01	9/11/00	Academy Computer Services Inc.	115,700.00

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
1059110-01	9/11/00	Weiss Brothers Paper Co.	29,678.40
1068150-01	9/11/00	Dale Oxygen Inc.	19,996.00
1070110-01	9/11/00	John F. Cadwalader, Inc. dba The Glass Co.	14,586.04
8252050-02	9/11/00	Cumberland Truck Equipment Co. Inc.	100,308.00
8252470-01	9/11/00	Maguire's Ford of Hershey Inc.	29,539.00
8252470-02	9/11/00	Hondru Ford Inc. d/b/a Phillips Ford Sales	42,605.00
8252500-01	9/11/00	Maguire's Ford of Hershey	237,112.40
8505340-01	9/11/00	Calico Industries Inc.	20,840.00
8505350-01	9/11/00	Vehicle Maintenance Program Inc.	49,860.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 00-1660. Filed for public inspection September 22, 2000, 9:00 a.m.]