

# PENNSYLVANIA BULLETIN

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the Environmental Quality Board's  
Residual Waste Regulations

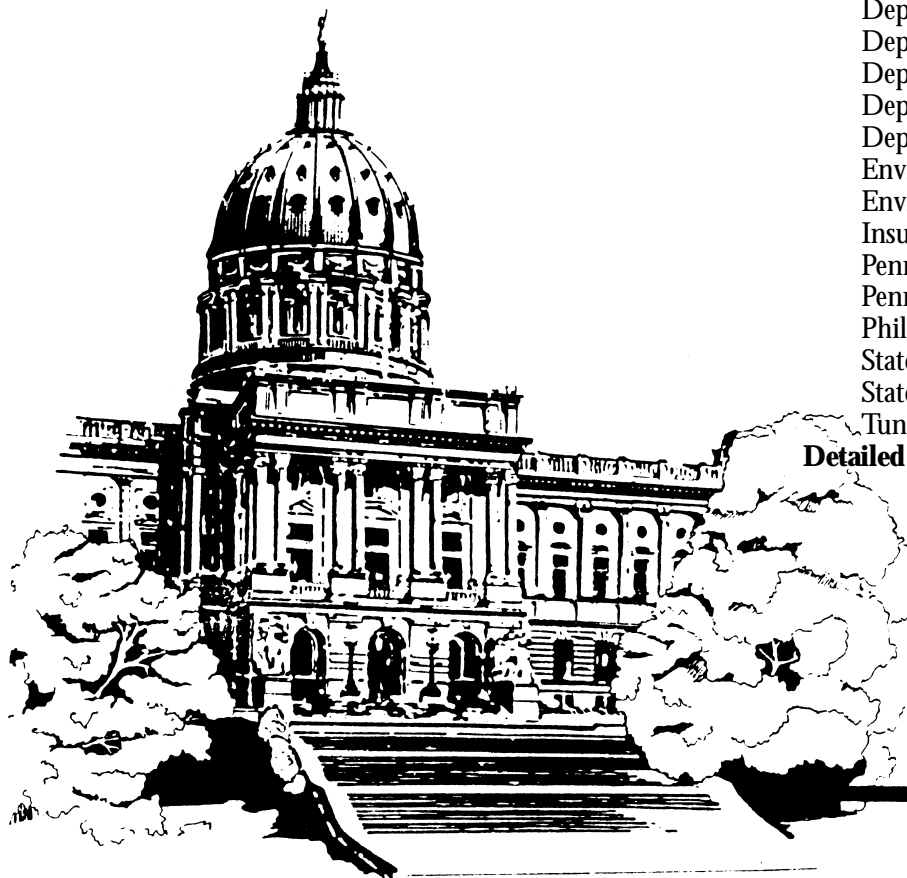
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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***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 2001.

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# THE GENERAL ASSEMBLY

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

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

### 2000 ACTS—ACTS 94 through 142 (numerical)

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-094	Dec. 20	SB1477	PN2291	Immediately	Turnpike Organization, Extension and Toll Road Conversion Act—Pennsylvania Turnpike Commission functions and electronic toll collection enforcement
2000-095	Dec. 20	SB1163	PN1437	Immediately	Game Fund Capital Budget Act for 1999-2000—enactment
2000-096	Dec. 20	SB1502	PN2324	Immediately	Conveyance—Commonwealth property in York, Blair, Snyder, Warren, Monroe and Union counties
2000-097	Dec. 20	SB1468	PN2323	Immediately	Conveyance—Commonwealth property in Northampton, Allegheny, Indiana, Blair, Snyder and Warren counties
2000-098	Dec. 20	HB47	PN4194	Immediately	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—unlawful restraint, false imprisonment, obscenity and sex offender treatment
2000-099	Dec. 20	SB997	PN2159	60 days	Municipal Code and Ordinance Compliance Act—enactment
2000-100	Dec. 20	SB1088	PN2333	Immediately	Storage Tank and Spill Prevention Act—Underground Storage Tank Environmental Cleanup Program authority allocation reenactment and loan program upgrade
2000-101	Dec. 20	SB1444	PN2334	Immediately*	Crimes Code (18 Pa.C.S.)—omnibus amendments
2000-102	Dec. 20	SB1547	PN2171	Immediately	Project 70 lands—release and imposition of restrictions on Mercer County lands
2000-103	Dec. 20	SB552	PN2184	Immediately	Real Estate Appraisers Certification Act—broker/appraisers continuing education
2000-104	Dec. 20	SB769	PN2332	Immediately*	Local Tax Collection Law—omnibus amendments
2000-105	Dec. 20	SB958	PN2330	Immediately*	Judicial Code (42 Pa.C.S.)—omnibus amendments



<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-106	Dec. 20	SB1178	PN2328	Immediately	Conveyance—Commonwealth property in Somerset, Centre, Clearfield, Cumberland, Snyder, Union, Monroe, Fayette, Blair, Huntington and Chester counties
2000-107	Dec. 20	SB1280	PN2276	60 days	Convicts and prisoners—escapee costs, county and State jurisdiction
2000-108	Dec. 20	SB1312	PN2136	60 days	Vehicle Code (75 Pa.C.S.)—homicide by vehicle
2000-109	Dec. 20	SB1330	PN2319	Immediately	Conveyance—Commonwealth property in Berks and Tioga counties
2000-110	Dec. 20	SB390	PN2325	Immediately	Local Tax Enabling Act—net profits
2000-111	Dec. 20	SB612	PN2309	Immediately*	Game and Wildlife Code (34 Pa.C.S.)—omnibus amendments
2000-112	Dec. 20	SB712	PN2326	60 days	Municipality Authorities Act of 1945—authority purposes and powers, residency requirements and water and sewer service to tenants
2000-113	Dec. 20	SB844	PN2327	60 days	Judicial Code (42 Pa.C.S.)—omnibus amendments
2000-114	Dec. 20	SB1032	PN2140	1 year	Real and Personal Property (68 Pa.C.S.)—residential real estate transfers and disclosures by sellers and home inspections
2000-115	Dec. 20	SB1117	PN2310	Immediately*	Fish and Boat Code (30 Pa.C.S.)—omnibus amendments
2000-116	Dec. 20	SB1173	PN2313	Immediately*	Crimes Code (18 Pa.C.S.)—omnibus amendments
2000-117	Dec. 20	HB2272	PN4212	Immediately	Crimes Code (18 Pa.C.S.)—retaliation against witness, victim or party
2000-118	Dec. 20	HB2328	PN4211	60 days	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—omnibus amendments
2000-119	Dec. 20	HB2498	PN4208	Immediately	Pennsylvania Keystone Opportunity Zone Act—omnibus amendments

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-120	Dec. 20	HB2668	PN4001	Immediately	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—name change from Organ Donation Awareness Trust Fund to Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund
2000-121	Dec. 20	HB1728	PN4180	60 days	Hazardous Material Emergency Planning and Response Act—omnibus amendments
2000-122	Dec. 20	HB2014	PN4167	60 days	Convicts and prisoners—escaping convicts under new sentence maintenance and criminal offense during confinement
2000-123	Dec. 20	HB2189	PN4237	60 days	Teacher Certification Law—omnibus amendments
2000-124	Dec. 20	HB2216	PN4171	60 days	Agriculture Code (3 Pa.C.S.)—certification advisory board and programs, employee certification and exemptions for food employee certification
2000-125	Dec. 20	HB1393	PN2647	Immediately	Game and Wildlife Code (34 Pa.C.S.)—endangered species unlawful taking or possession and turkey blinds limiting prohibition on use
2000-126	Dec. 20	HB1588	PN1932	60 days	Judicial Code (42 Pa.C.S.)—bail in drug offenses inquiry into source of security
2000-127	Dec. 20	HB1604	PN4070	60 days	Pennsylvania Municipalities Planning Code—plats and deeds recording, ordinance amendments applicability and ordinance and substantive questions validity
2000-128	Dec. 20	HB819	PN4228	Immediately*	Fire and Panic Act—school tobacco control
2000-129	Dec. 20	HB877	PN4236	60 days	Judicial Code (42 Pa.C.S.)—omnibus amendments
2000-130	Dec. 20	HB1142	PN3337	60 days	Neighborhood Improvement District Act—enactment
2000-131	Dec. 20	HB1164	PN1317	60 days	Public Works Contractors' Bond Law of 1967—contractors financial security
2000-132	Dec. 20	HB550	PN4226	Immediately*	Insurance Company Law of 1921, The—omnibus amendments

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2000-133	Dec. 20	HB599	PN4227	60 days	Crimes Code (18 Pa.C.S.)—false identification to law enforcement authorities
2000-134	Dec. 20	HB609	PN4182	60 days	Crimes Code (18 Pa.C.S.)—prostitution and related offenses grading
2000-135	Dec. 20	HB777	PN4203	Immediately	Capital Budget Debt Authorization and Project Itemization Act of 2000-2001—compliance option
2000-136	Dec. 20	HB58	PN2116	Immediately	Judicial Code (42 Pa.C.S.)—statute of limitations extension for dealing in proceeds of unlawful activities
2000-137	Dec. 20	HB227	PN3956	Immediately	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—durable powers of attorney
2000-138	Dec. 20	HB393	PN4235	Immediately*	Environmental Resources (27 Pa.C.S.)—environmental law or regulation participation and mining proceedings costs
2000-139	Dec. 20	HB2800	PN4114	Immediately	Banking institutions—amounts required to be pledged and eligible assets and valuation
2000-140	Dec. 20	HB2149	PN4207	60 days	Port of Pittsburgh Commission Act—powers of commission, economic development projects and rights of obligees for contracts and purchases
2000-141	Dec. 20	SB1531	PN2308	Immediately*	Liquor Code—omnibus amendments
2000-142	Dec. 22	SB1154	PN2322	60 days	County Code, The—omnibus amendments

**2000 VETOES—VETOES 1 through 3  
(numerical)**

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Subject Matter</i>
2000-1	Dec. 20	HB1150	PN4224	Solicitation of Funds for Charitable Purposes Act—charitable organizations reports and registration exemptions
2000-2	Dec. 20	HB181	PN4231	Administrative Code of 1929, The—omnibus amendments
2000-3	Dec. 20	HB1470	PN4234	Vehicle Code (75 Pa.C.S.)—omnibus amendments

\* with exceptions

**Effective Dates of Statutes**

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

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

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[Pa.B. Doc. No. 01-23. Filed for public inspection January 12, 2001, 9:00 a.m.]

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CHS. 100, 2120, 2150 AND 2170]

Amendment of Rules Governing Associations as Parties; No. 345 Civil Procedural Rules Doc. No. 5

#### Order

*Per Curiam:*

*And Now*, this 29th day of December, 2000, Pennsylvania Rules of Civil Procedure 76, 2126, 2151, 2176 and 2179 are amended to read as follows hereto.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2001.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 100. RULES OF CONSTRUCTION

##### Rule 76. Definitions.

The following words and phrases when used in any rule promulgated by the Supreme Court under the authority of Article V, Section 10(c) of the Constitution of 1968, or of any Act of Assembly, shall have the following meanings, respectively, unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

\* \* \* \* \*

**Political subdivision**—Any county, city, borough, incorporated town, township, school district, vocational school district, [or] county institution district or municipal or other local authority;

**Official Note:** The definition of the term “political subdivision” in this rule has no bearing upon whether a particular entity is or is not a political subdivision for substantive matters.

\* \* \* \* \*

#### CHAPTER 2120. PARTNERSHIPS AS PARTIES

##### Rule 2126. Definitions.

As used in this chapter:

\* \* \* \* \*

“Partnership—[Only] A general or limited partnership, whether it is also a registered limited liability partnership or electing partnership, and does not mean a [partnership association, registered partnership,] limited liability company, unincorporated association, joint stock company or similar association.

#### CHAPTER 2150. UNINCORPORATED ASSOCIATION AS PARTIES

##### Rule 2151. Definitions.

As used in this chapter

\* \* \* \* \*

“association” means an unincorporated association conducting any business or engaging in any activity of any nature whether for profit or otherwise under a common name, but does not mean [an incorporated association, general partnership, limited partnership, registered partnership, partnership association, joint stock company or similar association] a partnership as defined in Rule 2126 or a corporation or similar entity as defined in Rule 2176.

#### CHAPTER 2170. CORPORATIONS AND SIMILAR ENTITIES AS PARTIES

##### Rule 2176. Definitions.

As used in this chapter

\* \* \* \* \*

“corporation or similar entity” includes any public, quasi-public or private corporation, insurance association or exchange, [registered partnership, partnership association limited,] joint stock company or association, [“Massachusetts trust”,] limited liability company, professional association, business trust, or any other association which is regarded as an entity distinct from the members composing the association, but does not include the Commonwealth of Pennsylvania, a [county, city, borough, town, township, school district or institution district] political subdivision as defined in Rule 76, [or] a partnership as defined in Rule 2126, or an unincorporated association as defined in Rule 2151;

“corporate name” means any name, real or fictitious, under which a corporation or similar entity was organized, or conducts business, whether or not such name has been filed or registered;

“executive officer” means a chairman, president, vice-president, treasurer, secretary, general manager, or any like officer of a corporation or similar entity;

“member” includes any shareholder in a corporation or similar entity[;];

“executive officer” means a chairman, president, vice-president, treasurer, secretary, general manager, or any like officer of a corporation or similar entity [;].

**Official Note:** [Adopted November 26, 1943, effective August 1, 1944.] The term “corporation or similar entity” as defined above includes all associations and business entities which are regarded as separate and distinct from their members. No attempt has been made to enumerate all the various classes of private corporations falling within the definition.

##### Rule 2179. Venue.

(a) Except as otherwise provided by an Act of Assembly or by subdivision (b) of this rule, a personal action against a corporation or similar entity may be brought in and only in

(1) the county where its registered office or principal place of business is located; [or]

(2) a county where it regularly conducts business;

**[ Official Note: See Rule 2198. ]**

(3) the county where the cause of action arose; or

(4) a county where a transaction or occurrence took place out of which the cause of action arose.

\* \* \* \* \*

*Explanatory Comment*

The Supreme Court of Pennsylvania has amended the following rules of civil procedure: Rule 76 which contains a definition of the term "political subdivision," Rules 2126, 2151 and 2176 which provide definitions governing associations as parties and Rule 2179(a)(2) which governs venue when a corporation or similar entity is a party to an action.

*Political Subdivision*

The rules of civil procedure have heretofore made no provision for a municipal authority as a party. The definition of the term "political subdivision" as set forth in Definition Rule 76 has now been amended to include the phrase "municipal or other local authority." The phrase "municipal or other local authority" is derived from Section 102 of the Judicial Code and Section 101 of Title 2 of the Consolidated Statutes relating to Administrative Law and Procedure.

The primary effect of the amendment is to bring a municipal or other local authority within the chapter of rules governing the Commonwealth and Political Subdivisions as Parties and subject an authority to three rules. Under Rule 2102(b) governing the style of action, an action will be brought by or against an authority "in its name." Rule 2103(b) will limit venue to the county in which the political subdivision is located unless the Commonwealth is the plaintiff or an Act of Assembly provides otherwise. Service upon an authority will be made pursuant to subdivision (b) of Rule 422 governing service upon a political subdivision.

It is recognized that a municipal or other local authority may perform a "sovereign or governmental" function, a "business or proprietary" function or a combination of both. It is useful, however, to have a unified practice which applies to all such entities. It is therefore appropriate that municipal or other local authorities be made subject to the rules governing political subdivisions in view of their performance of sovereign or governmental functions.

The characterization of a municipal or other local authority as a political subdivision is a procedural device only. As the note to the definition states, "[t]he definition of the term 'political subdivision' in this rule has no bearing upon whether a particular entity is or is not a political subdivision for substantive matters."

*Partnerships as Parties*

The amendment to Rule 2176 defining the term "partnership" continues to provide that "partnership means a general or limited partnership" and adds new language: "whether it is also a registered limited liability partner-

ship or electing partnership." The reference to a registered limited liability partnership and an electing partnership is derived from Section 8311(b) of the Associations Code, "Partnership defined."

The amendment excludes from the definition "limited liability company, unincorporated association, joint stock company or similar association." The reference to a limited liability company is new and takes into account Act No. 126 of 1994 which amended Title 15 of the Consolidated Statutes, the Associations Code, by adding Chapter 89 relating to limited liability companies. Although excluded here from the definition of partnership, the limited liability company is included in the revised definition of "corporation or similar entity" found in Rule 2176.

As revised, the exclusionary language of the definition no longer contains the terms "partnership association and registered partnership" which are obsolete.

*Unincorporated Associations as Parties*

The term "association" as used in Rule 2151 et seq. is not the broad term found in the "Associations Code." Rather, it has the limited meaning set forth in Rule 2151. The basic definition continues unchanged: "an unincorporated association conducting any business or engaging in any activity of any nature whether for profit or otherwise under a common name. . . ." However, the definition excludes certain types of "associations" as used in the broader sense of that term. Whereas the former rule excluded from the definition the catalog of "an incorporated association, general partnership, limited partnership, registered partnership, partnership association, joint stock company or similar association," the amended definition simply states that "unincorporated association" does not include "a partnership as defined in Rule 2126 or a corporation or similar entity as defined in Rule 2176."

*Corporations or Similar Entities as Parties*

Rule 2176 is revised in two respects. First, the term "executive officer" is put in its rightful place alphabetically in the list of definitions but it is not otherwise changed. Second, the term "corporation or similar entity" is revised to include the terms "limited liability company, professional association and business trust" and to delete as obsolete the terms "registered partnership," "Massachusetts Trust" and "partnership association limited."

The addition of "business trust" includes within the definition of corporation or similar entity a "trust subject to Chapter 95 (relating to business trusts)." The addition of "professional association" includes a professional association as defined in Section 9302 of the Associations Code, i.e., "a professional association organized under the Act of August 7, 1961 (P. L. 941, No. 416), known as the Professional Association Act. . . ."

The addition of a "limited liability company" to the definition is in accord with the Source Note to Section 8906 of the Associations Code which states:

Notwithstanding the policy of Chapter 89 that a limited liability company is a form of partnership entity, for purposes of the Pennsylvania Rules of Civil Procedure a limited liability company will probably be deemed a "corporation or similar entity" under Pa.R.C.P. 2176, rather than a "partnership" under Pa.R.C.P. 2126 or an "association" under Pa.R.C.P. 2151.

The amendment to Rule 2179(a)(2) governing venue when a corporation or similar entity is a party to an action simply deletes a note containing an obsolete cross-reference.

*By the Civil Procedural Rules Committee*

REA BOYLAN THOMAS,  
*Chair*

[Pa.B. Doc. No. 01-24. Filed for public inspection January 12, 2001, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BERKS COUNTY

**Rules of Court; No. 98-8009 Prothonotary; No. 1-MD-2000 Clerk of Courts**

#### Order

*And Now*, this 7th day of December, 2000, it is hereby *Ordered* that the Berks County Rules of Civil Procedure 1301 through 1318, inclusive, the Certificate of Readiness for Arbitration and Request for Appointment of Arbitrators and the Application for Registration of Arbitrator and/or Arbitration Chairperson which follows hereto are hereby approved and adopted and made a part of the Berks County Rules of Civil Procedure for use in the Court of Common Pleas of Berks County, Pennsylvania, the 23rd Judicial District of Pennsylvania, effective February 1, 2001, with the fee schedule set forth in Berks County Rules of Civil Procedure 1315 to apply to arbitration hearings which are initially scheduled on or after February 1, 2001.

It is further *Ordered* that the versions of Berks County Rules of Civil Procedure 1301 through 1317, inclusive, and the above-referenced forms which existed prior to the date of this Order shall be repealed and made null and void as of February 1, 2001, but no rights acquired thereunder shall be disturbed.

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

1. Keep copies of this Order, Berks County Rules of Civil Procedure 1301 through 1318, inclusive, and the above-referenced forms continually available for public inspection and copying;
2. File ten (10) certified copies of this Order and Berks County Rules of Civil Procedure 1301 through 1318, inclusive, with the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c);
3. File two (2) certified copies of this Order and Berks County Rules of Civil Procedure 1301 through 1318, inclusive, with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
4. File one (1) certified copy of Berks County Rules of Civil Procedure 1301 through 1318, inclusive, with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania; and
5. Within three (3) weeks after the publication of these new Rules in the *Pennsylvania Bulletin*, ensure that one copy each of this Order and of Berks County Rules of

Civil Procedure 1301 through 1318, inclusive, as herein approved and adopted are published one time in the *Berks County Law Journal* in suitable form so that they may be incorporated into replacement pages for insertion into the current binder of the Berks County Rules of Court. The effective date of these Berks County Rules of Civil Procedure, February 1, 2001, shall be set forth in the lower right-hand corner of each replacement page.

*By the Court*

ALBERT A. STALLONE,  
*President Judge*

#### ARBITRATION

##### **Rule 1301. Cases Subject to Arbitration. Amount In Controversy. Agreement of Reference.**

(a) All civil actions (which heretofore had been designated assumpsit or trespass), actions in replevin and actions upon mechanics' liens where the amount in controversy shall be \$50,000 or less shall first be submitted to and heard by a panel of arbitrators pursuant to Pa.R.C.P. 1301 et seq. All cases that have not yet been certified for trial will be subject to this change in the arbitration limits.

(b) For purposes of determining the amount in controversy, every complaint or counterclaim in such civil action, in replevin or upon a mechanics' lien, shall set forth in the first paragraph thereof a statement that the total amount of damages claimed in such pleading, exclusive of interest and costs, is Fifty Thousand Dollars \$50,000.00 or less or is more than Fifty Thousand Dollars \$50,000.00 or in replevin that the value of the property claimed is Fifty Thousand Dollars \$50,000.00 or less or is more than Fifty Thousand Dollars \$50,000.00.

(c) The amount in controversy shall be determined from the complaint and/or counterclaim as required by Subsection (b) or by an agreement of reference filed by the attorneys. If an agreement of reference is filed, it shall define the issues involved for determination by the panel and, when agreeable, shall also contain stipulations with respect to facts submitted and agreed and defenses waived. In such cases, the agreement of reference shall take the place of pleadings and be filed with the Prothonotary before a certificate of readiness is filed. The amount in controversy when determined from the pleadings shall be the largest amount claimed by any one party.

(d) Actions in mandamus, actions in quo warranto, actions in quiet title, actions in ejectment, actions upon municipal claims, actions upon tax claims, actions of mortgage foreclosure, and actions upon ground rents shall not be submitted to arbitration.

##### **Rule 1301.1. Striking of Case From Arbitration or Trial List.**

The court may, on its own motion or upon the motion of any party, strike any case from the trial list which should have been arbitrated in the first instance or strike any case from the arbitration list which the court determines should be tried by a judge or jury or by a judge without a jury. If a case is stricken from the trial list by the court, counsel shall file a certificate of readiness for arbitration on the form approved by the court, together with the appropriate filing fee.

If a case is stricken from the arbitration list, counsel shall file a certificate of readiness for trial on the form approved by the court in accordance with B.R.C.P. 212.1.

**Rule 1302. Administration.**

(a) Proceedings under the arbitration rules of this Court shall be administered by the office of Court Administration.

(b) The Court Administrator shall have the power to prescribe forms, subject to review by the court.

(c) Every attorney admitted to practice before the Supreme Court of Pennsylvania with a primary office located in Berks County shall file with Court Administration appropriate information on a form designated by Court Administration for this purpose, indicating whether or not said attorney is practicing alone, is a member of a firm, or is associated in some way with one or more other lawyers (either in private practice or as an employee of some public office such as the district attorney's office, public defender's office, legal aid, etc.). Said attorney shall also notify Court Administration on said form whether said attorney is willing to serve as an arbitrator, the location of his/her primary office, whether he/she is admitted to practice law in the Commonwealth of Pennsylvania and any qualifications for chairperson as required in B.A.C.P. 1302.2. Any change in status in this regard shall immediately be reported to Court Administration.

(d) Court Administration shall maintain such records as are necessary for the proper administration of the arbitration system, and shall give the arbitrators such assistance as may be necessary to expedite the arbitration process.

(e) Court Administration shall within thirty (30) days of the filing of a certificate of readiness for arbitration designate the time and place for the arbitration hearing. The arbitration hearing shall be set not less than sixty (60) days after mailing the notice scheduling the arbitration hearing.

(f) The assigned arbitrators shall reserve the entire day for arbitration duty. It is the intention of these rules to require the scheduling of an arbitration at 9:30 a.m. and at 1:30 P.M. to be heard by each arbitration panel on the assigned arbitration date, i.e., both arbitrations to be heard by the same arbitration panel. In the event that the first scheduled hearing for 9:30 A.M. is listed to take an entire day for arbitration (i.e., more than 3 hours), no other hearing shall be scheduled for 1:30 P.M. on the date of the arbitration by Court Administration, and the assigned arbitrators shall be required only to hear the one case. In the event that the case listed for the 9:30 A.M. arbitration is scheduled to last for 3 hours or less, Court Administration shall schedule a second arbitration for 1:30 P.M. for the same date to be heard by the same arbitration panel.

**Rule 1302.1. Selection of Arbitrators and Substitutions.**

(a) Each board of arbitrators shall be composed of one attorney from the "Qualified List of Chairpersons" and two attorneys from the "Qualified List of Arbitrators." Not more than one member or associate of any firm or association of attorneys shall be appointed to the same arbitration panel.

(b) The minimum qualifications for service as an arbitrator are as follows:

(1) Membership in the Bar of the Supreme Court of Pennsylvania;

(2) The active practice of law for a minimum of one year following admission to the Bar of the Supreme Court of Pennsylvania;

(3) The maintenance of a principal office for the practice of law in Berks County;

(4) Participation in at least 1 trial or evidentiary hearing; and

(5) The completion of a training program sponsored by the Mandatory Continuing Legal Education Committee of the Berks County Bar Association, which is approved for Continuing Legal Education (CLE) credit.

(c) If a qualified arbitrator is unable to serve at the hearing at which he or she has been appointed to serve, that arbitrator shall notify Court Administration and counsel of record at least three working days prior to the scheduled date of the hearing. If that arbitrator notifies Court Administration of his or her inability to serve less than three working days prior to the scheduled hearing date, that arbitrator shall make all arrangements to ensure that a substitute arbitrator, who appears on the "Qualified List of Arbitrators" is present for the hearing and shall notify Court Administration and counsel of record accordingly. If any arbitrator simply fails to appear at the scheduled hearing, he or she shall not receive any further appointments until his or her name reappears for appointment in due course. If an arbitrator fails to appear a second time, his or her name shall be removed from the "Qualified List of Arbitrators" and he or she shall not thereafter be appointed as an arbitrator in any case unless he or she is reinstated upon application to the President Judge of the Court.

**Rule 1302.2. Chairperson of Arbitration Boards.**

(a) The board of arbitrators shall be chaired by an arbitrator who appears on the "Qualified List of Chairpersons."

(b) The minimum qualifications for service as a Chairperson are as follows:

(1) Membership in the Bar of the Supreme Court of Pennsylvania;

(2) The active practice of law for a minimum of seven years following admission to the Bar of the Supreme Court of Pennsylvania;

(3) The maintenance of a principal office for the practice of law within Berks County;

(4) Participation in at least 5 trials or evidentiary hearings;

(5) Being the principal attorney in at least 10 litigation cases which have been filed in a court of record;

(6) The completion of a training program sponsored by the Mandatory Continuing Legal Education Committee of the Berks County Bar Association, which is approved for Continuing Legal Education (CLE) credit; and

(7) Concentration of practice in the area of law which is involved in the case before the panel.

**Rule 1303. Certification for Arbitration.**

Arbitration cases shall be certified for arbitration in accordance with the procedure set forth in the rule pertaining to certification for civil trial. (See B.R.C.P. 212.1.) The party requesting that the case be listed for arbitration shall file a certificate of readiness for arbitration on a form approved by Court Administration. To the extent possible, an accurate estimate of the number of hours, or portion thereof, required to present the claim or defense shall be noted by each party to assist Court Administration in scheduling.



**Rule 1303.1. Notification of Hearing Date and Appointment of Arbitrators.**

The Prothonotary's Office, under the direction of Court Administration, shall mail a copy of the completed certificate of readiness for arbitration scheduling the hearing date; time and place to each arbitrator appointed, each attorney of record and, in the event a party is not represented of record by an attorney, to such party at his or her last known address by first-class mail and file of record proof of service in each case.

**Rule 1303.2. Continuances.**

(a) No later than seven (7) days prior to the hearing date, the case may be continued one (1) time by agreement of all counsel and unrepresented parties. The counsel or party requesting file continuance shall give written notice of such continuance to the arbitrators, Court Administration and the Prothonotary's Office. Court Administration shall reschedule the case to be heard within sixty (60) days, with notice of hearing to be provided by the Prothonotary's Office to all arbitrators, counsel and unrepresented parties in accordance with B.R.C.P. 1303.1.

(b) In the event that the parties cannot agree to a continuance more than seven (7) days prior to hearing under subparagraph (a) above, an application for a continuance of the case must be made to and ruled upon by the assigned judge. Counsel making such application shall comply with B.R.C.P. 207.1.

(c) If the case is continued upon application, Court Administration shall reschedule the hearing in accordance with Subsection 1303.2(a) above.

**Rule 1304. Pre-Arbitration Memorandum.**

(a) At least seven (7) days before the date of the arbitration hearing, all parties shall file with the Prothonotary a memorandum in the form hereinafter provided and shall immediately serve a copy on each party and each arbitrator. This memorandum shall set forth the following:

(1) A brief statement of the important facts of the claim or defense.

(2) A statement of the legal basis for the claim or defense.

(3) A list of all special damages claimed, such as lost earnings, loss of future earning capacity, medical expenses (itemized), property damage.

(4) A list of the names and addresses of all the witnesses whom that party intends to call at arbitration.

(5) A list of all exhibits to be offered by that party at arbitration. All exhibits shall be numbered prior to the arbitration.

(6) An estimate of the number of hours, or portion thereof, necessary to present your claim or defense.

(7) Special comments regarding legal issues.

(8) Any stipulations between the parties for purposes of the arbitration.

(b) Except in extraordinary circumstances, as determined by the arbitrators, a party will not be allowed to call a witness at the arbitration hearing who is not listed in a timely-filed pre-arbitration arbitration.

(c) Except in extraordinary circumstances, as determined by the arbitrators, a party will not be allowed to offer an exhibit at the arbitration hearing that is not listed in a timely-filed pre-arbitration memorandum.

(d) In the event that a party does not file a pre-arbitration memorandum as required by paragraph (a), the other party may file a written motion with the assigned judge to strike the case from the arbitration list.

**Rule 1304.1. Amendment to Pleadings.**

No amendments to the pleadings shall be allowed by the arbitrators except by stipulation of the parties.

**Rule 1305. Conduct of Hearing.**

On the date fixed for the hearing, the chairperson and the members of the panel shall pick up the file and take their oaths of office before the Prothonotary and shall organize for the hearing at least fifteen (15) minutes before the scheduled time. The panel shall conduct the hearing in accordance with Pa.R.C.P. 1304 and 1305, and in accordance with courtroom decorum, including but not limited to, appearing in proper attire and refraining from smoking during hearings. The chairperson of the panel shall preside and see to the proper conduct of the hearing. He/she shall announce all rulings of a majority of the panel pertaining to the law and/or the admissibility of evidence and be responsible for the proper filing of the award with the Prothonotary.

Comment: It is the intention of these rules that the arbitration proceed in an expeditious fashion and that all parties will take full advantage of submitting documentation and tangible evidence pursuant to Pa.R.C.P. 1305 without the need for expert testimony unless extraordinary circumstances warrant.

**Rule 1305.1. Continuation of Hearing.**

If a hearing is held and cannot be concluded at the initially scheduled time as indicated on the certificate of readiness, a continued hearing shall be scheduled at an available and agreed upon site by the chairperson upon stipulation by the parties with written notice on the award form to Court Administration and the Prothonotary. If a stipulation cannot be reached as to the date, time and place of the next hearing, the chairperson shall notify Court Administration thereof and the hearing shall be rescheduled as provided in B.R.C.P. 1303.2(a).

**Rule 1306. Award, Damages for Delay.**

An award shall be entered promptly upon termination of the hearing pursuant to Pa.R.C.P. 1306. If delay damages are an issue, the parties shall submit to the arbitrators in a sealed envelope a stipulation containing the following:

(a) Whether an offer was made in writing;

(b) The amount of the offer, and

(c) The date of the offer.

It shall be the plaintiff's obligation to provide said stipulation to the arbitrators. If the parties are unable to stipulate to the above facts, a separate evidentiary hearing will be scheduled pursuant to B.R.C.P. 1305.1.

**Rule 1308. Appeal—Listing Case for Trial.**

(a) Any party may appeal from an award of arbitrators within such time after the entry of the award and upon compliance with the requirements of Pa.R.C.P. 1308 through 1311. The cost of appealing the arbitration award shall be the amount of compensation paid to the arbitrators, or 50% of the amount in controversy, whichever is less, unless otherwise provided by the Pennsylvania Rules of Civil Procedure.

(b) Any appeal duly taken from the award of arbitrators shall be filed with the Prothonotary, in duplicate.

One copy of the appeal shall be forwarded by the Prothonotary to Court Administration, which shall notify the judge assigned to the case for scheduling a pretrial conference.

**Rule 1315. Compensation.**

For arbitration cases which are initially scheduled for hearing on or after February 1, 2001, each arbitrator shall receive a fee of \$200.00 as compensation for each half day of hearing required and each Chairperson shall receive a fee of \$250.00 as compensation for each half day of hearing required. (A half-day shall be no more than three hours.) For arbitration cases which were initially scheduled for hearing prior to February 1, 2001, each arbitrator, including the Chairperson, shall receive a fee of \$150.00 as compensation for each half day of hearing required. In cases where an award is to be entered by the arbitrators pursuant to an agreed settlement before the hearing, each member of the arbitration panel shall receive as compensation Seventy-Five Dollars (\$75.00). When more than one case arising out of the same transaction is heard at the same hearing or hearings, it shall be considered as one case insofar as compensation is concerned. The chairperson of the panel of arbitrators

shall certify to Court Administration the amount of time spent hearing the matter.

**Rule 1316. Witness Fees and Costs.**

Witness fees and costs shall conform to fees and costs pertaining to civil actions in the Court of Common Pleas of Berks County.

**Rule 1317. Arbitration Administrator.**

The arbitration administrator shall be the prothonotary of Berks County, or his designee, or the Berks County court administrator as the president judge shall from time to time designate.

**Rule 1318. Settlements.**

In the event that a case is settled prior to the date of the scheduled hearing, counsel of record shall notify each member of the board of arbitrators by telephone or in writing, whichever is most practical under the circumstances, as well as Court Administration, by telephone. Failure to comply with this rule may lead to the imposition of costs of the arbitration proceeding upon either one party or all parties, depending upon the facts and circumstances of each particular case.

---

	:	IN THE COURT OF COMMON PLEAS
	:	OF BERKS COUNTY, PENNSYLVANIA
Plaintiff(s)	:	
	:	CIVIL ACTION—LAW
vs.	:	
	:	No. _____
Defendant(s)	:	

*CERTIFICATE OF READINESS FOR ARBITRATION AND REQUEST FOR APPOINTMENT OF ARBITRATORS*

I/We request the Court Administrator to appoint arbitrators and fix the date and time of hearing and hereby certify that (1) the pleadings are closed; (2) all discovery and medical examinations have been completed; (3) all depositions for use at the hearing have been taken or are scheduled to be taken no later than thirty (30) days from the date of this certification; (4) it is understood that no discovery, medical examinations or depositions for use at the arbitration hearing can be taken thereafter, except by leave of court for good cause shown; and (5) the case is ready for arbitration.

A.	_____	Presentation by Plaintiff(s) _____ hours
	Signature of Plaintiff(s) Counsel	
	_____	Presentation by Defendant(s) _____ hours
	Name of Plaintiff(s) Counsel	
	_____	Presentation by Defendant(s) _____ hours
	Mailing Address	

B.	_____	_____ Automobile Negligence
	Signature of Defendant(s) Counsel	_____ Breach of Contract
	_____	_____ Medical Malpractice
	Name of Defendant(s) Counsel	_____ Products Liability
	_____	_____ Replevin Actions
	Mailing Address	_____ Slip and Fall
		_____ Defamation
		_____ Mechanic's Liens
		_____ Negligence (Other than noted above)

*COURT ORDER WHERE ALL PARTIES HAVE NOT JOINED IN REQUEST*

AND NOW, \_\_\_\_\_ 20 \_\_\_\_\_, all unrepresented parties or counsel not having joined in the above request, and having been given at least ten (10) days notice of this application to the Court, on motion of \_\_\_\_\_ Esquire, Attorney for \_\_\_\_\_, it is Ordered that Court Administration

appoint qualified arbitrators and set the date, time and place for the hearing and that all non-joining unrepresented parties or counsel are bound by the certification contained in paragraphs (1) through (5) above.

BY THE COURT:

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

APPOINTMENT OF ARBITRATORS

AND NOW, \_\_\_\_\_, 20 \_\_\_\_\_, a hearing in the above case is scheduled for \_\_\_\_\_ 20 \_\_\_\_\_, at \_\_\_\_\_ A.M./P.M., pursuant to Berks County Rule of Civil Procedure 1303.1.

Chairperson: \_\_\_\_\_

Arbitrator: \_\_\_\_\_

Arbitrator: \_\_\_\_\_

Cherstin M. Hamel, Court Administrator By: \_\_\_\_\_ Court Information Management

PLEASE REVIEW LOCAL ARBITRATION RULES, INCLUDING, BUT NOT LIMITED TO, B.R.C.P. 1304, WHICH REQUIRES THAT PRE-ARBITRATION MEMORANDA BE FILED NO LATER THAN 7 DAYS PRIOR TO THE ARBITRATION HEARING.

CERTIFICATE OF SERVICE

I hereby certify that on \_\_\_\_\_ a copy of the Certificate of Readiness for Arbitration and the appointment of Arbitrators was mailed by First Class Mail to the following:

_____	Atty. for Pltff.	_____ . Arb.
_____		_____
(address)		(address)
_____	Atty. For Deft.	_____ , Arb.
_____		_____
(address)		(address)
_____		_____ , Arb.
_____		_____
(address)		(address)

_____	By:	_____
Prothonotary		Deputy Prothonotary

APPLICATION FOR REGISTRATION OF ARBITRATOR AND/OR ARBITRATION CHAIRPERSON

Attorney Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Law Firm: \_\_\_\_\_

THE COURTS

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_  
In Association with: \_\_\_\_\_  
\_\_\_\_\_

In what areas do you concentrate your practice (you may choose more than one):

- |                             |                           |                        |
|-----------------------------|---------------------------|------------------------|
| _____ Automobile Negligence | _____ Medical Malpractice | _____ Slip and Fall    |
| _____ Negligence (Other)    | _____ Products Liability  | _____ Defamation       |
| _____ Breach of Contract    | _____ Replevin Actions    | _____ Mechanic's Leins |

Have you been admitted to practice before the Supreme Court of Pennsylvania?  Yes  No

Have you participated in at least one trial or evidentiary hearing?  Yes  No

Have you completed the Berks County Bar Association CLE course on Common Pleas Arbitration?  Yes  No

Are you willing to serve as a chairperson?  Yes  No

If so, have you been admitted to practice law for at least seven (7) years?  Yes  No

If so, have you been principal attorney in at least ten (10) litigation cases filed in a court of record?  Yes  No

If so, have you participated in at least five (5) trials or evidentiary hearings?  Yes  No

Signature: \_\_\_\_\_ ,  
Attorney

Dated: \_\_\_\_\_

[Pa.B. Doc. No. 01-25. Filed for public inspection January 12, 2001, 9:00 a.m.]

\_\_\_\_\_

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

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

### Corrective Amendment to 25 Pa. Code § 86.1

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 86.1 (relating to definitions) as deposited with the Legislative Reference Bureau and the official text as published at 29 Pa.B. 5289, 5295 (October 9, 1999), and as currently appearing in the *Pennsylvania Code*. Several definitions were inadvertently omitted.

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 § 86.1. The corrective amendment to 25 Pa. Code § 86.1 is effective as of October 9, 1999, the date the defective text was published in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 86.1 appears in Annex A, with ellipses referring to the existing text of the regulation.

#### 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 A. GENERAL PROVISIONS

#### § 86.1. Definitions.

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

\* \* \* \* \*

*Application*—The documents and other information filed with the Department for the issuance of a permit.

*Bond*—A bond by which a permittee assures faithful performance of the requirements of the acts, this chapter, Chapters 87—90 and the requirements of the permit and reclamation plan.

*Coal mining activity*—Surface mining activities, underground mining activities, coal preparation activities or coal refuse disposal activities as these terms are defined in this section.

*Coal preparation activity*—An operation in which coal is subject to chemical or physical processing or cleaning, concentrating or other processing or preparation. The term includes a facility associated with the coal preparation activity and the activity by which the land surface has been or is disturbed as a result of or incidental to coal preparation activity of the operator, including, but not limited to, the following:

- (i) Private ways and roads appurtenant to the area, land excavations and loading facilities.
- (ii) Storage and stockpile facilities.
- (iii) Sheds, shops and other buildings.
- (iv) Water treatment and water storage facilities.
- (v) Settling basins and impoundments.
- (vi) Areas in which are situated facilities, equipment, machines, tools or other materials or property which result from or are used in the coal preparation activity.

*Coal refuse disposal activities*—Activities whereby a plot of land is used as a place for disposing, dumping or storage of coal refuse. These areas may include land thereby affected, including, but not limited to, a deposit of coal refuse on or buried in the earth and intended as permanent disposal of or long-term storage of the material, but not including coal refuse deposited within an active mine itself or coal refuse never removed from a mine. The term includes activities in which the natural land surface has been disturbed as a result of or incidental to the coal refuse disposal activities of the operator, including, but not limited to, private ways and roads appurtenant to the area, land excavations, workings, tailings, repair areas, storage areas, processing areas, shipping areas and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from or are used in coal refuse disposal activities are situated.

\* \* \* \* \*

[Pa.B. Doc. No. 01-26. Filed for public inspection January 12, 2001, 9:00 a.m.]

## Title 31—INSURANCE

INSURANCE DEPARTMENT  
[31 PA. CODE CH. 89]

[Correction]

### Medicare Supplement Insurance

An error appeared in a chart at 30 Pa.B. 6886, 6890 (December 30, 2000). The correct version of this chart appears in Annex A, with ellipses referring to the existing text of the regulation.

#### Annex A

### TITLE 31. INSURANCE PART IV. LIFE INSURANCE

#### CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

#### Subchapter K. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

#### § 89.783. Required disclosure provisions.

\* \* \* \* \*

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plans \_\_\_\_\_ (insert letters of plans being offered)

Medicare supplement insurance can be sold in only ten standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan A & B.

**Basic Benefits:** Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses) or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

A	B	C	D	E	F	F*	G	H	I	J	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits		Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	
		Part B Deductible			Part B Deductible					Part B Deductible	
					Part B Excess (100%)		Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)	
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	
			At-Home Recovery				At-Home Recovery		At-Home Recovery	At-Home Recovery	
								Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)	
				Preventive Care						Preventive Care	

\* Plans F and J also have an option called a high deductible plan F and a high deductible plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year \$1,580 deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses are \$1580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

# Title 49—PROFESSIONAL AND VOCATIONAL AFFAIRS

## STATE BOARD OF ACCOUNTANCY

### [49 PA. CODE CH. 11]

#### Commissions and Referral Fees

The State Board of Accountancy (Board), amends § 11.24 (relating to commissions and referral fees) to read as set forth in Annex A.

The amendment revises § 11.24 to permit licensed public accounting firms and licensed certified public accountants and public accountants engaged in public practice to receive or accept commissions and to accept or pay referral fees in accordance with section 12(p) of the CPA Law (63 P. S. § 9.12(p)) which was added by the act of December 4, 1996 (P. L. 851, No. 140) (Act 140 of 1996). The existing § 11.24, adopted in 1970, prohibits commissions and referral fees absolutely. The amendment requires licensees to notify the Board when they receive or intend to receive commissions; to allow peer reviewers access to compensation records for purposes of verifying that commissions were not received for referring products or services to attest clients; to acquire and maintain in good standing any licenses or registrations required by other governmental or private standard-setting bodies relating to the receipt of commissions; to disclose commissions in client engagement letters and representation letters; and to maintain workpapers that document the basis for recommending particular products or services to clients. The amendments also require licensees who accept or pay referral fees to disclose the fees in client engagement and representation letters.

#### *Summary of Comments and Responses to Proposed Rulemaking*

The Board published a notice of proposed rulemaking at 30 Pa.B. 1271 (March 4, 2000) following which the Board entertained public comments for 30 days. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA), the Pennsylvania Society of Public Accountants (PSPA), the two major professional organizations that represent the public accounting profession in this Commonwealth; H. D. Vest, a leading financial services company; and 158 individual licensees.

The Board received comments from the House Professional Licensure Committee (House Committee) on April 11, 2000, and the Independent Regulatory Review Commission (IRRC) on May 4, 2000, as part of their review of the proposed amendment under the Regulatory Review Act (71 P. S. §§ 745.1—745.14). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (Senate Committee), which also reviewed the proposed amendment under the Regulatory Review Act.

Following is a summary of the comments that the Board received during proposed rulemaking and of the changes the Board has made to the proposed amendment in response to the comments:

The House Committee asked the Board to explain why it took more than 3 years to publish a proposed rulemaking that is intended to implement the provisions of section 12(p) of the CPA Law. In developing an exposure draft of the regulation for preproposal comments under Executive Order 1996-1 (relating to regulatory review and

promulgation), the Board considered several policy options. In June 1998, the Board finalized its exposure draft, and in August 1998 submitted the exposure draft to the major professional organizations for preproposal comments. The Board received preproposal comments through January 1999. In June 1999, the Board conducted a poll of other jurisdictions regarding their restrictions on commissions and referral fees before settling upon a final version of its proposal. In November 1999, the Board submitted its proposal for prepublication regulatory review, which concluded with publication of the notice of proposed rulemaking in March 2000.

#### *§11.24(b) (Notification to the Board)*

Section 11.24(b) requires licensees who receive or intend to receive commissions to report that fact on their applications for biennial renewal of licensure. In its notice of proposed rulemaking, the Board stated that the notification requirement will assist it in determining which licensees require monitoring to ensure compliance with section 12(p) of the CPA Law and § 11.24.

IRRC asked the Board to explain the need for monitoring and how the monitoring will be implemented. The Board believes monitoring is complementary of the complaints process, which is the Board's usual source of information about licensees who may not be in compliance with the CPA Law and the Board's regulations. Consumers who are referred by licensees to commission-based products or services may be unaware of the requirements relating to commissions, and thus may not report noncomplying licensees to the Board. The greatest risk to consumers in the area of commissions stems from licensees who violate the prohibition, in section 12(p)(1) of the CPA Law, against referring or recommending clients to commission-based products or services when the licensees or their firms also perform audit, review or certain other attest services for the clients. To monitor compliance with this prohibition, the Board would furnish peer review administering organizations with a list of licensees who report receiving commissions. The CPA Law mandates periodic peer review of licensees who perform audit or review engagements. The peer reviewers would scrutinize the compensation records of those licensees who report receiving commissions to determine whether commission-based products or services were referred or recommended to attest clients.

IRRC also asked the Board to explain what is meant by the phrase "intends to receive commissions." Licensees will be asked to indicate on their license renewal applications whether they have received commissions during the preceding license renewal period and whether they intend to recommend or refer commission-based products or services to clients during the upcoming license renewal period.

#### *§ 11.24(c) (Cooperation with peer reviewers)*

Proposed § 11.24(c) required licensees who receive commissions and who are subject to peer review to furnish peer reviewers with the necessary documentation to establish the licensees' compliance with section 12(p) of the CPA Law and § 11.24.

IRRC recommended that the Board define what is meant by "necessary documentation." As stated, to determine whether licensees may have received unlawful commissions under section 12(p)(1) of the CPA Law, the peer reviewers must review the compensation records of licensees who perform attest engagements. The Board has revised § 11.24(c) to specify that compensation records comprise the required documentation. (Because their scope of authority is limited to evaluating licensees'

quality control procedures and policies for attest engagements, peer reviewers are unable to serve as the Board's agents in monitoring licensees' compliance with disclosure and other requirements unrelated to the attest function.)

In its notice of proposed rulemaking, the Board stated that licensees who sell commission-based products or services to attest clients would not receive unqualified peer reviews. The PSPA observed that under section 12(p)(1) of the CPA Law, licensees are permitted to sell commission-based products or services to attest clients when the attest services involve compilations of financial statements in which the licensees have disclosed their lack of independence. The Board agrees with the PSPA's clarification that the licensees' receipt of commissions in these circumstances would not make them ineligible for unqualified peer reviews.

*§ 11.24(d) (Related licensure/registration)*

Proposed § 11.24(d) required licensees, prior to receiving commissions, to acquire and maintain in good standing any licenses or registrations required by other governmental or regulatory bodies for the purpose of receiving commissions. The Board stated by way of example in its notice of proposed rulemaking that licensees who desire to receive commissions for the sale of securities may need to be registered with entities such as the Securities Commission (SC), a State agency that regulates certain non-Federally covered broker/dealers, agents and investment advisors and representatives who conduct business in this Commonwealth, or the National Association of Securities Dealers (NASD), a self-regulatory organization that credentials broker/dealers and registered representatives who sell securities on the Nasdaq Stock Market and the over-the-counter securities market.

IRRC asked the Board to explain the purpose of the related licensure/registration requirement and to provide examples of the required licensure or registration in § 11.24(d). IRRC also commented that the NASD is not a governmental or regulatory body but a private standard-setting body, and recommended that the wording of § 11.24(d) be revised to include private standard-setting bodies.

The purpose of the related licensure/registration requirement is to ensure that licensees have acquired a sufficient level of training, understanding and experience regarding commission-based products or services so that they can make knowledgeable and informed recommendations and referrals of those products or services to clients. The minimum competence is established through the licensure/registration requirements of governmental or private standard-setting bodies that regulate or mediate commerce in those products or services. The most common examples of commission-based products and services for which licensure or registration may be required are the sale of securities (such as, PSC, NASD), the sale of insurance (Insurance Department), and the sale of real estate (State Real Estate Commission).

Consistent with IRRC's recommendations, the Board has revised § 11.24(d) to clarify that licensees must obtain appropriate licensure or registration from other governmental or private standard-setting bodies that may be required in order to receive commissions. The Board also has added to § 11.24(d) the examples of the governmental or private standard-setting bodies.

*§ 11.24(f) (Workpapers)*

Section 11.24(f) requires licensees who receive commissions to maintain workpapers that document discussions regarding their clients' investment needs, the investment

strategies considered, and the bases for the investment strategies recommended. The purpose of this requirement is to ensure that licensees have exercised professional judgment in the course of recommending or referring commission-based products or services to clients.

H. D. Vest questioned the Board's legal authority to establish a workpaper requirement, commenting that section 12(p)(4) of the CPA Law only references the Board's authority to promulgate regulations on matters relating to a licensee's disclosure of commissions and referral fees to a client. While section 12(p)(4) of the CPA Law clearly directs the Board to promulgate regulations relating to disclosure requirements, the Board does not interpret that language as limiting the Board's rule-making authority on commissions and referral fees to matters of disclosure only. Section 3(a)(11) of the CPA Law (63 P. S. § 9.3(a)(11)), authorizes the Board to promulgate rules of professional conduct for licensees, while section 3(a)(12) of the CPA Law, authorizes the Board to promulgate other regulations, consistent with the CPA Law, that are necessary and proper to implement the provisions of the CPA Law. Recommending or referring commission-based products or services to clients plainly implicates standards of professional conduct; if that were not the case, there would be no reason for the CPA Law's prohibition against licensees' recommending or referring commission-based products or services to certain attest clients. Section 11.24(f) represents a lawful exercise of the Board's authority to establish a standard of professional conduct.

Both H. D. Vest and the PSPA observed that for commissions related to securities, § 11.24(f) may duplicate the paperwork requirements of Federal and State securities regulations. The Board does not intend to require licensees to maintain redundant workpapers; workpapers maintained by licensees under securities regulations would be considered adequate so long as they reflected discussions of clients' investment needs, the investment strategies considered, and the bases for the investment strategies recommended.

IRRC recommended that because failure to maintain workpapers could expose licensees to disciplinary action, and because there are expenses associated with the retention and storage of those workpapers, § 11.24(f) should be amended to state how long licensees must retain workpapers. The Board does not believe a specific retention period is necessary for licensees' commission-related workpapers. Section 11 of the CPA Law (63 P. S. § 9.11) requires licensees to produce client records upon request but does not establish a specific retention period. Moreover, the workpapers required under § 11.24(f) are not likely to be voluminous; therefore, the costs associated with their retention and storage are likely to be minimal. Significantly, not one of the 158 individual licensees who commented on the proposed rulemaking raised any objection to the costs of retaining workpapers under § 11.24(f).

*§ 11.24(g) (Attest client)*

Proposed § 11.24(g) would have provided that for purposes of section 12(p)(1) of the CPA Law, licensees who perform attest services for clients—except for compilations of financial statements likely to be relied upon by third parties and accompanied by disclosures of lack of independence, as permitted under section 12(p)(ii) of the CPA Law—may not receive commissions for recommending or referring products or services to individuals or entities that can exercise significant influence over the operating, financial or accounting policies of the licensees' attest clients.



Proposed § 11.24(g) would have defined the term “significant influence” to include situations in which the individual or entity: (1) is connected with the client as a promoter, underwriter, voting trustee, general partner or nonhonorary director; (2) is connected with the client in a policymaking position related to the client’s primary operating, financial or accounting policies, such as chief executive officer, chief financial officer or chief accounting officer; or (3) meets the criteria established in Accounting Principles Board Opinion 18, “The Equity Method of Accounting for Investments in Common Stock,” and its interpretations, to determine the ability of an investor to exercise the influence with respect to the client. The proposed significant influence standard was derived verbatim from the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct’s Ethical Interpretation relating to the effect that a certified public accountant’s financial interest in a nonclient has on his independence with a client when the nonclient has an investor or investee relationship with the client (ET § 101.10).

Proposed § 11.24(g) was intended to address a situation, not expressly covered by section 12(p)(1) of the CPA Law, in which licensees receive commissions for products or services sold to individuals or entities that, while not the attest clients of the licensees, could nevertheless substantially impact the business affairs of other clients for whom the licensees perform attest services. The Board strongly believes that licensees’ receipt of commissions in those circumstances may impair their independence as auditors. The licensees’ financial interests in receiving commissions could result, intentionally or unintentionally, in the weakening of their objectivity in evaluating the financial enterprises of attest clients who are subject to the significant influence of the licensees’ commission clients; in some cases, licensees could be in the position of auditing the value or financial consequences of products or services for which they received commissions.

The commentators questioned the Board’s legal authority to promulgate proposed § 11.24(g). Most significantly, the House Committee, noting that the prohibition in section 12(p)(1) of the CPA Law specifically relates to recommendations and referrals made to clients for whom licensees perform certain types of attest services, opined that the Board had “no apparent statutory authority” to expand the scope of section 12(p)(1) to cover other parties, regardless of whether those parties are in a position to exercise significant influence over clients for whom licensees perform attest services. IRRC, in turn, stated that the House Committee’s comments “clearly indicate that the legislative intent was to limit [Section 12(p)(1)] to transactions involving attest clients.” IRRC recommended that the Board seek clarification from the General Assembly before attempting to establish a rule of professional conduct that extends beyond what is currently contemplated by the CPA Law.

In deference to the House Committee’s and IRRC’s view that proposed § 11.24(g) exceeded the Board’s rulemaking authority, the Board has deleted it from the final-form rule. However, the Board remains steadfast in its belief that the current prohibition in section 12(p)(1) is inadequate to protect the public against the adverse impact that commissions may have on licensees’ ability to perform attest services with the requisite independence. The Board intends to ask the General Assembly to amend the CPA Law to specifically prohibit a licensee’s receipt of commissions in circumstances like those set forth in

proposed § 11.24(g) or, alternatively, to give the Board express authority to establish such a prohibition by regulation.

Apart from their objection to the Board’s legal authority to promulgate proposed § 11.24(g), the commentators raised other concerns about proposed § 11.24(g) that should be addressed in view of the Board’s desire to seek its implementation through legislation.

Except for the House Committee, all commentators expressed concerns that the significant influence standard was either vague, ambiguous or confusing. The PICPA, echoing the concerns of the PSPA, H. D. Vest and the individual commentators, said that by linking together two separate engagements (attestation and investment services) and two separate clients (attest client and shareholder, employe, and the like of attest client), the Board had created a difficult interpretative issue because the ethical rules governing licensee independence are written to include only attest activities and thus provide no measurement standard for determining how independence may be impaired by the receipt of commissions. The PICPA had made these same comments in response to a preproposal draft of § 11.24 that would have simply provided that a licensee may not receive a commission from any individual or entity that could impair the licensee’s independence, either by appearance or in fact, with respect to an attest client of the licensee; the PICPA’s recommendation to the Board at the time was to either delete the provision or replace it with the AICPA Code of Professional Conduct’s significant influence standard, which would provide licensees with definitive criteria for assessing when the receipt of commissions could impair independence. Proposed § 11.24(g) incorporated the significant influence standard initially recommended by the PICPA.

IRRC commented that the ambiguity in proposed § 11.24(g) was the use of the word “includes” to introduce the three situations that define how an entity or individual may exercise “significant influence” on the business affairs of an attest client. IRRC observed that “includes” suggests that there are situations other than those listed in the regulation that may define significant influence. IRRC recommended that if the significant influence standard were retained in the final-form amendments, the term should be defined to set forth a complete list of applicable situations. The Board notes that under the AICPA Code of Professional Conduct, the three situations descriptive of significant influence are not considered all-inclusive. The Board will propose that the amendatory language to the CPA Law set forth as comprehensive a definition of significant influence as is possible under current ethical standards.

IRRC also recommended that the reference in proposed § 11.24(g) to section 12(p)(ii) of the CPA Law either be deleted as unnecessary or, if retained, be revised to mirror the exact statutory language. IRRC noted that the Board’s shorthand reference to section 12(p)(ii) had the unintentional effect of expanding the exception to the prohibition of receipt of commissions from attest clients to include situations involving compilations of financial statements with no disclosure of lack of independence; the statutory exception only applies to compilations where lack of independence is disclosed. The Board agrees with IRRC’s recommendation, and will propose that the amendatory language to the CPA Law be consistent with the existing exception in section 12(p)(ii).

IRRC, the PICPA and the individual commentators also raised concerns that proposed § 11.24(g) would have

an adverse fiscal impact on licensees by limiting their ability to offer a full range of services to clients. Clients with financial planning or investment needs may take their business to other financial service professionals in this Commonwealth or to licensees in border states of this Commonwealth with less restrictive commission requirements.

As the Board stated in its notice of proposed rule-making, the adoption of a significant influence standard would certainly result in loss of unspecified commission opportunities for certain licensees. While some of those lost commission opportunities could end up benefitting out-of-State licensees as well as the financial services industry at large, other commission opportunities would simply be transferred to those in-State licensees whose independence would not be impaired by the receipt of commissions. The Board considers it noteworthy that none of the commentators from the public accounting profession have suggested that lost commission opportunities would likely cause financial hardship to licensees, such as the laying off of personnel or the closing of offices. In the absence of a showing of financial hardship to licensees, the Board believes that the salutary impact of the significant influence standard on licensee independence—a factor that redounds to the benefit of attest clients and to those who rely on the attestation services of licensees—outweighs the loss of potential earnings to licensees in the form of commissions.

#### *Statutory Authority*

Section 3(a)(11) and (12) of the CPA Law empowers the Board to promulgate, respectively, regulations relating to professional conduct and administrative regulations necessary to carry out the provisions of the CPA Law. Section 12(p)(4) of the CPA Law empowers the Board to promulgate regulations specifying minimum disclosure requirements when receiving commissions or accepting or paying referral fees.

#### *Fiscal Impact and Paperwork Requirements*

The amendment will not have a fiscal impact on the Commonwealth's agencies or its political subdivisions.

The amendment will require licensees to maintain records of their disclosures of commissions and referral fees as well as workpapers documenting the appropriateness of recommending or referring particular commission-based products or services to clients. The amendment will require the Board to revise its biennial license renewal form to include a question about whether licensees have received or intend to receive commissions; the Board will use this information for the purpose of monitoring compliance with section 12(p)(1) of the CPA Law. The amendment will not create new paperwork requirements for the Commonwealth's other agencies, the Commonwealth's political subdivisions or other segments of the private sector.

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

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board in developing the preproposal version of the amendment, solicited comments from the PICPA and the PSPA on behalf of their memberships.

#### *Regulatory Review*

On February 23, 2000, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of a notice of proposed rulemaking, published at 30 Pa.B. 1271 to IRRC and the House and Senate Committees for review and comment.

In adopting the final-form rule, the Board considered comments from IRRC, the House Committee and the general public. The Board did not receive comments from the Senate Committee.

On October 30, 2000, the Board submitted the final-form amendment to IRRC and the House and Senate Committees. Under authority of section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), the final-form rule was approved by the House Committee on November 13, 2000, and deemed approved by the Senate Committee on November 20, 2000. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 14, 2000, and approved the final-form rule.

#### *Additional Information*

Individuals who desire additional information about the amendment are invited to submit inquiries to Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649.

#### *Findings*

The Board finds that:

(1) Public notice of the Board's intention to amend 49 Pa. Code Chapter 11, by this order, has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment adopted by this order is necessary and appropriate for the administration of the CPA Law.

#### *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 11, are amended by amending § 11.24 to read as set forth in Annex A.

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

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

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

THOMAS J. BAUMGARTNER, CPA,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 6964 (December 30, 2000).)*

**Fiscal Note:** Fiscal Note 16A-557 remains valid for the final adoption of the subject regulation.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 11. STATE BOARD OF ACCOUNTANCY**

#### **GENERAL PROVISIONS**

#### **§ 11.24. Commissions and referral fees.**

(a) *General.* A licensee engaged in public practice is permitted to receive commissions and accept or pay

referral fees subject to the requirements in section 12(p) of the act (63 P. S. § 9.12(p)) and this section.

(b) *Notification to Board.* A licensee who receives or intends to receive commissions shall report this fact on the application for biennial renewal of the license.

(c) *Cooperation with peer reviewer.* A licensee who receives commissions and who is subject to peer review under section 8.9 of the act (63 P. S. § 9.8i) shall furnish peer reviewers with compensation records for purposes of verifying compliance with section 12(p)(1) of the act.

(d) *Related licensure/registration.* Prior to receiving commissions, a licensee shall acquire and maintain in good standing any license or registration required by another governmental or private standard-setting body for the purpose of receiving commissions. Examples of bodies that may regulate the receipt of commissions are:

(1) The Pennsylvania Securities Commission (sale of securities).

(2) The National Association of Securities Dealers (sale of securities).

(3) The Insurance Department (sale of insurance).

(4) The State Real Estate Commission (sale of real estate).

(e) *Disclosure to client.* A licensee who receives a commission or who accepts or pays a referral fee shall make the disclosures required by section 12(p)(4) of the act in an engagement or representation letter that is signed by the client.

(f) *Workpapers.* A licensee who receives a commission shall maintain workpapers that document discussions regarding the client's investment needs, the investment strategies considered, and the basis for the investment strategy recommended by the licensee.

[Pa.B. Doc. No. 01-27. Filed for public inspection January 12, 2001, 9:00 a.m.]

**STATE BOARD OF ACCOUNTANCY**

**[49 PA. CODE CH. 11]**

**Continuing Education Program Sponsors**

The State Board of Accountancy (Board), by this order, amends Chapter 11, to read as set forth in Annex A, by revising §§ 11.1, 11.4, 11.64, 11.65, 11.71 and 11.72; by adding § 11.69a and 11.71a; and by deleting § 11.70.

The amendments revise the Board's regulatory scheme for approving sponsors of continuing education programs for certified public accountants and public accountants. Specifically, the amendments: (1) require previously approved program sponsors to apply for and obtain reapproval to maintain their eligibility to offer continuing education programs after April 30, 2001; (2) require program sponsors to biennially renew their approval beginning January 1, 2004; (3) modify procedures for program sponsor approval and withdrawal of approval; (4) require program sponsors to be responsible for the development of continuing education programs as well as their presentation; (5) provide for comprehensive offsite reviews of selected program sponsors to ensure compliance with continuing education standards; (6) establish fees for program sponsor approval/reapproval and biennial renewal of approval; and (7) exempt program sponsors

registered with the National Association of State Boards of Accountancy (NASBA) from having to meet Board approval requirements.

*Summary of Comments and Responses to Proposed Rulemaking*

The Board published a notice of proposed rulemaking at 30 Pa.B. 888 (February 19, 2000), following which the Board entertained public comment for 30 days. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA), which supported the proposed amendments, and the Governor's Office of the Budget, which raised concerns about some of the proposed amendments.

The Board received comments from the House Professional Licensure Committee (House Committee) on March 21, 2000, and the Independent Regulatory Review Commission (IRRC) on April 20, 2000, as part of their review of the proposed regulations under the Regulatory Review Act. The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (Senate Committee), which also reviewed the proposed regulations under the Regulatory Review Act.

Following is a summary of the comments that the Board received during proposed rulemaking and of the changes the Board has made to the proposed amendments in response to the comments.

*§ 11.4 (Fees)*

Proposed § 11.4 established fees of \$145 for approval of a program sponsor and \$120 for biennial renewal of program sponsor approval. As more fully discussed in this Preamble, the Board has extended the implementation date of the new regulatory scheme from January 1, 2001, to May 1, 2001, and has simplified the reapproval procedure for previously approved program sponsors who apply for reapproval prior to May 1, 2001. The revised approval procedure eliminates the need for Board review of timely filed applications of previously approved program sponsors; accordingly, the Board has reduced the reapproval fee for those previously approved program sponsors from \$145 to \$120 to reflect the decreased expense. New program sponsor applicants and previously approved program sponsor applicants that submit their reapproval applications after April 30, 2001, will pay the \$145 fee. The \$120 renewal fee, which will be biennially assessed upon all approved program sponsors beginning with the biennial period commencing January 1, 2004, remains unchanged.

*§ 11.64 (Sources of continuing education credit)*

Proposed § 11.64 set forth the various sources of continuing education credit and provided that continuing education credit will be awarded only for program sponsors approved as of the effective date in § 11.69a (relating to approval of program sponsor). IRRC noted that § 11.64 misstated § 11.69a's proposed effective date as May 1, 2000, instead of January 1, 2001. The Board has amended § 11.64 to reflect the revised effective date of May 1, 2001.

*§ 11.69a (Approval of program sponsor)*

1. *Deadline for reapproval of previously approved program sponsors.* Proposed § 11.69a(a) provided that, ex-

cept for those exempt as NASBA-registered program sponsors under § 11.69a(b), parties desiring to offer continuing education programs after December 31, 2000, must obtain approval under this section; the Board's approximately 2,000 previously approved program sponsors would have to apply for reapproval if they desire to offer continuing education programs after December 31, 2000. In its notice of proposed rulemaking, the Board estimated that about 1,000 of the previously approved program sponsors are still offering continuing education programs to licensees.

The House Committee and IRRC questioned whether the December 31, 2000, deadline affords sufficient time for previously approved program sponsors to apply for reapproval and for the Board to process the applications.

In response to these concerns, the Board has extended the deadline for reapproval from December 31, 2000, to April 30, 2001, and has streamlined the procedures for reapproval under § 11.69a. The Board anticipates that final approval of the amendments under the Regulatory Review Act (71 P. S. §§ 745.1—745.15) will occur by mid-December 2000. Immediately upon final approval of the amendments, the Board will send applications for program sponsor reapproval to all previously approved program sponsors. The only information that will be required on the application is the sponsor's name and address, the title and source of continuing education credit as set forth in § 11.64, and a list of current or planned program offerings. The applications will be routinely processed by Board staff, and will not require review or evaluation by the Board. The Board has revised § 11.69a(a) to provide that qualifying applications for reapproval that are postmarked by April 30, 2001, but not processed by Board staff until after April 30, 2001, will be considered timely filed. The Board has further revised § 11.69a(a) to provide that the Board will not deny continuing education credit to licensees who take courses after April 30, 2001, from previously approved programs sponsors whose timely filed qualifying applications for reapproval are being processed by Board staff.

The primary purpose for reapproval is to determine which of the program sponsors that the Board has approved since 1979 are still active providers. All reapproved program sponsors, as well as all program sponsors whose initial approval occurs after April 30, 2001, will be subject to offsite reviews of their continuing education programs under § 11.71a (relating to offsite review of program sponsor) to ensure their compliance with Board regulations.

2. *Contents of approval application.* Proposed § 11.69a(c) required applications for program sponsor approval to include the following information: name and address of program sponsor; title and source of continuing education credit; names, titles and degrees of instructors; dates, locations and schedules of programs; program outlines and objectives; instruction and evaluation methods; admission requirements; and attendance certification methods. This information would assist the Board in making informed assessments about the qualifications of prospective program sponsors. IRRC observed that some of the required information—such as program dates, locations and schedules and the names and credentials of instructors—might be unknown or subject to change at the time of application, and suggested that the Board consider allowing approved program sponsors to submit any changes, deletions or amendments to the information required in § 11.69a(c) as they occur. The Office of the Budget, which is an approved program sponsor and offers

a wide array of continuing education programs for auditors in various Commonwealth agencies, also commented that specific program offerings, dates, locations and instructors may not be known at the time of application for reapproval.

As noted, the Board has reconsidered the necessity of requiring all the information in proposed § 11.69a(c) from previously approved program sponsors at the time of application for reapproval. To minimize delays in the reapproval process and to lessen potential disruptions to licensees who have scheduled courses after April 30, 2001, with previously approved program sponsors, the Board will require previously approved program sponsors who submit their reapproval applications by April 30, 2001, to provide only basic identifying information plus a list of current program offerings or planned program offerings, if known. New program sponsor applicants and previously approved program sponsor applicants that submit reapproval applications after April 30, 2001, will have to provide the more detailed information. As a result of the concerns raised by IRRC and the Office of the Budget, the Board has eliminated the requirement that program sponsor applicants provide the specific dates, locations, schedules and faculty for each current or planned program offering; this information will be requested only of those approved program sponsors that are selected for offsite reviews under § 11.71a.

3. *Board review of application.* Proposed § 11.69a(e) provided that applications for approval under this section would be reviewed by the Board's Continuing Education Committee (CEC), which would make recommendations to the full Board for approval or disapproval. Disapproved applicants would receive written notification of the grounds for disapproval and would be afforded an opportunity to submit revised applications.

Consistent with its desire to simplify the reapproval process, the Board does not consider it is necessary to have either the full Board or the CEC participate in the review of applications for reapproval of previously approved program sponsors who submit their applications by April 30, 2001, and therefore has modified § 11.69a(e) accordingly. New program sponsor applicants and previously approved program sponsor applicants who submit reapproval applications after April 30, 2001, will continue to be evaluated by the full Board based on the CEC's review.

IRRC recommended that the Board provide time frames for the CEC's review of program sponsor applications and for the submission of revised applications by disapproved applicants. The Board does not believe time frames are required. The CEC and the full Board have not experienced any difficulties in timely evaluating the 50-75 program sponsor applications that have been submitted annually in recent years; nor has any program sponsor applicant ever raised concerns about not receiving a timely decision on its application. The Board also does not believe it is necessary to establish a deadline for disapproved applicants to submit revised applications; applicants should be afforded as much time as is necessary to make the necessary changes to submit qualifying applications.

*§ 11.71. (Responsibilities of program sponsor)*

Proposed § 11.71 prescribed the responsibilities of program sponsors in the areas of disclosures to prospective participants, selection and evaluation of instructors, limitations on program enrollments, adequacy of facilities, program evaluation, retention of records, certificates of

completion and promotional materials. Proposed § 11.71 also imposed on program sponsors new responsibilities relating to the development of programs.

The Office of the Budget expressed concerns about its ability to satisfy the enhanced duties of program sponsors. The Office of the Budget relies on nearly 2 dozen prequalified vendors to develop program materials and to select instructors for its many program offerings. As the Board noted in its proposed rulemaking, while the regulations charge program sponsors with the ultimate responsibility for ensuring compliance with program requirements, program sponsors are not prevented from contracting with other parties for technical assistance in complying with these requirements.

IRRC questioned the need for the requirements, in § 11.71(9) and (10), that program sponsors retain attendance records and course outlines for 5 years. A 5-year record retention period is necessary that licensees who undergo a Board audit of their continuing education hours will have access to records that corroborate the continuing education information provided to the Board at the time of license renewal. Because of due process requirements, audit procedures that result in the filing of disciplinary charges may not be concluded for up to 3 years after the end of the 2-year continuing education reporting period that is the subject of the audit.

Proposed § 11.71(4) required program sponsors to review their program materials periodically to ensure that the materials reflect currently accepted practice standards. IRRC recommended that the Board establish a more specific time frame for this review. The Board has revised § 11.71(4) to require program sponsors to review their program materials annually.

IRRC also recommended editorial changes to proposed § 11.71(1) and (6), to improve understanding and readability. The Board has revised § 11.71(1) and (6) to include those changes.

#### *§ 11.71a (Offsite review of program sponsor)*

Proposed § 11.71a provided that program sponsors are subject to offsite reviews of their continuing education programs to ensure compliance with Board regulations. An offsite review involves an in-depth audit of all program materials, documents and records maintained by the program sponsor under Board regulations. The Board has revised § 11.71a to clarify that the type of information that must be furnished includes, but is not limited to, the information in § 11.69a(c) as well as program dates, locations and schedules and the names and credentials of instructors.

#### *§ 11.72 (Withdrawal of approval of program sponsor)*

Proposed § 11.72 set forth the grounds on which the Board may withdraw the approval of program sponsors. IRRC recommended that the Board make clear in the regulation that the Board's withdrawal of a program sponsor's approval does not affect the continuing education credits earned by licensees for completing programs offered by the program sponsor prior to the withdrawal of its approval. The Board has revised § 11.72 to reflect that clarification.

#### *Statutory Authority*

Section 3(10) of the CPA Law (63 P.S. § 9.3(10)), empowers the Board to promulgate regulations relating to continuing education, including the qualifications of program sponsors. Section 6 of the CPA Law (63 P.S. § 9.6) empowers the Board to fix fees by regulation.

#### *Fiscal Impact and Paperwork Requirements*

The amendments will require previously approved program sponsors that submit their reapproval applications by April 30, 2001, to pay a reapproval fee of \$120. The Board estimates that about 1,000 previously approved program sponsors will submit reapproval applications by April 30, 2001. The amendments will require new program sponsor applicants and previously approved program sponsors that submit their reapproval applications after April 30, 2001, to pay an approval/reapproval fee of \$145. Beginning May 1, 2001, the Board expects to receive at least 50 applications each year from new or previously approved program sponsors. The amendments will require approved program sponsors to pay a biennial renewal fee of \$120 starting with the biennial period that begins January 1, 2004.

The amendments will cause the Board to incur costs in conducting offsite reviews of selected program sponsors. These costs will be defrayed by the fees for approval/reapproval and biennial renewal of approval. The amendments will not have a fiscal impact on the Commonwealth's other agencies or political subdivisions, or other segments of the private sector.

The amendments will require program sponsors selected for offsite reviews to provide detailed documentation to the Board of their continuing education programs. The amendments will require the Board to revise its forms for program sponsor approval. The amendments will not create additional paperwork requirements for the Commonwealth's other agencies, this Commonwealth's political subdivisions or other segments of the private sector.

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

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the amendments, solicited comments from the PICPA and the Pennsylvania Society of Public Accountants, the major professional associations representing the public accounting profession in this Commonwealth and of its largest continuing education sponsors. The Board also published a notice in the *Pennsylvania Bulletin* seeking preproposal comments for other currently approved program sponsors as well as prospective program sponsors.

#### *Regulatory Review*

On February 7, 2000, as required by section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 30 Pa.B. 888, to IRRC and the House and Senate Committees for review and comment.

In adopting the final-form amendments, the Board considered comments from IRRC, the House Committee and the general public. The Board did not receive comments from the Senate Committee.

On October 30, 2000, the Board submitted final-form amendments to IRRC and the House and Senate Committees. Under authority of section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), the amendments were approved by the House Committee on November 13, 2000, and deemed approved by the Senate Committee on November 20, 2000. IRRC met on December 14, 2000, and approved the final-form regulations under section 5.1(e) of the Regulatory Review Act.

#### *Additional Information*

Individuals who desire additional information about the amendments are invited to submit inquiries to Steven

Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend Chapter 11, by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments adopted by this order are necessary and appropriate for the administration of the CPA Law.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 11, are amended by deleting § 11.70, by adding §§ 11.69a and 11.71a, and by amending §§ 11.1, 11.4, 11.64, 11.65, 11.71 and 11.72, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

THOMAS J. BAUMGARTNER, CPA
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 6964 (December 30, 2000).)

Fiscal Note: Fiscal Note 16A-555 remains valid for the adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 11. STATE BOARD OF ACCOUNTANCY
GENERAL PROVISIONS

§ 11.1. Definitions.

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

\* \* \* \* \*

Professor—An instructor who teaches courses in continuing education subject areas at an accredited university or college.

Program sponsor—A party who has assumed the responsibility for presenting continuing education programs.

Public communication—A communication made in identical form to multiple persons as to the world at large, such as by television, radio, motion picture, newspaper, pamphlet, mass mailing, letterhead, business card or directory.

SSARS—Statement of Standards on Accounting and Review Services.

§ 11.4. Fees.

(a) Following is the schedule of fees charged by the Board:

Table with 2 columns: Description of service and Fee amount. Includes items like Application for certification (\$45), Biennial renewal for certified public accountants (\$45), Certification of examination scores (\$15), etc.

(b) Upon implementation, these fees will have retroactive effect to February 1, 1990.

CONTINUING PROFESSIONAL EDUCATION

§ 11.64. Sources of continuing education credit.

The following continuing education programs will be given 1 credit hour of continuing education credit for each 50-minutes of participation if they are in the subject areas in § 11.63 (relating to continuing education subject areas) and, beginning May 1, 2001, they are offered by approved program sponsors under § 11.69a (relating to approval of program sponsors):

(1) Continuing education programs of National or State accounting organizations.

(2) University or college courses.

(i) Credit courses. Applicants will receive 15 credit hours of continuing education credit for each semester credit hour earned and 10 credit hours for each quarter credit hour earned.

(ii) Noncredit courses. Applicants will be given 1 credit hour of continuing education credit for each 50 minutes of in-class participation.

(3) In-house educational programs.

(4) Individual study programs.

(i) Noninteractive individual study programs shall be given credit based upon 1/2 the average completion time calculated by the sponsor. The Board will make a final determination based upon the recommendation of the program sponsor.

(ii) Interactive individual study programs will be given 1 credit hour of continuing education credit for each 50 minutes of participation.

(iii) Credit for individual study programs will only be given in the renewal period in which the certificate of completion is dated.

(iv) Maximum continuing education credit per biennium will be 50% of the biennial requirement.

(5) Programs offered by other qualified organizations. The number of credits will be based upon the nature of the program being offered and which of the categories in paragraphs (1)—(4) it most closely fits.

(6) *Committee meetings.* Credit will be given if the meeting is structured as a continuing education program.

(7) *Service as a lecturer, discussion leader, speaker or professor.* Continuing education credit will be awarded for each 50-minute period if the discussion is one which meets the continuing subject area requirements of § 11.63.

(i) Two additional credit hours will be awarded as preparation time for each credit hour of instruction.

(ii) Credit will not be awarded for subsequent sessions unless in a subsequent session the subject matter has substantially changed.

(iii) The maximum continuing education credit will be 50% of the biennial requirement.

(iv) A professor will be awarded credit for teaching undergraduate courses in auditing, intermediate accounting, cost accounting, income taxation and advanced accounting, and all graduate courses to the extent that the course contributes to the student's professional competence and the professor has not previously claimed credit for the courses or unless the professor can demonstrate that there was a substantial change in the subject matter. Entry level accounting courses are excluded from eligibility for continuing professional education credit.

(8) *Publications, articles, books and continuing professional education courses.* Credit may be claimed by the author of the work if the work contributes to the professional competence of a licensee.

(i) Credit will be given for each 50-minute period of preparation time on a self-declaration basis up to 25% of the biennial requirement. A copy of the publication shall be submitted to the Board with the biennial renewal application.

(ii) In exceptional circumstances, an applicant may request additional credit by submitting a copy of the publication to the Board with an explanation of the circumstances which the applicant believes justifies an award of greater credit. Credit hours awarded will be determined by the Board on a case-by-case basis based upon the complexity of subject matter.

(iii) The maximum credit for publications may not exceed 50% of the continuing education requirement for any biennium.

**§ 11.65. Criteria for continuing education programs.**

To qualify as a continuing education program, a program shall:

(1) Be a program of learning which contributes directly to the maintenance of professional competence of a certified public accountant or public accountant.

(2) Be at least 1 credit hour in length.

(3) Be conducted by a qualified instructor or discussion leader.

(4) Offer subject matter enumerated in § 11.63 (relating to continuing education subject matter).

**§ 11.69a. Approval of program sponsor.**

(a) *Approval requirement.* Except as provided in subsection (b), any individual or entity desiring to offer a program for continuing education credit under this chapter shall apply to the Board for approval as a program sponsor. The approval of a previously approved program sponsor will expire April 30, 2001, unless the program sponsor submits a qualifying application under subsection

(c) that is postmarked by April 30, 2001. The Board will not deny course credit to any licensee who completes a program from a program sponsor that submitted a qualifying application by April 30, 2001, and is awaiting approval of its application.

(b) *Exemption from approval.* An individual or entity that is a member in good standing of the National Association of State Boards of Accountancy's National Registry of Continuing Professional Education Sponsors is deemed an approved program sponsor and is not required to submit an application for approval to the Board.

(c) *Contents of application for approval.* An application for approval shall contain the following information, except that an application from a previously approved program sponsor that is postmarked by April 30, 2001, need only contain the information in paragraphs (1)—(3):

(1) The name and address of the sponsor.

(2) The title and source of continuing education credit as specified in § 11.64 (relating to sources of continuing education credit).

(3) A list of existing or planned program offerings, if known.

(4) The total number of credit hours requested for each program.

(5) The attendance certification method.

(6) The program objectives.

(7) The admission requirements.

(8) The program outlines.

(9) The instruction and evaluation methods.

(d) *Sworn statements.* Statements made in an application shall be sworn to be true and correct to the best of the applicant's knowledge.

(e) *Board review of application for approval.* Except for an application from a previously approved program sponsor that is postmarked by April 30, 2001, an application will be reviewed by the Board's Continuing Education Committee, which will make recommendations to the Board for approval or disapproval. If an application is disapproved, the Board will provide the applicant with written notification of its reasons for disapproval. An applicant may submit a revised application to address the Board's concerns. No Board member will review or vote upon an application in which he has a vested interest.

(f) *Approval number.* Upon approval by the Board, an applicant will be assigned a program sponsor number.

(g) *Biennial renewal of approval.* An approved program sponsor shall renew its approval by January 1 of each even-numbered year, beginning with January 1, 2004. A renewal application shall list the program sponsor's planned program offerings for the upcoming renewal period.

**§ 11.70. (Reserved).**

**§ 11.71. Responsibilities of program sponsor.**

In addition to meeting the requirements in § 11.69a (relating to approval of program sponsor), a program sponsor shall comply with the following:

(1) *Program level of difficulty.* A program sponsor shall specify the level of knowledge to be imparted under the program. The levels of knowledge may be expressed in a variety of ways, all of which should be informative to potential participants. For example, a program may be described as having the objective of imparting technical

knowledge at levels such as basic, intermediate, advanced or overview, which might be defined as follows:

(i) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area.

(ii) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.

(iii) An advanced level program teaches participants to deal with complex situations.

(iv) An overview program enables participants to develop perspective as to how a subject area relates to the broader aspects of accounting or brings participants up-to-date on new developments in the subject area.

(2) *Recommendation of education and experience prerequisites.* A program sponsor shall clearly identify what prerequisites are suggested for enrollment. If no prerequisite is necessary, a statement to that effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether the program would be beneficial to them or whether the program is above or below their level of knowledge or skill.

(3) *Development of the program.* A program sponsor shall ensure that programs are developed by individuals qualified in the subject matter and in instructional design. This subsection is not intended to require that any individual program sponsor be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in the program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.

(4) *Program review.* A program sponsor shall review the course materials periodically annually to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued when appropriate, and obsolete material should be deleted. Between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.

(5) *Disclosure of prospective participants.* A program sponsor shall disclose in advance to prospective participants the objectives, prerequisites, experience level, content, required advanced preparation, teaching method and number of continuing education credits involved in the program.

(6) *Selection and review of instructors.* A program sponsor shall select and assign qualified instructors for the continuing education program. A program sponsor should evaluate the performance of the instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

(7) *Number of participants and adequacy of physical facilities.* A program sponsor shall ensure that the number of participants and the physical facilities are consistent with the teaching methods to be utilized. Because

the learning environment is affected by the number of participants and by the quality of the physical facilities, a program sponsor has an obligation to pay serious attention to both of these factors. The maximum number of participants for a case-oriented discussion program, for example, should be considerably less than for a lecture program. The seating arrangement is also very important. For discussion presentation, learning is enhanced as seating is arranged so that participants can easily see and converse with each other. If small group sessions are an integral part of the program format, appropriate facilities should be made available to encourage communication with a small group.

(8) *Program evaluation.* A program sponsor shall provide a program evaluation in accordance with the following:

(i) Evaluations shall be solicited from both the participants and instructors. The objective of evaluations is to encourage the program sponsor to strive for increased program effectiveness. Programs should be evaluated to determine whether:

- (A) Objectives have been met.
- (B) Prerequisites were necessary or desirable.
- (C) Facilities were satisfactory.
- (D) Instructors were effective.
- (E) Advanced preparation materials were satisfactory.
- (F) The program content was timely and effective.

(ii) Evaluations may take the form of pretests for advanced preparation, posttests for effectiveness of the program, questionnaires completed at the end of the program or later, oral feedback to the instructor or sponsor, and so forth. Instructors should be informed of their performance, and the program sponsor should systematically review the evaluation process to ensure its effectiveness.

(9) *Attendance records.* A program sponsor shall maintain and retain accurate records of attendance for a 5-year period.

(10) *Course materials.* A program sponsor shall retain a written outline of course materials for a 5-year period.

(11) *Certificate of completion.* A program sponsor shall provide participants with a certificate of completion evidencing satisfactory completion and attendance of the program.

(12) *Promotional materials.* A program sponsor shall identify the subject area—see § 11.63 (relating to continuing education subject areas)—of the program in the promotional materials.

#### **§ 11.71a. Offsite review of program sponsor.**

A program sponsor shall be subject to an offsite review of its continuing education programs to ensure compliance with this chapter. The review will involve an in-depth audit of all course materials, documents and records maintained by the program sponsor under this chapter, including:

- (1) The information in § 11.69a(c) (relating to approval of program sponsor).
- (2) The dates and locations of programs.
- (3) The program schedules (that is, title of subject, instructor, time allotted, excluding breaks and lunches).
- (4) The names, titles and degrees of instructors.



**§ 11.72. Withdrawal of approval of program sponsor.**

(a) The Board, following notice and hearing under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies), may withdraw the approval of a program sponsor that the Board finds guilty of:

(1) Having acquired the Board's approval by misrepresentation.

(2) Failing to comply with §§ 11.65, 11.69a or 11.71 (relating to criteria for continuing education programs; approval of program sponsor and responsibilities of program sponsor).

(3) Refusing to provide information requested by the Board pursuant to an offsite review under § 11.71a (relating to offsite review of program sponsor).

(4) Indicating in any manner that it has been approved as a program sponsor prior to a program sponsor number having been issued to it.

(b) The Board's withdrawal of a program sponsor's approval will not affect the credit hours earned by persons who completed programs of the sponsor prior to the withdrawal of its approval.

[Pa.B. Doc. No. 01-28. Filed for public inspection January 12, 2001, 9:00 a.m.]

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# PROPOSED RULEMAKING

## INSURANCE DEPARTMENT

[25 PA. CODE CH. 977]

[Correction]

### Underground Storage Tank Indemnification Fund

An error occurred in the document proposing to add § 977.33(a)(4)(ii)(A) (relating to fund coverage and exclusions), which appeared at 30 Pa.B. 6593, 6603 (December 23, 2000).

The correct version of § 977.33(a)(4)(ii)(A) should have read as follows, with ellipses referring to the existing text of the proposed regulation:

#### Annex A

#### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART VIII. UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

#### CHAPTER 977. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND

#### Subchapter C. COVERAGE AND CLAIMS PROCEDURES

#### § 977.33. Fund coverage and exclusions.

(a) *Fund coverage.*

\* \* \* \* \*

(4) *Limits of liability.* Payment of corrective action costs and bodily injury and property damage claims are subject to the following limits of liability:

\* \* \* \* \*

(ii) Payments may not exceed:

(A) An annual aggregate of \$1 million for each owner and operator of 100 or less UST or an owner or operator of 100 or less HOT.

\* \* \* \* \*

[Pa.B. Doc. No. 00-2213. Filed for public inspection December 22, 2000, 9:00 a.m.]

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# NOTICES

## 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 December 26, 2000.

#### BANKING INSTITUTIONS

##### Conversions

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
12-20-00	Commonwealth Bank (Federal Savings Bank) Norristown Montgomery County <i>To:</i> Commonwealth Bank (Pennsylvania Savings Bank) Norristown Montgomery County	Norristown	Filed
Application represents conversion from a Federally-chartered stock savings bank to a Pennsylvania-chartered stock savings bank.			

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-18-00	The Peoples State Bank, East Berlin, and The Glen Rock State Bank, Glen Rock Surviving Institution— The Peoples State Bank, East Berlin	East Berlin	Filed
12-21-00	Sentry Trust Company, Chambersburg, and Greencastle Interim Trust Company, Greencastle Surviving Institution— Sentry Trust Company, Chambersburg	Chambersburg	Approved

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-21-00	Orrstown Bank Orrstown Franklin County	13 Center Square Greencastle Franklin County	Approved

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-18-00	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	<i>To:</i> 1571 Chester Pike Eddystone Delaware County  <i>From:</i> 1936 MacDade Blvd. Woodlyn Delaware County	Effective

## NOTICES

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,  
*Acting Secretary*

[Pa.B. Doc. No. 01-29. Filed for public inspection January 12, 2001, 9:00 a.m.]

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**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 January 2, 2001.

**BANKING INSTITUTIONS****Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-29-00	Sentry Trust Company, Chambersburg, and Greencastle Interim Trust Company, Greencastle Surviving Institution— Sentry Trust Company, Chambersburg	Chambersburg	Effective

The merger is being effected solely to facilitate the transfer of trust accounts of the Greencastle Interim Trust Company (incorporated as a wholly-owned subsidiary of The First National Bank of Greencastle) to Sentry Trust Company.

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-18-00	U. S. Bank Johnstown Cambria County	Oakley Park II Suite 202 Route 30 East Greensburg Unity Township Westmoreland County	Opened
12-26-00	NorthSide Bank Pittsburgh Allegheny County	200 Corporate Drive Franklin Park Allegheny County	Filed
12-29-00	Abington Savings Bank Jenkintown Montgomery County	1515 The Fairway Rydal Abington Twp. Montgomery County (Limited Service Facility)	Filed
1-2-01	The Legacy Bank of Harrisburg Harrisburg Dauphin County	One South Church St. Hazleton Luzerne County	Filed

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

## Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-26-00	Postmark Credit Union, Harrisburg, and DAUCO Federal Credit Union, Harrisburg Surviving Institution— Postmark Credit Union, Harrisburg	Harrisburg	Filed
12-29-00	Freedom Credit Union, Philadelphia, and W.E.H. Employees Federal Credit Union, Philadelphia Surviving Institution— Freedom Credit Union, Philadelphia	Philadelphia	Filed
1-1-01	Erie Postal Credit Union, Erie, and Erie General Electric Employees Federal Credit Union, Erie Surviving Institution— Erie General Electric Employees Federal Credit Union, Erie	Erie	Effective

JAMES B. KAUFFMAN, Jr.,  
*Acting Secretary*

[Pa.B. Doc. No. 01-30. Filed for public inspection January 12, 2001, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

Notice is hereby given of a meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources on Wednesday, January 24, 2001. The meeting will be held at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Claire Guisewite directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

PAULETTE JOHNSON,  
*Chairperson*

[Pa.B. Doc. No. 01-31. Filed for public inspection January 12, 2001, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Amendments to Eligibility Grant Application; Public Comment Period

Written public comment is invited regarding the Department of Education's proposed amendments to its Eligibility Grant Application under the Individuals with Disabilities Education Act-Part B (IDEA-B), Section 611, Assistance for Education for All Children and Section 619, Preschool. The eligibility grant represents a contract between the Pennsylvania Department of Education and the United States Department of Education under IDEA-B. The grant application describes the comprehensive framework for the delivery of special education to students with disabilities in the Commonwealth under IDEA-B. Grant funds received by the State Education Agency will be used to administer and render services and programs to children with disabilities who are eligible for services under the IDEA-B.

Copies of the proposed amendments are available by calling Laura Davis at (717) 783-6137 or the TDD, Nancy Zeigler at (717) 787-7367. Alternate formats of the documents (for example, Braille, large print, cassette tape) can be made available to members of the public upon request. Moreover, public comment is welcomed in alternative formats such as Braille, taped comments, and telephone comments from the disabled. Person who are

disabled and wish to submit comments by telephone should call Nancy Zeigler at (717) 783-6134 or TDD (717) 787-7367.

Written comments will be received until March 13, 2001. The written comments should be directed to Laura Davis, Department of Education, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333.

The Department of Education will consider all public comments and make necessary modifications to the application before submission, by March 15, 2001, to the Secretary of the United States Department of Education. Upon the grant's approval, access to the application will be available to the public.

Additionally, an opportunity to submit oral testimony is invited for those wishing to present comments on the proposed application amendments. One written copy of oral testimony at the time of presentation would be appreciated. Presentations should be limited to 15 minutes.

Dates, locations and times for oral testimony on the proposed application are as follows:

*February 20, 2001*—3 p.m. to 7 p.m., Pennsylvania Training and Technical Assistance Network of King of Prussia, 200 Anderson Road, King of Prussia, PA 19406;

*February 21, 2001*—3 p.m. to 7 p.m., Pennsylvania Training and Technical Assistance Network of Harrisburg, 6340 Flank Drive, Suite 600, Harrisburg, PA 17112;

*February 22, 2001*—3 p.m. to 7 p.m., Pennsylvania Training and Technical Assistance Network of Pittsburgh, 5347 William Flynn Highway, Gibsonia, PA 15044.

To schedule an opportunity to present oral testimony, please call Laura Davis no later than February 13, 2001, (4 p.m.) at (717) 783-6137 or TDD at (717) 787-7367. Persons with a disability who wish to attend the public testimony scheduled above and require an auxiliary aid service or other accommodations to participate in the proceedings should contact Nancy Zeigler at (717) 783-6134.

EUGENE W. HICKOK,  
*Secretary*

[Pa.B. Doc. No. 01-32. Filed for public inspection January 12, 2001, 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 wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated the EPA, Region III, Regional Administrator has waived his 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 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 this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Field Office the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

Following the 30-day comment period, the Water Management Program Managers will make a final determination regarding the proposed permit. 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 received and other information are on file and may be inspected and arrangements made for copying at the Field Office that has been indicated above the application.

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

*Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.*

**PA 0063991.** Industrial Waste, SIC: 3241, **Essroc Cement Corporation**, Nazareth Plant 1, Route 248 & Easton Road, Nazareth, PA 18064.

This proposed action is for issuance of an NPDES permit to discharge treated noncontact cooling water and stormwater into an unnamed tributary to Shoeneck Creek, Upper Nazareth Township, **Northampton County**.

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

*Internal Monitoring Point—101*

The proposed effluent limits based on a design flow of 0.506 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Daily Maximum (mg/l)</i>	<i>Maximum (mg/l)</i>
Total Suspended Solids	33 lbs./day	66 lbs./day	
Temperature			110°F
Oil and Grease	15.0	30.0	
pH	6.0 to 9.0 standard units at all times		

*Internal Monitoring Point—201*

The proposed effluent limits based on a design flow of 0.072 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Daily Maximum (mg/l)</i>	<i>Maximum (mg/l)</i>
Total Suspended Solids	33 lbs./day	66 lbs./day	
Temperature			110°F
Oil and Grease	15.0	30.0	
pH	6.0 to 9.0 standard units at all times		

*Internal Monitoring Point—301*

The proposed effluent limits based on a design flow of 0.0014 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Daily Maximum (mg/l)</i>	<i>Maximum (mg/l)</i>
Total Suspended Solids		40.0	
Oil and Grease	15.0	30.0	
pH	6.0 to 9.0 standard units at all times		

*Outfall 002, Stormwater*

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Daily Maximum (mg/l)</i>	<i>Maximum (mg/l)</i>
Total Suspended Solids		50.0	
pH	6.0 to 9.0 standard units at all times		

The EPA waiver is in effect.

**PA 0060569.** Industrial Waste, SIC: 4941, **Pennsylvania-American Water Company**, 20 East Union Street, Wilkes-Barre, PA 18701-1397.

This proposed action is for the renewal of an NPDES permit to discharge treated process wastewater into Big Wapwalopen Creek in Fairview Township, **Luzerne County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation was the Danville Borough Water Supply intake located on the Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.031 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Aluminum	2.4	4.8
Manganese	1.0	2.0
Total Iron	2.0	4.0
Total Suspended Solids	30.0	60.0
pH	6.0 to 9.0 standard units at all times	

The EPA waiver is in effect.

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

**PA 0083992.** SIC Code 1617, Sewage, **Delores J. Carrigan**, 112 Pondview Lane, Clearville, PA 15535.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to an unnamed tributary to Sweet Root Creek in Watershed 13-A, in Southampton Township, **Bedford County**.

The receiving stream is classified for high quality-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 located in Hancock, Maryland. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0004 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	20	40
Total Residual Chlorine	monitor and report	
Dissolved Oxygen	minimum of 5.0 at all times	
pH	from 6.0 to 9.0 inclusive	
Fecal Coliform	200/100 ml as a geometric average	
(5-1 to 9-30)	2,000/100 ml as a geometric average	
(10-1 to 4-30)		

Individuals 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 0002991.** Industrial Waste, SIC: 3312, **Bethlehem Steel Corporation**, 1170 Eighth Avenue, Bethlehem, PA 18016-7699.

This application is for renewal of an NPDES permit to discharge treated cooling water, stormwater and groundwater from Johnstown Plant in City of Johnstown, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Conemaugh River, Little Conemaugh River, Hinckstown Run, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Saltsburg Municipal M.W., located at 308 Point Street, Saltsburg, PA 15681, 49 miles below the discharge point.

*Outfall 309:* existing discharge, design flow of 0.85 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

*Outfalls 119, 305, 308, 310, 310A, 311A, 312A, 312B, 313, 313A, 313B, 314, 314A, 315, 401—405, 405A—E, G, and H, 406, 501—504A and B, 505—523, 801—805, 1000—1001:* existing discharge, design flow varies.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
The discharge via these outfalls shall consist of uncontaminated stormwater/groundwater only.					

The EPA waiver is in effect.

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

**PA 0221244.** Industrial Waste, SIC: 3312, **Salem Tube, Inc.**, 951 Fourth Street, Greenville, PA 16125.

This application is for renewal of an NPDES Permit, to discharge contact and noncontact cooling water and stormwater to an unnamed tributary to Big Run 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 Reynolds Water Company on Big Run located approximately 0.6 mile below point of discharge.



The proposed discharge limits for Outfall No. 001 based on a design flow of 0.0122 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
Total Suspended Solids	13.7	36	36
Oil and Grease		8.8	30
Trichloroethylene (Interim)*	0.29	0.58	0.73
Trichloroethylene (Final)*	0.15	0.3	0.38
pH	6.0 to 9.0 at all times		

\*—Refer to Special Condition 4.

1. Final water quality based effluent based limitation for Trichloroethylene.
2. Requirement to submit a Toxic Reduction Evaluation.
3. Conditions for future permit modification.
4. Procedures for granting time extensions to achieve final water quality based effluent limitations.
5. Procedures for demonstrating alternative method detection limits.

The EPA waiver is in effect.

**PA 0027120.** Sewage. **City of Warren**, 2 Harmar Street, Warren, PA 16365.

This application is for renewal of an NPDES Permit to discharge treated sewage to the Allegheny River in the City of Warren, **Warren 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 Emlenton Water Company on the Allegheny River located at Emlenton, approximately 95 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 4.25 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
TSS	30	45	60
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		
Total Residual Chlorine	0.69		2.2
Acute Whole Effluent Toxicity (Interim) (Final)			XX 1.0 TU <sub>A</sub>
pH	6.0—9.0 at all times		

The EPA waiver is not in effect.

### Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

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

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

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

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

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

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0082511	Roxburg Holiness Camp, Inc. P. O. Box 28 Roxbury, PA 17251	Franklin County Letterkenny Township	Conodoguinet Creek	TRC
PA0086673	Marklesburg Authority P. O. Box 24 James Creek, PA 16657-0024	Huntingdon County Marklesburg Borough	UNT to James Creek	TRC
PA0046221	Newville Borough Water and Sewer Authority 99 Cove Alley Newville, PA 17241	Cumberland County Newville Borough	Big Springs Creek	TRC
PA0087050	Licking Creek Home Owners Association 15811 Crabbs Branch Way Rockville, MD 20855-2635	Franklin County Montgomery Township	Licking Creek	TRC

### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

#### Applications under the Pennsylvania Clean Streams Law

##### (Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan or action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

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

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

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

**A. 2100403.** Sewage, submitted by **Carlisle Suburban Authority**, 240 Clearwater Drive, Carlisle, PA 17013-1185 in North Middleton Township, **Cumberland County** to construct the West End Satellite Sewage Treatment Plant was received in the Southcentral Region on December 21, 2000.

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

**WQM No. 5300401.** Sewerage. **Harrison Township Supervisors**, P. O. Box 92, Harrison Valley, PA 16927. Application submitted by Harrison Township Supervisors for wastewater collection and treatment project. The project will include the installation of approximately 50,000 L.F. of sewage collection lines. Part II application was received December 4, 2000, at the Northcentral Regional Office of the Department of Environmental Protection in Williamsport.

**WQM No. 1991401 Amendment.** Sewerage. **Hemlock Municipal Sewer Cooperative**, P. O. Box 243, Bloomsburg, PA 17815. The project consists of upgrading sewage treatment plant capacity. It also involves dewatering device. The application was received December 22, 2000, at the Northcentral Regional Office of the Department of Environmental Protection in Williamsport.

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

**WQM Permit No. 4300417.** Sewage, **Dean C. Gosnell**, 53 Werner Road, Greenville, PA 16125. This project is for the construction of a Single Residence Sewage Treatment Plant in Sugar Grove Township, **Mercer 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. The proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment 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 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-G453.** Stormwater. **S & S Development**, 1155 West Lancaster Avenue, Suite 212, Berwyn, PA 19312, has applied to discharge stormwater from a construction activity located in Tredyffrin Township, **Chester County**, to Valley Creek (EV).

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

*Luzerne County Conservation District, District Manager, Smith Pond Road, P. O. Box 250, Lehman, PA 18627-0250, (570) 674-7991.*

**NPDES Permit PAS10R037.** Stormwater. **Lake Lehman School**, Kathleen Williams, P. O. Box 38, Twp. Rd. 361, Lehman, PA 18627, has applied to discharge stormwater from a construction activity located in Lehman Township, **Luzerne County**, to Harveys Creek.

*Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

**NPDES Permit PAS10S057-1.** Stormwater. **Pocono International Raceway, Inc.**, P. O. Box 500, Long Pond, PA 18334, has applied to discharge stormwater from a construction activity located in Tunkhannock Township, **Monroe County**, to Long Pond Tunkhannock Creek, HQ-CWF.

*Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

**NPDES Permit PAS10S096.** Stormwater. **Arsha Vidya Gurukulam**, at Faulstick Rd., Arsha Vidya Pitham, Old Hwy. 115, P. O. Box 1059, Saylorsburg, PA 18353-1059, has applied to discharge stormwater from a construction activity located in Ross Township, **Monroe County**, to McMichaels Creek, HQ-CWF and Aquashicola Creek, HQ-CWF, MF.

*Pike County Conservation District, District Manager, HC 6, Box 6770, Hawley, PA 18428, (570) 226-8220.*

**NPDES Permit PAS10V033.** Stormwater. **Home Depot USA, Inc.**, 3096 Hamilton Blvd., S. Plainfield, NJ 07080, has applied to discharge stormwater from a construction activity located in Milford Township, **Pike County**, to Sawkill Creek, EV.

*Northampton County Conservation District, District Manager, Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

**NPDES Permit PAS10U143.** Stormwater. **Richard Thulin**, Eastupland Assoc., 54 S. Commerce Way, Suite 175, Bethlehem, PA 18017, has applied to discharge stormwater from a construction activity located in Hanover Township, **Northampton County**, to Monocacy Creek, HQ-CWF.

## SAFE DRINKING WATER

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

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

**A. 1500511.** Public Water Supply. **Community Management, Inc.**, 211 North Dual Highway F-38, Laurel, DE 19956. This proposal involves the installation of a caustic soda feed system for corrosion control at the Imperian Mobile Home Park water supply system in West Caln Township, **Chester County**.

*Northeast Regional Office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Minor Amendment.** Public Water Supply. **Lehigh Township Municipal Authority**, 1069 Municipal Road, Walnutport, PA 18088, Neil Minnich, Chairperson. This proposal involves a waterline extension from the Cheryville system to Treichlers. It is located in Lehigh Township, **Northampton County**. Engineer: Amy Kunkel, PE, Spotts, Stephens & McCoy.

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

**Minor Amendment.** The Department has received a permit application from **Hughesville Borough Water Company**, 147 S. 5th Street, Hughesville, PA 17737-1803, Hughesville Borough, Wolf Township, **Lycoming County**. The application is for construction of caustic soda feed equipment at Hughesville's Wells 101 and 102, in order to raise pH in the water distribution system. The work will require construction of a separate pH adjustment equipment room at each well to house metering pump, containment facilities, and drums of 25% caustic soda solution.

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

**0200505. Fox Chapel Authority**, 255 Alpha Drive, Pittsburgh, PA 15238-2944. Replacement of an existing welded steel water storage reservoir with a bolted steel water reservoir serving Fox Chapel Borough, **Allegheny 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 or 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 of Environmental Protection Regional Office under which the

notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Eugene Lecher Property**, Great Bend Township, **Susquehanna County**. Matthew E. Grubb, Geologist, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Notice of Intent to Remediate (on behalf of his client, Eugene Lecher, R. D. 1, Susquehanna, PA 18821) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with kerosene. The applicant proposes to remediate the site to meet the Statewide health standard. A Final Report was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notice.

## SOLID AND HAZARDOUS WASTE REQUEST FOR PROPOSALS FOR MUNICIPAL SOLID WASTE CAPACITY

The following notices are placed through the Department of Environmental Protection (Department) as required by section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. § 4000.502(d)).

### **Jefferson County Solid Waste Authority Brookville, Pennsylvania**

#### **Request for Proposals (RFP) for Municipal Solid Waste Disposal Services**

In accordance with section 272 of the PA Solid Waste Rules and Regulations (as amended), the County of Jefferson has determined that waste disposal capacity for municipal solid waste (MSW) including construction/demolition waste (C/D) and municipal sewage sludge generated within the County is required for a minimum of 5 years and a maximum of 10 years. The County is hereby soliciting proposals for disposal of county generated MSW to begin on January 8, 2001.

Sealed proposals will be received by the Jefferson County Solid Waste Authority c/o Jefferson County Department of Development, 155 Main Street, 2nd Floor, Brookville, PA 15825 until 4 p.m. on February 23, 2001. The Jefferson County Solid Waste Authority will publicly open all proposals 9 a.m. on February 26, 2001, at the Jefferson County Department of Development Office.

Copies of the RFP may be purchased on or after January 8, 2001, only from the Jefferson County Solid Waste Authority, 155 Main Street 2nd Floor, Brookville, PA 15825, (814) 849-3047 by pre-payment of a non-refundable amount of \$50 per proposal. Make checks payable to Jefferson County Solid Waste Authority.

All proposals must be made on the Proposal Form and be in accordance with the Instructions to Proposers contained in the RFP. The proposer is required to submit one original and three copies of the Proposal to the Jefferson County Solid Waste Authority at the address listed. Envelopes containing the proposals must be sealed and clearly labeled to show the name and address of the proposer, the statement, "Proposal for Municipal Solid Waste Disposal Services" and be addressed to Jefferson

County Solid Waste Authority, c/o Jefferson County Department of Development, 155 Main Street 2nd Floor, Brookville, PA 15825, Attention: Donna J. Cooper, Solid Waste/Recycling Coordinator.

Jefferson County Solid Waste Authority reserves the right to reject any or all proposals, to waive any irregularities and/or informalities in any proposal and to make an award in any manner, consistent with applicable laws, which is deemed to be in the best interest of the County.

## 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 receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice, and must file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. 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.

Persons with a disability who wish to comment and require an auxiliary aid, service, or other accommodation to participate should contact the Regional Office identified below. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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) and 25 Pa. Code Chapter 127, Subchapter F (relating to operating permit requirements).

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**40-301-080: SPCA of Luzerne County** (524 East Main Street, Wilkes-Barre, PA 18711-0790) for operation of an animal crematory in Plains Township, **Luzerne County**.

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

**30-00127: MonTec Hydraulics, L.P.** (3 Paisley Industrial Park, Carmichaels, PA 15320) for operation of Electroplating at Carmichaels Plant in Cumberland Township, **Greene County**.

**65-00916: Huntingdon Foam Pittsburgh Corp.** (1298 Slotter Road, Perkasio, PA 18944) for operation of an EPS Moulding Facility in East Huntingdon Township, **Westmoreland County**.

### Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code §§ 127.521 and 127.424, the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V operating permits).

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

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the persons submitting the comments, along with the 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. Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified below. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

**04-000-033: Nova Chemicals, Inc.** (400 Frankfort Road, Monaca, PA 15061-2298) for their thermoplastic resin manufacturing facility at their Beaver Valley Plant in Monaca, **Beaver County**. As a result of the potential levels of VOC emitted from this facility it is a major stationary source as defined in Title I, Part D of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

**63-00110: World Kitchen Inc.** (100 8th Street, Charleroi, PA 15022) for their Charleroi Plant in Charleroi Borough, **Washington County**. The facility's major sources of emissions include two natural gas-fired glass furnaces, which emit major quantities of NO<sub>x</sub> and particulate matter.

#### PLAN APPROVALS

#### Applications Received and Intent to Issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B (relating to plan approval requirements).

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**35-322-005A: Keystone Sanitary Landfill, Inc.** (P. O. Box 249, Dunmore, Pa 18512) for construction of municipal solid waste landfill Phase II and enclosed landfill gas flares. Keystone Sanitary Landfill, Inc. is a major facility subject to Title V permitting requirements and is located in Dunmore and Throop Boroughs, **Lackawanna County**. The VOC emissions from the landfill will be controlled by enclosed landfill gas flares and by conveying the gases to offsite facilities to generate electricity and shall not exceed 50 tons per year. The Plan Approval will contain conditions requiring the source to show compliance with the emission rates. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**41-0006A: Textron-Lycoming** (652 Oliver Street, Williamsport, PA 17701) for construction of three nitriders in the city of Williamsport, **Lycoming County**. Textron-Lycoming claims that the nitriders will emit up to 62.19 tons of ammonia per year.

**41-0006B: Textron Lycoming** (652 Oliver Street, Williamsport, PA 17701) for construction of a copper stripping process in the City of Williamsport, **Lycoming County**. Textron Lycoming claims that the copper stripping process will emit up to 14.25 tons of ammonia per year.

**12-00002A: GKN Sinter Metals, Inc.** (R. R. 2, Box 47, Emporium, PA 15834-9797) for installation of an air cleaning device, an electrostatic precipitator, on a powdered metal parts oil impregnation system at Plant #1 in Shippen Township, **Cameron County**. The oil impregnation system is estimated to emit up to .75 ton of volatile organic compounds per year as well as a negligible amount of particulate matter. This is a Title V facility.

**41-303-009: HRI, Inc.** (1750 West College Avenue, State College, PA 16804-0155) for construction of a batch asphalt concrete plant and associated air cleaning device (a fabric collector) in the City of Williamsport, **Lycoming**

**County**. This plant is subject to Subpart I of the Standards of Performance for New Stationary Sources. HRI, Inc. claims that this plant will emit up to 30.6 tons of particulate matter, 21.96 tons of PM-10 (particulate matter sized below 10 microns), 57.24 tons of carbon monoxide, 61.2 tons of sulfur oxides, 23.4 tons of nitrogen oxides and 18.36 tons of volatile organic compounds per year. The Department has however determined that the emission of sulfur oxides has been underestimated and that a potential exists for sulfur oxide emissions of up to 177.8 tons per year thereby rendering the plant a Title V facility.

**14-328-001: Allegheny Energy Supply Co., LLC** (Roseytown Road, Greensburg, PA 15601) for construction of two 44 megawatt natural gas/low sulfur #2 fuel oil-fired simple cycle combustion turbines and associated air cleaning devices (water injection systems) in Boggs Township, **Centre County**. These turbines are subject to Subpart GG of the Federal Standards of Performance for New Stationary Sources.

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

**32-00291A: Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650) for operation of bituminous coal processing at Coral Tipple in Burrell Township, **Indiana County**.

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity

permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

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

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

**33950102. Leonard Zenzi** (P. O. Box 62, Anita, PA 15711). Renewal of an existing bituminous surface strip and auger operation in Knox Township, **Jefferson County** affecting 68.0 acres. Receiving streams: Sandy Lick Creek. Application received December 18, 2000.

**33940110. D. J. & W. Mining, Inc.** (P. O. Box 425, Indiana, PA 15701). Renewal of an existing bituminous surface strip operation in Oliver Township, **Jefferson County** affecting 16.5 acres. Receiving streams: Unnamed tributary to Big Run to Big Run. Application for reclamation only. Application received December 18, 2000.

**10803018. Western Hickory Coal Co., Inc.** (R. R. 2, Box 2139, Wampum, PA 16157). Renewal of an existing bituminous surface strip and auger operation in Venango Township, **Butler County** affecting 509.9 acres. Receiving streams: Three unnamed tributaries of Seaton Creek. Application for reclamation only. Application received December 21, 2000.

**24950102. Fairview Coal Company** (P. O. Box R, Ridgway, PA 15853). Renewal of an existing bituminous surface strip and beneficial use operation in Ridgway Township, **Elk County**, affecting 105.0 acres. Receiving streams: Unnamed tributary of Little Mill Creek and Little Millcreek. Application received December 22, 2000.

**33900118. McKay Coal Company, Inc.** (R. R. 2, Templeton, PA 16259) Renewal of an existing bituminous surface strip and auger operation in Clover Township, **Jefferson County** affecting 117.5 acres. Receiving streams: Unnamed tributary to Redbank Creek and Unnamed tributary to Sampson Run to Sampson Run. Application for reclamation only. Application received December 22, 2000.

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

**30001301. Dana Mining Co. of PA, Inc.** (P. O. Box 1209, Morgantown, WV 26507), to operate the Crawdad Portal B Mine in Dunkard and Perry Townships, **Greene County** to operate a new deep mine, no additional discharges. Application received November 17, 2000.

**03950701. Canterbury Coal Co.** (R. D. 1, Box 119, Avonmore, PA 15618), to renew the permit for the Refuse Area No. 6 in Kiskiminetas Township, **Armstrong County** to renew the existing refuse and NPDES permit, no additional discharges. Application received December 4, 2000.

**03871302. DLR Mining, Inc.** (3065 Airport Rd., Indiana, PA 15701), to revise the permit for the Triple K No. 1 Deep Mine in Burrell Township, **Armstrong County** to revise the existing permit to add eight acres of underground area and eight acres to the subsidence control boundary, no additional discharges. Application received December 11, 2000.

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

**54950201R. Gilberton Coal Company** (P. O. Box 423, Gilberton, PA 17934), renewal of an existing anthracite coal refuse reprocessing operation in Butler Township, **Schuylkill County** affecting 15.0 acres, receiving stream—none. Application received December 12, 2000.

**54851319R3. K & C Coal Company** (540 Centre Street, Ashland, PA 17921), renewal of an existing anthracite underground mine operation in Porter Township, **Schuylkill County** affecting 7.9 acres, receiving stream—Rausch Creek. Application received December 12, 2000.

**54951303R. International Anthracite Corporation** (R. R. 1, Box 114, Hegins, PA 17938), renewal of an existing anthracite underground mine operation in Hegins Township, **Schuylkill County** affecting 73.0 acres, receiving stream—Good Spring Creek. Application received December 12, 2000.

**40663033R3. Jeddo-Highland Coal Company** (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing anthracite surface mine operation in Butler and Foster Townships, **Luzerne County** affecting 1515.0 acres, receiving stream—none. Application received December 14, 2000.

**54773005R3. Reading Anthracite Company** (P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in St. Clair Borough, Blythe and East Norwegian Townships, **Schuylkill County** affecting 2108.0 acres, receiving stream—none. Application received December 15, 2000.

**54851325R3. B & B Anthracite Coal Co.** (225 Main Street, Joliett, PA 17981-1307), renewal of an existing anthracite underground mine operation in Tremont Township, **Schuylkill County** affecting 8.0 acres, receiving stream—none. Application received December 26, 2000.

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

*Noncoal Applications Received*

**65900402. Pioneer Mid-Atlantic, Inc.** (400 Industrial Boulevard, New Kensington, PA 15068). NPDES Renewal Application received for continued operation and reclamation of a large noncoal (limestone quarry) surface mining operation located in Derry Township, **Westmoreland County**, affecting 754 acres. Receiving streams: un-

named tributaries to both and including Harbridge Run and Tannery Hollow. Application received: December 14, 2000.

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

**4975SM4A1C4. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0594971 in Mt. Pleasant Township, **Adams County**, receiving stream—unnamed tributary to Conewago Creek. Application received December 12, 2000.

**6478NC3C3. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0123218 in Oxford Township, **Adams County**, receiving stream—unnamed tributary to South Branch Conewago Creek. Application received December 26, 2000.

**7574SM5A3C7. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0613711 in Dickinson Township, **Cumberland County**, receiving stream—unnamed tributary to Yellow Breeches Creek. Application received December 26, 2000.

**7574SM5A3C7. Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104), renewal of NPDES Permit No. PA0613711 in Dickinson Township, **Cumberland County**, receiving stream—unnamed tributary to Yellow Breeches Creek. Application received December 26, 2000.

**58900303C3. Cecil Kilmer** (R. R. 1, Box 1130, Nicholson, PA 18446), renewal of NPDES Permit No. PA0595004 in New Milford Township, **Susquehanna County**, receiving stream—Beaver Creek. Application received December 27, 2000.

#### ABANDONED MINE RECLAMATION

##### Office of Mineral Resources Management, as Required by Act 181, Approved October 12, 1984

*Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105-8476.*

Under Act 181 of 1984, the Department of Environmental Protection (Department) gives notice of an unsolicited proposal received from RSK Mines to reclaim an abandoned surface mine in Porter Township, Schuylkill County. The Department intends to enter into negotiations with RSK Mines to contract for site reclamation, if funding is available.

The project, CN 99-12 and 13, involves reclamation of a six acre abandoned mine site where bonds were forfeited to the Department under Permit Number MDP #54881302 and #54931106.

RSK Mines proposes to revegetate 6.0 acres. All areas will be graded to promote surface drainage and provide integration with surrounding unmined areas.

All interested parties should send comments to Richard L. Joyce, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA no later than 4 p.m., February 5, 2001.

#### APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

##### ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval, and requests for water quality certification have

been received by the Department of Environmental Protection (Department). Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311 — 1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E40-514. Encroachment. MC Development Company**, 1902 Wyoming Avenue, Forty Fort, PA 18704. To place fill in approximately 0.41 acre of wetlands and within the floodway of Espy Run and a tributary to Espy Run (CWF), for the purpose of constructing a 104-unit residential development known as Lexington Terrace. The project includes sanitary and stormwater utility line crossings of wetlands and/or the floodway of Espy Run, and a stormwater outfall to Espy Run which has been authorized under the Department's General Permit BDWM-GP-4. The project is located on the east side of Kosciuszko Street, approximately 0.4 mile north of Middle Road (S. R. 2008) (Wilkes-Barre West, PA Quadrangle N: 13.3 inches; W: 15.6 inches), City of Nanticoke, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers).

**E40-561. Encroachment, Brookhill Association**, P. O. Box AJ, Conyngham, PA 18219. To relocate and stabilize a 150-foot reach of a tributary to Little Nescopeck Creek (CWF), for the purpose of addressing erosion of the embankment of a non-jurisdictional dam (Brookhill Lake). The project includes removal of approximately 120 linear feet of gravel bar, installation of R-5 riprap stabilization, along the left bank/dam embankment, and installation of a rock channel deflector. The project will impact a de minimis area of wetlands less than or equal to 0.05 acre. The project is located to the south of Brookhill Road, approximately 2,000 feet west of S. R. 0093, Conyngham, PA Quadrangle N: 21.3 inches; W: 10.5 inches), Conyngham Borough, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers).

**E52-169. Encroachment. Samall Associates, Inc.**, P. O. Box 927, Milford, PA 18337. To construct and maintain a 36-inch stormwater outfall structure along a tributary to the Delaware River (HQ-CWF), associated with the construction of Section III of the Milford Landing Planned Residential Community. The project is located on the south side of Interstate 84, approximately



0.7 mile west of Interchange 11 (Port Jervis South, NY-NJ-PA Quadrangle N: 17.9 inches; W: 14.5 inches), Westfall Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

**E58-238.** Encroachment. **Hallstead Plaza Properties**, P. O. Box 416, Hallstead, PA 18822. To place fill in approximately 0.5 acre of wetlands for the purpose of expanding an existing residential apartment complex. The project is located on the west side of S. R. 0011, immediately north of the intersection of S. R. 0011 in S. R. 0171, (Great Bend, PA-NY Quadrangle N: 17.1 inches; W: 16.2 inches), Great Bend Borough and Great Bend Township, **Susquehanna County** (Baltimore District, U. S. Army Corps of Engineers).

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

**E01-219.** Encroachment. **James Ross**, DCNR, 435 State Park Road, Schellsburg, PA 15559. To remove a single span timber bridge and to construct and maintain a single span aluminum arch culvert having a span of 12.50 feet and a rise of 5.17 feet in Mountain Creek (HQ-CWF) along with constructing R-6 size riprap rock protection on both stream banks about 40 feet upstream and about 30 feet downstream of the proposed culvert located on a forest trail in Forest District 1, Michaux State Forest (Caledonia Park, PA Quadrangle N: 20.1 inches; W: 0.3 inch) in Menallen Township, **Adams County**.

**E21-317.** Encroachment. **E. Lee Koch**, Carlisle Suburban Authority, 240 Clearwater Drive, Carlisle, PA 17013. To construct and maintain (1) two sanitary sewer line crossings of the Conodoguinet Creek (WWF); a 6-inch diameter force main crossing at the Penn-Del Pump Station, a 6-inch diameter and 4-inch diameter force main crossing at the West End Wastewater Treatment Facility; (2) 10-inch diameter outfall pipe in the Conodoguinet Creek (WWF) at the West End Wastewater Treatment Facility; (3) to construct sanitary sewer line crossings in 1.24 acres of associated wetlands in conjunction with the development of the West End Wastewater Treatment Facility and its sanitary collection system located on the north side of the Conodoguinet Creek (WWF), about 0.6 mile north of the Pennsylvania Turnpike and 1 mile west on SR 0074 (Carlisle, PA Quadrangle N: 17.0 inches; W: 14.8 inches) in North Middleton Township, **Cumberland County**.

**E36-701.** Encroachment. **Lester Houck**, Salisbury Township, 5581 Old Philadelphia Pike, Gap, PA 17527. To remove the existing concrete bridge and to construct and maintain a new bridge having a single span of 36 feet with an underclearance of 7.1 feet over Pequea Creek (HQ-CWF) on Buena Vista Road (T-487) located in Buena Vista Village (Honeybrook, PA Quadrangle N: 3.8 inches; W: 13.9 inches) in Salisbury Township, **Lancaster County**.

**E67-694.** Encroachment. **David Clouser**, North Codorus Township, R. D. 1, Box 1102, Spring Grove, PA 17362. To remove existing twin corrugated metal pipe arch culverts and to construct and maintain two 68-inch by 106-inch elliptical reinforced concrete pipe on Panther Hill Road crossing Tributary No. 2 to the South Branch Codorus Creek (WWF). The purpose of the project is to reduce flooding over the roadway located (Seven Valleys, PA Quadrangle N: 17.0 inches; W: 6.4 inches) in North Codorus Township, **York County**.

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

**E08-365.** Encroachment. **John M. Sullivan**, Bradford County Board of Commissioners, Courthouse, 30 Main Street, Towanda, PA 18848. To remove deteriorated arch members, the upper portions of the abutments and wingwalls and the concrete approach slabs of an existing single span, burr arch through truss bridge with a span of approximately 88 feet 10 inches and a normal waterway opening of 76 feet and to construct and maintain arch members, concrete encasement of existing abutments, concrete approach slabs, truss bearing seat and abutment wall upper portions of the above burr arch through truss bridge. The bridge is located over Browns Creek on T-554 approximately 0.8 mile northeast of Luthers Mills (Ulster, PA Quadrangle N: 6.6 inches; W: 7.3 inches) in Burlington Township, **Bradford County**. Browns Creek is a warm water fisheries stream. The project will not impact wetlands while impacting approximately 30 feet of waterway.

**E17-353.** Encroachment. **Department of Transportation**, Engineering District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830. To realign and maintain the channel of Big Run (Cold Water Fishery); remove an existing structure; and construct, operate and maintain a single cell box culvert to carry S. R. 0053, Section A06 across Big Run to improve public highway safety. The Big Run channel realignment shall be limited to a maximum length of 46-feet that shall include rock stream bank stabilization. The pre-cast reinforced concrete box culvert shall be constructed and maintained with a minimum span of 12-feet, rise of 6-feet and skew of 86 degrees. As proposed, the project does not impact wetlands while impacting a maximum of 170-feet of waterway. The project is located along SR 0053 approximately 1.1-miles west of SR 0970 and SR 0053 intersection (Houtzdale, PA Quadrangle N: 18.7 inches; W: 4.6 inches) in Decatur Township, **Clearfield County**. This permit also authorizes the construction, operation, maintenance and removal of a temporary stream diversion. All construction and realignment activity shall be conducted when Big Run is at maximum seasonal low flow.

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

**E65-770.** Encroachment. **Wal-Mart Inc.**, 2001 S. E. 10th Street, Bentonville, PA 72712-6489. To place and maintain fill in 1.75 acres of wetland located in the watershed of unnamed tributaries to Ninemile Run (WWF) and to relocate and maintain approximately 1,000 feet of the channel of said stream for the purpose of construction of Latrobe Wal-Mart Super Center. The project is located on S. R. 30, just east of S. R. 982 (Derry, PA Quadrangle N: 6.8 inches; W: 16.1 inches) in Unity Township, **Westmoreland County**.

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

**E33-200.** Encroachment. **McCalmont Township**, McCalmont Township Municipal Building, Anita, PA 15711. To remove the existing culvert and to install and maintain twin 48-inch diameter culverts in Turnip Run on T-506 approximately 2 miles south of the Village of Wishaw (Reynoldsville, PA Quadrangle N: 3.35 inches; W: 5.3 inches) in McCalmont Township, **Jefferson County**.

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**ACTIONS**


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**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.

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 Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the 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.

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


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*Permits Issued*

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**NPDES Permit No. PA-0060640.** Sewerage. **Lehman Pike Water and Sewer Company**, P. O. Box 447, Bushkill, PA 18324-0447 is authorized to discharge from a facility located in Lehman Township, **Pike County** to Saw Creek.

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

**Permit No. PA0033065.** Sewerage. **Paul W. Martin**, Palm City Park, 2379 Brandt Road, 2379 Brandt Road, Annville, PA 17003-8849 is authorized to discharge from a facility located in South Annville Township, **Lebanon County** to the receiving waters named Killinger Creek in Watershed 7-D (Swatara Creek).

**Permit No. PA0086088.** Sewerage. **Susan Quigley**, Wooded Acres Homeowners Association, 316 Schubert Road, Bethel, PA 19507 is authorized to discharge from a facility located in Bethel Township, **Berks County** to the receiving waters named Little Swatara Creek in Watershed 7-D (Swatara Creek).

**Permit No. PA0088552.** Sewerage. **David Ober**, 171 Hillcrest Lane, Elizabethtown, PA 17022 is authorized to discharge from a facility located in West Donegal Township, **Lancaster County** to the receiving waters named unnamed tributary of Conewago Creek in Watershed 7-G.

**Permit No. PA0036269.** Sewerage. **Stewartstown Borough Authority**, Six North Main Street, Stewartstown, PA 17363 is authorized to discharge from a facility located in Hopewell Township, **York County** to the receiving waters named Ebaughs Creek in Watershed (Kruetz-Muddy Creek).

**Permit No. PA0021644.** Sewerage. **Duane Grim**, Dover Borough, 46 Butter Road, Dover, PA 17315-1225 is authorized to discharge from a facility located in Dover Borough, **York County** to the receiving waters named Fox Run in Watershed 7-F (Conewago Creek).

**Permit No. 6700415.** Sewage. **Conewago Township Sewer Authority**, 490 Copenhaffer Road, York, PA 17404. This permit approves the construction of Sewers and Appurtenances in Conewago Township, **York County**.

**Permit No. 0600407.** Sewage. **Brush Wellman Corporation**, P. O. Box 973, Reading, PA 19603. This permit approves the construction of Effluent Pipeline in Perry Township, **Berks County**.

**Permit No. 6700414.** Sewage. **Springettsbury Township**, 1501 Mount Zion Road, York, PA 17402. This permit approves the construction of Sewers and Appurtenances in Springettsbury Township, **York County**.

**Permit No. 2900402.** Sewage. **McConnellsburg Sewer Authority**, P. O. Box 681, McConnellsburg, PA 17233. This permit approves the construction of Sewers and Appurtenances in Ayr Township, **Fulton County**.

**Permit No. 5090405, Amendment No. 00-1.** Sewage. **Duncannon Borough Municipal Authority**, 428 North High Street, Duncannon, PA 17020. This permit approves the construction of Sewage Treatment Facilities in Duncannon Borough, **Perry County**.

**Permit No. 3600406.** Sewage. **David Ober**, 171 Hillcrest Lane, Elizabethtown, PA 17022. This permit approves the construction of Sewage Treatment Facilities in West Donegal Township, **Lancaster County**.

**Permit No. 0100407.** Sewage. **White Run Regional Municipal Authority**, 2001 Baltimore Pike, Gettysburg, PA 17325-7068. This permit approves the construction of Sewage Treatment Facilities in Mount Joy Township, **Adams County**.

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

**Permit No. PA0110965.** Sewerage. **Mid Centre County Authority**, P. O. Box 811, Milesburg, PA 16853. Renewal granted to discharge from a facility located at Boggs Township, **Centre County**.

**WQM Permit No. 5500402.** Sewerage. **Patrick Markel**, R. R. 2, Box 227, Middleburg, PA 17842. Permission granted to correct a malfunction of existing septic system, located at Center Township, **Snyder County**.

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

**NPDES Permit No. PA0097306.** Industrial. **Municipal Authority of the Township of Robinson**, P. O. Box

15539, Pittsburgh, PA 15244 is authorized to discharge from a facility located at Robinson Township Water Treatment Plant, Robinson Township, **Allegheny County** to receiving waters named Ohio River.

**NPDES Permit No. PA0217085.** Industrial Waste. **Gautier Steel, LTD**, 80 Clinton Street, Johnstown, PA 15901 is authorized to discharge from a facility located at City of Johnstown, **Cambria County** to receiving waters named Little Conemaugh River.

**NPDES Permit No. PA0217131.** Sewage. **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701 is authorized to discharge from a facility located at the Rossiter STP, Canoe Township,

**Indiana County** to receiving waters named Unnamed Tributary of Canoe Creek.

**Permit No. 5600405.** Sewage. **Raymond Spangler**, 106 Humberson Drive, Somerset, PA 15501. Construction of a single residence sewage treatment plant located in Stonycreek Township, **Somerset County** to serve Raymond Spangler single residence STP.

**Permit No. 0285405-A2.** Sewerage. **Moon Township Municipal Authority**, 1700 Beaver Grade Rd., Suite 200, Moon Township, PA 15108. Modification and operation of a Parallel Force Main located in the City of Moon Township, **Allegheny County** to serve the Moon Township Pump Station.

**INDIVIDUAL PERMITS**

(PAS)

**The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant's Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS10-G424	Hibernia Homes 1009 Telegraph Road Coatesville, PA 19320	West Caln Township Chester County	West Branch Brandywine Creek (HQ, TSF, MF)

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10Q206	Jaindl Land Co. 3150 Coffeetown Rd. Orefield, PA 18069-2511	Lehigh County Upper Macungie Township	Little Lehigh Creek HQ-CWF

*Southcentral Regional Office: Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.*

**PAS-10-4504.** Individual NPDES **PA Dept. of Transportation**, District 2-0, 1924-30, P. O. Box 342, Clearfield, PA 16830. To Implement an Erosion and Sedimentation Control Plan for the construction of the Lewistown By Pass SR 0322/0522 from the Borough of Lewistown to Airport Hill Road at Centre Union Church in Granville Township on 657 acres in Lewistown Borough, Granville and Derry Townships, **Mifflin County**. The project is located along Big Ridge about 0.4 mile north of and parallel with existing SR 0322/0522 (Lewistown, PA Quadrangle N: 16.7 inches; W: 14.8 inches). Drainage will be to UNT to Kishacoquillas Creek and UNT to Juniata River.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10F089	Daniel Hawbaker Grays Woods Partnership 325 West Aaron Dr. State College, PA 16803	Patton and Halfmoon Townships Centre County	Unt. Buffalo and Spruce Creeks

**INDIVIDUAL PERMITS**

(PAR)

**Notice of Intent (NOI) for Coverage under NPDES and/or Other General Permits**

The following parties have submitted (1) Notices of Intent (NOIs) for Coverage under (1) General NPDES Permits to discharge wastewater into the surface of this 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 arrangement made for copying at the contact office noted.

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

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater From Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional 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>
Concord Township Delaware County	PAR10-J189	Percor, c/o Cornerstone Communities Radnor Building, 771 East Lancaster Avenue Villanova, PA 19085	Chester Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Marple Township Delaware County	PAR10-J199	G & D Developers 627 Central Boulevard Broomall, PA 19008 Mariani Excavating 10 Mont Pleasant Dr. Aston, PA 19014	Palmers Run (WWF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Worcester Township Montgomery County	PAR10-T664	Center Square Golf Club 2620 Skippack Pike Center Square, PA	Unnamed Tributary to Stoney Creek	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Upper Merion Township Montgomery County	PAR10-T684	Tresland Properties, LLC 250 Lackland Drive Suite 3, Middlesex, NJ	Schuylkill River (CWF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Skippack Township Montgomery County	PAR10-T607	Bryan Hunsberger 528 Main Street Suite 101 Harleysville, PA	Perkiomen Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130

<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>
Hatfield Township Montgomery County	PAR110-T680	Kenrich Mechanical, Inc. 2049 Stout Drive Ivylnd, PA 18974	UNT to West Branch Neshaminy Creek (WF, MF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Worcester Township Montgomery County	PAR10-T647	Chitwood Estates Company, Inc. 950 West Valley Forge Road King of Prussia, PA	Unnamed Tributary to Wissahickon Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Worcester Township Montgomery County	PAR10-T659	Gambone Brothers Development Company 1030 West Germantown Pike Fairview Village, PA 19409	Unnamed Tributary to Perkiomen Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Bonneauville Borough Adams County	PAR-10-0077	Meadows Limited Partnership 100 N. Patterson Street State College, PA 16801	Chicks Run WWF	Adams County CD 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Butler County Adams Township	PAR10E138	Bookser Property Adams Ridge Inc., II, L.P. 150 Broadhead Road Monaca, PA 15061	Kaufman Run (WWF)	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 (724) 284-5270
Erie County Fairview Township	PAR10K164	The Commons in Fairview, LTD. Suite B-20, 3939 West Ridge Road Erie, PA 16506	Lake Erie (CWF, MF)	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203

*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>
Lancaster County Mount Joy Township	PAR123532	Wenger's Feed Mills, Inc. 101 West Harrisburg Avenue Rheems, PA 17570	UNT to Donegal Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Huntingdon County Porter Township	PAR143507	Mead Consumer and Office Products P. O. Box 317 Alexandria, PA 16611	Frankstown Branch of Juniata River	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Cumberland County Hampden Township	PAR803555	Navy Ship Parts Control Center Naval Support Activity 5450 Carlisle Pike Mechanicsburg, PA 17055-0788	Trindle Spring Run	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<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>
White Deer Township Union County	PAR204827	The New Columbia Joist Company P. O. Box 31, Old Hwy. 15 New Columbia, PA 17856	UNT (Dog Run) to the W. Branch Susquehanna River	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Delaware Township Northumberland County	PAR214809	Central Builders Supply Co. Watsonstown Ready Mix Plt. P. O. Box 152 Sunbury, PA 17801-0152	Unt. to Muddy Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664

*General Permit Type—PAG-4*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Centre Township Snyder County	PAG045101	Patrick Markel R. R. 2, Box 227 Middleburg, PA 17842	UNT to Dry Run W. Branch Susquehanna River	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Somerset County Stonycreek Township	PAG046219	Raymond Spangler 106 Humberson Drive Somerset, PA 15501	UNT to Stony Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-9*

<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>
Montgomery Township Franklin County	PAG-09-3531	S.R. Daley & Sons 4103 West Weaver Road Greencastle, PA 17225		DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

**SEWAGE FACILITIES ACT  
PLAN APPROVAL**

**Plan revision approval granted December 13, 2000  
under the Pennsylvania Sewage Facilities Act (35  
P. S. §§ 750.1—750.20).**

*Regional Office: Water Management Program Manager,  
Southcentral Region, 909 Elmerton Avenue, Harrisburg,  
PA 17110-8200.*

*Location: Washington Township, Berks County.*

Proposed "Village Commons," a manufactured housing land development to include 342 residential units to generate 66,000 gpd tributary to the Washington Township Authority sewage collection, conveyance and treatment system. Collection lines on the property of the development will be privately owned. The project is located on Stauffer Road between Route 100 and Old Route 100 in Washington Township, Berks County. The DEP Code number is A3-06971-103-3 and eFacts APS number is 330375.

The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

**Plan revision approval granted December 21, 2000  
under the Pennsylvania Sewage Facilities Act (35  
P. S. §§ 750.1—750.20).**

*Regional Office: Water Management Program Manager,  
Southcentral Region, 909 Elmerton Avenue, Harrisburg,  
PA 17110-8200.*

*Location: Amity Township, Berks County.*

Project proposes 192 residential lots generating 1280 gallons per day per unit in sewage flows tributary to the Amity Township sewage collection system and sewage treatment facility. The project is located on Pine Lane near the Douglass Township line in Amity Township, Berks County. The DEP Code number is A3-06917-127-3 and eFACTS APS number is 332029.

The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

## 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. 6596504-T1.** Public Water Supply. **Woodland Hills Association, Inc.**, P. O. Box 221, Lakeville, PA 18438, Conrad J. Liss, President. This proposal involves the transfer of permit. It is located in Paupack Township, **Wayne County**. Permit issued on December 6, 2000.

**Permit No. 45898504.** Public Water Supply. **Century Estates III**, George Gasper, Chairperson, Bath Borough Authority, Race and Main Streets, Bath, PA 18014-0037. This proposal involves the construction of a booster pumping station serving Century Estates III. It is located in Bath Borough and East Allen Township, **Northampton County**. Permit issued on December 4, 2000.

**Permit No. 3486466.** Special Permit by Rule. **Glacier Water Services, Inc.**, 2261 Cosmos Court, Carlsbad, CA 92009, Ebbie Hoitt. Vending machine removal/location transfers of machine 108, D&D Market transferred to Laneco 2 Removal of Machine 104 at Laneco 11, **Northampton County**. Permit issued on December 6, 2000.

**Minor Amendment.** Public Water Supply. **Borough of Schuylkill Haven**, 12 West Main Street, Schuylkill Haven, PA 17972, Jan Schaeffer, Water Plant Foreman. Transmission Main Replacement, located in the Borough of Schuylkill Haven, **Schuylkill County**. Permit issued on December 5, 2000.

**Minor Amendment.** Public Water Supply. **Matamoras Municipal Authority**, 304 Pennsylvania Avenue, Matamoras, PA 18336, located in Matamoras Borough, **Pike County**. Permit issued on December 1, 2000.

**Operations permit no. 3540046** issued on December 5, 2000, to **Schuylkill County Municipal Authority**, located in Tremont Borough, **Schuylkill County**.

**Operations permit no. 3480056** issued on December 12, 2000, to **East Allen Township Municipal Authority**, located in East Allen Township, **Northampton County**.

**Operations permit no. 3390024** issued on November 22, 2000 to the **City of Allentown**, located in Allentown, **Lehigh County**.

**Operations permit no. 3480046** issued on November 21, 2000 to **Bethlehem City**, located in Lehigh Township, **Northampton County**.

**Operations permit no. 2400053** issued on December 20, 2000 to **Hex Acres Water Company**, located in Exeter Township, **Luzerne County**.

**Operations permits no. 3390091** issued on December 12, 2000, to **Home Park Associates**, Woodside Mobile Home Park located in North Whitehall Township, **Lehigh County**.

**Operations permit no. 2400049** issued on December 28, 2000, to **Evergreen Estates Mobile Home Park** located in Lake Township, **Luzerne County**.

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

**Permit No. 1400507.** The Department issued a construction/operation permit to **The Pennsylvania State University**, University Park, PA 16802-1118, State College Borough, **Centre County**. This permit authorizes construction modifications and granting the right to operate Well Un-14.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or 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 Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Northeast Regional Field Office: Joseph A. Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**PPL—Distribution Pole No. 64123S48054 (off Airport Road, in shopping plaza)**, City of Allentown, **Lehigh 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 or suspected to have been contaminated with polychlorinated biphenyls (PCBs). The report was submitted to document remediation of the site to meet the Statewide health standard.

**Eugene Lecher Property**, Great Bend Township, **Susquehanna County**. Matthew E. Grubb, Geologist, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Final Report (on behalf of his client, Eugene Lecher, R. D. 1, Susquehanna, PA 18821) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with kerosene. 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.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program.**

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Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act (Act). Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report, and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has acted upon the following plans and reports:

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

**Snow Environmental, Inc.**, Aston Township, **Delaware County**. Brian R. Evans, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on November 15, 2000.

**Avery Dennison-Fasson Roll Division**, Richland Township, **Bucks County**. Ronald F. Carper, Jr., P. G.,

ENSR, 2005 Cabot Blvd. West, Langhorne, PA 19047, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with solvents, BTEX and petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report did not demonstrate attainment of the Statewide health standard and was disapproved by the Department on November 16, 2000.

**Tomlinson Residence**, Warminster Township, **Bucks County**. Brian R. Evans, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on November 17, 2000.

**Kostyk/Robertson Property**, Springfield Township, **Montgomery County**. Richard D. Trimpi Associates, Inc., 889 Seminary Street, Pennsburg, PA 18073, has submitted a Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on November 21, 2000.

**Kathalia Residence**, Upper Southampton Township, **Bucks County**. Brian R. Evans, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with BTEX and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on November 27, 2000.

**Tinicum Industrial Park**, Tinicum Township, **Delaware County**. Dean O. Reed, Viacom, Inc., 11 Stanwix Street, Pittsburgh, PA 15222, has submitted a Remedial Investigation Report Addendum and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, petroleum hydrocarbon and polycyclic aromatic hydrocarbons. The reports were approved by the Department on December 1, 2000.

**PPL Former Distribution Pole No. 68752S35168**, Hatfield Township, **Montgomery County**. Lisa A. Palfey, Environmental Consultant, 1 Scotchpine Drive, Hazleton, PA 18219, has submitted a Final Report concerning remediation of site soil contaminated with PCBs. The report demonstrated attainment of the Statewide health standard and was approved by the Department on December 4, 2000.

**James Armour Site**, City of Philadelphia, **Philadelphia County**. Thomas G. May, P.E., Urban Engineers, Inc., 530 Walnut Street, 14th Floor, Philadelphia, PA 19106-3685, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on December 8, 2000.

**Former Heintz Corp. Property**, Parcel B, City of Philadelphia, **Philadelphia County**. Thomas A. Nowlan, P.E., O'Brien & Gere Engineers, 1777 Sentry Parkway West, Gwynedd Hall, Suite 302, Blue Bell, PA 19422, has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals, solvents, BTEX and polycyclic aromatic hydrocarbons and site groundwater contaminated with solvents and BTEX. The report demonstrated attainment of site-specific standards and was approved by the Department on December 11, 2000.



**Realen Homes**, Middletown Township, **Bucks County**. Joseph W. Standen, Jr., Leggette, Brashears & Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380, has submitted a Final Report concerning remediation of site soil contaminated with BTEX. The report demonstrated attainment of the Statewide health standard and was approved by the Department on December 11, 2000.

**John Quirk Residence**, Bristol Township, **Bucks County**. Brian Holtzhafer, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on December 14, 2000.

**The Orchards Site**, Dublin Borough, **Bucks County**. Darryl D. Borrelli, Manko, Gold & Katcher, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site groundwater contaminated with solvents. The report demonstrated attainment of background standards and was approved by the Department on December 19, 2000.

**Triboro Electric Company**, Doylestown Borough, **Bucks County**. Terrence J. McKenna, Keating Environmental Management, Inc., 479 Thomas Jones Way, Suite 700, Exton, PA 19341, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum hydrocarbons. The report demonstrated attainment of the Statewide health standards and was approved by the Department on December 21, 2000.

**Young Residence**, West Fallowfield Township, **Chester County**. Thomas M. Hippensteal, P.G., Mid-Atlantic Associates, P. A., P. O. Box 1128, North Wales, PA 19477, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with BTEX and petroleum hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on December 27, 2000.

*Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**PPL—Distribution Pole No. 53582N43190 (between Elm and Ann Streets)**, West Pittston Borough, **Luzerne County**. PPL Generation, LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to have been contaminated with polychlorinated biphenyls (PCBs). The report documented attainment of the Statewide health standard and was approved on December 22, 2000.

**PPL—Distribution Pole No. 50404N39448 (Division Street)**, City of Wilkes-Barre, **Luzerne County**. PPL Generation, LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to have been contaminated with polychlorinated biphenyls (PCBs). The report documented attainment of the Statewide health standard and was approved on December 22, 2000.

**Tokarczyk Property** (540 Altamont Boulevard), West Mahanoy Township, **Schuylkill County**. Eric P. Roberts, Principal Engineer, Excalibur Group LLC, 19709 Frederick Road, Suite 440, Germantown, MD 21770 submitted a Final Report (on behalf of Leonard Tokarczyk and George Tokarczyk, North Railroad Avenue, Frackville,

PA 17931) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with gasoline. The report documented attainment of the background standard and was approved on December 21, 2000.

**Voydik Residence**, North Manheim Township, **Schuylkill County**. Andrew W. Meadows, Operations Manager, The Cardinal Group, Inc., P. O. Box 543, 51 East Second Street, Boyertown, PA 19512 submitted a Final Report (on behalf of his client, Francis Voydik, Shady Lane Road, Schuylkill Haven, PA 17972) concerning the remediation of site soils found or suspected to have been contaminated with no. 2 home heating fuel oil. The report documented attainment of the Statewide health standard and was approved on December 21, 2000.

**PPL—Distribution Pole No. 55399N44380 (Smull Street)**, Borough of Old Forge, **Lackawanna County**. PPL Generation, LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to have been contaminated with polychlorinated biphenyls (PCBs). The final report demonstrated attainment of the Statewide health standard and was approved on December 29, 2000.

**PPL—Distribution Pole No. 60337N50512 (Madison Street)**, Jermyn Borough, **Lackawanna County**. PPL Generation, LLC, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to have been contaminated with polychlorinated biphenyls (PCBs). The final report demonstrated attainment of the Statewide health standard and was approved on December 27, 2000.

## SOLID AND HAZARDOUS WASTE

### LICENSE TO TRANSPORT HAZARDOUS WASTE

**Hazardous Waste Transporter License voluntarily terminated 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 hazardous waste.**

*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Environmental Preservation Associates, Inc.**, (t/a USA Lights), 3408 52nd Avenue, Hyattsville, MD 20781; License No. **PA-AH 0596**; license terminated December 15, 2000.

**Seaboard Tank Lines, Inc.**, P. O. Box 166, Dunmore, PA 18512-0166; License No. **PA-AH S238**; license terminated December 14, 2000.

**Amended 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.*

**R. L. Carter Trucking, Inc.**, 8451 S. State Rd. 39, Clayton, IN 46118; License No. **PA-AH 0662**; amended license issued December 19, 2000.

**Stericycle, Inc.**, 111 Domorah Drive, Montgomeryville, PA 18936; License No. **PA-AH 0627**; amended license issued December 22, 2000.

**License 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.*

**Ameritech Environmental Services, Inc.**, P. O. Box 2808, South Portland, ME 04116; License No. **PA-AH 0677**; license issued December 27, 2000.

**Atlantic Environmental Services, L.L.C.**, 506 Pulaski Highway, Joppa, MD 21085; License No. **PA-AH 0676**; license issued December 26, 2000.

**Enviro Waste Solutions, Inc.**, P. O. Box 255, Clayton, NJ 08312; License No. **PA-AH 0675**; license issued December 13, 2000.

**Transwaste, Inc.**, 108A Blacks Road, Cheshire, CT 06410; License No. **PA-AH 0674**; license issued December 12, 2000.

**Culp Petroleum Company, Inc.**, P. O. Box 10815, Rock Hill, SC 29731; License No. **PA-AH 0673**; license issued December 1, 2000.

**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.*

**Clean Harbors Environmental Services**, P. O. Box 859048, Braintree, MA 02185-9048; License No. **PA-AH 0312**; renewal license issued December 26, 2000.

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836-0296; License No. **PA-AH 0104**; renewal license issued December 18, 2000.

**Envirotran, Inc.**, 387 Gore Road, Conneaut, OH 44030; License No. **PA-AH 0543**; renewal license issued December 22, 2000.

**BENEFICIAL USE DETERMINATIONS**

**Registration under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

Registration reissuance under **General Permit No. WMGR011R001. Kellcorp, Inc.**, dba Environmental Compliance Services, 191 Huntz Road, Millersburg, PA 17061. General Permit Number WMGR011 for the processing of spent ethylene glycol base antifreeze, generated in heating and cooling systems, in mobile processing units prior to beneficial use as reconditioned antifreeze. Kellcorp, Inc. was recently acquired by Larry and Chris Fulkroad, who moved the company from Duncannon to the Millersburg location. The Department reissued the registration on January 3, 2001.

**General Permit under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

**General Permit No. WMGR065. Bethlehem Steel Corporation**, 1170 Eighth Avenue, Bethlehem, PA 18016-7699. General Permit Number WMGR065 for beneficial use, in the Northeast Region, of various wastes from steelmaking and foundry operations taken from a remediation site owned by the permittee as construction fill at an adjacent Act 2 remediation site, also owned by the permittee. Only beneficial use of the following types of residual wastes is authorized under General Permit Number WMGR065: refractories, foundry sands, slags, air emission control solids, and the media associated with their excavation. General Permit Number WMGR065 was issued by Central Office on January 3, 2001.

**RESIDUAL WASTE PROCESSING FACILITIES**

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

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

**Permit No. 301338. Barnebey Sutcliffe Corp.**, 835 North Cassady Ave., Columbus, OH 43219. A residual waste transfer station permit was issued to Barnebey Sutcliffe Corp. for their facility located at 1055 Boot Road, Downingtown, PA, in East Caln Township, **Chester County**. The facility is doing business as Waterlink Barnebey Sutcliffe and the activity involves the transfer of spent activated carbon for off-site disposal or regeneration. The permit was issued by the Southeast Region Office on December 27, 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 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**39-310-017: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack PA 19474) for construction and operation of a portable stone crushing plant and associated air cleaning device at 4359 Huckleberry Road in South Whitehall Township, **Lehigh County**.

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

**26-0522: Great Lakes Energy Partners, LLC** (P. O. Box 235, Yatesboro, PA 16263) on December 22, 2000, for construction and operation of an Ajax Model No. DPC280LE, 280 BHP, Natural Gas-fired Compressor Engine in Dunbar Township, **Fayette County**.

**Minor Operating Permit Minor Modifications issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.**

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**41-322-001: Lycoming County Resource Management Services** (447 Alexander Drive, Montgomery, PA 17752) on December 26, 2000, to delete a requirement that a leachate lagoon be covered at the Lycoming County Landfill in Brady Township, **Lycoming County**.

**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F and/or G (relating to operating permit requirements).**

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

**04-00084: Anchor Hocking Specialty Glass Co.** (400 9th Street, Monaca, PA 15061) on December 11, 2000, for their Glass Container Manufacturing Facility at Phoenix Glass Plant in Monaca, **Beaver County**.

**26-00413: Texas Eastern Transmission Corp.—Uniontown Station** (P. O. Box 1642, Houston, TX 77251-1642) on December 29, 2000, in North Union Township, **Fayette County**. The facility's major sources include various compressor engines, generators, and turbines, which emit major quantities of NO<sub>x</sub>.

#### PLAN APPROVALS

**Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B (relating to plan approval requirements).**

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**38-313-037B: Fluoro-Seal, Inc.** (16360 Park Ten Place, Suite 325, Houston, TX 77084) on December 20, 2000, for modification of a batch reactor operation and associated air cleaning devices at 744 Roble Road in Hanover Township, **Lehigh County**.

**40-320-009A: Berwick Industries, Inc.,** (Bomboy Lane and 9th Street, P. O. Box 428, Berwick, PA 18603) on December 28, 2000, for construction of a flexo-graphic press and associated wash station in Salem Township, **Luzerne County**.

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

**03-975A: Armstrong Energy, LLC** (Dominion Energy, P. O. Box 26532, Richmond, VA 23261) on December 7, 2000, for operation of a Gas Turbine/Natural Gas/Heater/Fuel Oil Storage in South Bend Township, **Armstrong County**.

**30-127B: Mon-Tec Hydraulics, LP** (3 Paisley Industrial Park, Carmichaels, PA 15320) on December 20, 2000,

for operation of Electroplating at Carmichaels Plant in Cumberland Township, **Greene County**.

**Plan Approvals Extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.13 (relating to extensions).**

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**41-0007A: Coastal Aluminum Rolling Mills, Inc.** (2475 Trenton Avenue, Williamsport, PA 17701) on December 20, 2000, for operation of a cold aluminum rolling mill (Mill #3) and associated air cleaning device on a temporary basis until April 19, 2001, in the City of Williamsport, **Lycoming County**.

**17-318-018B: Invensys Energy Metering** (P. O. Box 528, DuBois, PA 15801) on December 20, 2000, for operation of three paint spray booths on a temporary basis until April 19, 2001, in the City of DuBois, **Clearfield County**.

**41-303-008: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on December 20, 2000, for operation of a drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) on a temporary basis until April 19, 2001, in Loyalsock Township, **Lycoming County**.

**08-399-047A: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) on December 20, 2000, for operation of two CVD phosphor coaters and associated air cleaning device (a catalytic oxidizer) on a temporary basis until April 19, 2001, in North Towanda Township, **Bradford County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

*Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931-4119.*

*Coal Applications Issued:*

**32980109, Permit Revision. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), to add 16.0 acres to the north end of the existing permit on the John Stilley property to conduct additional mining of the Upper Freeport coal seam on 3.8 acres. The remainder of this 16.0 acre added area will be utilized for support and spoil storage activities resulting in the reclamation of 12.4 acres of abandoned mine lands on the Upper Freeport seam. Total SMP acres go from 300.0 to 316.0 in Center Township, **Indiana County**, receiving stream unnamed

tributaries to Two Lick Creek, application received October 17, 2000, issued December 27, 2000.

**32990108, K.M.P. Associates** (R. R. 2, Box 194, Avonmore, PA 15618), commencement, operation and restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 54.0 acres, receiving stream unnamed tribs. to Whiskey Run (nos. 1 and 2), application received July 19, 1999, permit issued December 22, 2000.

**11850111, Permit Revision, E. P. Bender Coal Company** (P. O. Box 594, Carrolltown, PA 15722), to change the post-mining land use on a portion of the site from forestland to wildlife habitat in Dean Township, **Cambria County**, affecting 160.0 acres, receiving stream unnamed tributary to Brubaker Run and Brubaker Run, application received November 2, 2000, issued December 27, 2000.

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

**02-00-01. MGS General Contracting, Inc.** (330 Little Summit Road, Dunbar, PA 15431). No Cost Government Financed Construction Contract issued for the removal and reclamation of an entire abandoned coal refuse deposit located in Munhall Borough, **Allegheny County**, affecting 2.1 acres. Receiving streams: West Run to Monongahela River. Application received: August 16, 2000. Contract issued: December 20, 2000.

**65960101R. Amerikohl Mining, Inc.** (Central PA Division, P. O. Box 427, Top of 3 Mile Hill, Acme, PA 15610). Renewal issued for continued reclamation only of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 11.5 acres. Receiving streams: Union Run. Application received: October 18, 2000. Reclamation only renewal issued: December 20, 2000.

*Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.*

**17960125. Moravian Run Reclamation Co., Inc.** (605 Sheridan Drive, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a Change in Land Use from forestland to wildlife habitat. The permit is located in Beccaria Township, **Clearfield County** and affects 110 acres. Receiving streams: unnamed tributaries to Muddy Run and Muddy Run. Application received October 27, 2000. Permit issued December 18, 2000.

**17940101. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), transfer of an existing bituminous surface mine permit from E. P. Bender Coal Co., Inc., located in Beccaria Township, **Clearfield County** affecting 53 acres. Receiving streams: unnamed tributary to Muddy Run, Muddy Run, Clearfield Creek, West Branch Susquehanna River. Application received February 11, 2000. Permit issued December 13, 2000.

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

**43793003. Rusnak Coal Company** (R. D. 1, Box 44, Grove City, PA 16127) Revision to an existing bituminous strip and auger to change the post-mining land use from cropland to developed water resources on a portion of the Marie K. Rusnak property in Wolf Creek Township, **Mercer County**. Receiving streams: Unnamed tributary to Black Run. Application received: September 13, 2000. Permit Issued: December 18, 2000.

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

**03871302. DLR Mining, Inc.** (3065 Airport Rd., Indiana, PA 15701), to revise the permit for the Triple K No. 1 in Burrell Township, **Armstrong County** to revise the existing permit to add 712 acres to the underground permit area and 638 acres to the subsidence control plan boundary, no additional discharges. Permit issued December 15, 2000.

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

**49861311R2. AL Coal Co.** (672 Bear Valley Avenue, Shamokin, PA 17872), renewal of an existing anthracite underground mine operation in Zerbe Township, **Northumberland County** affecting 1.4 acres, receiving stream—none. Renewal issued December 18, 2000.

**40840206R3. Northampton Fuel Supply Co., Inc.** (7500 Old Georgetown Road, 13th Floor, Bethesda, MD 20814-6161), renewal of an existing coal refuse reprocessing operation in Plain Township, **Northumberland County** affecting 126.9 acres, receiving stream—none. Renewal issued December 18, 2000.

**49871601T2. Calvin V. Lenig Coal Prep & Sales, Inc.** (R. R. 1, Box 330, Shamokin, PA 17872), transfer of an existing anthracite coal preparation plant operation in Little Mahanoy Township, **Northumberland County** affecting 3.2 acres, receiving stream—none. Transfer issued December 28, 2000.

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

*Small Noncoal (Industrial Minerals) Permits Issued*

**37002801. William H. Mayberry** (R. D. 1, Box 155, New Castle, PA 16101) Commencement, operation and restoration of a small noncoal sand & gravel operation in North Beaver Township, **Lawrence County** affecting 16.6 acres. Receiving streams: None. Application received: July 31, 2000. Permit Issued: December 19, 2000.

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

*Small Noncoal (Industrial Mineral) Permits Issued*

**40002805. Tom L. Bower** (274 Moore's Hill Road, Berwick, PA 18603), commencement, operation and restoration of a small quarry operation in Salem Township, **Luzerne County** affecting 3.0 acres, receiving stream—none. Permit issued December 20, 2000.

**64002803. Middle Creek Quarry** (R. R. 2, Box 361, Hawley, PA 18428), commencement, operation and restoration of a small quarry operation in Palmyra Township, **Wayne County** affecting 5.0 acres, receiving stream—none. Permit issued December 22, 2000.

**64000803. Paul R. Gustin** (Box 105, Preston Park, PA 18455), commencement, operation and restoration of a small quarry operation in Preston Township, **Wayne County** affecting 2.0 acres, receiving stream—Equinunk Creek. Permit issued December 22, 2000.

**58000853. Darwin R. Greene** (R. R. 3, Box 181, Susquehanna, PA 18847), commencement, operation and restoration of a small bluestone quarry operation in

Jackson Township, **Susquehanna County**, affecting 5.0 acres, receiving stream—South Branch Canawacta Creek. Permit issued December 29, 2000.

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

*Noncoal (Industrial Minerals) Permits Issued*

**3474SM46. Collier Stone Company** (80 Noblestown Road, Pittsburgh, PA 15106). NPDES renewal issued for a large noncoal surface mining site located in Collier Township, **Allegheny County**, affecting 34.5 acres. Receiving streams: Scotts Run and Robinson Run. Application received: July 26, 2000. NPDES Renewal issued: December 18, 2000.

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

*Noncoal Permits Issued*

**43950302. Atlantic States Materials of PA, Inc.** (P. O. Box 269, Mercer, PA 16137) Renewal of NPDES No. PA0227030, East Lackawannock Township, **Mercer County**. Receiving streams: Unnamed tributary to Beaver Run. Application Received: December 4, 2000. Permit Issued: December 20, 2000.

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

**8074SM2C2. Highway Materials, Inc.**, (1750 Walton Road, Blue Ball, PA 19422-0465), correction to an existing quarry operation for an incidental boundary correction and update to NPDES Permit No. PA0012904 in Whitmarsh Township, **Montgomery County** affecting 346.85, receiving stream—Lorraine Run. Correction issued December 18, 2000.

**7775SM11A2C3. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit No. PA0595101 in Lower Heidelberg Township, **Berks County**, receiving stream—unnamed tributary to Caocosing Creek. Renewal issued December 27, 2000.

## ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

The Department of Environmental Protection (Department) has taken the following actions on previously received Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (*Note:* Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

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

**E06-541. Encroachment. Brush Wellman, Inc.**, P. O. Box 973, Reading, PA 19603. To construct and maintain a 15-inch diameter effluent line and outfall at the left bank of Schuylkill River and its associated floodway, wetlands and its unnamed tributary and to remove four outfalls at the left bank of the unnamed tributary. The effluent line and outfall are located at a point about 2,400 feet downstream of FAS 06174; thence, towards east about 900 feet southeast of the PA 61 and SR 4032 overpass (Temple, PA Quadrangle N: 20.74 inches; W: 13.34 inches and N: 20.9 inches; W: 12.2 inches respectively) in Perry Township, **Berks County**. This permit also includes 401 Water Quality Certification.

**E06-545. Encroachment. Eisenhauer Nissan Saab, Inc.**, 6371 Penn Avenue, Wernersville, PA 19565. To maintain the resurfacing of an existing asphalt parking lot of the Eisenhauer Nissan Saab, Inc. within the left bank's 100-year floodway of Manor Creek (TSF) located downstream of US 422 Bridge (Sinking Spring, PA Quadrangle N: 15.38 inches; W: 13.15 inches) in Lower Heidelberg Township, **Berks County**.

**E07-333. Encroachment. PSU—Altoona Campus**, 3000 Ivyside Park, Altoona, PA 16601. To place fill in 0.86 acre of wetlands in conjunction with the construction of an eight lane running track and multi-use athletic field located along Spring Run (WWF) at the Penn State University's Altoona Campus (Altoona, PA Quadrangle N: 7.6 inches; W: 5.3 inches) in Logan Township, **Blair County**. This permit also includes 401 Water Quality Certification.

**E07-335. Encroachment. PennDot 9-0**, 1620 Juniata Street, Hollidaysburg, PA 16648. To remove an existing structure and to construct and maintain a bridge having a span of 31.5 feet and an underclearance of 6.125 feet across the channel of South Dry Run (WWF) at a point at SR 0164-04B (Roaring Springs, PA Quadrangle N: 18.9 inches; W: 10.1 inches) in Freedom Township, **Blair County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E07-338. Encroachment. Charlie Diehl**, Snyder Township, R. D. 3, Box 119, Tyrone, PA 16686. To replace the deck and improve the approaches on an existing structure having a span of 22.5 feet and an underclearance of 9 feet across the channel of Big Fill Run (HQ-CWF) at a point at T-606 for the purpose of improving a deteriorated bridge (Tyrone, PA Quadrangle N: 20.4 inches; W: 9.55 inches) in Snyder Township, **Blair County**. This permit also includes 401 Water Quality Certification.

**E21-314. Encroachment. PA Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106. To construct and maintain the rehabilitation of two bridges (1) the widen-

ing of the deck of bridge, Bridge EM-21, across the Yellow Breeches Creek (CWF), by adding 12.0-foot wide water tables on the bridge and its approaches and an addition of a continuous 10-foot wide median with safety parapets which will result in the extension of the abutments and piers by about 12 feet on the south side of the structure and by about 27 feet on the north side; (2) the construction of a temporary road crossing to be built with (8) 48-inch diameter, 32 foot long corrugated metal culvert pipes with a 1.5 foot minimum cover of R-4 size clean rock fill along with cofferdams constructed with sheet piling around the ends of each bridge pier to facilitate the widening of the piers; (3) to lengthen an existing concrete box culvert, EB-200, having a clear span of 19.25 feet, a rise of 10.0 feet, and a length of 78.0 feet, in an unnamed tributary to the Yellow Breeches Creek (CWF), by 12.39 feet for a total length of 90.39 feet; (4) construct a 1.0 foot thick, 48.0 foot wide, 6.0 foot long gabion channel lining at the outlet of the extension of EB-200; and (5) to temporarily impact about 0.038 de minimis acre of wetlands and to permanently impact about 0.014 de minimis acre of wetlands as part of a 9.02 mile improvement project of the Pennsylvania Turnpike located at Milepost 239.45 between Interchanges 17 and 18 (Lemoyne, PA Quadrangle N: 13.2 inches; W: 6.0 inches and N: 13.2 inches; W: 6.5 inches) in Lower Allen and Fairview Townships, **Cumberland and York Counties** respectively. This permit also includes 401 Water Quality Certification.

**E44-099.** Encroachment. **PA Dept. of Transportation**, Engineering District 2-0, P. O. Box 342, Clearfield, PA 16830. To (1) maintain an existing 524.02 foot long box culvert stream enclosure having a span of 18.0 feet and a rise of 8.0 feet in an unnamed tributary to Kishacoquillas Creek (TSF); (2) construct and maintain two bridges over an unnamed tributary to Kishacoquillas Creek (TSF); Structure 8A, a twin span bridge having clear spans of 114.0 feet and 63.0 feet with an underclearance of 23.0 feet; Structure 10A, a three span bridge having clear spans of 190.0 feet, 157.25 feet, and 120.25 feet with an underclearance of 45.4 feet; (3) place fill in 0.34 acre of the floodplain of the unnamed tributary to Kishacoquillas Creek (TSF); (4) place fill in 0.94 acre of associated wetlands, of which 0.79 acre is permanent and 0.14 acre is temporary; (5) waiver the following: Section A02: SR 3002, Station 605+00 to Station 608+00, place fill in about 475 feet of intermittent stream channel; SR 3002, Station 615+85 to 618+85, right and left, 24-inch, 453 foot long reinforced concrete stream enclosure; SR 3002, Station 605+00 to 605+92 right and left, 24-inch diameter, 147 foot long, reinforced concrete pipe stream enclosure; SR 3002, Station 602+59 to 602+63, right and left, 18-inch diameter, 63 foot long, reinforced concrete pipe stream enclosure; SR 0022, Station 266+0, right and left, 24-inch diameter, 232 foot long, reinforced concrete stream enclosure; SR 0022, Station 274+69, right and left, 24-inch diameter, 230 foot long, reinforced concrete stream enclosure; SR 0022, Station 285+0, right and left, 24-inch diameter, 194 foot long, reinforced concrete stream enclosure; SR 0022, Station 162+30, right and left, 42-inch diameter, 78 foot long, reinforced concrete stream enclosure; Section C02: SR 0322 WB, Station 224+00 right to Station 224+75 left, 33-inch diameter, 240 foot long, corrugated metal pipe stream enclosure; SR 0322 WB, Station 235+00 to 235+80, right and left, extend an existing 100 foot long 4 foot by 6 foot reinforced concrete arch pipe 65 feet both upstream and downstream with a 4 foot by 6 foot concrete box culvert; all as part of the construction of the Lewistown Bypass, SR 0022, Sections A02 and C02, which is located beginning at Electric

Avenue in the Borough of Lewistown for about 4.0 miles west to Centre Union Church in Granville Township (Lewistown and Belleville, PA Quadrangle N: 20.6 inches; W: 10.0 inches and N: 12.4 inches; W: 2.55 inches, respectively) in Derry and Granville Townships, **Mifflin County**. The permittee is required to provide 0.79 acre of replacement wetlands. This permit also includes 401 Water Quality Certification.

**E21-316.** Encroachment. **Lower Allen Township**, 1993 Hummel Avenue, Camp Hill, PA 17011. To construct and maintain an 8-inch diameter PVC pipe in an unnamed Mill Race tributary to the Yellow Breeches Creek (CWF) for the purpose of providing fire protection to the immediate area located about 30 feet from the bridge across the Mill Race on SR 0114 (Lemoyne, PA Quadrangle N: 7.7 inches; W: 4.5 inches) in Lower Allen Township, **Cumberland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E22-420.** Encroachment. **The Honorable Todd Hoover**, 511 Stony Creek Road, Dauphin, PA 17018. To construct and maintain an L-shaped in-ground swimming pool in the floodway of Stony Creek (CWF) as part of the improvements to an existing residential property located on the north side of Stony Creek (CWF) along Stony Creek Road (T-535) about 1.5 miles northeast of Dauphin Borough (Halifax, PA Quadrangle N: 0.4 inch; W: 5.3 inches) in Middle Paxton Township, **Dauphin County**. This permit was issued under section 105.13(e) "Small Projects."

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

**E08-356.** Encroachment. **GTE North**, 19 South Market Street, Selinsgrove, PA 17870. To excavate and to temporarily disturb 0.195 acre in a 18.5 acre palustrine emergent wetland system for the purpose of placing telephone lines serving a water supply tank. The water supply tank will supply fire and domestic flows to the surrounding area and to the Valley Business Park. The project is located approximately 1.5 miles west of the SR 220/SR 4022 intersection, on the north side of SR 4020 Mile Lane Road, (Sayre, PA Quadrangle N: 21"; W: 10.5") in Athens Township, **Bradford County**. Restoration of the temporary road (revoked GP#8) crossing the 18.5 acre wetland is to be accomplished within 60 days after signing this permit.

**E59-404.** Encroachment. **Liberty Township Supervisors**, P. O. Box 6, Liberty, PA 16930. To remove the existing 54" diameter CMP culvert and to construct and maintain a 72" by 100" CMP arch culvert, 70 feet in length, in Brion Creek under T-337 approximately 0.7 mile northwest of SR 414 (Liberty, PA Quadrangle N: 16.9 inches; W: 7.0 inches) in Liberty Township, **Tioga County**. The project will not impact wetlands while impacting approximately 90 linear feet of waterway. Brion Creek is a High Quality—Cold Water Fisheries Stream. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E10-315.** Encroachment. **Western Butler County Authority**, 607 Market Street, P. O. Box 427, Zelenople, PA 16063. To remove the existing Herman Pump Station and to construct and maintain a new pump station wet well,

generator enclosure and other site improvements within the 100-year floodplain of Connoquenessing Creek approximately 75 feet downstream (south) of S. R. 288 along the east bank (Zelienople, PA Quadrangle N: 7.9 inches; W: 3.4 inches) in Zelienople Borough, **Butler County**.

**E24-212.** Encroachment. **Borough of Johnsonburg**, P. O. Box F, Johnsonburg, PA 15845. To maintain the existing Johnsonburg Flood Protection Project constructed by the US Army Corps of Engineers in and along a total reach of approximately 3,200 feet of West Branch Clarion River extending upstream from its confluence with East Branch Clarion River and approximately 1,632 feet of Silver Creek extending upstream from its confluence with West Branch Clarion River in the Borough of Johnsonburg, **Elk County**. Extent of activities includes maintenance of all structures as well as periodic removal of accumulated sediments and debris necessary to maintain the capacity of the channel as constructed and shown in the "As-built" drawings provided by the US Army Corps of Engineers dated June 1, 1956 and January 25, 1957.

**E43-286.** Encroachment. **PA Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. To fill a total of 0.38 acre of seven wetland areas (0.25 acre PEM, 0.01 acre PEM/PFO, 0.02 acre PSS/PFO and 0.10 acre PEM/PSS/PFO) and to extend the existing 5-foot diameter reinforced concrete pipe culvert by 36.6 feet upstream and 35 feet downstream and to maintain the resulting 132-foot long stream enclosure in Pine Hollow Run approximately 1,600 feet north of S. R. 62 (Sharon East, PA Quadrangle N: 20.5 inches; W: 10.3 inches) associated with widening of S. R. 18, Section A01 beginning at the intersection with S. R. 62 Bypass (Sharon East, PA Quadrangle N: 19.0 inches; W: 10.3 inches) and extending north approximately 2.4 miles (Sharpsville, PA Quadrangle N: 2.9 inches; W: 9.6 inches) in the City of Hermitage, **Mercer County**. This project also includes the modification of four existing culverts on watercourses (tributaries to Pine Hollow Run) having contributory drainage areas less than 100 acres. This project includes a monetary contribution to the Pennsylvania Wetland Replacement Project for replacement of 0.38 acre of wetland impacts.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**D15-382.** Dam. **Gerard McKown** (59 South Third Street, Oxford, PA 19363). To modify, operate, and maintain the Brook Crossing Detention Dam across a tributary to Dennis Run (WWF, MF), indirectly impacting 1.4 acres of wetlands (PEM/PSS/PFO) and 540 feet of stream, for the purpose of increasing the storage capacity of the basin. Work includes enlarging the basin, raising the emergency spillway, raising the dam to the original design height, and replacing the riser pipes. (Coatesville, PA Quadrangle N: 14.7 inches; W: 12.6 inches) in East Fallowfield Township, **Chester County**.

#### ENVIRONMENTAL ASSESSMENT

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

##### Environmental Assessment No. EA65-005SW.

**Department of the Army**, Pittsburgh District—Corps of Engineers, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186. To

construct and maintain approximately 100 linear feet of riprap along the left bank of the Kiskiminetas River (WWF). The riprap blanket will be approximately 24 inches thick and 16 feet high. The project site is located near the terminus of 1st Street, (Avonmore, PA Quadrangle N: 5.3 inches; W: 14.0 inches) in the Borough of Avonmore, **Westmoreland County**. The project will affect a de minimis (0.03 acre) amount of wetland.

[Pa.B. Doc. No. 01-33. Filed for public inspection January 12, 2001, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Laboratories Approved to Determine Analyses of Blood and/or Serum for Controlled Substances under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code, and the Game and Wildlife Code

The following laboratories are licensed by the Department of Health under the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and/or the Federal Clinical Laboratory Improvement Act of 1967 (42 U.S.C.A. § 263a) and are currently approved by the Department under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood and/or serum for the determination of controlled substances. This approval is based on demonstrated proficiency in tests conducted by the Bureau of Laboratories of the Pennsylvania Department of Health. These laboratories are also approved and designated for purposes of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance) and the Game and Wildlife Code, 34 Pa.C.S. § 2502 (relating to hunting or furtaking under the influence of alcohol or controlled substance), as qualified to perform the types of services which will reflect the presence of controlled substances or their biotransformation products in blood and/or serum.

Depending upon their capability and performance in proficiency surveys, laboratories are approved to perform screening and/or confirmatory analyses on blood and/or serum. Laboratories approved to perform screening analyses are designated on the approval list by an "S" followed by the letters "B" for blood and/or "Se" for serum. Laboratories approved to screen both blood and serum would therefore have "SBSe" listed after their laboratory name. Laboratories approved to offer confirmatory analyses will be designated on the approval list by a "C" followed by the letters "B" for blood and/or "Se" for serum. Laboratories approved to perform confirmatory analyses on both serum and blood would therefore have "CBSe" listed after the name of their laboratory.

Screening analyses provide a presumptive indication that a controlled substance is present. Confirmatory testing is used to substantiate screening results.

Persons seeking forensic blood and/or serum analysis services from any of the listed laboratories should determine that the laboratory employs techniques and procedures acceptable for the medicolegal purposes. They should also determine that the director of the facility is agreeable to performing analyses for forensic purposes. Persons seeking the analyses are responsible for specifying the extent to which the presence of a controlled



substance is to be verified. That specification should be predicated upon the purpose for which the analysis is being sought.

The list of approved laboratories will be revised semiannually and published in the *Pennsylvania Bulletin*. Questions regarding this list should be directed to M. Jeffery Shoemaker, Ph.D., Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464, ext. 3273.

Persons with a disability who require auxiliary aid service should contact Dr. Shoemaker at V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT & T Relay Service at (800) 654-5984 [TT].

Allegheny County Coroner's Office-SBSe, CBSe  
Division of Laboratories  
10 County Office Building  
Pittsburgh PA 15219  
412-350-6873

American Medical Laboratories, Inc.-SBSe, CBSe  
14225 Newbrook Drive  
Chantilly VA 20153  
703-802-6900

Analytic Biochemistries-SBSe, CBSe  
1680-D Loretta Avenue  
Feasterville PA 19053  
215-322-9210

Clinical Laboratories, Inc.-SBSe, CBSe  
901 Keystone Industrial Park  
Throop PA 18512  
570-346-1759

Dept of Pathology & Lab Med-HUP-SSE, CSe  
3400 Spruce Street  
Philadelphia PA 19104  
215-662-6880

DrugScan, Inc.-SBSe, CBSe  
1119 Mearns Road, P. O. Box 2969  
Warminster PA 18974  
215-674-9310

Good Samaritan Hospital-SSE  
Fourth and Walnut Streets, P. O. Box 1281  
Lebanon PA 17042  
717-270-7500

Guthrie Clinic Pathology Laboratory-SSE  
Guthrie Square  
Sayre PA 18840  
570-888-5858

Health Network Laboratories-SBSe, CBSe  
2024 Lehigh Street  
Allentown PA 18103  
610-402-8150

Lab Corp Occupational Testing Services, Inc.-SBSe, CBSe  
1904 Alexander Drive  
Research Triangle Park NC 27709  
919-549-8263

Lancaster Regional Medical Center-SSE  
250 College Avenue, PO Box 3509  
Lancaster PA 17604  
717-291-8022

MedTox Laboratories, Inc.-SBSe, CBSe  
402 West County Road D  
St. Paul, Minnesota 55112  
612-636-7466

Mercy Health Lab-MFH-SSE  
Lansdowne Avenue and Bailey Road  
Darby PA 19023  
610-237-4262

Mercy Health Lab/MHOP-SSE  
54 and Cedar Avenue  
Philadelphia PA 19143  
215-748-9181

National Medical Services, Inc.-Laboratory-SBSe, CBSe  
3701 Welsh Road  
Willow Grove PA 19090  
215-657-4900

Pennsylvania Department of Health-SBSe, CBSe  
Bureau of Laboratories  
PO Box 500  
Exton PA 19341-0500  
610-280-3464

Pittsburgh Criminalistics-SBSe, CBSe  
1320 Fifth Avenue  
Pittsburgh PA 15219  
412-391-6118

Quest Diagnostics of PA, Inc.-SBSe, CBSe  
875 Greentree Road  
4 Parkway Center  
Pittsburgh PA 15220  
412-920-7600

Quest Diagnostics Venture LLC-SBSe, CBSe  
875 Greentree Road  
Pittsburgh PA 15220  
412-920-7631

Saint Joseph Quality Medical Lab-SBSe, CBSe  
215 North 12th Street, Box 316  
Reading PA 19603  
610-378-2200

Toxi-Con-SB  
201 Smallcombe Drive  
Scranton PA 18508  
570-963-0722

Western Reserve Care System-SBSe, CBSe  
500 Gypsy Lane  
Youngstown OH 44504  
216-740-3794

WVHCS Hospital, Pennant Laboratory-SSE  
575 North River Street  
Wilkes-Barre PA 18764  
570-829-8111

York Hospital-SSE  
1001 South George Street  
York PA 17405  
717-771-2696

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 01-34. Filed for public inspection January 12, 2001, 9:00 a.m.]



**Laboratories Approved to Determine Blood Alcohol Content under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code**

The following laboratories are licensed by the Department of Health under the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the analysis of serum proficiency testing specimens are approved to analyze both serum and plasma. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), and the Game and Wildlife Code, 34 Pa.C.S. § 2502, (relating to hunting or furtaking under the influence of alcohol or controlled substance) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside the Commonwealth may not provide blood and/or serum and plasma alcohol testing services in Pennsylvania unless they are specifically licensed by the Department under the Clinical Laboratory Act.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes, and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised approximately semi-annually and published in the *Pennsylvania Bulletin*.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the U.S. Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464, ext. 3229.

Persons with a disability who require auxiliary aid service should contact Dr. Shoemaker at V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT & T Relay Service at (800) 654-5984 [TT].

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

Abington Memorial Hospital-S  
1200 Old York Road  
Abington PA 19001  
215-576-2350

Advanced Toxicology Network-B  
3560 Air Center Cove, Suite 101  
Memphis TN 38118  
888-290-1150

Albert Einstein Medical Center-Northern Division-S  
5501 Old York Road  
Philadelphia PA 19141  
215-456-6100

Allegheny County Coroner's Office-SB  
Division of Laboratories  
10 County Office Building  
Pittsburgh PA 15219  
412-350-6873

Allegheny General Hospital-Dept. Lab. Medicine-S  
320 East North Avenue  
Pittsburgh PA 15212  
412-359-3521

Allegheny Valley Hospital Laboratory-SB  
1300 Carlisle Street  
Natrona Heights PA 15065  
724-224-5100

Altoona Hospital-SB  
620 Howard Avenue  
Altoona PA 16601  
814-946-2340

American Medical Laboratories, Inc.-SB  
14225 Newbrook Drive  
Chantilly VA 20153  
703-802-6900

Analytic Bio-Chemistries, Inc.-SB  
1680-D Loretta Avenue  
Feasterville PA 19053  
215-322-9210

Armstrong County Memorial Hospital-S  
1 Nolte Drive  
Kittanning PA 16201  
724-543-8122

Associated Clinical Laboratories-SB  
1526 Peach Street  
Erie PA 16501  
814-461-2400

Associated Regional and University Pathologists-S  
500 Chipeta Way  
Salt Lake City UT 84108  
800-242-2787

AUH-Forbes Regional-SB  
2570 Haymaker Road  
Monroeville PA 15146  
412-858-2560

Ayer Clinical Laboratory-Penn Hospital-S  
8th & Spruce Streets  
Philadelphia PA 19107  
215-829-3541

Barnes Kasson County Hospital-S  
400 Turnpike Street  
Susquehanna PA 18847  
570-853-3135

Bon Secours-Holy Family Regional Health-SB  
2500 Seventh Avenue  
Altoona PA 16602  
814-949-4495

Braddock Medical Center-S  
412 Holland Avenue  
Braddock PA 15104  
412-636-5000

Bradford Hospital Laboratory-SB  
116-156 Interstate Parkway  
Bradford PA 16701  
814-834-8282

Brandywine Hospital and Trauma Center-S  
Route 30 Bypass  
Coatesville PA 19320  
610-383-8000

Brownsville General Hospital Laboratory-S  
125 Simpson Road  
Brownsville PA 15417  
724-785-7200

Butler Memorial Hospital-S  
911 East Brady Street  
Butler PA 16001  
724-284-4510

Canonsburg General Hospital-SB  
100 Medical Boulevard  
Canonsburg PA 15317  
724-745-6100

Carlisle Hospital-S  
245 Parker Street  
Carlisle PA 17013  
717-249-1212

Centre Community Hospital-B  
1800 East Park Avenue  
State College PA 16803  
814-234-6117

Chambersburg Hospital-S  
112 North Seventh Street  
Chambersburg PA 17201  
717-267-7152

Charles Cole Memorial Hospital-S  
R.D. #1, Box 205  
Coudersport PA 16915  
814-274-9300

Chester County Hospital-S  
701 East Marshall Street  
West Chester PA 19380  
610-431-5182

Chestnut Hill Hospital-S  
8835 Germantown Avenue  
Philadelphia PA 19118  
215-248-8630

Childrens Hospital of Philadelphia-S  
One Children's Center, 34th and Civic Center Blvd.  
Philadelphia PA 19104  
215-590-1000

Clarion Hospital-SB  
One Hospital Drive  
Clarion PA 16214  
814-226-9500

Clearfield Hospital Laboratory-S  
809 Turnpike Avenue, P. O. Box 992  
Clearfield PA 16830  
814-765-5341

Clinical Laboratories, Inc.-SB  
901 Keystone Industrial Park  
Throop PA 18512  
570-346-1759

Community Hospital-B  
North Fraley Street  
Kane PA 16735  
814-837-4575

Community Hospital of Lancaster-S  
1100 East Orange Street  
Lancaster, PA 17602  
717-397-3711

Community Medical Center-S  
1822 Mulberry Street  
Scranton PA 18510  
570-969-8000

Conemaugh Valley Memorial Hospital-SB  
1086 Franklin Street  
Johnstown PA 15905  
814-534-9000

Corry Memorial Hospital-S  
612 West Smith Street  
Corry PA 16407  
814-664-4641

Crozer-Chester Medical Center-Springfield-S  
190 West Sproul Road  
Springfield PA 19064  
610-328-9200

Crozer Chester Medical Center-S  
1 Medical Center Boulevard  
Upland PA 19013  
610-447-2000

Delaware County Memorial Hospital-S  
501 North Lansdowne Avenue  
Drexel Hill PA 19026  
610-284-8100

Department of Pathology & Lab Med-HUP-SB  
3400 Spruce Street  
Philadelphia PA 19104  
215-662-6880

Doylestown Hospital-S  
595 West State Street  
Doylestown PA 18901  
215-345-2250

DrugScan, Inc.-SB  
1119 Mearns Road, P. O. Box 2969  
Warminster PA 18974  
215-674-9310

DuBois Regional Medical Center-West Unit-S  
100 Hospital Avenue  
DuBois PA 15801  
814-371-2200

Easton Hospital-SB  
250 South 21st Street  
Easton PA 18042  
610-250-4140

Elkins Park Hospital-S  
60 East Township Line Road  
Elkins Park PA 19027  
215-663-6102

Ellwood City General Hospital-S  
724 Pershing Street  
Ellwood City PA 16117  
724-752-0081

Ephrata Community Hospital-S  
169 Martin Avenue, P. O. Box 1002  
Ephrata PA 17522  
717-733-0311

Episcopal Hospital Laboratory-S  
100 East Lehigh Avenue  
Philadelphia PA 19125  
215-427-7333

ERHC Ridgway Laboratory-S  
94 Hospital Street  
Ridgway PA 15853  
814-788-5530

ERHC St. Marys Hospital-B  
763 Johnsonburg Road  
St. Marys PA 15857  
814-788-8525

Evangelical Community Hospital-SB  
1 Hospital Drive  
Lewisburg PA 17837  
570-522-2510

Frankford Hospital Bucks County Campus-S  
380 North Oxford Valley Road  
Langhorne PA 19047  
215-934-5227

Frankford Hospital-Frankford Division-S  
Frankford Avenue and Wakeling Street  
Philadelphia PA 19124  
215-831-2068

Frankford Hospital-Torresdale Division-S  
Red Lion and Knights Road  
Philadelphia PA 19114  
215-612-4000

Frick Hospital-S  
508 South Church Street  
Mount Pleasant PA 15666  
724-547-1500

Fulton County Medical Center-S  
216 South First Street  
McConnellsburg PA 17233  
717-485-3155

Geisinger Medical Center-SB  
North Academy Road  
Danville PA 17822  
570-271-6338

Geisinger Wyoming Valley Medical Center-S  
1000 East Mountain Drive  
Wilkes-Barre PA 18711  
570-826-7830

George Tolstoi Laboratory-Uniontown Hospital-S  
500 West Berkeley Street  
Uniontown PA 15401  
724-430-5143

Gettysburg Hospital-SB  
147 Gettys Street  
Gettysburg PA 17325  
717-334-2121

Gnaden Huetten Memorial Hospital-SB  
Eleventh and Hamilton Streets  
Lehighton PA 18235  
610-377-1300

Good Samaritan Hospital-SB  
Fourth and Walnut Streets, P. O. Box 1281  
Lebanon PA 17042  
717-270-7500

Good Samaritan Regional Medical Center-SB  
700 East Norwegian Street  
Pottsville PA 17901  
570-621-4032

Graduate Hospital-S  
1800 Lombard Street  
Philadelphia PA 19146  
215-893-2240

Grand View Hospital-S  
700 Lawn Avenue  
Sellersville PA 18960  
215-257-3611

Greene County Memorial Hospital-S  
Bonar Avenue  
Waynesburg PA 15370  
724-627-2608

Guthrie Clinic Pathology Laboratory-S  
Guthrie Square  
Sayre PA 18840  
570-888-5858

Hahnemann University Hospital-S  
Broad and Vine Streets, MS 113  
Philadelphia PA 19102  
215-762-1783

Hamot Medical Center-S  
201 State Street  
Erie PA 16550  
814-877-6000

Hanover General Hospital-SB  
300 Highland Avenue  
Hanover PA 17331  
717-637-3711

Harrisburg Hospital Laboratory-SB  
South Front Street  
Harrisburg PA 17101  
717-782-2832

Hazleton General Hospital-SB  
East Broad Street  
Hazleton PA 18201  
717-450-4156

Health Network Laboratories-SB  
2024 Lehigh Street  
Allentown PA 18103  
610-402-8150

Health Network Laboratories-S  
2545 Schoenersville Road  
Bethlehem PA 18017  
610-861-2261

Highlands Hospital-S  
401 East Murphy Avenue  
Connellsville PA 15425  
724-628-1500

Holy Spirit Hospital-SB  
503 North 21st Street  
Camp Hill PA 17011  
717-763-2206

Horizon Hospital System-Greenville Campus-S  
110 North Main Street  
Greenville PA 16125  
724-588-2100

Horizon Hospital System-Shenango Campus-SB  
2200 Memorial Drive  
Farrell PA 16121  
724-981-3500

Indiana Hospital-Department of Lab Medicine-S  
Hospital Road, PO Box 788  
Indiana PA 15701  
724-357-7167

Jameson Memorial Hospital-S  
1211 Wilmington Avenue  
New Castle PA 16105  
724-656-4080

J. C. Blair Memorial Hospital-S  
Warm Springs Avenue  
Huntingdon PA 16652  
814-643-8645

Jeanes Hospital-S  
7600 Central Avenue  
Philadelphia PA 19111  
215-728-2347

Jeannette District Memorial Hospital-S  
Jefferson Avenue  
Jeanette PA 15644  
724-527-3551

Jefferson Regional Health Services, Inc.-Brookville Div.-S  
100 Hospital Road  
Brookville PA 15825  
814-849-2312

Kensington Hospital-S  
136 West Diamond Street  
Philadelphia PA 19122  
215-426-8100

LabOne, Inc.-SB  
10101 Renner Boulevard  
Lenexa KS 66219  
913-888-1770

Lab Corp Occupational Testing Services, Inc.-SB  
4022 Willow Lake Blvd  
Memphis TN 38118  
901-795-1515

Lab Corp. of America Holdings-SB  
69 First Avenue, PO Box 500  
Raritan NJ 08869  
201-526-2400

Lab Corp. of America Holdings-SB  
6370 Wilcox Road  
Dublin OH 43016  
800-282-7300

Lancaster General Hospital-S  
555 North Duke Street, P. O. Box 3555  
Lancaster PA 17603  
717-299-5511

Lancaster General Hospital-Susquehanna Division-S  
306 North Seventh Street  
Columbia PA 17512  
717-684-2841

Lancaster Regional Medical Center-S  
250 College Avenue  
Lancaster PA 17604  
717-291-8022

Latrobe Area Hospital-S  
121 West Second Avenue  
Latrobe PA 15650  
724-537-1550

Lewistown Hospital-B  
Highland Avenue  
Lewistown PA 17044  
717-248-5411

Lock Haven Hospital Laboratory-B  
24 Cree Drive  
Lock Haven PA 17745  
570-893-5000

Main Line Clinical Laboratories-Bryn Mawr-CP-S  
130 Bryn Mawr Avenue  
Bryn Mawr PA 19010  
610-526-3554

Main Line Clinical Laboratories-Lankenau-CP-S  
100 East Lancaster Avenue  
Wynnewood PA 19096  
610-645-2615

Main Line Clinical Laboratories-Paoli Memorial-CP-S  
255 W. Lancaster Avenue  
Paoli PA 19301  
610-648-1000

Marian Community Hospital-S  
100 Lincoln Avenue  
Carbondale PA 18407  
570-281-1042

Meadville Medical Center-Liberty Street-S  
751 Liberty Street  
Meadville PA 16335  
814-336-3121

The Medical Center, Beaver, PA, Inc.-SB  
1000 Dutch Ridge Road  
Beaver PA 15009  
724-728-7000

Medical College of Pennsylvania Hospital-S  
3300 Henry Avenue  
Philadelphia PA 19129  
215-842-7306

MedTox Laboratories, Inc.-SB  
402 West County Road D  
St. Paul Minnesota 55112  
612-636-7466

Memorial Hospital Clinical Laboratory-SB  
325 South Belmont Street, P. O. Box 15118  
York PA 17403  
717-843-8623

Memorial Hospital Lab-SB  
1 Hospital Drive  
Towanda PA 18848  
570-265-2191

Mercy Health Laboratory/Mercy Fitzgerald Hospital-S  
1500 Lansdowne Avenue  
Darby PA 19023  
610-237-4262

Mercy Health Laboratory/Mercy Hospital of  
Philadelphia-S  
5301 Cedar Avenue  
Philadelphia PA 19143  
215-748-9181

Mercy Health Laboratory/Mercy Community Hospital-S  
2000 Old West Chester Pike  
Havertown PA 19083  
610-853-7500

Mercy Health Laboratory/Mercy Suburban Hospital-S  
2701 DeKalb Pike  
Norristown PA 19404  
610-278-2090

Mercy Health Partners-S  
746 Jefferson Avenue  
Scranton PA 18510  
570-348-7100

Mercy Hospital-S  
Pride and Locust Streets  
Pittsburgh PA 15219  
412-232-7831

Mercy Hospital-S  
25 Church Street  
Wilkes-Barre PA 18765  
570-826-3100

Mercy Hospital-Nanticoke-S  
128 West Washington Street  
Nanticoke PA 18634  
570-735-5000

Mercy Providence Hospital Laboratory-S  
1004 Arch Street  
Pittsburgh PA 15212  
412-323-5783

Methodist Hospital Division/TJUH, Inc.-S  
2301 South Broad Street  
Philadelphia PA 19148  
215-952-9059

Meyersdale Community Hospital-S  
200 Hospital Drive  
Meyersdale PA 15552  
814-634-5911

MidValley Hospital-S  
1400 Main Street  
Peckville PA 18452  
570-489-7546

Miners Hospital-S  
290 Haida Avenue  
Hastings PA 16646  
814-948-7171

Monongahela Valley Hospital, Inc.-S  
Country Club Road, Route 88  
Monongahela PA 15063  
724-258-1000

Monsour Medical Center-S  
70 Lincoln Way East  
Jeannette PA 15644  
724-527-1511

Montgomery Hospital Laboratory-S  
Powell and Fornance Streets  
Norristown PA 19401  
610-270-2173

Moses Taylor Hospital-S  
700 Quincy Avenue  
Scranton PA 18510  
570-963-2100

Muncy Valley Hospital-S  
215 East Water Street  
Muncy PA 17756  
570-546-8282

Nason Hospital-B  
Nason Drive  
Roaring Spring PA 16673  
814-224-6215

National Medical Services, Inc.-Laboratory-SB  
3701 Welsh Road  
Willow Grove PA 19090  
215-657-4900

Nazareth Hospital-S  
2601 Holme Avenue  
Philadelphia PA 19152  
215-335-6245

North Penn Hospital-S  
100 Medical Campus Drive  
Lansdale PA 19446  
215-368-2100

Northwest Medical Center-Franklin-SB  
1 Spruce Street  
Franklin PA 16323  
814-437-7000

Ohio Valley General Hospital-S  
Heckel Road  
McKees Rocks PA 15136  
412-777-6244

Omega Medical Laboratories, Inc.-SB  
2001 State Hill Road, Suite 100  
Wyomissing PA 19610  
610-378-1900

PA Department of Health, Bureau of Laboratories-SB  
110 Pickering Way  
Lionville PA 19353  
610-280-3464

PA State Police Lab-Bethlehem-SB  
2932 Airport Road  
Bethlehem PA 18017  
610-861-2103

PA State Police Lab-Erie-SB  
4310 Iroquois Avenue  
Erie, PA 16511  
814-899-8447

PA State Police Lab-Greensburg-SB  
PO Box P, PA State Police  
Greensburg PA 15601  
724-832-3299

PA State Police Lab-Harrisburg-SB  
1800 Elmerton Avenue  
Harrisburg PA 17110  
717-783-5548

PA State Police Lab-Lima-SB  
350 N. Middletown Road  
Media PA 19063  
610-566-9066

PA State Police Lab-Wyoming-SB  
479 Wyoming Avenue  
Wyoming PA 18644  
570-826-2230

Palmerton Hospital-S  
135 Lafayette Avenue  
Palmerton PA 18071  
610-826-3141

Parkview Hospital-S  
1331 East Wyoming Avenue  
Philadelphia PA 19124  
215-537-7430

Philipsburg Area Hospital-SB  
210 Lock Lomond Road  
Philipsburg PA 16866  
814-342-7112

Phoenixville Hospital Laboratory-S  
140 Nutt Road, Department of Pathology  
Phoenixville PA 19460  
610-983-1612

Pinnacle Health/Community General Osteopathic Hospital-S  
4300 Londonderry Road, P. O. Box 3000  
Harrisburg PA 17109  
717-657-7214

Pittsburgh Criminalistics-SB  
1320 Fifth Avenue  
Pittsburgh PA 15219  
412-391-6118

Pocono Medical Center Laboratory-SB  
206 East Brown Street  
East Stroudsburg PA 18301  
570-476-3544

Polyclinic Hospital-S  
2601 North Third Avenue  
Harrisburg PA 17110  
717-782-4141

Pottstown Memorial Medical Center-S  
1600 East High Street  
Pottstown PA 19464  
610-327-7111

Pottsville Hospital and Warne Clinic-SB  
420 South Jackson Streets  
Pottsville PA 17901  
570-621-5262

Presbyterian Medical Center of Phila.-S  
51 North 39th Street, 5th Floor, Room 530  
Philadelphia, PA 19104  
215-662-3435

Punxsutawney Area Hospital-S  
81 Hillcrest Drive  
Punxsutawney PA 15767  
814-938-4500

Quest Diagnostics Clinical Laboratories, Inc.-SB  
400 Egypt Road  
Norristown PA 19403  
610-631-4200

Quest Diagnostics of PA, Inc.-S  
900 Business Center Drive  
Horsham PA 19044  
215-957-9300

Quest Diagnostics of PA, Inc.-SB  
875 Greentree Road  
4 Parkway Center  
Pittsburgh PA 15220  
412-920-7600

Quest Diagnostics Incorporated-SB  
One Malcolm Avenue  
Teterboro NJ 07608  
201-393-5602

Quest Diagnostics Venture, LLC-SB  
875 Greentree Road, 4 Parkway Center  
Pittsburgh PA 15220  
412-920-7631

Reading Hospital and Medical Center-S  
Sixth and Spruce Streets  
Reading PA 19611  
610-988-8080

Riddle Memorial Hospital-S  
Baltimore Pike Highway 1  
Media PA 19063  
610-566-9400

Roxborough Memorial Hospital-S  
5800 Ridge Avenue  
Philadelphia PA 19128  
215-483-9900

Sacred Heart Hospital-S  
Fourth and Chew Streets  
Allentown PA 18102  
610-776-4727

Saint Agnes Medical Center-S  
1900 South Broad Street  
Philadelphia PA 19145  
215-339-4360

Saint Clair Memorial Hospital-S  
1000 Bower Hill Road  
Pittsburgh PA 15243  
412-561-4900

Saint Francis Hospital-S  
1000 South Mercer Street  
New Castle PA 16101  
724-658-3511

Saint Lukes Hospital-S  
801 Ostrum Street  
Bethlehem PA 18015  
610-691-4141

Saint Mary Medical Center-S  
Langhorne-Newtown Road  
Langhorne PA 19047  
215-750-2162

Saint Vincent Health Center-S  
232 West 25th Street  
Erie PA 16544  
814-452-5383

Sewickley Valley Hospital Laboratory-S  
Blackburn Road and Fitch Drive  
Sewickley PA 15143  
412-741-6600

Shadyside Hospital-S  
5230 Centre Avenue  
Pittsburgh PA 15232  
412-622-2315

Sharon Regional Health System-SB  
740 East State Street  
Sharon PA 16146  
724-983-3911

Soldiers & Sailors Memorial Hospital-S  
Central Avenue  
Wellsboro PA 16901  
570-724-1631

Somerset Hospital Laboratory-B  
225 South Center Avenue  
Somerset PA 15501  
814-443-5000

South Hills Health System-Jefferson-S  
575 Coal Valley Road  
Pittsburgh PA 15236  
412-469-5723

Southern Chester County Medical Center-S  
1015 West Baltimore Pike  
West Grove PA 19390  
610-869-1080

Specialty Laboratories-SB  
2211 Michigan Avenue  
Santa Monica CA 90404  
310-828-6543

St. Francis Hospital-Cranberry-S  
One St. Francis Way  
Cranberry Township PA 16066  
724-772-5300

St. Francis Medical Center-S  
400-45th Street  
Pittsburgh PA 15201  
412-622-4838

St. Joseph Quality Medical Laboratory-SB  
215 North 12th Street, Box 316  
Reading PA 19603  
610-378-2200

St. Joseph's Hospital-Div. of NPHS-S  
16th Street and Girard Avenue  
Philadelphia PA 19130  
215-787-9000

St. Lukes Hospital-Allentown Campus-S  
1736 Hamilton Street  
Allentown PA 18104  
610-439-4000

St. Lukes Quakertown Hospital-S  
Eleventh Street & Park Avenue, PO Box 9003  
Quakertown PA 18951  
215-538-4681

Suburban General Hospital-S  
100 South Jackson Avenue  
Bellevue PA 15202  
412-734-6000

Taylor Hospital Division of CCMC-S  
175 East Chester Pike  
Ridley Park PA 19078  
610-595-6450

Temple East, Inc., NE-S  
2301 East Allegheny Avenue  
Philadelphia PA 19134  
215-291-3671

Temple Lower Bucks Hospital Lab-S  
501 Bath Road  
Bristol PA 19007  
215-785-9200

Temple University Hospital-S  
3401 N. Broad Street  
Philadelphia PA 19140  
215-707-4353

Thomas Jefferson University Hospital-S  
125 South 11th Street, 204 Pavillion  
Philadelphia PA 19107  
215-955-6374

Titusville Area Hospital-S  
406 West Oak Street  
Titusville PA 16354  
814-827-1851

Toxi-Con-SB  
201 Smallcombe Drive  
Scranton PA 18508  
570-963-0722

Tyler Memorial Hospital-S  
880 SR6W  
Tunkhannock PA 18657  
570-836-2161

Tyrone Hospital-SB  
Clay Avenue Extension  
Tyrone PA 16686  
814-684-0484

United Community Hospital-S  
631 North Broad Street Ext.  
Grove City, PA 16127  
724-458-5442

University of Pittsburgh Medical Center/Beaver Valley-SB  
2500 Hospital Drive-Pathology Dept.  
Aliquippa PA 15001  
724-857-1238

University of Pittsburgh Medical Center-CLSI-S  
200 Lothrop Street, CLSI Room 5929 MT  
Pittsburgh PA 15213  
724-647-7813

University Physicians Center-S  
500 University Avenue  
Hershey PA 17033  
717-531-8353

UPMC Bedford Memorial-SB  
10455 Lincoln Highway  
Everett PA 15537  
814-623-3506

UPMC Lee Regional Hospital-SB  
320 Main Street  
Johnstown PA 15901  
814-533-0130

UPMC McKeesport Hospital Laboratory-S  
1500 Fifth Avenue  
McKeesport PA 15132  
412-664-2233

UPMC Passavant-S  
9100 Babcock Boulevard  
Pittsburgh PA 15237  
412-367-6700

UPMC Saint Margaret Hospital-S  
815 Freeport Road  
Pittsburgh PA 15215  
412-784-4000

Warminster Hospital-S  
225 Newtown Road  
Warminster PA 18974  
215-441-6700

Warren General Hospital-SB  
2 Crescent Park  
Warren PA 16365  
814-723-3300

Washington Hospital-S  
155 Wilson Avenue  
Washington PA 15301  
724-223-3136

Wayne Memorial Hospital-S  
601 Park Street  
Honesdale PA 18431  
570-253-1300

Waynesboro Hospital-SB  
501 East Main Street  
Waynesboro PA 17268  
717-765-3403

West Virginia University Hospital-S  
Clinical Laboratories  
1 Medical Center Drive, PO Box 8009  
Morgantown WV 26506  
304-598-4241

Western Pennsylvania Hospital-S  
4800 Friendship Avenue  
Pittsburgh PA 15224  
412-578-5779

Western Reserve Care System-SB  
500 Gypsy Lane  
Youngstown OH 44504  
216-740-3794

Westmoreland Hospital-S  
532 W. Pittsburgh Street  
Greensburg PA 15601  
724-832-4365

Williamsport Hospital and Medical Center-SB  
777 Rural Avenue  
Williamsport PA 17701  
570-321-2300

Windber Medical Center-B  
600 Somerset Avenue  
Windber PA 15963  
814-467-6611

WVHCS Hospital, Pennant Laboratory-SB  
575 North River Street  
Wilkes-Barre PA 18764  
570-829-8111

York Hospital-SB  
1001 South George Street  
York PA 17405  
717-771-2696

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 01-35. Filed for public inspection January 12, 2001, 9:00 a.m.]

### Laboratories Approved to Perform Blood Lead and/or Erythrocyte Protoporphyrin Determinations under the Clinical Laboratory Act

The following laboratories are licensed in accordance with the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and/or the Federal Clinical Laboratory Improvement Act of 1967 (42 U.S.C.A. § 263a), and are currently approved under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood for lead or erythrocyte protoporphyrin content. This approval is based on demonstrated proficiency in periodic evaluations conducted by the Bureau of Laboratories of the Department of Health.

Lead poisoning is a reportable noncommunicable disease. Approved laboratories which offer blood lead or erythrocyte protoporphyrin testing services are required to inform the Department of actual or possible incidents of this condition in accordance with 28 Pa. Code § 27.4 (relating to reportable noncommunicable diseases and conditions). In addition, the Department requests laboratories to submit reports on children under 6 years of age and pregnant women, on whom laboratory tests confirm venous blood lead concentrations of 15 micrograms per deciliter or higher. The Department's collection and review of these latter reports would be consistent with the most recent revision of the guideline titled, *Preventing Lead Poisoning in Young Children*, which was published in 1991 by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, and is available from them.

All reports must be sent to the Department of Health, Division of Environmental Health, P. O. Box 90, Harrisburg, PA 17108. Report forms are available on request from the Division of Environmental Health.

Erythrocyte protoporphyrin determinations may be performed as an adjunct determination to substantiate blood lead levels of 25 micrograms per deciliter or higher. Since erythrocyte protoporphyrin concentrations may not increase as a result of low level exposures to lead, direct blood lead analysis is the only reliable method for identifying individuals with blood lead concentrations below 25 micrograms per deciliter.

Persons seeking blood lead or erythrocyte protoporphyrin analyses should determine that the laboratory employs techniques and procedures acceptable for the purpose for which the analyses are sought. Laboratories offering blood lead analysis only are designated with the letter "L" following the name of the laboratory. Those offering erythrocyte protoporphyrin analysis only are designated with the letter "P." Laboratories offering both services are designated with the letters "LP."

Blood lead analyses performed for occupational safety and health purposes must be conducted by a laboratory which also meets the requirements of the Occupational Safety and Health Administration of the United States Department of Labor as specified in 29 CFR 1910.1025(j)(2)(iii).

The list of approved laboratories will be reviewed semiannually and if there are any changes to the list, a notice to that effect will be published in the *Pennsylvania Bulletin* at that time.

The Department's blood lead proficiency testing program is approved by the United States Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes. Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464, ext. 3273.

Persons with a disability who require auxiliary aid service should contact Dr. Shoemaker at V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT & T Relay Service at (800) 654-5984 [TT].

Allegheny County Coroners Office-L  
3441 Forbes Avenue Oakland  
Pittsburgh PA 15213  
412-578-8072

American Medical Laboratories, Inc.-LP  
14225 Newbrook Drive  
Chantilly VA 20153  
703-802-6900

Angeline Kirby Memorial Health Center-L  
71 North Franklin Street  
Wilkes-Barre PA 18701  
570-823-5450

Associated Regional & University Pathologists-LP  
500 Chipeta Way  
Salt Lake City UT 84108  
800-242-2787

Aurora Consolidated Labs-LP  
8901 West Lincoln Avenue  
West Allis WI 53227  
414-328-7945



Children's Hospital of Philadelphia-P  
One Children's Center, 34th and Civic  
Philadelphia PA 19104  
215-590-1000

Clinical Laboratories, Inc.-L  
901 Keystone Industrial Park  
Throop PA 18512  
510-346-1759

East Penn Manufacturing Company, Inc.-LP  
Deka Road, Keller Tech Center  
Lyons Station, PA 19536  
610-682-6361

Edison Medical Laboratories, Inc.-LP  
1692 Oak Tree Road, Suite 1  
Edison NJ 08820  
732-906-7800

Ellwood City General Hospital-LP  
724 Pershing Street  
Ellwood City PA 16117  
724-752-0081

Exide Corp. Indus. Hygiene Lab.-LP  
6313 Rising Sun Avenue  
Philadelphia PA 19111  
215-342-1414

Geisinger Medical Center-L  
North Academy Road  
Danville PA 17822  
570-271-6338

Great Smokies Diagnostic Laboratory-L  
63 Zillicoa Street  
Asheville NC 28801  
828-253-0621

Hagerstown Medical Laboratory-L  
11110 Medical Campus Road, Suite 230  
Hagerstown MD 21742  
301-790-8670

Health Network Laboratories-LP  
2024 Lehigh Street  
Allentown PA 18103  
610-402-8150

LabCorp of America Holdings-LP  
6370 Wilcox Road  
Dublin OH 43016  
800-282-7300

LabCorp of America Holdings-LP  
1447 York Court  
Burlington NC 27215  
800-334-5161

LabCorp of America Holdings-LP  
69 First Avenue, P. O. Box 500  
Raritan NJ 08869  
201-526-2400

Laboratory Corp of America-L  
13900 Park Center Road  
Herndon VA 22071  
703-742-3100

LabOne, Inc.-LP  
8915 Lenexa Drive  
Overland Park KS 66214  
913-888-1770

Lancaster General Hospital-L  
555 North Duke Street, P. O. Box 3555  
Lancaster PA 17603  
717-299-5511

LeadTech Corporation-L  
One Marine Plaza  
North Bergen NJ 07047  
201-868-7707

Main Line Clinical Laboratory-L  
Lankenau Hospital  
100 East Lancaster Avenue  
Wynnewood PA 19096  
610-645-2615

Mayo Clinic-LP  
200 First Street, S.W., Hilton 530  
Rochester MN 55905  
507-284-8626

Medical Associates, PC-P  
935 Highland Blvd, Suite 4400  
Bozemon MT 59715  
406-587-5123

Med Tox Laboratories-LP  
402 W County Road D  
St. Paul MN 55112  
612-636-7466

Mercy Health Lab-Mercy Fitzgerald Hospital-L  
1500 Lansdowne Avenue  
Darby PA 19023  
610-237-4262

Mercy Hosptial Lab-L  
Pride and Locust Streets  
Pittsburgh PA 15219  
412-232-7831

National Medical Services-LP  
3701 Welsh Road  
Willow Grove PA 19090  
215-657-4900

Omega Medical Laboratories, Inc.-L  
2001 State Hill Road, Suite 100  
Wyomissing PA 19610  
610-378-1900

Pacific Toxicology Laboratories-LP  
6160 Variel Avenue  
Woodland Hills CA 91367  
818-598-3110

Pennsylvania Department of Health-LP  
Bureau of Laboratories  
P. O. Box 500  
Exton PA 19341-0500  
610-280-3464

Pocono Medical Center-L  
206 East Brown Street  
East Stroudsburg PA 18301  
570-476-3544

Primary Care Health Services, Inc., Laboratory-L  
7227 Hamilton Avenue  
Pittsburgh PA 15208  
412-244-4728

Public Health Laboratory City of Philadelphia-L  
500 South Broad Street  
Philadelphia PA 19146  
215-685-6811

Quest Diagnostics Clin. Labs, Inc.-LP  
400 Egypt Road  
Norristown PA 19403  
610-631-4200

Quest Diagnostics Clin. Labs., Inc.-LP  
7600 Tyrone Avenue  
Van Nuys CA 91405  
818-376-6195

Quest Diagnostics Incorporated-LP  
One Malcolm Avenue  
Teterboro NJ 07608  
201-393-5602

Quest Diagnostics of PA, Inc.-LP  
875 Greentree Road  
Four Parkway Center  
Pittsburgh PA 15220-3610  
412-920-7600

Quest Diagnostics of PA, Inc.-LP  
900 Business Center Drive  
Horsham PA 19044  
215-957-9300

Quest Diagnostics, Incorporated-LP  
33608 Ortega Highway  
San Juan Capistrano CA 92690  
949-728-4000

Reading Hospital and Medical Center-L  
6th and Spruce Streets  
West Reading PA 19611  
610-988-8080

Specialty Laboratories-L  
2211 Michigan Avenue  
Santa Monica CA 90404  
310-828-6543

St. Joseph Quality Medical Laboratory-L  
215 North 12th Street, Box 316  
Reading PA 19603  
610-378-2200

Toxi-Con Laboratories-LP  
201 Smallcombe Drive  
Scranton PA 18508  
570-963-0722

University of Pittsburgh Medical Center-L  
200 Lothrop Street  
CLSI Room 5929 MT  
Pittsburgh PA 15213-2582  
412-647-7813

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 01-36. Filed for public inspection January 12, 2001, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Adjustment of Program Service Revenue Amounts

In accordance with section 6(a)(5) of the Institutions of Purely Public Charity Act (Act) (10 P. S. § 376(a)(5)), the Department of Revenue is required to adjust the annual program service revenue amount used as a benchmark in section 6(a)(1) and (2) of the Act (10 P. S. § 376(a)(1) and (2)) for the purpose of asserting a rebuttable presumption.

The annual program service revenue amounts referred to in section 6(a)(1) and (2) of the Act shall be increased by 1% as follows:

(1) Effective July 1, 1999—Program Service Revenues—\$10,100,000.

(2) Effective July 1, 2000—Program Service Revenues—\$10,201,000.

LARRY P. WILLIAMS,  
*Acting Secretary*

[Pa.B. Doc. No. 01-37. Filed for public inspection January 12, 2001, 9:00 a.m.]

### Pennsylvania Betty Boop Instant Lottery Game

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

1. *Name:* The name of the game is Pennsylvania Betty Boop®.

2. *Price:* The price of a Pennsylvania Betty Boop instant lottery game ticket is \$2.00.

3. *Play Symbols:*

(a) Each Pennsylvania Betty Boop instant lottery game ticket will feature two play areas known as "Game 1" and "Game 2." Each "Game" has a different game play method and is played separately.

(b) The play symbols and their captions located in the play area for "Game 1" are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$1,000 (ONE THO).

(c) The play area for "Game 2" will contain a "Your Numbers" area and a "Winning Number" area. The play symbols and their captions located in the "Your Numbers" area and "Winning Number" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN) and 15 (FIFTN).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the four "Prize" areas for "Game 2" are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$15,000 (FTN THO).

5. *Prizes:* The prizes that can be won in "Game 1" are \$1, \$2, \$3, \$4, \$5, \$10, \$20, \$40, \$100, \$500 and \$1,000. The prizes that can be won in "Game 2" are: \$1, \$2, \$5, \$10, \$20, \$100, \$500, \$1,000 and \$15,000. The player can win up to five times on a ticket.

6. *Bonus Drawing:* The Pennsylvania Lottery will conduct a Bonus Drawing for non-winning Pennsylvania Betty Boop instant lottery tickets as provided for in paragraph 11.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 4,080,000 tickets will be printed for the Pennsylvania Betty Boop instant lottery game.

8. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching play symbols of \$1,000 (ONE THO) in the play area, on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets with three matching play symbols of \$500 (FIV HUN) in the play area, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with three matching play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with three matching play symbols of \$40 (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets with three matching play symbols of \$20 (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

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

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

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

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

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

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

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$15,000 (FTN THO) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15,000.

(2) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets where any one of the "Your

Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$20 (TWENTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$10.00 (TEN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$5.00 (FIV DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$2.00 (TWO DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(9) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$1.00 (ONE DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

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

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
G1\$2	\$2	1:9.38	435,200
G2\$2	\$2	1:11.54	353,600
G1\$3	\$3	1:75	54,400
G2\$1 x 3	\$3	1:75	54,400
G1\$1 + G2\$1 x 2	\$3	1:75	54,400
G1\$4	\$4	1:150	27,200
G1\$2 + G2\$2	\$4	1:150	27,200
G1\$5	\$5	1:150	27,200
G2\$5	\$5	1:75	54,400
G1\$10	\$10	1:150	27,200
G2\$10	\$10	1:150	27,200
G1\$2 + G2\$2 x 4	\$10	1:75	54,400

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
G1\$20	\$20	1:1,500	2,720
G1\$10 + G2\$10	\$20	1:750	5,440
G1\$10 + G2\$5 x 2	\$20	1:750	5,440
G1\$40	\$40	1:3,000	1,360
G1\$10 + G2\$10 x 3	\$40	1:666.67	6,120
G1\$20 + G2\$20	\$40	1:666.67	6,120
G1\$100	\$100	1:24,000	170
G2\$100	\$100	1:24,000	170
G1\$500	\$500	1:60,000	68
G2\$500	\$500	1:60,000	68
G1\$1,000	\$1,000	1:120,000	34
G2\$1,000	\$1,000	1:120,000	34
G2\$15,000	\$15,000	1:1,020,000	4

#### 10. Bonus Drawing Eligibility Requirements:

(a) To be eligible for the Bonus Drawing, a player must mail exactly three non-winning Pennsylvania Betty Boop instant lottery tickets in an envelope no larger than 4 1/8 by 9 1/2 inches addressed to Pennsylvania Lottery, Betty Boop Bonus Drawing, PMB 124, 2033 Linglestown Road, Harrisburg, PA 17110.

(b) Envelopes containing less than or more than three non-winning Pennsylvania Betty Boop instant lottery tickets shall be disqualified.

(c) Non-winning Pennsylvania Betty Boop instant lottery tickets received in an envelope larger than 4 1/8 by 9 1/2 inches shall be disqualified.

(d) The back of each non-winning Pennsylvania Betty Boop instant lottery ticket entered in the Bonus Drawing must be completed by the same player in a legible manner, including the player's name, street address, city, state, zip code, telephone number and signature. Incomplete tickets shall be disqualified.

(e) Winning lottery tickets submitted to the Betty Boop Bonus Drawing address will not be paid or honored.

(f) Non-winning Pennsylvania Betty Boop instant lottery tickets must be received by the Pennsylvania Lottery no later than May 18, 2001, to be eligible for the Bonus Drawing.

#### 11. Bonus Drawing Procedures:

(a) Drawing. The Bonus Drawing will be held at Lottery Headquarters within 2 weeks of the entry deadline of May 18, 2001. The odds of an entry being selected in the Bonus Drawing depend upon the number of entries received.

(b) Eligibility for the Bonus Drawing. To be eligible for the Bonus Drawing, a player must have complied with the requirements of section 10.

(1) The Lottery will make a reasonable effort to ensure that each Bonus Drawing entry is entered into the Bonus Drawing. The Lottery assumes no responsibility for a lost or misplaced entry not entered into the Bonus Drawing.

(2) If a Bonus Drawing entry is rejected during or following the Bonus Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

(3) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(c) Manner of conducting the Bonus Drawing.

(1) Pennsylvania Betty Boop entries will be placed in 70 containers, with each container assigned a number from 1 to 70.

(2) With the aid of a computer-generated randomizer, 10 containers will be selected. One winning grand prize finalist entry will be drawn from the first container selected. One winning grand prize finalist entry will be drawn from the second selected container and this procedure will be repeated until 10 grand prize finalists have been selected. As each entry envelope is opened, its contents will be validated according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. The ten Grand Prize finalists shall each win a leather Betty Boop Jacket, a Betty Boop Prize Package and will be eligible to win a Betty Boop Jukebox. There is no cash equivalent for the leather Betty Boop prize and the Betty Boop Prize Package.

(3) Each of the 10 Grand Prize finalists will be assigned a number from 1 to 10 in the order in which they were selected.

(4) With the aid of an official lottery drawing machine containing 10 balls numbered from 1 to 10, a ball will be drawn. The finalist identified with the drawn number will be the Grand Prize winner of the Betty Boop Jukebox. There is no cash equivalent for the Betty Boop Jukebox.

(5) Using the same 70 containers set forth in paragraph (1), 10 entries will be drawn from the first container. Ten entries will be drawn from the second container and this procedure will be repeated until 700 entries have been selected. As each entry envelope is opened, its contents will be validated according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. The 700 validated entries drawn will each win a Betty Boop Prize Package. There is no cash equivalent for the Betty Boop Prize Package prize.

(d) The payment of the prizes awarded in the Bonus Drawing and Grand Prize Drawing to a person who dies before receiving the prize or to a person 17 years of age or younger shall be paid according to 61 Pa. Code §§ 811.16 and 811.27 (relating to prizes payable after death of a prize winner; and payment of prizes to persons under 18 years of age).

(e) The determination of a winner will be made by the Secretary, whose judgment will be final, conclusive and binding on the Grand Prize finalists.

12. *Bonus Drawing Prize Descriptions:*

(a) *Betty Boop Prize Package.* The package shall consist of one of each of the following items:

(1) *Betty Boop limited edition sericel print.* The print is framed, numbered and comes with a "Certificate of Authenticity" and is signed by Myron Waldman.

(2) *Betty Boop leather mini-purse.* The purse is black with red trim and has a full color image of Betty Boop on the front.

(3) *Betty Boop enamel pen.* The red lacquer pen is packaged in a Betty Boop tin.

(4) *Betty Boop motion watch.* The watch features the Betty Boop image on the face, a silvertone case, a rotating heart motion disc and a red leather strap.

(b) *Leather Betty Boop Jacket.* The Leather Betty Boop Jacket is available in a variety of styles and sizes.

(c) *Betty Boop Jukebox.* The classically styled jukebox stands over five feet tall and is highlighted with images of Betty Boop and her dog Pudgy. The jukebox has a 100 CD capacity and a dual amplifier with surround sound. The Betty Boop Jukebox prize includes required withholding taxes, delivery costs and set-up charges.

(d) The Lottery reserves the right to substitute a merchandise item set forth in this section with a merchandise item of equal or greater value.

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

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

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

16. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Betty Boop or through normal communications methods.

LARRY P. WILLIAMS,  
*Acting Secretary*

[Pa.B. Doc. No. 01-38. Filed for public inspection January 12, 2001, 9:00 a.m.]

**Pennsylvania Crossword Instant Lottery Game Notice**

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

1. *Name:* The name of the game is Pennsylvania Crossword.

2. *Price:* The price of a Pennsylvania Crossword instant lottery game ticket is \$3.00.

3. *Play Symbols:* Each Pennsylvania Crossword instant lottery game ticket will feature a "Your Letters" area and a crossword puzzle play area. The play symbols and their captions located in the "Your Letters" area are: the letters A through and including Z. The play symbols and their captions located in the crossword puzzle play area are: the letters A through and including Z and a black square.

4. *Prizes:* The prizes that can be won in this game are \$3, \$6, \$9, \$12, \$30, \$90, \$300 and \$30,000.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,080,000 tickets will be printed for the Pennsylvania Crossword instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets where the player completely uncovers 11 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$30,000.

(b) Holders of tickets where the player completely uncovers 10 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$300.

(c) Holders of tickets where the player completely uncovers 9 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$90.

(d) Holders of tickets where the player completely uncovers 8 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$30.

(e) Holders of tickets where the player completely uncovers 7 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$12.

(f) Holders of tickets where the player completely uncovers 6 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$9.

(g) Holders of tickets where the player completely uncovers 5 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$6.

(h) Holders of tickets where the player completely uncovers 4 words, using only the letters found in the "Your Letters" area, on a single ticket, shall be entitled to a prize of \$3.

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

7. *Game Play Instructions:*

(a) The player shall scratch the "Your Letters" area to reveal 18 letters. For each of the 18 letters revealed in the "Your Letters" area, the player shall rub the same letter each time it is found in the crossword puzzle play area.

(b) When a player reveals four or more words in the crossword puzzle play area, the player is entitled to win a prize as described in Section 6.

(c) For purposes of this game, a word must contain at least three letters and cannot be formed by linking letters diagonally or by reading the letters from the bottom to the top.

(d) Letters combined to form a word must appear in an unbroken horizontal or vertical string of letters in the crossword puzzle area. An unbroken string of letters cannot be interrupted by a black space and must contain every single letter square between two black spaces.

(e) Every single letter in the unbroken string must be revealed in the "Your Letters" area and be included to form a word.

(f) The possible complete words for each ticket in the game are shown on the crossword puzzle area of the ticket. The player must match all of the letters in a possible complete word in order to complete the word.

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

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
4 Words	\$3	1:5.56	734,400
5 Words	\$6	1:11.11	367,200
6 Words	\$9	1:33.33	122,400
7 Words	\$12	1:50	81,600
8 Words	\$30	1:186.63	21,862
9 Words	\$90	1:2,000	2,040
10 Words	\$300	1:6,000	680
11 Words	\$30,000	1:680,000	6

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

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Crossword, prize money from winning Pennsylvania Crossword instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Crossword instant lottery game, the right of a ticket holder to claim the prize represented by the

ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

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

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

LARRY P. WILLIAMS,  
*Acting Secretary*

[Pa.B. Doc. No. 01-39. Filed for public inspection January 12, 2001, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Contemplated Sale of Land No Longer Needed for Transportation Purposes

Notice is hereby given that the Department of transportation, pursuant to 71 P. S. § 513(e)(7), intends to sale certain land owned by the Department.

The following property is available for sale by the Department.

Parcel No. 107—Borough of White Oak, Allegheny County. This parcel contains approximately 30,998 square feet or 0.7116 acres of vacant land situated along the southerly side of Gypsy Lane, in the Borough of White Oak (formerly Versailles Township), Allegheny County. The property will be sold in "as is condition". The estimated fair market value of the parcel is \$4,350.00. It has been determined that the is no longer needed for present or future transportation purposes.

Interest public entities are invited to express their interest in purchasing the site within thirty (30) calendar days from the date of publication of this notice to: Raymond S. Hack, District Engineer, Pennsylvania Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 01-40. Filed for public inspection January 12, 2001, 9:00 a.m.]

### Retention of Engineering Firms

Notice is hereby given that the Department has implemented the Engineering and Construction Management System (ECMS) Wave 3 that automates the Consultant Selection, Agreement, Invoicing and Evaluation processes. ECMS Wave 3 is part of the re-engineered and newly

automated engineering and construction business processes. You will be able to use ECMS to correspond with PennDOT via e-mail and perform the following tasks on the internet:

- View Planned Projects
- View advertisements for Consultant Services
- Maintain Qualification Packages, Employee Rosters and Overhead Rates
- Submit Statements of Interests, Technical Proposals and Overhead Rates
- Submit and Track Invoices

After December 30, 2000, projects will not be advertised in the *Pennsylvania Bulletin*. Project advertisements will be viewable through the Consultant Services function of ECMS. You will be required to be a registered business partner and have an electronic Annual Consultant Qualifications Package on file before you can submit an electronic Statement of Interest in response to a project advertisement. To provide sufficient time for your firm to prepare, we will not establish any Statement of Interest due dates prior to February 15, 2001.

I encourage you to register soon and regularly visit the PennDOT web site, [www.dot.state.pa.us](http://www.dot.state.pa.us). If you have any questions please do not hesitate to contact our Customer Support Section at 717-783-7711 or via e-mail at [ECMS-DesignMail-PennDOT@dot.state.pa.us](mailto:ECMS-DesignMail-PennDOT@dot.state.pa.us).

Following are instructions about how to perform various functions. Also please note the system provides on-line help text.

### **How to Register as a Consultant Business Partner with PennDOT**

#### **Registering as a Consultant Business Partner is a 4-Step Process**

##### *Step 1—Become an Approved Business Partner*

1. Access the PennDOT ECMS web site, [www.dot2.state.pa.us](http://www.dot2.state.pa.us), and click on the ECMS Public Site link. Click on the Business Partner title in the navigation bar on the left, then click on Registration. Download the Business Partner Registration form, print it, complete it and send it to the address indicated on the web site. (Hint: While on the first page of the web site, save it as a Favorite.)

2. On that same web page, press the Register button, fill out the requested information contained in all 5 Tabs on the screen and electronically submit this form to PennDOT.

3. Your designated System Administrator (Tab 4 of the registration information form) will receive an email notification assigning your firm a Business Partner ID number, a Systems Administrator User ID and password. This email should be received no more than 2 weeks after the Department has received the registration form.

4. Your system administrator must log in using this new User Id and Password, change his/her password and create your firm's user ids for your principal(s), financial officer, project managers and data entry personnel. These user classifications have the following privileges.

<i>Users</i>	<i>ECMS Capabilities</i>
Principals	<ul style="list-style-type: none"> <li>• Create and submit Annual Consultant Qualifications Packages Create, update and submit Overhead Rate information Create, update and submit Employee Roster Create and submit Technical and Price Proposals Download, create and submit Invoices</li> </ul>
Financial Officer	<ul style="list-style-type: none"> <li>• Create, update and submit Overhead Rate information Create, update and submit Employee Rosters Create and submit Technical and Price Proposals Download, create and submit Invoices</li> </ul>
Project Managers	<ul style="list-style-type: none"> <li>• View Employee Rosters Create and submit Technical and Price Proposals Create and submit Invoices</li> </ul>
Data Entry	<ul style="list-style-type: none"> <li>• View business partner information</li> <li>• Process off-line forms for Invoicing and Consultant Qualification package</li> </ul>

Each ECMS application has on-line Help text that will guide you through how to complete the required tasks. Just click on the HELP link on the ECMS Home page to view the Help text that is available.

##### *Step 2—Submit Annual Consultant Qualifications Package*

1. You cannot submit your Annual Consultant Qualifications Package until you have received your Business Partner ID number from Step 1. You may, however, prepare your Annual Consultant Qualifications Package while the Department is processing your Business Partner registration form. Select the Consultant Services option on the navigation bar. Under that option, select the Consultant Qualifications option and download and complete the off-line Consultant Qualifications Package (CQP) templates. Resumes should not exceed two pages per individual. All templates shall be completed using 12 pitch or larger type.

2. After you have completed the off-line templates, have received your Business Partner ID Number and have set-up user ID's for your principal(s) or financial officer(s), these users can submit your Annual Consultant Qualifications Package. They need to log into ECMS as a registered user and select the Consultant Qualifications option on the navigation bar. Click on the Create Consultant Qualifications Package button to electronically submit the templates to PennDOT with the electronic CQP cover sheet. Your Annual Consultant Qualifications package does not require Department approval.

##### *Step 3—Submit Firm Overhead Information for review and approval*

1. Your financial officer or principal must log in as a registered user, select the Overhead Information option on the navigation bar and complete and submit the electronic Overhead Information for review and approval by PennDOT. You normally must submit a hard copy of your Audit Report to:

PA Department of Transportation  
 Consultant Agreement Division  
 Bureau of Design  
 P. O. Box 3060  
 Harrisburg, PA 17105-3060

If the Overhead Rates being entered on the Overhead Information form were previously approved by the Department, you should not submit a copy of your Audit

Report, but you should indicate "Previously Approved" in the comments box on the Overhead Information form.

2. You will receive an email confirming your approved overhead rates once the Overhead Information form (and the Audit Report, if required) is received and reviewed.

*Step 4—Complete and submit Employee Roster and wage rate information for PennDOT review and approval*

1. Your principal(s) or financial officer(s) must log in as a registered user and select the Consultant Services option on the navigation bar. Select Roster Maintenance option and create your roster of employees with all the appropriate classifications and wage rates for each employee. Note that every employee wage rate is created in pending status and automatically submitted to PennDOT for review and approval.

2. You will be able to see if the employee wage rate has been approved or rejected by checking the status on line. There are no email notifications for employee rate approvals or rejections.

*Email notification is provided for:*

- *Business Partner Registration Approval*—Includes your Business Partner ID, which uniquely identifies your firm to ECMS; the Administrator ID and Password, which allow a designated administrator to create user IDs and passwords for Business Partner user groups; and detailed instructions to guide the Business Partner Administrator through initial logon and change password transactions.
- *Overhead Information Approval*
- *Consultant Qualifications Expiration*—An email reminder is generated and sent to the Business Partner about one month before the current Consultant Qualifications Package expires.

*How do I find out about Planned and/or Advertised Projects?*

PennDOT will publish planned projects on the ECMS Web page in advance of actually advertising the request for Statements of Interest. This will give you an opportunity to review and plan for your Statements of Interest.

*Planned Projects*

1. To look at Planned Projects, access the ECMS Home Page and select Registered User Log on. Sign on with your ECMS User ID and Password (you can also view Planned Projects as a public user, but if you are a registered business partner, you might as well sign on and have more flexibility).

2. ECMS will display the Welcome to ECMS Home page. On the Navigation Pane, to the left of the Home Page, click on Consultant Services. Your ECMS options will expand and be displayed in alphabetical order. Look for and click on the Planned Projects option.

3. Note that you can look for Planned Projects by Anticipated Advertisement Date, Initiating Organization, Date Published or Agreement Number. Select the view option of your choice.

4. ECMS will feature a blinking NEW icon next to recently published planned projects. You can click on any Planned Project you wish to view. The Planned Project screen will describe the project and provide the anticipated advertisement date.

*Advertisements and Submitting Statements of Interest*

1. You may view advertisements as a public user or as a registered business partner. If you want to submit a Statement of Interest, you must login as a registered business partner and have submitted your qualifications package and overhead information. If you do not have a current qualifications package you will not be able to submit a Statement of Interest for an advertisement.

2. Access the ECMS Home Page and select Registered User Log on. You may then sign on with your ECMS User ID and Password.

3. ECMS will display the Welcome to ECMS Home page. On the Navigation pane to the left of the Home Page, click on Consultant Services. Your ECMS options will expand and be displayed in alphabetical order. Look for and click on the Advertisements option

4. Advertisements are grouped either by Construction Inspection or Non-Construction Inspection. These advertisements are further categorized by views according to Initiating Organization, Agreement Number or SOI (Statement of Interest) Deadline.

5. Click on the type and view of advertisement you are looking for.

6. Depending on the view you select, you may have to expand the view further to view the actual advertisement. ECMS will publish a blinking NEW icon for the first 10 days the advertisement appears.

7. If you are a registered business partner with a current qualifications package, you will see a Create and Submit Statement of Interest link at the end of the advertisement.

8. To submit a Statement of Interest for a specific advertisement, click on the Create and Submit Statement of Interest link.

9. ECMS will display the Statement of Interest page. If you have sub consultants to add, use the drop down list provided to select from registered business partners. If your subconsultant is not a registered business partner or does not have a current CQP on file, ECMS will not allow you to use them.

10. You are required to attach the following with each Statement of Interest

- Statement of Interest document—the file must be named Statement-of-Interest and saved as a rich text file with the file extension of .rtf
- Resumes—the file you send must be named Resumes and saved as a rich text file with the file extension of .rtf (The resume format must be the same format as provided in the Annual Consultant Qualifications Package)
- Organizational Chart—the file you send must be named Organizational\_Chart.rtf and saved as a rich text file with the file extension of .rtf

Please Note that all attachments must be in a rich text format and named exactly as the file name is printed on the screen or ECMS will not accept them. All PennDOT district users can display any file that is compatible with Windows 2000 Office Suite.

11. You may save this Statement of Interest as a draft to be submitted later or you can submit it immediately. Up until the Due Date you may change and resubmit as many Statements of Interest as you want. The latest one you submit will be the one PennDOT will be able to read and process.



12. PennDOT will not be able to view your Statement of Interest until after midnight on the SOI Due Date.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 01-41. Filed for public inspection January 12, 2001, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Norfolk Southern Railway Company v. DEP; EHB  
Doc. No. 2000-276-L**

Norfolk Southern Railway Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to the Norfolk Southern Railway Company for a facility in Cresson Borough, Cambria County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties pursuant to 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 01-42. Filed for public inspection January 12, 2001, 9:00 a.m.]

## INSURANCE DEPARTMENT

**Application for Approval of a Certificate of Authority**

HealthAssurance Pennsylvania, Inc., a domestic for profit corporation, has applied for a Certificate of Authority to operate as a preferred provider organization that is not a licensed insurance company in Pennsylvania. The filing was made under the requirements set forth in the applicable Insurance Laws, including 40 P.S. §§ 764a and 991.1401—991.1413. Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to

Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557 or by e-mail to rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 01-43. Filed for public inspection January 12, 2001, 9:00 a.m.]

**Donegal Mutual Insurance Company; Homeowners Insurance Rate and Rule Revision**

On December 27, 2000, the Insurance Department received from Donegal Mutual Insurance Company a filing for a proposed rate level and rule changes for homeowners insurance.

The company requests an overall 1.1% increase amounting to \$272,000 annually, to be effective April 1, 2001.

Unless formal administrative action is taken prior to February 25, 2001, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, (E-mail: xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 01-44. Filed for public inspection January 12, 2001, 9:00 a.m.]

**List of Names of Qualified Unlicensed Reinsurers**

Under section 319.1 of The Insurance Company Law of 1921 (40 P.S. § 442.1), the Insurance Commissioner hereby lists reinsurers not licensed by the Insurance Department which shall be considered qualified to accept reinsurance from insurers licensed by the Insurance Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Insurance Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa. B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17

Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 46 Pa.B. 5665 (November 16, 1996), 27 Pa.B. 2593 (May 24, 1997), 27 Pa.B. 6019 (November 15, 1997), 28 Pa.B. 5733 (November 14, 1998) 28 Pa.B. 5922 (December 5, 1998), 29 Pa.B. 5965 (November 20, 1999) and 30 Pa.B. 6033 (November 18, 2000).

#### Insurance Department's Qualified Reinsurers List

- |     |       |   |     |       |  |
|-----|-------|---|-----|-------|--|
| 1.  | 37958 | Acceptance Insurance Company, Omaha, Nebraska                               | 24. | 10928 | Eagle Insurance Company, Jersey City, New Jersey                           |
| 2.  | 10021 | ACE Capital Mortgage Reinsurance Company, New York, New York                | 25. | 10240 | E+S Ruckversicherungs Aktiengesellschaft, Hannover, Germany                |
| 3.  | 30180 | ACE Guaranty Re Inc., Baltimore, Maryland                                   | 26. | 40509 | EMC Reinsurance Company, Des Moines, Iowa                                  |
| 4.  | 37532 | Agricultural Excess and Surplus Insurance Company, Wilmington, Delaware     | 27. | 90670 | ERC Life Reinsurance Corporation, Jefferson City, Missouri                 |
| 5.  | 10651 | AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey | 28. | 39020 | Essex Insurance Company, Wilmington, Delaware                              |
| 6.  | 41858 | American Dynasty Surplus Lines Insurance Company, Wilmington, Delaware      | 29. | 35378 | Evanston Insurance Company, Evanston, Illinois                             |
| 7.  | 37990 | American Empire Insurance Company, Cincinnati, Ohio                         | 30. | 44792 | Executive Risk Specialty Insurance Company, Simsbury, Connecticut          |
| 8.  | 26883 | American International Specialty Lines Insurance Company, Anchorage, Alaska | 31. | 85472 | First ING Life Insurance Company of New York, New York                     |
| 9.  | 10316 | Appalachian Insurance Company, Johnston, Rhode Island                       | 32. | 92673 | Gerling Global Life Insurance Company, Toronto, Canada                     |
| 10. | 27189 | Associated International Insurance Company, Woodland Hills, California      | 33. | 87017 | Gerling Global Life Reinsurance Company, Los Angeles, California           |
| 11. | 50687 | Attorneys' Title Insurance Fund, Inc., Orlando, Florida                     | 34. | 22098 | Grain Dealers Mutual Insurance Company, Indianapolis, Indiana              |
| 12. | 19925 | Audubon Indemnity Company, Jackson, Mississippi                             | 35. | 88340 | Hannover Life Reassurance Company of America, Orlando, Florida             |
| 13. | 18988 | Auto-Owners Insurance Company, Lansing, Michigan                            | 36. | 10241 | Hannover Ruckversicherungs-Aktiengesellschaft, Hannover, Germany           |
| 14. | 36552 | AXA Corporate Solutions Reinsurance Company, Wilmington, Delaware           | 37. | 93505 | Hartford International Life Reassurance Corporation, Westport, Connecticut |
| 15. | 36951 | Century Surety Company, Columbus, Ohio                                      | 38. | 78972 | Healthy Alliance Life Insurance Company, St. Louis, Missouri               |
| 16. | 38989 | Chubb Custom Insurance Company, Dover, Delaware                             | 39. | 42374 | Houston Casualty Company, Houston, Texas                                   |
| 17. | 81914 | Clarica Life Insurance Company, Waterloo, Canada                            | 40. | 27960 | Illinois Union Insurance Company, Chicago, Illinois                        |
| 18. | 97071 | Clarica Life Reinsurance Company, Lansing, Michigan                         | 41. | 22829 | Interstate Fire & Casualty Company, Chicago, Illinois                      |
| 19. | 10291 | CNA Reinsurance Company Limited, London, England                            | 42. |       | INEX Insurance Exchange, Chicago, Illinois                                 |
| 20. | 39993 | Colony Insurance Company, Richmond, Virginia                                | 43. | 35637 | Landmark Insurance Company, San Francisco, California                      |
| 21. | 40371 | Columbia Mutual Insurance Company, Columbia, Missouri                       | 44. | 29912 | Legion Indemnity Company, Chicago, Illinois                                |
| 22. | 27955 | Commercial Risk Re-Insurance Company, South Burlington, Vermont             | 45. | 19437 | Lexington Insurance Company, Wilmington, Delaware                          |
| 23. | 17400 | Coregis Indemnity Company, Durham, North Carolina                           | 46. |       | Lloyd's Underwriters, London, England                                      |
|     |       |   | 47. | 98078 | Manulife Reinsurance Corporation (USA), Buffalo, New York                  |
|     |       |   | 48. | 32089 | Medmarc Mutual Insurance Company, Vergennes, Vermont                       |
|     |       |   | 49. | 33189 | Monticello Insurance Company, Wilmington, Delaware                         |
|     |       |   | 50. | 20079 | National Fire & Marine Insurance Company, Omaha, Nebraska                  |
|     |       |   | 51. | 41629 | New England Reinsurance Corporation, Hartford, Connecticut                 |
|     |       |   | 52. | 29700 | North American Elite Insurance Company, Manchester, New Hampshire          |
|     |       |   | 53. | 31143 | Old Republic Union Insurance Company, Montgomery, Alabama                  |

54. 88099 Optimum Re Insurance Company, Dallas, Texas
55. 37338 Pacific Insurance Company, Los Angeles, California
56. 38636 Partner Reinsurance Company of the U. S., New York, New York
57. 88536 Protective Life and Annuity Insurance Company, Birmingham, Alabama
58. 29807 PXRE Reinsurance Company, Hartford, Connecticut
59. 24481 Reliance Insurance Company of Illinois, Chicago, Illinois
60. 10679 St. Paul Reinsurance Company, Limited., London, England
61. 21911 San Francisco Reinsurance Company, Novato, California
62. 87572 Scottish Re (U.S.), Inc., Santa Cruz, California
63. 41297 Scottsdale Insurance Company, Columbus, Ohio
64. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
65. 10743 Sphere Drake Insurance Company Limited, Brighton, England
66. 10932 Starr Excess Liability Insurance Company, Ltd., Wilmington, Delaware
67. 39187 Suecia Insurance Company, Nanuet, New York
68. 93483 Swiss-Am Reassurance Company, Wilmington, Delaware
69. 10672 Terra Nova Insurance Company, Limited., London, England
70. 19887 Trinity Universal Insurance Company, Dallas, Texas
71. 37982 Tudor Insurance Company, Keene, New Hampshire
72. 10292 Unionamerica Insurance Company, Limited., London, England
73. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
74. 39330 United Capitol Insurance Company, Atlanta, Georgia
75. 28053 United Coastal Insurance Company, Phoenix, Arizona
76. 13021 United Fire & Casualty Company, Cedar Rapids, Iowa
77. 38032 US International Reinsurance Company, Manchester, New Hampshire
78. 21067 Westchester Surplus Lines Insurance Company, Honolulu, Hawaii
79. 29548 Western Indemnity Insurance Company, Houston, Texas
80. 13196 Western World Insurance Company, Keene, New Hampshire
81. 10242 Zurich Specialties London Limited, London, England

### **Changes to the Qualified Unlicensed Reinsurers List Since it was Published on November 18, 2000**

The following companies have asked to be removed from the list since it was printed on November 18, 2000:

Guardian Royal Exchange Assurance PLC, London, England  
 Inner Harbor Reinsurance, Inc. Baltimore, Maryland

The following company has changed its name since it was printed on November 18, 2000:

AXA Reinsurance Company, Wilmington, Delaware has changed its name to AXA Corporate Solutions Reinsurance Company, Wilmington, Delaware.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 01-45. Filed for public inspection January 12, 2001, 9:00 a.m.]

### **Review Procedure Hearings under the Unfair Insurance Practices Act**

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the termination of the insured's residential or personal coverage. This administrative hearing will be held in the Insurance Department Offices in Philadelphia, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held at the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Carmen R. Zimbalardi; file no. 00-267-04397; Prudential Property & Casualty Insurance Company; doc. no. PH00-12-025; May 11, 2001, at 9 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

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

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 01-46. Filed for public inspection January 12, 2001, 9:00 a.m.]

# PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Clean Water State Revolving Fund Projects; Public Meeting on Federal FY 2001 Intended Use Plan

The Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Department of Environmental Protection (Department) have prepared the Federal fiscal year 2001 Intended Use Plan (IUP) list of municipal wastewater projects to be considered for a construction loan from funds Pennsylvania expects to receive from fiscal year 2001 Federal appropriation Acts to capitalize the Clean Water State Revolving Fund (CWSRF) program.

The projects to be considered for a loan from the CWSRF must meet the Federal requirements for funding in accordance with Title II and Title VI of the Water Quality Act. Accordingly, the projects included in the IUP are expected to meet the requirements applicable to use of the CWSRF loan funds, including being on Pennsylvania's approved FY 2000/2001 Project Priority List (PPL). These projects are expected to proceed to construction in the near future. Any project removed from an IUP is maintained on the PPL unless otherwise completed.

In addition, the Department and PENNVEST anticipate adding approximately 32 new sewage projects to the approved FY 2000/2001 PPL. The 32 projects do not replace any project currently on the approved FY 2000/2001 PPL. The projects are being placed in the appropriate ranking slot in relation to other rated and ranked projects on the PPL. The rank order standing of projects on the PPL does not dictate the order in which projects are chosen for funding in the CWSRF program. A project may be selected from any numerical rank position on the PPL for funding. A project's readiness to proceed and the reasonable availability of alternative sources of funds have a bearing on project selection for funding in the program.

Eleven of the 32 projects to be added to the FY 2000/2001 PPL are expected to proceed to construction in the near future, and the others are being added as potential projects for future construction loan consideration. The 11 projects expected to be ready for loan funding in the near future have submitted applications for funding and will be placed on an IUP to (1) replace projects that have not proceeded timely toward initiation of project construction and/or (2) to fill funding gaps that have developed as a result of cost savings. Projects removed from an IUP will remain on the PPL and be considered for CWSRF loan funds in the future.

Thirteen projects are being removed from the FY 2000/2001 PPL because they have received CWSRF funding and are now either in some stage of construction or have been completed. These projects are: Central Carbon Municipal Authority, Eagles Mere Borough Authority, Frankstown Township Supervisors, Freedom Township Water and Sewer Authority, Glassport Borough, Juniata

Terrace Borough, Lincoln Borough, Mercer Borough, Monongahela City, Pleasant Hills Borough, Rush Township Sewer Authority, Ulysses Municipal Authority and Williamsport Sanitary Authority.

The FY 2001 IUP has 38 municipal wastewater construction projects listed with a total dollar value of approximately \$89.5 million. The CWSRF will be capitalized with approximately \$52.8 million of Federal FY 2001 funds from the Environmental Protection Agency and approximately \$10.6 million of State funds. Some \$28.2 million of CWSRF loan repayments will be used to allow additional project funding opportunities on the FY 2001 IUP. Some \$2.1 million will be set aside for program administration costs, as described in the narrative portion of the IUP.

A public meeting will be held, as described. After the public meeting and assessment of the comments received, the Final FY 2001 IUP will be completed, and potentially, it may include other projects from the PPL. A project must appear on the PENNVEST approved IUP before it can receive a loan from the CWSRF. A project's readiness to proceed and the reasonable availability of alternative funds also have a bearing on project selection for the IUP. Consequently, the rank ordered list of projects on the PPL does not dictate the order in which they will be chosen for inclusion in the IUP.

Federal guidance on development of the IUP directs that the project list be subject to public review and comment before being submitted to the United States Environmental Protection Agency.

The Department has scheduled a public meeting for 10 a.m., February 21, 2001, in the Auditorium of the Rachel Carson State Office Building, located at 400 Market Street, Harrisburg, PA. The meeting is scheduled for the purpose of receiving comments from the public regarding the fiscal year 2001 IUP and revisions to the fiscal year 2000/2001 PPL. Interested persons are invited to express their views on the priority rating or ranking of projects on the IUP at the public meeting. Persons wishing to offer comments should contact the Administrative Services Section, Division of Municipal Financial Assistance, Bureau of Water Supply Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8466, Harrisburg, PA 17105-8466, telephone (717) 787-6744, or by Internet E-Mail (AMaisano@state.pa.us) by 4 p.m., February 20, 2001. Where written statements are prepared and will be submitted at the meeting, speakers will be asked to restrict the oral portion of the statement to a summary of the written comments. Speakers will be called to present their comments generally in the order of receipt of the notice of intent to appear at the meeting.

It is not necessary to appear at the public meeting to present comments on the narrative portion of the IUP, the IUP list of projects, or the revisions to the PPL. Interested persons may submit written comments to the Department at the address shown above. The written comments will be considered equivalent to oral statements presented at the meeting. To be considered by the Department and PENNVEST, the written comments must be received by the Administrative Services Section on or before the date of the meeting.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tony Maisano as noted above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

The FY 2001 CWSRF IUP list of projects and the list of additions to the FY 2000/2001 PPL follow this notice. A copy of the lists, as well as the narrative portion of the IUP, are available for public review in the offices listed at the end of this notice and are accessible electronically through the Department's web-site as follows: [http://www.dep.state.pa.us/dep/deputate/watermgt/WSM/WSM\\_TAO/Finan\\_Tech\\_Asst.htm](http://www.dep.state.pa.us/dep/deputate/watermgt/WSM/WSM_TAO/Finan_Tech_Asst.htm)

DEP—Southeast Region:  
Water Management Program Manager  
Lee Park, Suite 6010, 555 North Lane,  
Conshohocken, PA 19428  
(610) 832-6131

DEP—Northeast Region:  
Water Management Program Manager  
2 Public Square, Wilkes-Barre, PA 18711-0790  
(570) 826-2553

DEP—Southcentral Region:  
Water Management Program Manager  
909 Elmerton Avenue, Harrisburg, PA 17110  
(717) 705-4707

DEP—Northcentral Region:  
Water Management Program Manager  
208 West 3rd Street, Williamsport, PA 17701  
(570) 327-3669

DEP—Southwest Region:  
Water Management Program Manager  
400 Waterfront Drive, Pittsburgh, PA 15222-4745  
(412) 442-4000

DEP—Northwest Region:  
Water Management Program Manager  
230 Chestnut Street, Meadville, PA 16335-3481  
(814) 332-6942

DEP—Bureau of Water Supply Management, Division of  
Municipal Financial Assistance, Administrative Ser-  
vices Section  
11th Floor, RCSOB, 400 Market Street,  
Harrisburg, PA 17101  
(717) 787-6744

Pennsylvania Infrastructure Investment Authority  
22 S. Third Street, 4th Floor,  
Keystone Building, Harrisburg, PA 17101  
(717) 787-8137

JAMES M. SEIF,  
*Secretary*  
*Department of Environmental Protection*  
*Vice-Chairperson*  
*Pennsylvania Infrastructure Investment Authority*  
PAUL K. MARCHETTI,  
*Executive Director*  
*Pennsylvania Infrastructure Investment Authority*

**PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CLEAN WATER STATE REVOLVING FUND**

**FY 2001 INTENDED USE PLAN PROJECT LIST**

EXPLANATION OF COLUMNAR HEADINGS (EXCEPT THOSE THAT ARE SELF-EXPLANATORY)

NEEDS CATEGORY:

- I - SECONDARY TREATMENT
- II - TREATMENT MORE STRINGENT THAN SECONDARY
- IIIA - INFILTRATION/INFLOW CORRECTION
- IIIB - MAJOR SEWER SYSTEM REHABILITATION
- IVA - NEW COLLECTOR SEWERS AND APPURTENANCES
- IVB - NEW INTERCEPTORS AND APPURTENANCES
- V - CORRECTION OF COMBINED SEWER OVERFLOWS

PROJECT TYPE: STP - SEWAGE TREATMENT PLANT

- STPMOD - SEWAGE TREATMENT PLANT MODIFICATION
- INT - INTERCEPTOR
- PS - PUMP STATION
- FM - FORCE MAIN
- SS - SEWER SYSTEM
- SS REH - SEWER SYSTEM REHABILITATION

NPDES PERMIT NUMBER:

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT NUMBER

PROJECT NUMBER:

FEDERAL LOAN PROJECT IDENTIFICATION NUMBER

ELIG. COST:

ESTIMATED LOAN AMOUNT FOR ELIGIBLE PROJECT

**PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 CLEAN WATER STATE REVOLVING FUND  
 FY 2001 INTENDED USE PLAN  
 JANUARY 20, 2001**

PENNSYLVANIA BULLETIN, VOL. 31, NO. 2, JANUARY 13, 2001

APPLICANT INFORMATION		NEEDS CATEGORIES				PROJECT INFORMATION	
Allegheny Township Sewer & Water Auth. 3131 Old Sixth Ave., North Duncansville, PA 16635	COUNTY: Blair REGION: SC NPDES NO.:	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$675,250 IVB: \$0 V: \$0 ELIG. COST: \$675,250	PROJECT NO.: CS422189-01 PROJ. TYPE: SS PROJECT RATING: 20 PROJECT RANKING: 205			
Beach Lake Mun. Auth. P. O. Box 151 Beach Lake, PA 18405	COUNTY: Wayne REGION: NE NPDES NO.:	I: \$1,117,341 II: \$100,000 III: \$0 IIIB: \$815,448	IVA: \$42,904 IVB: \$0 V: \$0 ELIG. COST: \$2,075,693	PROJECT NO.: CS422177-01 PROJ. TYPE: STP SS PROJECT RATING: 54 PROJECT RANKING: 2			
Bradford County 301 Main St. Courthouse Towanda, PA 18848	COUNTY: Bradford REGION: NC NPDES NO.:	I: \$895,352 II: \$0 III: \$0 IIIB: \$0	IVA: \$0 IVB: \$0 V: \$0 ELIG. COST: \$895,352	PROJECT NO.: CS422193-01 PROJ. TYPE: STPMOD PROJECT RATING: 10 PROJECT RANKING: 283			
Brady Township Supervisors R.R.#2, Box 537 Montgomery, PA 17752	COUNTY: Lycoming REGION: NC NPDES NO.:	I: \$367,702 II: \$0 III: \$0 IIIB: \$0	IVA: \$1,023,437 IVB: \$88,861 V: \$0 ELIG. COST: \$1,480,000	PROJECT NO.: CS422205-01 PROJ. TYPE: STP PS SS PROJECT RATING: 42 PROJECT RANKING: 17			
Bullskin Township/Connellsville Township JSA R.D.#2 BOX 234G Connellsville, PA 15425	COUNTY: Fayette REGION: SW NPDES NO.:	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$3,000,000 IVB: \$2,500,000 V: \$0 ELIG. COST: \$5,500,000	PROJECT NO.: CS422056-01 PROJ. TYPE: PS INT SS PROJECT RATING: 32 PROJECT RANKING: 89			
Davidson Township Supervisors R.R.#1, Box 925 Muncy Valley, PA 17758	COUNTY: Sullivan REGION: NC NPDES NO.:	I: \$441,853 II: \$0 III: \$0 IIIB: \$0	IVA: \$289,398 IVB: \$102,749 V: \$0 ELIG. COST: \$834,000	PROJECT NO.: CS422207-01 PROJ. TYPE: STP PS INT SS PROJECT RATING: 44 PROJECT RANKING: 9			
DuBois City P. O. Box 408 DuBois, PA 15801	COUNTY: Clearfield REGION: NC NPDES NO.:	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$0 IVB: \$300,000 V: \$0 ELIG. COST: \$300,000	PROJECT NO.: CS422194-01 PROJ. TYPE: INT PROJECT RATING: 12 PROJECT RANKING: 281			
Dushore Sewer Auth. P. O. Box 248 Dushore, PA 18614	COUNTY: Sullivan REGION: NC NPDES NO.:	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$272,265 IVB: \$0 V: \$0 ELIG. COST: \$272,265	PROJECT NO.: CS422195-01 PROJ. TYPE: SS PROJECT RATING: 19 PROJECT RANKING: 241			
East Chillisquaque Township Supervisors 305 James St. Milton, PA 17847	COUNTY: Northumberland REGION: NC NPDES NO.:	I: \$394,495 II: \$0 III: \$0 IIIB: \$0	IVA: \$1,188,460 IVB: \$0 V: \$0 ELIG. COST: \$1,582,955	PROJECT NO.: CS422136-01 PROJ. TYPE: STP SS PROJECT RATING: 39 PROJECT RANKING: 35			
Fairchance Georges Joint M S A 141 Big Six Road Smithfield, PA 15478	COUNTY: Fayette REGION: SW NPDES NO.:	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$501,893 IVB: \$0 V: \$0 ELIG. COST: \$501,893	PROJECT NO.: CS422179-01 PROJ. TYPE: SS PROJECT RATING: 40 PROJECT RANKING: 29			

NOTICES

APPLICANT INFORMATION			NEEDS CATEGORIES				PROJECT INFORMATION			
Franklin Township Supervisors Box 309 Cashtown, PA 17310	COUNTY: REGION: NPDES NO.:	Adams SC	I: II: III A: III B:	\$144,500 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$84,000 \$0 \$0 \$228,500	PROJECT NO.:	CS422220-01	PROJECT RATING: PROJECT RANKING:	31 96
Granville Township BOS 100 Helen St. Lewistown, PA 17044	COUNTY: REGION: NPDES NO.:	Mifflin SC	I: II: III A: III B:	\$500,000 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$0 \$0 \$0 \$500,000	PROJECT NO.:	CS422181-01	PROJECT RATING: PROJECT RANKING:	16 252
Hempfield Township Mun. Auth. R.D.#6 Box 501 Greensburg, PA 15601	COUNTY: REGION: NPDES NO.:	Westmoreland SW	I: II: III A: III B:	\$0 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$3,500,000 \$1,000,000 \$0 \$4,500,000	PROJECT NO.:	CS422113-01	PROJECT RATING: PROJECT RANKING:	40 25
Hopewell Township 1700 Clark Blvd. Aliquippa, PA 15001	COUNTY: REGION: NPDES NO.:	Beaver SW	I: II: III A: III B:	\$1,147,000 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$0 \$0 \$0 \$1,147,000	PROJECT NO.:	CS422197-01	PROJECT RATING: PROJECT RANKING:	20 204
Huston Township Supervisors P. O. Box 40 Julian, PA 16844	COUNTY: REGION: NPDES NO.:	Centre NC	I: II: III A: III B:	\$324,057 \$126,023 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$1,210,598 \$0 \$0 \$1,660,678	PROJECT NO.:	CS422142-01	PROJECT RATING: PROJECT RANKING:	53 3
Liverpool Mun. Auth. P. O. Box 357 Liverpool, PA 17045	COUNTY: REGION: NPDES NO.:	Perry SC	I: II: III A: III B:	\$780,000 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$0 \$0 \$0 \$780,000	PROJECT NO.:	CS422169-01	PROJECT RATING: PROJECT RANKING:	19 226
Masontown Mun. Auth. 2 Court Ave. Masontown, PA 15461	COUNTY: REGION: NPDES NO.:	Fayette SW	I: II: III A: III B:	\$757,604 \$0 \$0 \$150,000	IVA: IVB: V: ELIG. COST:	\$0 \$0 \$0 \$907,604	PROJECT NO.:	CS422109-01	PROJECT RATING: PROJECT RANKING:	21 197
McKean Township Sew. Auth. P. O. Box 88 McKean, PA 16426	COUNTY: REGION: NPDES NO.:	Erie NW	I: II: III A: III B:	\$0 \$3,479,991 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$2,173,599 \$0 \$0 \$5,653,590	PROJECT NO.:	CS421822-01	PROJECT RATING: PROJECT RANKING:	27 140
Mid-Centre County Auth. P. O. Box 811 Milesburg, PA 16853	COUNTY: REGION: NPDES NO.:	Centre NC	I: II: III A: III B:	\$3,687,719 \$1,434,113 \$0 \$212,168	IVA: IVB: V: ELIG. COST:	\$369,600 \$0 \$0 \$5,703,600	PROJECT NO.:	CS422206-01	PROJECT RATING: PROJECT RANKING:	29 126
Middlesex Township Mun. Auth. 350 N. Middlesex Rd. Suite 2 Carlisle, PA 17013	COUNTY: REGION: NPDES NO.:	Cumnerland SC	I: II: III A: III B:	\$0 \$0 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$541,134 \$0 \$0 \$541,134	PROJECT NO.:	CS422180-01	PROJECT RATING: PROJECT RANKING:	0 297
Millville Mun. Auth. P. O. Box 30 Millville, PA 17846	COUNTY: REGION: NPDES NO.:	Columbia NC	I: II: III A: III B:	\$742,020 \$151,980 \$0 \$0	IVA: IVB: V: ELIG. COST:	\$0 \$0 \$0 \$894,000	PROJECT NO.:	CS422092-01	PROJECT RATING: PROJECT RANKING:	32 93



APPLICANT INFORMATION			NEEDS CATEGORIES				PROJECT INFORMATION		
Mt. Oliver Borough 150 Brownsville Rd. Pittsburgh, PA 15210	COUNTY: REGION: NPDES NO.:	Allegheny SW	I: II: III A: III B:	\$0 \$0 \$0 \$437,650	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$437,650	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422199-01 SSREH 26 157	
Orwigsburg Mun. Auth. P. O. Box 128 209 N. Warren St. Orwigsburg, PA 17961	COUNTY: REGION: NPDES NO.:	Schuylkill NE	I: II: III A: III B:	\$2,400,000 \$0 \$0 \$0	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$2,400,000	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422085-01 STPMOD 39 36	
Penn Township Supervisors R.R.#1, Box 15 Coburn, PA 16832	COUNTY: REGION: NPDES NO.:	Centre NC	I: II: III A: III B:	\$210,004 \$0 \$0 \$0	IV A: IV B: V: ELIG. COST:	\$776,596 \$0 \$0 \$986,600	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422204-01 STP SS 35 67	
Pine Grove Joint Treatment Auth. P. O. Box 482 Pine Grove, PA 17963	COUNTY: REGION: NPDES NO.:	Schuylkill NE	I: II: III A: III B:	\$0 \$8,588,894 \$0 \$3,000,000	IV A: IV B: V: ELIG. COST:	\$0 \$2,000,000 \$0 \$13,588,894	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422086-01 STP PS INT SSREH 35 64	
Pittsburgh Water & Sewer Auth. 441 Smithfield St. Pittsburgh, PA 15222	COUNTY: REGION: NPDES NO.:	Allegheny SW	I: II: III A: III B:	\$0 \$0 \$0 \$0	IV A: IV B: V: ELIG. COST:	\$200,000 \$0 \$0 \$200,000	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422200-01 SS 40 30	
Sankertown Borough Sew. Auth. P. O. Box 33 Cresson, PA 16630	COUNTY: REGION: NPDES NO.:	Cambria SW	I: II: III A: III B:	\$0 \$0 \$0 \$900,000	IV A: IV B: V: ELIG. COST:	\$0 \$300,000 \$0 \$1,200,000	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422223-01 PS SSREH 34 79	
Scott Township 2600 Old Greentree Rd. Carnegie, PA 15106	COUNTY: REGION: NPDES NO.:	Allegheny SW	I: II: III A: III B:	\$0 \$0 \$5,949,317 \$0	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$5,949,317	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422170-01 SSREH 29 125	
Scranton City Sewer Auth. 307 N. Washington Ave. Scranton, PA 18503	COUNTY: REGION: NPDES NO.:	Lackawanna NE	I: II: III A: III B:	\$4,952,648 \$0 \$0 \$361,352	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$5,314,000	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422186-01 STPMOD SSREH 22 195	
Shade-Central City Joint Auth. 429 Sunshine Ave. Central City, PA 15926	COUNTY: REGION: NPDES NO.:	Somerset SW	I: II: III A: III B:	\$87,173 \$0 \$0 \$179,077	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$266,250	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422105-01 STPMOD SSREH 20 218	
South Bethlehem Borough 214 Grant St. New Bethlehem, PA 16242	COUNTY: REGION: NPDES NO.:	Armstrong NW	I: II: III A: III B:	\$0 \$0 \$329,196 \$0	IV A: IV B: V: ELIG. COST:	\$0 \$0 \$0 \$329,196	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422184-01 SSREH 23 187	
Tamaqua Borough 320 E. Broad St. Tamaqua, PA 18252	COUNTY: REGION: NPDES NO.:	Schuylkill NE	I: II: III A: III B:	\$0 \$0 \$0 \$0	IV A: IV B: V: ELIG. COST:	\$367,500 \$0 \$0 \$367,500	PROJECT NO.: PROJ. TYPE: PROJECT RATING: PROJECT RANKING:	CS422135-01 PS SS 19 222	

**APPLICANT INFORMATION**

**NEEDS CATEGORIES**

**PROJECT INFORMATION**

Upper Augusta Township Mun. Auth.  
R.R.#2, Box 398-A  
Sunbury, PA 17801

COUNTY: Northumberland  
REGION: NC  
NPDES NO.:

I: \$256,500  
II: \$0  
III: \$0  
IIIB: \$0  
IVA: \$974,054  
IVB: \$243,689  
V: \$0  
ELIG. COST: \$1,474,243

PROJECT NO.: CS422172-01  
PROJ. TYPE: PS SS  
PROJECT RATING: 29  
PROJECT RANKING: 116

West Alexander Mun. Auth.  
P. O. Box 185  
West Alexander, PA 15376

COUNTY: Washington  
REGION: SW  
NPDES NO.:

I: \$604,000  
II: \$0  
III: \$0  
IIIB: \$0  
IVA: \$1,766,000  
IVB: \$230,000  
V: \$0  
ELIG. COST: \$2,600,000

PROJECT NO.: CS422173-01  
PROJ. TYPE: STP SS PS INT  
PROJECT RATING: 43  
PROJECT RANKING: 15

Western Clinton County Mun. Auth.  
365 Huron Ave., P. O. Box 363  
Renovo, PA 17764

COUNTY: Clinton  
REGION: NC  
NPDES NO.:

I: \$1,325,000  
II: \$0  
III: \$0  
IIIB: \$0  
IVA: \$0  
IVB: \$0  
V: \$0  
ELIG. COST: \$1,325,000

PROJECT NO.: CS422196-01  
PROJ. TYPE: STPMOD  
PROJECT RATING: 20  
PROJECT RANKING: 216

Westmont Borough  
1000 Luzerne St.  
Johnstown, PA 15905

COUNTY: Cambria  
REGION: SW  
NPDES NO.:

I: \$0  
II: \$0  
III: \$666,500  
IIIB: \$0  
IVA: \$0  
IVB: \$0  
V: \$0  
ELIG. COST: \$666,500

PROJECT NO.: CS422111-01  
PROJ. TYPE: SSREH  
PROJECT RATING: 25  
PROJECT RANKING: 163

Windber Area Auth.  
1700 Stockholm Ave.  
Windber, PA 15963

COUNTY: Somerset  
REGION: SW  
NPDES NO.:

I: \$0  
II: \$0  
III: \$0  
IIIB: \$1,752,444  
IVA: \$0  
IVB: \$0  
V: \$0  
ELIG. COST: \$1,752,444

PROJECT NO.: CS422202-01  
PROJ. TYPE: SSREH  
PROJECT RATING: 20  
PROJECT RANKING: 214

Wyoming Valley Sanitary Auth.  
1000 Wilkes-Barre St.  
Wilkes-Barre, PA 18711

COUNTY: Luzerne  
REGION: NE  
NPDES NO.:

I: \$1,475,000  
II: \$0  
III: \$0  
IIIB: \$0  
IVA: \$0  
IVB: \$0  
V: \$0  
ELIG. COST: \$1,475,000

PROJECT NO.: CS422188-01  
PROJ. TYPE: STPMOD  
PROJECT RATING: 14  
PROJECT RANKING: 266

**PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION CLEAN WATER  
STATE REVOLVING FUND**

**ADDITIONS TO FY 2000 AND FY 2001 PROJECT PRIORITY LIST  
IN ALPHABETICAL ORDER**

EXPLANATION OF COLUMNAR HEADINGS (EXCEPT THOSE THAT ARE SELF-EXPLANATORY)

NEEDS CATEGORY:

- I - SECONDARY TREATMENT
- II - TREATMENT MORE STRINGENT THAN SECONDARY
- IIIA - INFILTRATION/INFLOW CORRECTION
- IIIB - MAJOR SEWER SYSTEM REHABILITATION
- IVA - NEW COLLECTOR SEWERS AND APPURTENANCES
- IVB - NEW INTERCEPTORS AND APPURTENANCES
- V - CORRECTION OF COMBINED SEWER OVERFLOWS

PROJECT TYPE:

- STP - SEWAGE TREATMENT PLANT
- STPMOD - SEWAGE TREATMENT PLANT MODIFICATION
- INT - INTERCEPTOR
- PS - PUMP STATION
- FM - FORCE MAIN
- SS - SEWER SYSTEM
- SS REH - SEWER SYSTEM REHABILITATION

NPDES PERMIT NUMBER:

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT NUMBER

PROJECT NUMBER:

FEDERAL LOAN PROJECT IDENTIFICATION NUMBER

ELIG. COST:

ESTIMATED LOAN AMOUNT FOR ELIGIBLE PROJECT

**PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 CLEAN WATER STATE REVOLVING FUND  
 ADDITIONS TO FY 2000 AND FY2001 PROJECT PRIORITY LIST  
 JANUARY 20, 2001**

PENNSYLVANIA BULLETIN, VOL. 31, NO. 2, JANUARY 13, 2001

APPLICANT INFORMATION		NEEDS CATEGORIES				PROJECT INFORMATION	
Allegheny Township Sewer & Water Auth. 3131 Old Sixth Ave., North Duncansville, PA 16635	COUNTY: Blair REGION: SC NPDES NO.:	I: \$0 II: \$0 III A: \$0 III B: \$0	IV A: \$675,250 IV B: \$0 V: \$0 ELIG. COST: \$675,250	PROJECT CS422189-01 PROJ. TYPE: SS PROJECT RATING: 20 PROJECT RANKING: 205			
Apollo Borough Council 45 N. Pennsylvania Ave. Apollo, PA 15613	COUNTY: Armstrong REGION: SW NPDES NO.:	I: \$0 II: \$0 III A: \$0 III B: \$0	IV A: \$4,000,000 IV B: \$0 V: \$0 ELIG. COST: \$4,000,000	PROJECT CS422221-01 PROJ. TYPE: SS PROJECT RATING: 20 PROJECT RANKING: 210			
Bradford County 301 Main St. Courthouse Towanda, PA 18848	COUNTY: Bradford REGION: NC NPDES NO.:	I: \$895,352 II: \$0 III A: \$0 III B: \$0	IV A: \$0 IV B: \$0 V: \$0 ELIG. COST: \$895,352	PROJECT CS422193-01 PROJ. TYPE: STPMOD PROJECT RATING: 10 PROJECT RANKING: 283			
Brady Township Supervisors R.R.#2, Box 537 Montgomery, PA 17752	COUNTY: Lycoming REGION: NC NPDES NO.:	I: \$367,702 II: \$0 III A: \$0 III B: \$0	IV A: \$1,023,437 IV B: \$88,861 V: \$0 ELIG. COST: \$1,480,000	PROJECT CS422205-01 PROJ. TYPE: STP PS SS PROJECT RATING: 42 PROJECT RANKING: 17			
Bullskin Township/Connellsville Township R.D.#2 Box 234G Connellsville, PA 15425	COUNTY: Fayette REGION: SW NPDES NO.:	I: \$0 II: \$0 III A: \$0 III B: \$0	IV A: \$3,000,000 IV B: \$2,500,000 V: \$0 ELIG. COST: \$5,500,000	PROJECT CS422056-01 PROJ. TYPE: PS INT SS PROJECT RATING: 32 PROJECT RANKING: 89			
Columbia Borough 308 Locust St. Columbia, PA 17512	COUNTY: Lancaster REGION: SC NPDES NO.:	I: \$1,744,600 II: \$0 III A: \$0 III B: \$0	IV A: \$0 IV B: \$0 V: \$0 ELIG. COST: \$1,744,600	PROJECT CS422190-01 PROJ. TYPE: STPMOD PROJECT RATING: 13 PROJECT RANKING: 272			
Corry City Municipal Building Corry, PA 16407	COUNTY: Erie REGION: NW NPDES NO.:	I: \$0 II: \$737,300 III A: \$0 III B: \$0	IV A: \$0 IV B: \$0 V: \$2,022,900 ELIG. COST: \$2,760,200	PROJECT CS422208-01 PROJ. TYPE: STPMOD PS PROJECT RATING: 24 PROJECT RANKING: 170			
Davidson Township Supervisors R.R.#1, Box 925 Muncy Valley, PA 17758	COUNTY: Sullivan REGION: NC NPDES NO.:	I: \$441,853 II: \$0 III A: \$0 III B: \$0	IV A: \$289,398 IV B: \$102,749 V: \$0 ELIG. COST: \$834,000	PROJECT CS422207-01 PROJ. TYPE: STP PS INT SS PROJECT RATING: 44 PROJECT RANKING: 9			
Deer Lake Mun. Auth. P. O. Box 30 Auburn, PA 17922	COUNTY: Schuylkill REGION: NE NPDES NO.:	I: \$650,000 II: \$0 III A: \$410,000 III B: \$0	IV A: \$0 IV B: \$0 V: \$0 ELIG. COST: \$1,060,000	PROJECT CS422218-01 PROJ. TYPE: STP I/I PROJECT RATING: 27 PROJECT RANKING: 145			
DuBois City P. O. Box 408 DuBois, PA 15801	COUNTY: Clearfield REGION: NC NPDES NO.:	I: \$0 II: \$0 III A: \$0 III B: \$0	IV A: \$0 IV B: \$300,000 V: \$0 ELIG. COST: \$300,000	PROJECT CS422194-01 PROJ. TYPE: INT PROJECT RATING: 12 PROJECT RANKING: 281			

APPLICANT INFORMATION			NEEDS CATEGORIES				PROJECT INFORMATION	
Duryea Borough Sewer Auth. 504 Main St. Duryea, PA 18642	COUNTY: REGION: NPDES NO.:	Luzerne NE	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$1,000,000 IVB: \$0 V: \$0	ELIG. COST: \$1,000,000	PROJECT CS422217-01 PROJ. TYPE: PS SS PROJECT RATING: 40 PROJECT RANKING: 28		
Dushore Sewer Auth. P. O. Box 248 Dushore, PA 18614	COUNTY: REGION: NPDES NO.:	Sullivan NC	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$272,265 IVB: \$0 V: \$0	ELIG. COST: \$272,265	PROJECT CS422195-01 PROJ. TYPE: SS PROJECT RATING: 19 PROJECT RANKING: 241		
Franklin Township Supervisors Box 309 Cashtown, PA 17310	COUNTY: REGION: NPDES NO.:	Adams SC	I: \$144,500 II: \$0 III: \$0 IIIB: \$0	IVA: \$84,000 IVB: \$0 V: \$0	ELIG. COST: \$228,500	PROJECT CS422220-01 PROJ. TYPE: STP SS PROJECT RATING: 31 PROJECT RANKING: 96		
Hopewell Township 1700 Clark Blvd. Aliquippa, PA 15001	COUNTY: REGION: NPDES NO.:	Beaver SW	I: \$1,147,000 II: \$0 III: \$0 IIIB: \$0	IVA: \$0 IVB: \$0 V: \$0	ELIG. COST: \$1,147,000	PROJECT CS422197-01 PROJ. TYPE: STPMOD PROJECT RATING: 20 PROJECT RANKING: 204		
Hopewell Township 1700 Clark Blvd. Aliquippa, PA 15001	COUNTY: REGION: NPDES NO.:	Beaver SW	I: \$4,000,000 II: \$0 III: \$0 IIIB: \$0	IVA: \$0 IVB: \$1,500,000 V: \$0	ELIG. COST: \$5,500,000	PROJECT CS422222-01 PROJ. TYPE: STPMOD INT PROJECT RATING: 20 PROJECT RANKING: 202		
Jim Thorpe Borough 101 E. Tenth St. Jim Thorpe, PA 18229	COUNTY: REGION: NPDES NO.:	Carbon NE	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$2,200,000 IVB: \$0 V: \$0	ELIG. COST: \$2,200,000	PROJECT CS422216-01 PROJ. TYPE: SS PROJECT RATING: 32 PROJECT RANKING: 88		
Kidder Township P. O. Box 576 Lake Harmony, PA 18624	COUNTY: REGION: NPDES NO.:	Carbon NE	I: \$4,000,000 II: \$350,000 III: \$0 IIIB: \$0	IVA: \$6,900,000 IVB: \$0 V: \$0	ELIG. COST: \$11,250,000	PROJECT CS422219-01 PROJ. TYPE: STPMOD PS SS PROJECT RATING: 29 PROJECT RANKING: 121		
Mid-Centre County Auth. P. O. Box 811 Milesburg, PA 16853	COUNTY: REGION: NPDES NO.:	Centre NC	I: \$3,687,719 II: \$1,434,113 III: \$0 IIIB: \$212,168	IVA: \$369,600 IVB: \$0 V: \$0	ELIG. COST: \$5,703,600	PROJECT CS422206-01 PROJ. TYPE: STPMOD INT PROJECT RATING: 29 PROJECT RANKING: 126		
Mt. Oliver Borough 150 Brownsville Rd. Pittsburgh, PA 15210	COUNTY: REGION: NPDES NO.:	Allegheny SW	I: \$0 II: \$0 III: \$0 IIIB: \$437,650	IVA: \$0 IVB: \$0 V: \$0	ELIG. COST: \$437,650	PROJECT CS422199-01 PROJ. TYPE: SSREH PROJECT RATING: 26 PROJECT RANKING: 157		
Penn Township Supervisors R.R.#1, Box 15 Coburn, PA 16832	COUNTY: REGION: NPDES NO.:	Centre NC	I: \$210,004 II: \$0 III: \$0 IIIB: \$0	IVA: \$776,596 IVB: \$0 V: \$0	ELIG. COST: \$986,600	PROJECT CS422204-01 PROJ. TYPE: STP SS PROJECT RATING: 35 PROJECT RANKING: 67		
Pittsburgh Water & Sewer Auth. 441 Smithfield St. Pittsburgh, PA 15222	COUNTY: REGION: NPDES NO.:	Allegheny SW	I: \$0 II: \$0 III: \$0 IIIB: \$0	IVA: \$200,000 IVB: \$0 V: \$0	ELIG. COST: \$200,000	PROJECT CS422200-01 PROJ. TYPE: SS PROJECT RATING: 40 PROJECT RANKING: 30		
Prospect Borough P. O. Box 308 Prospect, PA 16052	COUNTY: REGION: NPDES NO.:	Butler NW	I: \$0 II: \$0 III: \$1,100,000 IIIB: \$0	IVA: \$0 IVB: \$0 V: \$0	ELIG. COST: \$1,100,000	PROJECT CS422214-01 PROJ. TYPE: SS PROJECT RATING: 27 PROJECT RANKING: 141		

**APPLICANT INFORMATION**

**NEEDS CATEGORIES**

**PROJECT INFORMATION**

APPLICANT INFORMATION	NEEDS CATEGORIES	PROJECT INFORMATION
Sankertown Borough Sew. Auth. P. O. Box 33 Cresson, PA 16630	COUNTY: Cambria REGION: SW NPDES NO.:	PROJECT CS422223-01 PROJ. TYPE: PS SSREH PROJECT RATING: 34 PROJECT RANKING: 79
Scranton City Sewer Auth. 307 N. Washington Ave. Scranton, PA 18503	COUNTY: Lackawanna REGION: NE NPDES NO.:	PROJECT CS422186-01 PROJ. TYPE: STPMOD SSREH PROJECT RATING: 22 PROJECT RANKING: 195
Springfield Township Sewer Auth. 9211 Susquehanna Trail S Seven Valleys, PA 17360	COUNTY: York REGION: SC NPDES NO.:	PROJECT CS422191-01 PROJ. TYPE: SS PROJECT RATING: 10 PROJECT RANKING: 287
St. Marys City 808 S. Michael Rd., P. O. Box 199 St. Marys, PA 15857	COUNTY: Elk REGION: NW NPDES NO.:	PROJECT CS422215-01 PROJ. TYPE: STPMOD PROJECT RATING: 20 PROJECT RANKING: 207
Stroud Township Sewer Auth. 1211 N. Fifth St. Stroudsburg, PA 18360	COUNTY: Monroe REGION: NE NPDES NO.:	PROJECT CS422187-01 PROJ. TYPE: PS INT SS PROJECT RATING: 25 PROJECT RANKING: 165
Tulpehocken Township P. O. Box 272 Rehrersburg, PA 19550	COUNTY: Berks REGION: SC NPDES NO.:	PROJECT CS422192-01 PROJ. TYPE: STP PS INT SS PROJECT RATING: 41 PROJECT RANKING: 18
Upper Hanover Auth. 1704 Pillsbury Rd. P. O. Box 205 East Greenville, PA 18041	COUNTY: Montgomery REGION: SE NPDES NO.:	PROJECT CS422224-01 PROJ. TYPE: STP SS PROJECT RATING: 40 PROJECT RANKING: 27
Western Clinton County Mun. Auth. 365 Huron Ave., P. O. Box 363 Renovo, PA 17764	COUNTY: Clinton REGION: NC NPDES NO.:	PROJECT CS422196-01 PROJ. TYPE: STPMOD PROJECT RATING: 20 PROJECT RANKING: 216
Windber Area Auth. 1700 Stockholm Ave. Windber, PA 15963	COUNTY: Somerset REGION: SW NPDES NO.:	PROJECT CS422202-01 PROJ. TYPE: SSREH PROJECT RATING: 20 PROJECT RANKING: 214
Wyoming Valley Sanitary Auth. 1000 Wilkes-Barre St. Wilkes-Barre, PA 18711	COUNTY: Luzerne REGION: NE NPDES NO.:	PROJECT CS422188-01 PROJ. TYPE: STPMOD PROJECT RATING: 14 PROJECT RANKING: 266

PENNSYLVANIA BULLETIN, VOL. 31, NO. 2, JANUARY 13, 2001

# PHILADELPHIA REGIONAL PORT AUTHORITY

## Invitation to Bid

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday, February 1, 2001 for Project #00-341-001 (Cleaning/Janitorial Services—TAB).

Bid openings will be held at 3460 N. Delaware Ave., Philadelphia, PA 19134. The bid documents can be obtained from the Director of Procurement, 3460 N. Delaware Ave., 2nd Flr., Philadelphia, PA 19134, (215) 426-2600 and will be available January 16, 2001. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal employment opportunity laws and regulations.

Mandatory prebid meeting will be held Thursday January 25, 2001, 10 a.m. at 3460 N. Delaware Ave., Philadelphia, PA 19134. The PRPA will consider only those bids received from parties who attended the prebid meeting.

JAMES T. MCDERMOTT, Jr.  
*Executive Director*

[Pa.B. Doc. No. 01-48. Filed for public inspection January 12, 2001, 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 (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 February 5, 2001, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00116251, F. 2. L & S Transportation, Incorporated** (104 Hoffman Road, Wind Gap, Northampton County, PA 18091), a corporation of the Commonwealth of Pennsylvania—to transport, as a common carrier, by motor vehicle, persons in paratransit service, between points in the counties of Lehigh, Northampton, Carbon and Monroe, and from points in said counties, to points in Pennsylvania, and return: *Which is to be in lieu of its contract carrier permit issued at A-00116251, F. 1, ad F. 1, Am-A as follows:* (1) to transport as a contract carrier, persons attending bingo games, for Astor Bingo Hall, from points in the city of Allentown, Lehigh County, to its facilities located in the city of Allentown, Lehigh County; subject to the following condition: That the service will be

provided in vehicles with seating capacity of 15 passengers or less, including the driver; and (2) to transport, as a contract carrier, persons attending bingo games: (1) for Astor Bingo Hall, from the counties of Lehigh and Northampton, to its facilities located in the city of Allentown, Lehigh County; (2) for St. Francis of Assisi Church, from the counties of Lehigh and Northampton, to its facilities located in the city of Allentown, Lehigh County; subject to the following condition: that service will be provided in vehicles with a seating capacity of 15 passengers or less, excluding the driver.

**A-00117412. Exclusively Yours Transportation & Protection Services, Inc.** (504 Dogwood Circle, Havertown, Delaware County, PA 19083), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the counties of Delaware, Chester, Bucks and Montgomery, and the city and county of Philadelphia, and from points in said territory, to points in Pennsylvania, and return.

**A-00117411. Chambers Management and Development Corporation** (985 Railroad Street, Jersey Shore, Lycoming County, PA 17740), a corporation of the Commonwealth of Pennsylvania—persons in group and party service, in vehicles seating 15 passengers or less, including the driver, between points in the counties of Lycoming, Clinton, Centre and Tioga, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* L. Craig Harris, 128 South Main Street, P. O. Box 505, Jersey Shore, PA 17740.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00117413. Homestead Taxi, LLC** (25 West Branch Road, Sellersville, Bucks County, PA 18960), a corporation of the Commonwealth of Pennsylvania—(1) persons upon call or demand in the borough of Sellersville, Bucks County; (2) persons upon call or demand in the borough of Perkasia, Bucks County (formerly A-00106315); (3) persons upon call or demand within that portion of West Rockhill Township, beginning at a point at the intersection of Lawn Avenue and Highway Route 563 (Ridge Road), thence west along Highway Route 563 to the intersection of Highway Route 563 and LR 09106 (Ridge Valley Road), thence northwest along LR 09106 (Ridge Valley Road) to the Milford Township line, thence west along Milford Township line to the boundary line between Montgomery County and Bucks County, thence south along said boundary between Montgomery County and Bucks County, to the boundary of the borough of Telford, thence east and south along the boundary lines of the borough of Telford to the intersection of said boundary line and T 429 (Township Line Road), excluding all points within the borough of Telford, thence east along T 429 to the Sellersville borough line thence north and northeast along the Sellersville borough line to Old Bethlehem Pike, thence north along Old Bethlehem Pike to Highway Route 563 (Ridge Road), thence west along Highway Route 563 to the point of beginning; (4) persons upon call or demand in that portion of East Rockhill Township beginning at the northern boundary of Perkasia borough and East Rockhill Township at Ridge Road east of the intersection of Blooming Glen Road, thence east along Ridge Road to the eastern boundary of East Rockhill Township, thence south along said boundary to a point at the intersection of said boundary and Highway Route 313, thence west along the southern boundary of East

Rockhill Township to the eastern boundary of Perkasio Borough (at Callowhill Road), thence north along the eastern boundary of Perkasio borough to the point of beginning; (5) persons upon call or demand in the borough of Quakertown, Bucks County (formerly A-00106315, F. 1, Am-A); (6) persons upon call or demand in that portion of the county of Bucks bounded as follows: beginning at the intersection of Traffic Route 563 (TR 563) and Legislative Route 09106 (LR 09106) in the township of West Rockhill, thence in a westerly direction along LR 09106 to its intersection with LR 09111, thence along LR 09111, in a northerly direction and thence in an easterly direction to the northeast extension of the Pennsylvania Turnpike, thence along said turnpike in a northerly direction to LR 09109, thence in a westerly direction along LR 09109 to its intersection with TR 663, thence along TR 663, and an unnamed road in a northeasterly direction to the point of meeting of the said northeastern extension of the Pennsylvania Turnpike and LR 09097, thence along LR 09097 in a northeasterly direction and an easterly direction to its intersection with the Old Bethlehem Pike (Route 153 Spur), thence along said Old Bethlehem Pike to LR 09094, thence along LR 09094 in an easterly direction to U.S. Route 309, thence in a northerly direction along U.S. Highway Route 309 to LR 09089, thence along LR 09089 in an easterly direction to Richlandtown borough, thence in a northerly direction around the western boundary of Richlandtown borough to LR 09080, thence in a northerly direction along 09080 to LR 09145, thence in an easterly direction along LR 09145 to its intersection with Pennsylvania State Route 212, thence east on Pennsylvania State Route 212 to its intersection with LR 09127, thence in an easterly direction along LR 09127 to LR 09068, thence in a southerly direction along LR 09068 to LR 09019, thence along LR 09019 in an easterly direction to LR 09130 and in a southerly direction along LR 09130 to Nockamixon State Park, thence via an imaginary line through Nockamixon State Park to the intersection of Ridge Road and LR 09093, thence westerly on Ridge Road to its intersection to LR 0990, thence north via LR 09090 to its intersection with LR 09102 thence via LR 09102, to its intersection with Park Avenue, thence via Park Avenue to its intersection with Pennsylvania Traffic Route 563, thence south via Pennsylvania Traffic Route 563 to the point of beginning (formerly A-00106315, F. 1, Am-B); and (7) property, excluding household goods in use, between points in Pennsylvania (formerly A-00106315, F. 2); which is to be a transfer of all or the rights authorized under the certificates issued at A-00106315, F. 1; F. 1, Am-A; F. 1, Am-B and F. 2 to Homestead Cab Company, Inc., a corporation of the Commonwealth of Pennsylvania; subject to the same limitations and conditions. *Attorney:* James W. Patterson, 3800 Center Square West, Philadelphia, PA 19102.

**Applications of the following for approval *amendment of the right and privilege of operating motor vehicles as common carriers for the transportation of persons* by *transfer of rights as described under each application.***

**A-00110753, Folder 1, Am-A. Eagle Limousine, Inc.** (20 South Valley Road, Paoli, Chester County, PA 19301), a corporation of the Commonwealth of Pennsylvania—to transport, persons in limousine service, between points in the county of Delaware and the city and county of Philadelphia, and from points in said territory, to points in Pennsylvania, and return; subject to the following condition: that no right, power or privilege is granted to provide transportation in luxury-type vans to or from the

Philadelphia International Airport in the city and county of Philadelphia and the township of Tinicum, Delaware County: *So as to permit* the transportation of (1) persons in limousine service, between points in the borough of Malvern, and the townships of Willistown, East Goshen and East Whiteland, and that portion of the township of Tredyffrin, west of an imaginary line running north and south that begins at the southern border of said township and Contention Lane, thence north on Contention Lane to its intersection with Wilson Road, thence via Wilson Road to its termination at the northern border of the said township, all of which are in Chester County, and from points in the said area, to points in Pennsylvania, and return; and (2) persons in limousine service, between points in the county of Bucks, and from points in said county, to points in Pennsylvania, and return; which is to be a transfer of all of the rights authorized under the certificate issued at A-00106855, F. 1 and F. 1, Am-A to Ralph H. Crowther, Jr., t/d/b/a Crowther's Luxury Limousine; subject to the same limitations and conditions. *Attorney:* Stephen D. Goldberg, P. O. Box 1266, Wilmington, DE 19899-1266.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-49. Filed for public inspection January 12, 2001, 9:00 a.m.]

### Telecommunications

**A-311037. Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Arch Wireless Holdings, Inc. f/k/a Arch Paging, Inc. and Mobile Communications Corporation of America.** Joint Petition of Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Arch Wireless Holdings, Inc., f/k/a Arch Paging, Inc. and Mobile Communications Corporation of America, for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and Arch Wireless Holdings, Inc. f/k/a Arch Paging, Inc. and Mobile Communications Corporation of America, by its counsel, filed on December 28, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. 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 Arch Wireless Holdings, Inc. f/k/a Arch Paging, Inc. and Mobile Communications Corporation of America Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-50. Filed for public inspection January 12, 2001, 9:00 a.m.]



## Telecommunications

**A-310927F0002. Verizon Pennsylvania Inc. and Broadstreet Communications, Inc.** Joint Petition of Verizon Pennsylvania Inc. and Broadstreet Communications, Inc. for approval of amendments nos. 1 and 2 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Broadstreet Communications, Inc., by its counsel, filed on December 28, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Broadstreet Communications, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-51. Filed for public inspection January 12, 2001, 9:00 a.m.]

## Telecommunications

**A-310464F0002. Verizon Pennsylvania Inc. and NET-tel Corporation.** Joint Petition of Verizon Pennsylvania Inc. and NET-tel Corporation for approval of amendment no. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and NET-tel Corporation, by its counsel, filed on December 22, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of Amendment No. 1 to 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. and NET-tel Corporation Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-52. Filed for public inspection January 12, 2001, 9:00 a.m.]

## Telecommunications

**A-310624F0002. Verizon Pennsylvania Inc. and North American Telecommunications Corporation d/b/a North American Corporation.** Joint Petition of Verizon Pennsylvania Inc. and North American Telecommunications Corporation d/b/a North American Corporation for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and North American Telecommunications Corporation d/b/a North American Corporation, by its counsel, filed on December 28, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and North American Telecommunications Corporation d/b/a North American Corporation Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-53. Filed for public inspection January 12, 2001, 9:00 a.m.]

## Telecommunications

**A-310946F0002. Verizon North Inc. and Pathnet, Inc.** Joint Application of Verizon North Inc. and Pathnet, Inc. for approval of the first amendment to the interconnection, resale and unbundling agreement under section 252(a)(1) and (e) of the Telecommunications Act of 1996.

Verizon North Inc. and Pathnet, Inc., by its counsel, filed on December 22, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an amendment to 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 North Inc. and Pathnet, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 01-54. Filed for public inspection January 12, 2001, 9:00 a.m.]

## STATE POLICE

### Notice of Scheduled Conference

The purpose of this notice is to provide vendors with advance notice for attending the upcoming Criminal Investigative & Traffic Safety Incident Information Management System (IIMS) Systems Operational Readiness Review (SORR) and State of the Industry Conference.

The State Police, Bureau of Technology Services, in conjunction with its Systems Integrator, Lockheed Martin Management and Data Systems Corporation, will host the Conference on January 30 and 31, 2001, in the Harrisburg, PA area.

The primary purpose of SORR is to validate the to-be business process models and operations concepts with a variety of stakeholders within the State Police and Commonwealth. Vendors will be invited to observe this event and furnish comments for consideration. Vendors may also receive preliminary information regarding plans for the IIMS Program, such as procurement schedules and high-level requirements for primary system elements.

The State of the Industry portion of the Conference will allow for vendors of select technologies and capabilities to offer design considerations and to update IIMS Program personnel on the current state of technologies and capabilities in the industry. Space and time permitting, vendors will be given the option to provide capability briefings and demonstrations on January 31, 2001. This is not an evaluation activity but an opportunity for vendors to provide capability information that may be considered for incorporation into the final system requirements to be issued in the March 2001 timeframe.

The specific technologies and products of interest include:

- Computer Aided Dispatch (CAD)
- Geographic Information Systems (GIS)
- Records Management Systems (RMS)
- Mobile Computing
- Work Flow Databases
- Message Switching Systems
- Document Management Systems
- XML

A new, refreshed IIMS Program web site is currently under development and is expected to be complete by January 5, 2001. This web site will be the primary vehicle on which IIMS Announcements and Opportunities will be published. Once available vendors may reregister.

Please do not attempt to directly contact the IIMS Program Management Office. For more information on this event, vendors are encouraged to visit the new IIMS website at <http://www.pspiims.com> on or after January 5, 2001. Interested vendors may apply through the web site via E-mail to attend this event when it becomes available.

COL. PAUL J. EVANKO,  
*Commissioner*

[Pa.B. Doc. No. 01-55. Filed for public inspection January 12, 2001, 9:00 a.m.]

## TURNPIKE COMMISSION

### Retention of an Engineering Firm

#### Open End Environmental Services Engineering Contract, Districts 1 and 2

##### Reference No. 1-121

The Turnpike Commission (Commission) will retain one Environmental Engineering Firm for an open-end contract to perform design and construction services for a variety of facility-related projects along the Turnpike system in the western portion of the State. Services from the Engineering Firm include, but are not limited to: studies, concept plans, preliminary/final designs, production of construction documents suitable for competitive bidding, inspection services, operation and maintenance analysis, and monitoring and sampling as required by the Department of Environmental Protection (Department).

The firm selected will have experience with underground and above ground storage tank facilities; including soil and groundwater characterizations, soil and groundwater remediation systems as required by the Department. The firm must be capable of arriving at all sites within a 2-hour time period for emergency situations. The firm must have staff available with experience in hydrogeology, underground storage tank technology, remediation and recycling technologies.

The contract will be for a maximum cost of \$500,000 or for a 24 month period. The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend construction meetings with the Commission.

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 and develop plans to complete 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 Department of Transportation and 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 Deann S. Metro at (717) 939-9551, extension 3731; or by e-mail at [dmetro@paturndpike.com](mailto:dmetro@paturndpike.com).

**Open End Environmental Services  
Engineering Contract, Districts 3, 4, & 5**

**Reference No. 4-058**

The Turnpike Commission (Commission) will retain one Environmental Engineering Firm for an open-end contract to perform design and construction services for a variety of facility-related projects along the Turnpike system in the eastern portion of the State. Services from the Engineering Firm include, but are not limited to: studies, concept plans, preliminary/final designs, production of construction documents suitable for competitive bidding, inspection services, operation and maintenance analysis, and monitoring and sampling as required by the Department of Environmental Protection (Department).

The firm selected will have experience with underground and above ground storage tank facilities; including soil and groundwater characterizations, soil and groundwater remediation systems as required by the Department. The firm must be capable of arriving at all sites within a 2-hour time period for emergency situations. The firm must have staff available with experience in hydrogeology, underground storage tank technology, remediation and recycling technologies.

The contract will be for a maximum cost of \$500,000 or for a 24 month period. The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend construction meetings with the Commission.

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 and develop plans to complete 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 Department of Transportation and 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 Deann S. Metro at (717) 939-9551, extension 3731; or by e-mail at [dmetro@paturndpike.com](mailto:dmetro@paturndpike.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 Department of Transportation and Turnpike Commission projects.

5. An Annual Qualification Package similar to the one submitted to the 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 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 Don Santostefano, Facilities Manager, 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 noon, Friday, February 2, 2001. 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 this contract. The order of preference will be established by the Technical Review Committee and approved by the Commission. 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. 01-56. Filed for public inspection January 12, 2001, 9:00 a.m.]

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# 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

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.

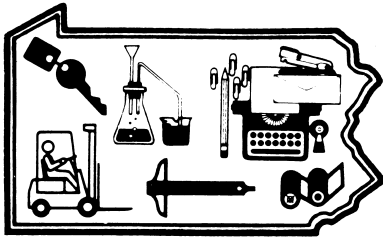
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## 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

**1270110** Aluminum Windows—Furnish and Install. For a copy of bid package fax request to (717) 787-0725.

**Department:** Corrections  
**Location:** Training Academy, Elizabethtown, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**6350-03** Surveillance & Security Equipment & Supplies. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Surveillance & Security Equipment & Supplies, 6350-03. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 6350-01 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

**Department:** General Services  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**607** EasyStand 5000 (6 each)

**Department:** Public Welfare  
**Location:** POLK CENTER, P. O. Box 94 Polk, PA 16342  
**Contact:** Patty Frank, Purchasing Agent, (814) 432-0229

**9854** Design, fabricate, deliver and install neon units, consisting of one (1) single set of neon tubing, six (6) signs with double horizontal stripes. All wiring to be concealed behind walls and/or above ceiling tiles. All copy to be noted in Standard "Script" style (upper and lower case) as shown on drawings.

**Department:** Liquor Control Board  
**Location:** Wine & Spirits Shoppe #2514, Yorktown Centre, 2501 West 12th Street, Erie, PA 16505  
**Duration:** Single purchase/install  
**Contact:** Leland E. Scott, Jr., (717) 787-9854

**5810-03** Microcomputer & Local Area Network (LAN) Software. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Microcomputer & Local Area Network (LAN) Software, 5810-03. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 5810-03 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

**Department:** General Services  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**1275350** "Hydrostop" Wet Tap to Existing Main. For a copy of bid package fax request to (717) 787-0725.

**Department:** Environmental Protection  
**Location:** Madera, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**1303110** Stoker Boiler Repair Parts. For a copy of bid package fax request to (717) 787-0725.

**Department:** Corrections  
**Location:** Bellefonte, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**5850-01** Microcomputer, LAN Hardware & Peripherals. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Microcomputer & Local Area Network (LAN) Hardware & Peripherals, 5850-01. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 5850-01 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

**Department:** General Services  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**6509-037** Washer/Extractor 95—100 pound capacity washer extractor. Model Milner #36026V5J/EP Plus or equal

**Department:** Corrections  
**Location:** Correctional Industries, SCI Retreat, RD #3 Box 500, Hunlock Creek, PA 18621-9580  
**Duration:** 1 year  
**Contact:** MaryAnn Ulrich, (717) 731-7134

**1249070** Furnish & Install Carpet Tiles. For a copy of bid package fax request to (717) 787-0725.

**Department:** Health  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**1323210** Used Backhoe. For a copy of bid package fax request to (717) 787-0725.

**Department:** Public Welfare  
**Location:** Clarks Summit, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

**7009** Dry beans, various varieties such as navy bean, kidney bean, baby lima, northern whites, pinto and black eyed peas. To be processed for canning

**Department:** Corrections  
**Location:** Correctional Industries, SCI Rockview, Rt 26, Bellefonte, PA 16823  
**Duration:** 1 year  
**Contact:** MaryAnn Ulrich, (717) 731-7134

**SU-00203U01-4** Shippensburg University is seeking vendors interested in furnishing Unixware Network Software and maintenance as described in the invitation-to-bid. Bid opening is scheduled for January 25, 2001 at 2:00PM. Vendors interested in receiving a bid package should telephone Janet Neidigh, Purchasing Agent at (717) 477-1123, ext. 3139 or e-mail jlnheid@ship.edu. The University encourages responses from small and disadvantaged, minority, and women-owned firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County  
**Duration:** Undetermined  
**Contact:** Janet Neidigh, (717) 477-1386

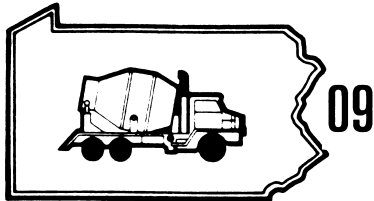
**SU-51905-23** Shippensburg University is seeking vendors interested in bidding on a FTIR Spectrometer System as described in the invitation to bid. Bid opening is scheduled for January 26, 2001 at 2:00 P.M. Vendors interested in receiving a bid package should fax their request to the attention of Zora Frank, Purchasing Manager, Fax number (717) 477-1350. If you have any questions, please call (717) 477-1386. The University encourages responses from small and disadvantaged, minority, and women-owned firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County  
**Duration:** N/A  
**Contact:** Zora Frank, (717) 477-1386

**6350-01** Security System Services. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Security System Services, 6350-01. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 6350-01 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

**Department:** General Services  
**Location:** Harrisburg, PA  
**Duration:** FY 2000-01  
**Contact:** Vendor Services, (717) 787-2199

## SERVICES



### Construction & Construction Maintenance

**FD-324-791** Site Development (clearing, grading, excavating, landscaping); drill a water well and associated supply lines; concrete work; provide and install pre-engineered structures (pavilion and restroom); and associated electrical work for the Day Use Area at the Joseph Ibberson Conservation Area in Dauphin County, south of Halifax. NOTE: Requests for Bid Documents will be taken ON or AFTER January 16, 2001

**Department:** Conservation and Natural Resources  
**Location:** Wayne Township  
**Duration:** 120 Days  
**Contact:** Construction Management Section, (717) 787-5055

**K01069** Project K01069 (RE-BID): Walk-in cooler/freezer replacement in the Van Houten Dining Hall, Edinboro University of PA. Equipment installation must be performed by a qualified and experienced dealer/installer of food service equipment. Two prime contracts are anticipated, (1) a general contract to include demolition, cooler equipment, plumbing and HVAC work, and (2) a separate electrical contract. Bids are due in the Purchasing Office, 220 Mc Nerney Hall at 2:00 pm, February 1, 2001. A pre-bid meeting is scheduled for 2:00 pm, January 11, 2001 in the Van Houten Dining Hall, North Dining Room. Contact Tom Anderson, (814) 732-2704 for bid documents. Non-refundable cost of documents is \$25.00 (pick-up), \$30.00 (mailed). MBE/WBE companies are encouraged to participate.

**Department:** State System of Higher Education  
**Location:** Edinboro University of Pennsylvania  
**Duration:** 70 calendar days from Notice to Proceed  
**Contact:** Tom Anderson, Contract Specialist, (814) 732-2704

**SP 3821210004** Construct and install 26 wooden trash booms and rearrange 11 metal trash booms

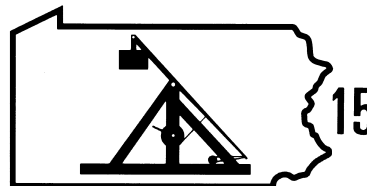
**Department:** Conservation and Natural Resources  
**Location:** Sinnemahoning Dam is located in Sinnemahoning State Park in Grove and Wharton Townships, Cameron and Potter Counties.  
**Duration:** Work must be completed by October 30, 2001.  
**Contact:** Gene Strick, Regional Engineer, (814) 486-5622

**ESU 405-151** East Stroudsburg University is accepting bids on ESU 405-151, Hawthorn Hall Window Replacement. Gen Prime Approx \$350K. Send a \$35.00 non-refundable check to Quad Three Group, 37 N Washington St., Wilkes-Barre, PA 18701, 570-829-4200. Pre-Bid: Jan 23, 2001. Bids Open: Feb 13, 2001 at 2PM Local Time. Call Ann Zaffuto at 570-422-3595 for meeting locations and for special accommodations. All responsible bidders are invited to participate including MBE/WBE Firms.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, 200 Prospect Street, East Stroudsburg, PA 18301  
**Duration:** 90 Days ANP  
**Contact:** Quad Three Group, (570) 829-4200

**ITQ 359002** PennDOT currently has an Invitation to Qualify Contract for statewide Facilities Design, Construction, Renovation, & Inspection Services through December 31, 2005. This ITQ has an open enrollment period to allow contractors who meet the qualification requirements to be added to the contract. Contractors interested in pre-qualifying for this ITQ are required to indicate the type of service they can perform and the county in which they wish to perform work. Contractors who meet the pre-qualification requirements will be awarded a contract. Award of a contract however does not necessarily guarantee work. Types of services include Architectural, Mechanical, Electrical, and Structural work such as General Construction, HVAC, Fuel Tanks, Asbestos Removal, doors, windows, etc. To request an ITQ package, fax your company's name, contact person, address, and phone number to Roberta Cooper at (717) 783-7971. Contractors currently on the Facilities ITQ do not need to reapply.

**Department:** Transportation  
**Location:** State-wide  
**Duration:** Contract expires on December 31, 2005  
**Contact:** Joseph DeSantis, (717) 787-9213



### Environmental Maintenance Service

**BF 439-101.1** Abandoned Mine Land Reclamation. Solomon and Teslovich, involves approximately 1,800 c.y. ditch excavation, 2,100 s.y. erosion mats and blankets, 1,100 s.y. rock lining with filter material, 34,000 l.f. ditch removal, pond renewal, 17 acre selective grading and seeding 50 acres. This project issues December 22, 2000; payment in the amount of \$10.00 must be received before bid documents will be sent.

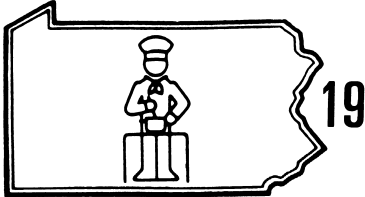
**Department:** Environmental Protection  
**Location:** Bullsken Township, Fayette County  
**Duration:** 280 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

**BOGM 00-9** Clean Out and Plug Thirty Nine (39) Abandoned Oil Wells—Allegheny National Forest, Mr. Robert Carringer and Mr. Blaine H. Luke properties—each a depth between 1,000 and 1,800 feet, preparing and restoring each site and mobilizing and demobilizing plugging equipment. This project issues December 22, 2000; payment in the amount of \$10.00 must be received before bid documents will be sent.

**Department:** Environmental Protection  
**Location:** Harmony and Southwest Townships, Forest and Warren Counties  
**Duration:** 190 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

**BF 459-101.1** Abandoned Mine Land Reclamation, Delta Mining Inc., involves approximately 500 c.y. ditch excavation, 1,400 s.y. high velocity erosion control mulch blanket, 500 c.y. ditch excavation, 2,000 l.f. barbed wire fence, and seeding 6 acres. This project issues December 22, 2000; payment in the amount of \$10.00 must be received before bid documents will be sent.

**Department:** Environmental Protection  
**Location:** Elklick Township, Somerset County  
**Duration:** 130 calendar days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994



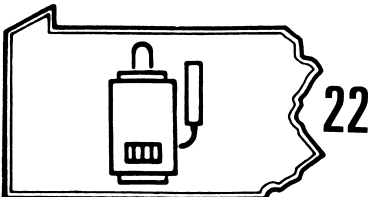
### Food

**3946** Meat, Frozen Contract for April, May & June 2001. Send a fax to 570-587-7108 to request a bid package. Bid packages cannot be faxed.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505  
**Duration:** April 01, 2001—June 30, 2001  
**Contact:** Stanley Rygelski, P.A., (570) 587-7291

**8000-bread** Whole wheat bread (24 oz. loaf) Italian Bread (20 oz. loaf) Rye Bread (24 oz. loaf) Pantry White Bread (20 oz. loaf) Bread to be delivered once a week on Friday.

**Department:** Corrections  
**Location:** SCI-Waynesburg, 373 Prison Road, Waynesburg, PA 15370  
**Duration:** April 1, 2001—March 31, 2002  
**Contact:** Judith Cook, (724) 852-5609



### HVAC Services

**102009** Contractor to provide repairs to plumbing system in building 048-5762, at 351 New Castle Road, Butler, Pa. as needed.

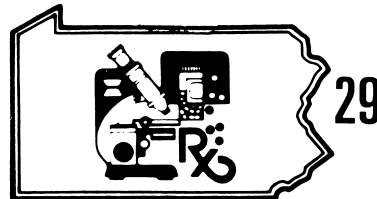
**Department:** Transportation  
**Location:** 351 New Castle Road, Butler, Pa. 16001  
**Duration:** Two (2) year contract, with two (2) one-year renewals  
**Contact:** Andrew Skunda, (724) 284-8800



### Janitorial Services

**SWVC220-0201** CONTRACTOR TO PROVIDE EQUIPMENT, LABOR, AND MATERIAL TO CLEAN APPROXIMATELY 600 EACH METAL VENTIAN BLINDS AT FACILITY UTILIZING ULTRASONIC EQUIPMENT.

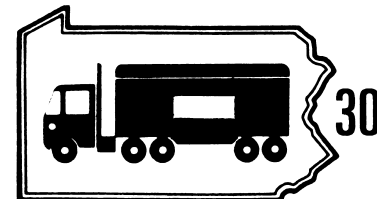
**Department:** Military Affairs  
**Location:** SOUTHWESTERN VETERANS CENTER, 7060 HIGHLAND DRIVE, PITTSBURGH PA. 15206  
**Duration:** MARCH 01 2001 TO JUNE 30 2002  
**Contact:** KEN WILSON, (412) 665-6727



### Medical Services

**SP 00781028** Mobile X-ray Unit to provide mammography services. For detailed information contact the Purchasing Office at (610) 670-4129.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Route 422, Berks County, P. O. Box 300, Wernersville, PA 19565-0300  
**Duration:** Anticipated Start Date: April 1, 2001  
**Contact:** Nancy Deininger, Purchasing Agent, (610) 670-4129



### Moving Services

**01-F-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry  
**Location:** Region 6 consists of 15 centers specifically: Greene County-Waynesburg; Fayette County-Uniontown and Connellsville; Washington County-Washington and Charleroi; Beaver County-Beaver Falls and Ambridge; Butler County-Butler; Armstrong County-Kittanning; Indiana County-Indiana; Allegheny County-Pittsburgh North, South, East Liberty and McKeesport.

**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-H-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry  
**Location:** Region 4 consists of eight centers specifically: Mifflin County-Yeagertown; Centre County-Phillipsburg and State College; Northumberland County-Shamokin and Sunbury; Cambria County-Berwick; Clinton County-Lock Haven; Lycoming County-Williamsport

**Duration:** Up to 6 months  
**Contact:** Cherianita Thomas/NK, (717) 787-2877



**01-G-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry

**Location:** Region 7 consists of ten centers specifically: Lawrence County-New Castle; Mercer County-Sharon; Jefferson County-Punxsutawney; Elk County-St. Marys; Potter County-Coudersport; McKean County-Bradford; Warren County-Warren; Crawford County-Meadville; Erie County-Erie

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-C-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry

**Location:** Region 1 consists of eleven centers specifically: Chester County-Coatesville; Delaware County-Chester and Lansdowne; Montgomery County-Hatboro and Norristown; Bucks County-Bristol; Philadelphia County-Germantown, Northeast West, Uptown, and Downtown

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-E-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry

**Location:** Region 3 consists of six centers specifically: Franklin County-Chambersburg; Adams County-Gettysburg; York County-York; Cumberland County-Carlisle; Dauphin County-Harrisburg; Lebanon County-Lebanon

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-A-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Offices.

**Department:** Labor and Industry

**Location:** Region 5 consists of seven centers specifically: Bedford County—Bedford; Somerset County—Somerset; Huntingdon County—Huntingdon; Cambria County—Johnstown; Blair County—Altoona; Clearfield County—Clearfield and DuBois

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-B-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry

**Location:** Region 8 consists of eight centers specifically: Luzerne County-Hazleton, Nanticoke, Wilkes-Barre and Pittston; Lackawanna County-Carbondale and Scranton; Tioga County-Wellsboro; Bradford County-Towanda

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877

**01-D-01** The Department of Labor and Industry; Office of Procurement is soliciting bids for Furniture Moving and Storage Companies for the relocation of State Office.

**Department:** Labor and Industry

**Location:** Region 2 consists of five centers specifically: Lehigh County-Allentown; Northampton County-Bethlehem and Easton; Carbon County-Jim Thorpe; Monroe County-Tannersville

**Duration:** Up to 6 months

**Contact:** Cherianita Thomas/NK, (717) 787-2877



### Personnel, Temporary

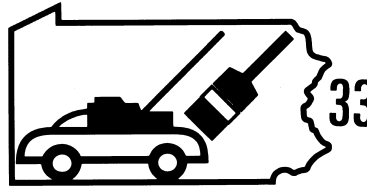
**SU-00-11** SU-00-11: Shippensburg University is seeking proposals for a vendor to provide temporary personnel for the Head Start Program for the period May 1, 2001 through April 30, 2002. The Contractor will employ and pay the staff for the University's Head Start Program. Duties include payment of salaries, mailing checks, withholding of all lawful deductions, provide worker's compensation, liability insurance, handle unemployment claims, prepare earnings records, tax reports, etc. Requests for bid package should be faxed to Deborah Martin at FAX: (717) 477-4004. Proposals are due NLT 4:00 PM on January 25, 2001. The University encourages responses from small, minority and women owned firms.

**Department:** State System of Higher Education

**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA

**Duration:** May 1, 2001 through April 30, 2002

**Contact:** Deborah K. Martin, Contract Administrator, (717) 477-1121



### Property Maintenance

**SP1345001020** FURNISH AND INSTALL NEW 7-1/2" CURTAIN WALL SYSTEM. ALSO INCLUDED WILL BE THE REMOVAL OF THE EXISTING WALL. FOR FURTHER JOB INFORMATION, PLEASE CALL TOM SCHMIDT, MAINTENANCE MANAGER, AT 610-948-2430. FOR COPIES OF BID SPECIFICATIONS (WHEN AVAILABLE), PLEASE FAX YOUR REQUEST TO THERESA BARTHEL, P.A., AT 610-948-2461. A PRE-BID SITE VISIT IS REQUIRED!

**Department:** Military Affairs

**Location:** SOUTHEASTERN VETERANS CENTER 1 VETERANS DRIVE  
SPRING CITY, PA 19475

**Duration:** MARCH 15, 2001 THRU JUNE 30, 2001

**Contact:** THERESA BARTHEL, P.A., (610) 948-2493

**00677-000-00-AS-4 Extension** NEW BID OPENING DATE—Due date has been extended. Replace wood shingle roof on 5 buildings at Pennsbury Manor, Morrisville, PA. For directions contact the Project Manager, Mark Heeb at (717) 787-7788 or the site at 215-946-0400. All interested bidders should submit a \$25.00 (non-refundable) check and a request for a bid package in writing to: PA. Historical & Museum Commission, Division of Architecture, Room N118, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053—ATTENTION: Judi Yingling (717) 772-2401. All proposals are due on Tuesday, January 30, 2001 at 11:45 am. Bid opening will be held in The Commonwealth Keystone Building, Division of Architecture, Room N118, Plaza Level, 400 North Street, Harrisburg, PA 17120-0053.

**Department:** Historical and Museum Commission

**Location:** Pennsbury Manor, 400 Pennsbury Memorial Road, Morrisville, PA 19067

**Duration:** March 1, 2001 to October 31, 2001

**Contact:** Judi Yingling, (717) 772-2401

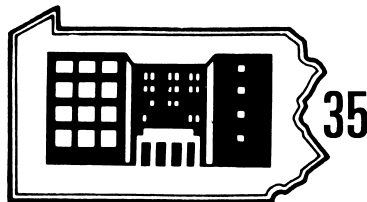
**SP382100003** Services required to supply and install approximately 2,900 square feet of floor tile & approximately 4,400 wall tiles in shower house at Promised Land State Park, Greene Township.

**Department:** Conservation and Natural Resources

**Location:** Promised Land State Park

**Duration:** 30 days after Notice to proceed

**Contact:** Sandra Lewis, (215) 453-5030



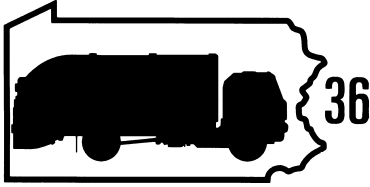
### Real Estate Services

**93160** LEASE SPACE TO THE COMMONWEALTH OF PA Proposals are invited to provide the Pa Board of Probation & Parole with 5,195 useable square feet of office space in Pittsburgh, Allegheny County, PA. with a minimum parking for 19 vehicles. The offered space must be located within the following boundaries: North: Butler Street; South: Penn Lincoln Parkway; East: Braddock Avenue; West: 16th Street through to Route 579 to the Penn Lincoln Parkway. Downtown locations will be considered. The offered space must also be located within 3 blocks of public transportation. For more information on SFP #93160 which is due on February 26, 2001 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call 717-787-4394.

**Department:** Probation and Parole Board

**Location:** Room 505 North Office Building, Harrisburg, Pa. 17125

**Contact:** John Hocker, (717) 787-4396



### Sanitation

**040137** Provide and maintain 8 cubic yard containers and remove rest area refuse at specified intervals at two (2) rest areas on I-84 in Pike County, and one (1) safety rest area on State Route 6, Matamoras, in Pike County. Specifications may be obtained by contacting the District Roadside Specialist, Monday through Friday, 8:00 am to 3:00 pm or by faxing request to Roadside Unit at (570) 963-4245.

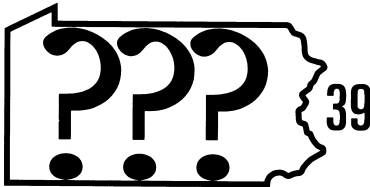
**Department:** Transportation  
**Location:** Pike County  
**Duration:** Two year with renewal option  
**Contact:** Martha Spaide, (570) 963-4048



### Security Services

**SP10048001 REBID** THIS SERVICE IS FOR ONE (1) SECURITY GUARD AT THE NORTHAMPTON COUNTY ASSISTANCE OFFICE, 201 LARRY HOLMES DR., EASTON, PA 18042 from 8:30 a.m. to 5:00 p.m., MONDAY THRU FRIDAY, (HOLIDAYS EXCLUDED), COMPLETE DETAILS AND SPECIFICATIONS MAY BE OBTAINED BY EITHER CONTRACTING THE PROCUREMENT OFFICE OR FAXING YOUR NAME/ADDRESS/BID NUMBER REQUEST TO 717-783-3560, ATTN: TO (CONTACT PERSON BELOW) COMPLETE INFORMATION WILL BE SPECIFIED IN BID PROPOSAL.

**Department:** Public Welfare  
**Location:** NORTHAMPTON COUNTY ASSISTANCE OFFICE, 201 LARRY HOLMES DRIVE, EASTON, PA 18042  
**Duration:** TERM OF CONTRACT IS FROM 7/1/01 TO 6/30/06.  
**Contact:** ROSE WADLINGER, (717) 783-3767



### Miscellaneous

**1101000122** The Department of Corrections is seeking proposals for commissary services for the State Correctional Institution at Chester. Currently there are 888 inmates housed in this facility, but the population could potentially reach 1096. Interested contractors will be asked to provide proposals for on-site commissary operations.

**Department:** Corrections  
**Location:** State Correctional Institution—Chester, 500 East 4th Street, Chester, PA 19013  
**Duration:** Three years, with the option of two additional one-year renewals  
**Contact:** Patricia J. Cassell, (717) 975-4999

**ITQ SSHE-PQL-12-2000** The State System of Higher Education is seeking to establish a list of qualified developers who are qualified to be selected as project developer to provide student housing on the campuses of the System, either through construction, operation, maintenance and financing of new facilities or through renewal, operation, maintenance and financing of existing residence halls, probably through lease to a tax exempt 501 (c) 3 entity. The State System of Higher Education is comprised of the Commonwealth's 14 state owned universities located at Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock, and West Chester, their branch campuses and educational centers, and the office of the Chancellor. Interested & Qualified firms may obtain an invitation to qualify (ITQ) from Rebecca Novak at the Dixon University Center, 2986 N. Second Street, Harrisburg, PA 17110-1201. Facsimile request can be sent to (717) 720-4013. The ITQ is also available at <http://www.sshechan.edu/Procurement/opptpage.htm>. The System encourages responses from small firms, minority firms, women owned firms and firms that have not previously worked for the System, and will consider joint ventures. Non-discrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Throughout Pennsylvania at State owned Universities  
**Duration:** Qualified for five (5) years  
**Contact:** Howard A. Wells, Jr., (717) 720-4118

**PGC02677** Agency is seeking a contractor to create and plant eight (8) acres of herbaceous openings AND grade and seed two (2) acres of log landings and logging roads according to agency specifications. Project site is in a remote area of State Game Lands #037, Middlebury Township, Tioga County. The eight-acre site was part of a large timber sale, and all merchantable timber has been removed from the site. Contractor will excavate all stumps and remove all woody vegetation from site, including down and standing pole timber. Contractor will also be responsible for grading, seeding, and mulching access road to site and log landings according to agency schedule. Complete specifications can be obtained through agency.

**Department:** Game Commission  
**Location:** Pennsylvania Game Commission, Automotive and Procurement Division, 2001 Elmerton Avenue, Harrisburg, PA 17110-9799  
**Duration:** From award through June 16, 2001  
**Contact:** Diane Shultz or Linda Beaver, (717) 787-6594

**00872020** Crisis Intervention Training and annual recertification of instructors.

**Department:** Public Welfare  
**Location:** Danville State Hospital 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin 5/1/01 and end 6/30/05  
**Contact:** Pamela Bauman, (570) 271-4578

**CLA-500** Clarion University of Pennsylvania is interested in establishing a List of Bidders for various construction projects to be in 2001. This list will be used as a contact list and is NOT a prequalification list and contractors placed on the list may be required to provide additional information when bidding on projects. Contractors must complete an application to be added to the list. To obtain further information and/or an application for inclusion on the Bidder's List, contact Judy McAninch, 218 Carrier Hall, Clarion University, Clarion, PA 16214, (814) 393-2240; fax: (814) 393-1826; e-mail: [jmcaninch@clarion.edu](mailto:jmcaninch@clarion.edu). Clarion University is equal opportunity employer and encourages responses from minority firms, women-owned firms and small/disadvantaged firms and other firms which have not previously worked on university projects.

**Department:** State System of Higher Education  
**Location:** Clarion and Venango Counties  
**Duration:** N/A  
**Contact:** Judy McAninch, Contract Specialist, (814) 393-2240

**B-13756** VENDOR TO SUPPLY TO THE STATE CORRECTIONAL INST. GRATERFORD STAINLESS STEEL SHEET METAL, 22 GAUGE 48" X 96", OR ANY OTHER RELATED SUPPLIED AS REQUIRED.

**Department:** Corrections  
**Location:** STATE CORRECTIONAL INST. GRATERFORD, BOX 246, OFF RT. 29, GRATERFORD, PA 19426  
**Duration:** 1 YEAR  
**Contact:** KELLY RICHARDSON, (610) 489-4151

[Pa.B. Doc. No. 01-57. Filed for public inspection January 12, 2001, 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>
0005-08	01/02/01	Bethesda Engravers	280,850.00
7350-08	01/03/01	Betson Pittsburgh Distributing	263,037.00
8430-06 rip#1/ sup #1	01/02/01	Anchortex Corp.	3,991.00
8430-06 rip#1/ sup #1	01/02/01	Dover Army-Navy Store Inc.	51,250.00
8430-06 rip#1/ sup #1	01/02/01	The Glove & Safety People	4,215.25

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
9905-11 bid-in part	01/02/01	Traffix Devices Inc.	77,595.00
1198220-01	01/02/01	Cumberland Truck Equipment	76,575.00
1239130-01	01/02/01	Alpha-Med	23,058.75
1251200-01	01/02/01	Keystone Helicopter	53,320.00
8252230-02	01/02/01	Walsh Equipment Inc.	21,878.00
8252550-01	01/02/01	MGS Inc.	78,841.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 01-58. Filed for public inspection January 12, 2001, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA CODE CHS. 250, 287—289, 291, 293, 295, 297 AND 299]

#### Residual Waste

The Environmental Quality Board (Board) by this order amends § 250.9 and Chapters 287—299 (relating to interaction with other environmental statutes; and residual waste management). The amendments are the result of the Department of Environmental Protection's (Department) evaluation of the residual waste regulations in accordance with the Regulatory Basics Initiative (RBI) and Executive Order 1996-1.

This order was adopted by the Board at its meeting of September 19, 2000.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information contact William F. Pounds, Chief, Division of Municipal and Residual Waste Management, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, 14<sup>th</sup> floor, 400 Market Street, P. O. Box 8471, Harrisburg, PA 17105-8491, (717) 787-7564, or Michelle M. Moses, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9<sup>th</sup> floor, 400 Market Street, 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). This proposal is available electronically through the Department's website <http://www.dep.state.pa.us>.

#### C. *Statutory Authority*

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

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

The Clean Streams Law (CSL) (35 P. S. §§ 691.1—691.1001), which in section 5(b) of the CSL grants the Department the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of the CSL and which in section 402 of the CSL grants the Department the authority to adopt rules and regulations requiring permits or establishing conditions under which an activity shall be conducted for any activity that creates a danger of pollution of the waters of this Commonwealth or that regulation of the activity is necessary to avoid pollution.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101—4000.1904), which in section 302 of Act 101 gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of this act.

The Pennsylvania Used Oil Recycling Act (PUORA) (58 P. S. §§ 471—480), which in section 480(e) of PUORA grants the Department the authority to issue any rules or regulations under this act.

The Administrative Code of 1929 (Administrative Code) (71 P. S. §§ 510-5, 510-17 and 510-20), which in section 1905-A of the Administrative Code authorizes the Department to require applicants for permits and permit revisions to provide written notice to municipalities, in section 1917-A of the Administrative Code authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the Department and in section 1920-A of the Administrative Code grants the Board the power and the duty to formulate, adopt and promulgate rules and regulations as may be determined by the Board for the proper performance of the work of the Department.

The Land Recycling and Environmental Remediation Standards Act (Act 2) (35 P. S. §§ 6026.101—6026.909), which in section 104(a) of Act 2 (35 P. S. § 6026.104(a)) authorizes the Board to adopt Statewide health standards, appropriate mathematically valid statistical tests to define compliance with Act 2 and other regulations that may be needed to implement the provisions of Act 2. Section 301(c) of Act 2 (35 P. S. § 6026.301(c)) authorizes the Department to establish by regulation procedures for determining attainment of remediation standards when practical quantitation limits set by the United States Environmental Protection Agency (EPA) have a health risk that is greater than the risk levels established in Act 2. Section 303(a) of Act 2 (35 P. S. § 6026.303(a)) authorizes the Board to promulgate Statewide health standards for regulated substances for each environmental medium and the methods used to calculate the Statewide health standards.

The Waste Tire Recycling Act (Act 190) (35 P. S. §§ 6029.101—6029.113), which in section 105(4) of Act 190 (35 P. S. § 105(4)) authorizes the Department to regulate the disposal of waste tires.

The Radiation Protection Act (35 P. S. §§ 7110.101—7110.703), which, in sections 7110.301 and 7110.302 of the Radiation Protection Act grants the Department the authority to propose regulations and the Board the authority to adopt the Department's regulations to accomplish the purposes and carry out the provisions of the Radiation Protection Act.

Section 4909(e) (relating to transporting foodstuff in vehicles used to transport waste) of the Vehicle Code (75 Pa.C.S.A. §§ 101—9805), which grants the Board the power and duty to adopt regulations, if necessary, to carry out the requirements of section 4909.

#### D. *Background of the Amendments*

The residual waste program in this Commonwealth was predominantly developed under the SWMA (Act 97). Currently, there are no comprehensive Federal regulations governing the management of nonhazardous industrial, mining and agricultural wastes (residual waste), with the exception of Federal regulations for the management of used oil. Act 97 authorized the Department to develop and promulgate regulations to manage residual waste. Under Act 97, residual waste generally consists of waste from industrial, mining and agricultural opera-

tions, and includes non hazardous sludge from an industrial, mining, or agricultural waste treatment or pollution control facility. On July 4, 1992, the Department promulgated a comprehensive set of regulations for the management of residual waste. The regulations were developed over a long period of time to allow extensive input from the public and the regulated community.

With the passage of Act 2 in 1995 and the promulgation in 1997 of regulations to implement that law, the Department has taken the opportunity to further consider the interaction between Act 2 and the SWMA, with respect to waste management facilities, during this rulemaking process. Changes proposed in this rulemaking were intended to properly place relevant performance standards identified by Act 2 into the operational sections of permitted facilities.

This rulemaking was developed in response to the Secretary of the Department's RBI and the Governor's Executive Order 1996-1 that required all Departments to reevaluate existing regulations. The RBI requires evaluation of regulations based on the following criteria: agency requirements are no more stringent than standards imposed by Federal law unless justified by a compelling and articulable Pennsylvania interest or authorized by State law; requirements are eliminated which are no longer necessary or redundant; performance-based requirements are encouraged; new green technologies are encouraged; a pollution prevention approach is supported; and information is prepared in plain, simple, clear and concise language.

The RBI review process invited the regulated community, local governments, environmental interests and the general public to help the Department identify specific regulations that should be changed based on the RBI criteria. Input was solicited from the Solid Waste Advisory Committee (SWAC), the Pennsylvania Chamber of Business and Industry, the Pennsylvania Waste Industries Association, the Pennsylvania Electric Association, and numerous other groups, individual companies and the public. The opportunity for involvement in this process was noticed in the *Pennsylvania Bulletin* with a 90-day comment period. Evaluation of the residual waste regulations under the RBI criteria resulted in the Department's preparation of eight separate reports. These reports were made available to the general public, the regulated community, local governments and environmental interest groups. In addition, the Department prepared a Comment and Response Document to address the comments received during the RBI evaluation and to identify which regulations would be revised in response to the comments.

In addition to the process outlined in this Preamble for the RBI evaluation, the Board held three public hearings and provided a 60-day period of public comment on the proposed regulations. Notice of the proposed rulemaking was published at 28 Pa.B. 4073 (August 15, 1998). During the public comment period of this rulemaking, the Department received written comments from 40 individuals or groups, and 3 individuals or groups presented testimony at the public hearings.

The final-form regulatory amendments reflect recommendations identified as a result of the RBI process, necessary changes identified as a result of 5 years of experience in implementing the regulations and recommendations identified during the public comment period for this rulemaking. The Department met with SWAC to review and discuss comments received during the public comment period on this rulemaking on March 11, 1999,

and July 8, 1999. In addition, the Department met with a residual waste subcommittee of SWAC on November 4, 1999, to discuss issues relating to the "waste" definition in more detail. On June 8, 2000, SWAC reviewed and approved the draft final-form residual waste regulations.

The final-form regulations include various provisions for protecting the public health from radioactive materials that occasionally arrive at residual waste facilities. Language was included in the proposed regulations that would have required the facilities to screen waste for radioactive materials. Public comments were received on the proposal and concerns of the waste industry were shared with the Department. The Department met a number of times with representatives of several components of the waste industry, and on several occasions with SWAC to discuss its proposed approach. The Department also proposed a "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document No. 250-3100-001, which received extensive public comment. The Department has prepared a Comment and Response Document for the guidance document. Based on the input the Department received from the commentators on the proposed regulations and the guidance document, the Department has revised the residual waste regulations and guidance concerning radioactive materials and monitoring. Provisions were placed in various sections throughout the regulations to specify the prohibitions and restrictions on acceptance of this type of material. Implementation of the regulations will be assisted by the detailed guidance document.

The Department returned to SWAC on July 13, 2000, to address two specific concerns raised by a SWAC member at the June 8th meeting. The SWAC member had expressed concern that short-lived radioactive material from a patient having undergone a medical procedure would unnecessarily cause alarms to trigger frequently. The final-form regulations authorize such material to be disposed in waste facilities upon case-by-case permission from the Department or upon advance authorization in the facility's approved radiation protection action plan, using the general concepts provided in the Department's guidance document to protect the facility's workers, the public health and safety and the environment.

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

Following the public comment periods, the Board and the Department considered the comments received at the public hearings and the written comments in formulating the final-form regulations. The Department has prepared a comment and response document that addresses each comment on the proposed regulations.

The proposed rulemaking specifically requested comments on whether water supply treatment plant sludge should be managed under the residual waste regulations or the municipal waste regulations. One commentator strongly supported the regulations of water supply treatment sludge under the municipal waste regulations rather than the residual waste regulations. After careful consideration the Board decided that there was more flexibility for beneficial use and disposal landfill design in the residual waste regulations. The Department will review the bonding calculation for water supply treatment plant sludges based on the consistent characteristics of this type of waste and revise the bonding worksheets to better reflect the potential impacts of disposal of this waste in a monofill.

The Department proposed new language in § 287.1, regarding the definition of “clean fill,” and proposed a deletion in § 287.101, regarding the management of clean fill. Several commentators offered opinions and recommendations concerning these changes. The Department decided not to make changes to the final-form rulemaking on issues relating to “clean fill.” Based on the recent release of the safe fill package for public comment, and the development of an alternative proposal by the Cleanup Standards Scientific Advisory Board, the Department intends to continue its evaluation of recommendations received. The Department intends to propose a new rulemaking to address issues relating to clean fill.

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

*Chapter 250. Administration of the Land  
Recycling Program*

*Section 250.9. Interaction with other environmental statutes.*

In the proposed amendments, the references to abatement and remediation standards were removed for permitted waste management facilities and properly placed in Articles VIII—IX.

Commentators suggested that the proposed regulations should encompass more than numeric values—the nonsuse aquifer standards, the remediation process, the liability release of Act 2 and compliance points should be incorporated.

The Board decided to maintain the process requirements under the SWMA with respect to the abatement and remediation of groundwater at permitted solid waste facilities. The extension of compliance points, beyond the property boundary, has been incorporated for secondary contaminants at the time of closure. It is the Board's intention to minimize the offsite migration of contamination at a permitted facility. A facility that is operating in accordance with the design and performance standards of these regulations is subject to early warning monitoring requirements that should prevent contamination from leaving the facility's property. The Board does not intend to incorporate the nonsuse aquifer Statewide health standards, therefore, since contamination should largely be contained on the property where the facility is located.

On final-form rulemaking, no changes were made to this section.

*Chapter 287. Residual Waste  
Management—General Provisions*

*Subchapter A. General Provisions*

*Section 287.1. Definitions.*

The Board received a significant number of comments on this section.

*“Abatement standard”*

A commentator indicated that the term “abatement standards” should not be redefined for these regulations, but should refer to the standards developed under Act 2. The Board continues to find it appropriate to identify standards for cleanups relating to a facility that continues to receive waste that are different from standards for cleanups of discrete spills or releases. Limitations on the use of Act 2 standards for permitted, operating facilities were incorporated to preserve the integrity of the design, operating and performance standards of the processing or disposal unit.

*“Accumulated speculatively”*

Several commentators raised concerns about the adoption of the term “accumulated speculatively.” Commentators suggested that the regulations should reflect market dynamics, that the removal rate should not apply to existing piles from historical production, and that accumulation of residual wastes does not pose a threat of harm to human health and the environment. In addition, with respect to coproducts, a commentator indicated that the existing performance standard, “actually used on a regular basis,” is more understandable, practical and effective than the actual calculation of material recycled. The Board decided that the term “accumulated speculatively” is necessary to assist in determining when a material is a waste, when waste is used or reused and when “storage” ends and “disposal” begins. The improper storage or continued storage of residual waste for a lengthy time period has the potential to pose threats to human health and the environment. The Board believes that calculation of material that is actually recycled or transferred for recycling is a clear, measurable goal. With respect to historical piles, the residual waste regulations adopted in 1992 required all waste piles to close under a closure plan or become permitted. These final-form regulations include an exemption from the term “accumulated speculatively” if waste is being mined and if the mining is being done pursuant to a waste closure plan or, for waste disposed prior to September 7, 1980, the mining is being done under an approved mining permit.

*“Aquifer”*

Commentators suggested that the definition for “aquifer” should be revised to conform with Federal regulations that refer to being “capable of yielding significant quantities of groundwater to wells or springs.” The Federal definition has not been incorporated due to variations in the actual or potential use of the groundwater. The existing regulations provided a more objective test by referring to the capability of yielding sufficient groundwater for monitoring purposes.

*“Background standard”*

One commentator indicated that the regulations should not include a definition for the term “background standard” since the term is used in the land recycling regulations. The Board decided that the term is necessary in the waste regulations for the purpose of referring to acceptable abatement and remediation standards for waste facilities.

*“Clean fill”*

An effort was made to address the clean fill issue by including an additional public comment period on the draft regulatory revisions, a draft Safe Fill Policy and a draft general permit. As a result of comments received on the regulations and during the additional public comment period, the Department will remove this portion from the regulatory package and prepare a separate regulatory package that addresses these issues. Parts of the expanded public comment period not directly related to clean fill have been included in this rulemaking, including the permit waiver language for waste encountered as part of a remediation, and a revision to the general permitting regulations to allow for the issuance of a general permit for fill.

*“Container”*

One commentator recommended that the regulations include a definition for the term “container,” referring to a stationary vessel which is used for the onsite storage of

produced residual waste materials. The Board decided that the term does not need to be defined. It is difficult to craft a definition for the term that is suitable for the management of all residual wastes; therefore, it is necessary to maintain some flexibility in the application of the term.

*"Contaminated water"*

One commentator indicated that the use of the phrase "contaminated water" in the definition of "waste" is problematic because it creates a duplicate regulatory structure for wastewaters discharged under an NPDES permit. The definition of "residual waste" in the SWMA includes liquid materials resulting from industrial operations. The residual waste regulations avoid duplicative regulation of wastewaters where necessary. For example, a person processing wastewater may be eligible for a permit-by-rule under the residual waste regulations, which prevents duplicative permitting.

*"Coproduct"*

Several commentators raised concerns about the proposed amendments to the "coproduct" definition. Commentators indicated that the current definition should be retained without change, that the proposed definition expands greatly the class of materials that will now be deemed a "solid waste," and that the definition should be modified to allow coproducts to be compared to wastes or other coproducts. Some commentators did not understand why the materials that may qualify as coproducts are limited to those used for energy recovery or land application.

Several commentators raised concerns about the proposed regulation concerning the Btu value associated with energy recovery. Commentators indicated that a "bright-line" test based on a minimum Btu value would remove the Department's flexibility to decide, on a case-by-case basis, what constitutes energy recovery. Other commentators supported a Btu/lb. limit at 5,000, identical to the hazardous waste program requirements. Commentators also recommended that the Btu rating be expressed on a per pound basis.

The Board supports the adoption of modifications to the definition of "waste" and related terms to be consistent with the approach used in the RCRA program and the state hazardous waste program. Based on this support, the Board recognizes the need to preserve opportunities for the land application and energy recovery of materials generated from industry, without regulation, as long as sufficient safeguards exist to prohibit sham recycling. The final-form regulations expand the exemptions in the definition of "waste" to exclude, upfront, material reused offsite as an ingredient in manufacturing. This expansion eliminates the need for certain materials to qualify as coproducts, since they are not regulated. For purposes of clarity, the final-form rulemaking includes language that prohibits materials from being compared to materials that undergo a determination under § 287.7 (relating to determination that a material is no longer a waste) since such a determination is often conditional. With respect to energy recovery, based on comments received, the Board is adopting a minimum standard of 5,000 Btus/lb. for coproducts burned for energy recovery, except for material that is oil. This minimum standard is based on EPA's longstanding sham recycling policy that wastes with a Btu value of 5,000/lb. or more are considered to be fuels. If the proposed coproduct is oil, the oil must not be contaminated by physical or chemical impurities and its Btu value must be comparable to the petroleum fuel it is replacing.

*"Dredged material"*

One commentator recommended that "dredged material" not be regulated under the residual waste regulations. The proposed amendments placed the management of dredged materials under the scope of Article IX, instead of Article VIII. The Board decided on final-form rulemaking that the residual waste regulations provide more opportunities for reuse of this material than the municipal waste regulations. In addition, on final-form rulemaking, the Board added language to the definition to clarify that material removed or dredged from an impoundment that received solid waste does not fall within the meaning of "dredged material." Dredged material typically refers to material excavated from waterways and ponds.

*"Groundwater degradation"*

Commentators indicated that the regulations should define "groundwater degradation" as a measurable increase over background, Statewide health standards or risk-based standards (as those terms are used in Act 2). The Board decided to retain the existing definition because the Statewide health standards and risk-based standards only measure a level of degradation that triggers abatement. At those levels, groundwater may still be degraded.

*"Leachate"*

Commentators suggested that a Federal definition for "leachate" be substituted for the existing definition. The Board rejected this recommendation because the Federal language does not add any clarity to the term.

*"Municipal-like residual waste"*

Commentators have indicated that there is confusion surrounding the use of the term "municipal-like residual waste." While the proposed regulations included a definition for this term, it appears that the defined term has not added clarity. Commentators have stated that this waste represents a "fourth waste class" which is not mentioned in the SWMA or Act 101. Commentators have suggested that the term is not used consistently—the Department sometimes considers this waste to be municipal waste and at other times considers it to be residual waste. Concerns have been raised that the regulations would allow residual wastes having the same characteristics as household hazardous wastes to be managed as residual wastes. In response to these comments, the Board decided to delete the term "municipal-like residual waste" from the definitions and elsewhere in the final-form regulations. The final-form regulations continue to allow the Department to waive the detailed chemical analysis required for disposal of residual waste if certain performance standards are met under § 287.134 (relating to waste analysis plan).

*"Perennial stream"*

One commentator recommended clarification of the definition of the term "perennial stream" to include the concept that the stream must flow continuously in all seasons of the year. The Board continues to support the current definition which is science-based and has been successfully used in this program as well as other programs administered by the Department.

*"Product"*

Commentators suggested that the definition of the term "product" be conformed to the definition for the same term in the hazardous waste regulations and that the definition be amended to provide that the commodity is



one of the primary intended results (instead of the sole or primary result) of a production process. The hazardous waste program no longer defines the term "product." The Board decided that the existing language, referencing the sole or primary result, is appropriate.

*"Reclaim"*

One commentator recommended that "reclamation," itself, is a form of use or reuse and that reclamation should not be treated differently than any other form of use or reuse. The Board supports the proposed definition for "reclamation," a material processed to recover a usable product or regenerated, which is consistent with the Federal definition for the same term. It is necessary to retain this term to make the final definition of "waste" and related terms work.

*"Regional water table"*

One commentator indicated that the definition of the term "regional water table" does not include perched water table. The definition for "regional water table" intentionally excludes perched water tables because the perched water tables are smaller-scale, distinctly isolated units from the regional water table. As such, the regulations address isolation distances from these bodies of water differently.

*"Related party"*

One commentator suggested that the term "related party" should be limited to persons with the responsibility or ability to direct or control activities relating to the processing or disposal of solid waste at a facility. The Board does not agree with this recommendation because even a party without the ability to direct or control activities can still significantly affect them.

*"Remediation standards"*

Commentators suggested that definitions of the terms referred to in the definition of "remediation standards" should not be included in this rulemaking because they add confusion rather than clarity. The Board retained the terms and their definitions on final-form rulemaking. Differences in the terminology are necessary since the standards apply differently in Chapter 250 and these regulations.

*"Scrap metal"*

One commentator recommended that the definition of "scrap metal" be amended to refer to material that can be recycled, not merely reused. The Board decided to maintain the definition as proposed since a waste permit for processing is required before the material can be reused and because it is consistent with the federal definition and the state hazardous waste definition.

*"Seasonal high water table"*

Two commentators recommended that the term "seasonal high water table" be defined as the uppermost aquifer seasonally present. The seasonal high water table is evidence for a saturated condition that may result from slowly permeable layers in the soil profile. It may exist and fluctuate in response to seasonal trends in precipitation and may be above the regional groundwater flow system. The seasonal high water table and the regional groundwater table require different isolation distances in relation to the liner system. The Board adopted changes to this term on final-form rulemaking to be consistent with the municipal waste regulations.

*"Special handling waste"*

One commentator recommended that the definition of the term "special handling waste" should only refer to the wastes specifically listed. To date, the Board added materials to the list only through rulemakings, based on experiences that necessitated special handling procedures for certain waste types. Due to the wide range of wastes generated, however, it is not always possible to anticipate when special handling procedures are necessary for a waste type. Therefore, the Department maintains some discretion on deciding when to identify a new waste as one requiring special handling. On final-form rulemaking, the definition of dredged material has been added to the list of special handling wastes due to the physical and chemical characteristic of the material.

*"Statewide health standard"*

Two commentators indicated that the term "Statewide health standard" should include the nonuse aquifer standards and that waste facilities should be subject to all of the Act 2 standards. The Board disagrees since the intention of the solid waste program is to minimize offsite migration of contamination at regulated facilities.

*"Steel slag"*

Commentators recommended that the definition of "steel slag" be amended to include material generated in the making of steel in a basic oxygen furnace, that the exemption of steel slag from the "waste" definition be expanded to uses offsite, that the words "uncontaminated, nonwater soluble" and "inert" be deleted from the definition, and that the term include slags from iron furnaces. The Board does not believe that an expansion of the slag exemption is warranted. The chemical characteristics of steel slag (such as, metal content) vary considerably depending on the steelmaking process. The restriction for use onsite is appropriate because there is more control over the proper management of the material. The Board decided that the term "inert" should be deleted from the definition, and the final language reflects the change.

*"Waste"*

Several commentators offered input on the definition of "waste." Commentators indicated that implementation of the proposed language will cause recycling to be more expensive. In addition, commentators suggested that language should be added to provide for more exclusions from "waste" for materials such as clean fill, scrap metal, steel slag, materials for reclamation, metals, clean glass, paper, cardboard, and NPDES discharges. One commentator stated that the definition of "waste" regulates non-hazardous reclaimed secondary materials more stringently than the federal hazardous waste regulations. Some commentators indicated support for the definition since it would exclude from regulation materials that are recycled by being used or reused as an ingredient in an industrial process.

The Board decided not to adopt suggested revisions. Many of the materials recommended for exclusion already are excluded if used in an industrial process to make a product or used as an effective substitute for a commercial product. There is no need to exempt NPDES discharges from the definition of "waste" since they are not regulated under the SWMA. Only the collection, storage and processing of wastewaters, prior to discharge, are regulated under the SWMA. A total exemption for steel slag was rejected because the degree of variation in the chemical constituents of steel slag continues to mandate implementation of requirements for the proper handling of the material when used offsite. With respect to re-

claimed materials, the reference to reclamation in the definition will not affect materials that are being directly recycled, on or offsite, as an ingredient in an industrial process. The regulations will only apply if the material must be processed, through reclamation, prior to use. Most reclamation processes are performed at the site of waste generation and may be eligible for coverage under a permit-by-rule for captive processing. On final-form rulemaking, a typographical error to a cross Section and numbering within the definition was corrected.

On final-form rulemaking, definitions for the following terms were added for further clarification of the regulations: "airport," "association," "autofluff," "byproduct material," "FAA," "NARM," "NORM," "radioactive material," "source material," "special nuclear material," "TENORM" and "transuranic radioactive material." The term "airport" was added to clarify the types of landing areas that are implicated in the siting restrictions and environmental assessment. A definition for "association" was added for clarification in the permit application requirements relating to the identification of interests and compliance history. The definition is taken from section 102 of the Corporations Code (15 Pa.C.S. § 102) (relating to definitions). A definition for "autofluff" was added to clarify the use of the term in the scope section, § 287.2. The term "FAA," which refers to the Federal Aviation Administration of the United States Department of Transportation, was added because the new restrictions on the construction and operation of landfills near airports involve the FAA. Definitions for the other terms mentioned here were added to clarify their usage throughout the final-form regulations in the monitoring requirements for radioactive material.

*Section 287.2. Scope.*

A commentator suggested that "municipal-like residual waste" be managed under the municipal waste program rather than the residual waste program to eliminate confusion. A commentator raised concern over the use of the term "small quantity" to describe the quantity of residual waste that may be mixed with sewage sludge for management under the municipal waste regulations.

On final-form rulemaking, the Board deleted the term "municipal-like residual waste" and its use in the regulations. With respect to sewage sludge, the Board decided to delete subsection (b)(3) entirely and manage any mixtures of residual waste, regardless of quantity, with sewage sludge under Subchapter I (relating to beneficial use) of the municipal waste regulations. In the final-form rulemaking, a new category of waste-waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material-has been added to the list of wastes that are subject to the municipal waste regulations. This waste primarily has characteristics that are generally found in the municipal waste stream. Also, subsection (i) was amended to include the word "permitted" when referring to a hazardous waste unit at a facility. This change makes it clear that residual waste may be managed at a hazardous waste facility, without a residual waste permit, as long as the hazardous waste facility is permitted.

*Section 287.4. Computerized data submission.*

A new subsection (a) has been added in the final-form rulemaking to allow data submissions electronically or on magnetic or optic storage media if the Department is capable of receiving it in that manner for review. A new subsection (c) was added to authorize the Department specifically to require a different scale on maps, reports

and plans that are submitted electronically or on magnetic or optic storage media. Maps, reports and plans submitted in this format are capable of showing much more detail than paper maps, reports and plans, and the more detailed information can be accessed and used in many useful, new ways when submitted in this format.

*Section 287.8. Coproduct determinations.*

Commentators recommended that the final-form regulations "grandfather" coproduct determinations recognized by the Department. One commentator recommended that a permit-by-rule be developed to clarify the Department's administrative role. Commentators suggested that a more flexible approach to evaluating risks be incorporated. One commentator suggested that subsection (b)(3) be reorganized into several sentences for clarity. One commentator recommended that the term "consistently equivalent" be defined.

On final-form rulemaking, the Board decided not to "grandfather" coproduct determinations, but to incorporate a transition time for compliance with this rulemaking (see § 287.10). Since many persons who perform coproduct determinations do not ask and have not been required to ask for Department concurrence, it would not be fair to "grandfather" a subset of the determinations made to date. The Board believes that the use of a permit-by-rule would be counterproductive to the reuse of materials. As written, the final-form regulations are flexible with regard to risk assessments. The final-form regulations, with respect to subsection (b)(3), have been reorganized for clarity. In addition, language has been added to subsection (c), requiring a risk evaluation, that was inadvertently excluded from the proposed amendments. A definition of the term "consistently equivalent" has not been included in the final-form rulemaking. There is a certain range in the physical characteristics and chemical composition of any substance. Thus, for a proposed material to be a coproduct, the range in the physical characteristics and chemical composition of the proposed coproduct must fall within an acceptable range in the physical characteristics and chemical composition of the intentionally manufactured product or produced raw material to be replaced.

*Section 287.9. Industry-wide coproduct determinations.*

One commentator recommended that the language "do not vary over time" (in subsection (a)) be modified to allow a certain degree of variation in the chemical and physical characteristics of the material generated. One commentator indicated that the "reopening" provisions in subsection (c) create a stigma by causing an association with regulations.

The Board believes that the proposed language provides adequate flexibility for determining the degree of variation in chemical and physical characteristics. In addition, the Board does not believe that a "stigma" is caused by indicating that a discovery of misinformation or misuse will jeopardize the coproduct status.

*Section 287.10. Coproduct determination transition.*

A new section has been added on final-form rulemaking that provides a transition scheme for existing coproducts to become compliant with the final-form regulations. This Section was added in response to the comments received regarding the "grandfathering" of existing coproducts. Since the regulations never required persons to request concurrence from the Department on coproduct determinations, the Board does not believe it is appropriate to "grandfather" one subset of coproduct determination. In order to maintain a "level playing field," the transition scheme has been developed. Under the transition, new

coproduct determinations must be made in accordance with the final-form regulations. Persons may continue to operate under previously made coproduct determinations provided documentation is maintained demonstrating continuing compliance with those determinations. Finally, all persons operating under coproduct determinations must be in compliance with these final-form regulations within 2 years of the effective date of the regulations.

*Subchapter B. Duties of Generators*

*Section 287.51. Scope.*

One commentator suggested that the word "requirements" be inserted after the phrase "biennial report and source reduction strategy" in subsection (a). The final-form rulemaking incorporates this change. In addition, subsection (c) has been modified to indicate that the biennial report, source reduction strategy and chemical analysis of waste are not required for persons who meet the requirements of paragraphs (1) or (2); however, records must be created and retained in accordance with § 287.55 (relating to retained recordkeeping).

*Section 287.52. Biennial report.*

One commentator suggested that the biennial report requirement be eliminated for facilities filing annual 26R reports. The requirement has been retained on final-form rulemaking because the two reports ask for different information regarding the waste streams. For example, a detailed chemical analysis of waste is required for the 26R report, while the biennial report is more focused categories of waste and their volumes. On final-form rulemaking, the Board amended subsection (c) to authorize a manager (the parallel to an officer of a corporation) to sign on behalf of a limited liability company.

*Section 287.53. Source reduction strategy.*

Two commentators requested that the regulations include a waiver of the source reduction strategy requirements for small waste streams generated by large quantity generators. One commentator suggested that it is wasteful to require the submission of source reduction strategies to landfills.

The requirements pertaining to source reduction strategies have been in place since 1992. The Department temporarily relieved industry from performing the evaluation on small waste streams for a long period of time, until the larger waste streams were reviewed. Sufficient time has passed to progress to the next level of waste stream evaluation. With regard to the submission of the strategies to the landfills, the Department is in the process of modifying the source reduction strategy forms to reduce the information that must be submitted to the landfill with the Form U. On final-form rulemaking, the Board amended subsection (e) to authorize a manager (the parallel to an officer of a corporation) to sign on behalf of a limited liability company.

*Section 287.54. Chemical analysis of waste.*

Commentators suggested that the threshold for requiring a chemical analysis should be the generation of 2,200 pounds per month for each waste stream. Also, the commentators recommended that generator knowledge be an acceptable substitute for chemical analysis. In addition, commentators indicated that the proposed regulation requiring the determination of the leaching potential of residual wastes should be eliminated because a waste characterization is required to be performed under Form 26R and the test is not applicable to waste that is not landfilled. One commentator asked for clarification of the

types of modifications the Department may make to the requirements, when requested, for special handling waste.

The existing threshold for the chemical analysis requirement takes into account many smaller waste streams that accumulate into large quantities of waste. The regulations currently allow for the use of material safety data sheets or similar sources of information to help characterize the waste. With respect to modifications of the requirements, one example of when a chemical analysis would not be necessary is in the case of waste tires.

On final-form rulemaking, the proposed language requiring the performance of a leach test has been deleted. In addition, a new subsection has been added requiring a person to perform a chemical analysis every 5 years. This requirement was added to verify the initial analysis to make sure that the waste characteristics have not changed and to assist with the evaluation of the source reduction requirements.

*Section 287.55. Retained recordkeeping.*

One commentator indicated that the records retention requirement should not apply to captive disposal facilities because it is not practical for continuously produced wastes. The commentator suggested that regulations should allow the use of daily landfill operational reports to meet this requirement. The operational reports may be used to meet this recordkeeping requirement if all the waste generated is disposed in the captive facility.

On final-form rulemaking, language has been added to clarify that the generation of any quantity of residual waste triggers the records retention requirements.

*Subchapter C. General Requirements for Permits and Permit Applications*

*General*

*Section 287.101. General requirements for permit.*

One commentator suggested that R&D operations should be exempt from permitting requirements. The requirements for demonstration permits have been modified in the final-form regulations to allow greater flexibility for these operations.

One commentator suggested that all beneficial uses should be exempt from permitting requirements. The SWMA requires that beneficial use of waste be performed pursuant to a general permit.

A commentator suggested that a new requirement should be created that authorizes the issuance of a single permit that integrates two or more separate authorizations. Provisions in § 287.2 currently authorize this practice in certain programs, such as the collection, storage and processing of residual waste at a permitted hazardous waste facility.

On final-form rulemaking, new language has been added to subsection (c) that clarifies circumstances when the Department may require a person or municipality to obtain a permit, regardless of the exemptions outlined in (b), based on harmful conduct. In addition, a new subsection (e) has been added on final-form rulemaking that would allow the movement of waste, encountered during a site remediation under Act 2, from one location of the site to another as long as the waste remains onsite, is moved in accordance with a Department-approved remedial investigation report under the site-specific standard,

and is moved in accordance with this subsection. No permit is required for the movement of waste in accordance with this subsection.

*Section 287.102. Permit-by-rule.*

On final-form rulemaking, the Board decided to modify subsection (f), relating to beneficial use, by adding an expiration date of July 4, 2002, unless a specific permit term is written as a condition of the prior written approval, for activities conducted under this permit. Many of the uses approved prior to 1992 may be outdated and may be in conflict with present beneficial use requirements. After 2002, these operations would be eligible to apply for general permits. In addition, the Board decided to include a new permit-by-rule, subsection (k), which allows the temporary storage of residual waste at a hazardous waste transfer facility. Many operations transport both hazardous and residual wastes from industries. This permit will facilitate the transportation or transfer of the wastes as long as all waste is stored in accordance with hazardous waste requirements for hazardous waste transfer facilities and the conditions of this permit are met.

*Transition System for Existing Facilities*

*Section 287.112. Storage impoundments and storage facilities.*

Commentators indicated that the use of the property boundary as the point for measuring containment of contaminants, to determine whether a liner and leachate treatment system may be waived or modified, is inconsistent with Act 2 standards. The commentators stated that facility operators would be prevented from taking advantage of Act 2 provisions that allow movement of the point of compliance further down gradient for secondary contaminants. The Board does not agree with this recommendation because these regulations apply to facilities that utilize old technology and the intentions are to minimize impacts from these waste facilities and to only allow permit issuance of technology if it does not result in uncontrolled pollution.

A commentator indicated that the waiver provisions for storage impoundments are stricter than the waiver provisions for disposal impoundments, with respect to the management of groundwater degradation. The commentator suggested that this section be revised to incorporate the same flexibility as is afforded to disposal impoundments. The Board disagrees with this recommendation because storage impoundments can be taken out of operation and readily repaired since the waste does not remain in place permanently.

No changes were made to this section on final-form rulemaking.

*Section 287.115. Filing by permitted facilities.*

The proposed regulations included language that did not allow waiver or modification of a liner or leachate treatment system for areas identified in an application for a new permit or permit modification submitted after July 4, 1997. Several commentators suggested that the language be revised to ensure the waiver provisions are maintained for facilities originally permitted prior to July 4, 1992, since sites currently operating under the waivers in an environmentally responsible manner should be allowed to expand using the same design. The Board disagrees with this recommendation. The 1992 regulations allowed for an extended transition and allowed industries to continue to operate utilizing old technolo-

gies. At this point in time, it is appropriate to encourage the use of state-of-the-art technologies in areas where facilities intend to expand.

On final-form rulemaking, subsection (c)(4) has been modified to allow consideration of waivers for areas identified in an application submitted prior to the effective date of these regulations—rather than prior to July 4, 1997.

*Section 287.117. Closure plan.*

Subsection (j)(1) has been modified to clarify what was meant in the proposed regulations by the word "prior" when used to describe a point in time. The final-form regulations clearly state that the remediation standards referred to are those identified in agreements entered into prior to the effective date of these regulations.

*Section 287.122. Form of application.*

The Board amended subsection (d) on final-form rulemaking to clarify that the design section of a permit application must bear the seal of a Pennsylvania registered professional engineer. Also, the Board clarified that the geologist who supervises the completion of the geology and groundwater Sections of an application must be licensed in this Commonwealth.

*Section 287.123. Right of entry.*

A commentator recommended that the final-form regulations remove the requirement for written consent of a landowner to conduct waste processing or disposal activities if the permit applicant owns the land. The landowner consent requirement is important for the purpose of informing future landowners of the activities, since the form is required to be recorded with the deed.

Because the Department currently requests information required by subsections (b) and (c) on one form, the Board amended subsection (d) to require that all of the information on that form—landowner consent to waste activities and landowner consent to the Commonwealth's right to enter the permit area—be recorded. A new subsection (e) has been added to indicate that subsequent landowners are deemed to have constructive knowledge of the Commonwealth's right of entry and the consent of solid waste activities on the land if the forms required by this section are properly filed at the office of the recorder of deeds in the county in which the proposed solid waste activity is situated.

*Section 287.124. Identification of interests.*

A commentator suggested that contractors, limited partners, or principal shareholders, except those with the responsibility or ability to direct or control waste activities, should not be included as interests to be identified. The Board declined to make these changes because all contractors that perform work at these environmentally sensitive facilities should be identified and reliable. With regard to limited partners and principal shareholders, these persons may have the ability to direct or control activities, whether officially or not.

Subsection (b) was amended on final-form rulemaking to include limited liability companies, a type of association recognized in the Pennsylvania Corporations Code since 1994. A correlating change was made to subsection (c) to include members or managers of limited liability companies, who are the parallels of owners and officers in corporations.

*Section 287.125. Compliance information.*

One commentator suggested reducing information that must be reported concerning legal proceedings. The Board

declined to make this change because relevant information, which might otherwise not come to the Department's attention, is often brought to light in the types of actions proposed for deletion by the commentator.

The Board updated subsection (a)(7) in the final-form regulations to include requirements for limited liability companies and partnerships.

*Section 287.127. Environmental assessment.*

Several commentators suggested eliminating the balancing of interests and one commentator specified that the test should simply be one of mitigation. The final-form regulations retain the balancing test for many reasons. The test is reasonable, takes into account input from and dialogue with interested parties, including the applicant, and involves close scrutiny of all factors by the Department. The environmental assessment, including the balancing test, carries out the Department's obligation under the SWMA to implement PA. CONST. art. I, § 27, which mandates that the Commonwealth protect public resources. The test is designed to take into account the site-specific impacts the waste management facility may have on the specific location of the facility and other affected areas. Under PA. CONST. art. I, § Article I, § 27, the Department has been balancing harms and benefits for many years. Balancing harms and benefits finds support in case law.

One commentator thought the word "clearly" should be eliminated from subsections (c) and (d), and that social and economic benefits should not be reduced by social and economic harms. The Board retained both concepts because the balancing test is not a simple mathematical computation so benefits must "clearly" outweigh harms in order to ensure that public resources are protected; and social and economic harms should be considered because they help to create a true picture of the social and economic impacts of the facility. To complete the picture, environmental benefits are also considered.

Two commentators stated that the Board should not allow private parties to determine specific "known and potential harms." The response is that the applicant must identify all known and potential harms and must evaluate all harms identified by itself, potentially affected persons, the Department and other agencies. Section 287.127 is designed to elicit information from affected parties as to their perceptions of the known and potential harms to ensure a comprehensive environmental assessment. Ultimately, upon review of the application and all other input received, the Department determines what the specific "known and potential harms" are.

A commentator expressed concern that subsection (f) would result in litigation if not every potentially affected person were consulted by the Department. The response is that this section describes the timing of the Department's evaluation of the environmental assessment. The timing is not new and should not create a new right since the same timing was described in subsection (b) before this section was revised by this rulemaking.

One commentator suggested that this section should only apply to applications filed after the effective date of the final-form regulations. A decision will be made on an application, however, based on the law that is in effect at the time the decision is made.

Several changes were made to the final-form regulations. The Board added "local parks" to the list of features in subsection (a) that an applicant must consider in

determining the potential impacts of a proposed facility or modification to fill in the gap left by only listing state and Federal parks.

The Board added "airports" to the list of features in subsection (a) to clarify that if a proposed facility will have the potential of causing harm to aircraft arriving at or departing from an airport, the application will have to include a plan to mitigate the harm or potential harm.

The Board added a requirement to subsection (a) that an application contain correspondence from any agencies to the applicant in regard to the environmental assessment to facilitate the Department's review of the environmental assessment.

The Board amended subsection (c) to clarify that harms and mitigation measures described in subsection (b) will be taken into consideration when the benefits and harms of the proposed facility are weighed. The Board similarly amended subsection (d).

*Section 287.131. Scope.*

On final-form rulemaking, the Board modified subsection (a)(1) to refer only to "captive" transfer facilities. The effect of this change is to apply the waste analysis requirements to noncaptive transfer facilities—not captive transfer facilities. Captive facilities are exempt because the waste streams received at these facilities are generated by one generator. The waste types, therefore, do not change and the waste stream is predictable.

*Section 287.132. Chemical analysis of waste.*

A commentator suggested that the availability of a waiver for chemical analysis should be eliminated for municipal-like residual waste. The proposed term "municipal-like residual waste" has been deleted from the final-form rulemaking in response to comments that it was too confusing. The final-form regulations include new language that is intended to clarify that the evaluation required by subsection (a) may be waived or modified if the applicant demonstrates that additional analysis is not necessary to determine that the waste can be received without adversely affecting the effectiveness of waste processing or disposal operations, established emission and wastewater discharge limits, liner or leachate treatment systems or, at Class III landfills, attenuating soil.

*Section 287.135. Transition period for radiation monitoring.*

All materials on earth have some level of radioactivity, but not all endanger the public health or safety or the environment. The final-form regulations establish a system for protecting the public (including residual waste facility employees) and the environment from the improper disposal and processing of radioactive materials that could endanger the health and safety of the public or the environment. These requirements appear in each chapter of the regulations and are the result of public comments received on proposed §§ 288.214, 289.224, 293.215 and 297.214. Section 287.135 has been added to establish a transition period for coming into compliance with the requirement to have the permit designate an area for vehicles in the event of the detection of waste containing radioactive material and the requirement to have the permit include an action plan specifying, among other things, procedures for monitoring and responding to radioactive material entering the facility. The Department's *Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*, document number 250-3100-001, gives direction for developing action plans, monitoring for radioactive material in waste

and preparing records and reports. A facility operator may adopt the standards and procedures in the guidance document even before the regulatory requirements that are transitioned under § 287.135 become applicable. An operator may also seek approval of an action plan and a designated area before the deadline established in this section. Since the requirement for radioactive monitoring is limited to noncaptive landfills, disposal impoundments, and incinerators, the Board has provided a 1-year transition for all facilities.

*Section 287.141. Permit application fee.*

The final-form regulation moves the fee for a minor permit modification from subsection (b) to subsection (c). Now, the fees in subsection (b) only apply to major permit modifications. Subsection (c) addresses the fee for minor permit modifications. All minor modifications, including onsite modifications authorized under § 287.222(c) (relating to permit modification), will be subject to this fee.

*Section 287.151. Public notice by applicant.*

Commentators indicated that the requirement to list contaminants in public notices is unnecessary because most of the public is unfamiliar with an understanding of chemicals and their effects on the environment and the notification will raise unnecessary public concern. A commentator recommended that the notice include only concentrations of groundwater degradation that exceed the background standard or the Statewide health standard at the applicable point of compliance. The Board declined to make the change suggested. An applicant is not limited to listing chemicals in a notice and may choose to provide an explanation of the chemicals that the public will understand. The proposed language is intended to parallel the Act 2 process, which requires notice by publishing a Notice of Intent to Remediate.

*Section 287.153. Public comments.*

One commentator recommended that the regulations be clarified to state that comments may be submitted to the Department by any person affected by a project at any time and may be considered by the Department, but that the Department is not required to consider comments not submitted in a reasonably prompt and timely manner. The Board decided that no change is necessary to this section. The Department provides for a formal comment period whenever it publishes notice of a permit application received. The Department will consider the comments it receives on a facility at any time during the permit review or during operation of the facility if it is issued a permit.

*Section 287.154. Public notice and public hearings for permit modifications.*

One commentator recommended that changes in average daily volume be considered a minor permit modification, rather than a major permit modification, because the changes only affect phase-in bonding and do not impact upon traffic, noise, dust or other environmental or public safety issues. The Board supports the proposed language because increasing the daily volume may significantly change day-to-day operations at the facility and may impact the surrounding area.

A commentator suggested that changes in contours and elevations which increase capacity by less than 6 months should be exempt from being considered major permit modifications. The Board supports the proposed language because depending on the size of the facility, this increase could be substantial. An increase in capacity (air space or size) is a major permit modification because it changes

the facility's design and operating plans which can potentially impact the public in the vicinity of the facility.

New subsection (a)(12) and (13) relate to change of owner or operator. The Board added this language on final-form rulemaking to ensure that a change in the owner or operator of a landfill will require a major permit modification if the party that is changing is not the permittee. If the party that is changing is the permittee, the change will require permit reissuance under § 287.221 (relating to permit reissuance).

The Board added subsection (a)(14), which requires a major permit modification to dispose of waste in areas that have reached final permitted elevations because reopening areas that have reached final permitted elevations may significantly affect the closure and post closure construction activities that have been undertaken. In addition, the structural stability of the landfill must be reevaluated to account for the additional waste.

The Board added subsection (a)(15) to clarify that submission of a radiation protection action plan for Department approval will be considered an application for a major permit modification.

The Board added subsection (b)(9), which requires a major permit modification for a change in the maximum daily waste volume at a processing facility, because major components of the previously approved permit application are likely to change, including procedures for minimization and control of traffic, dust, noise and odor. On final-form rulemaking, new requirements in §§ 297.112 and 297.222 (relating to daily volume; and daily volume) establish the requirement for an approved maximum daily average in permit applications.

The Board added identical provisions to the provisions it added in subsection (a) regarding change in owner or operator in new subsection (b)(7) and (8) and regarding radiation protection action plans in new subsection (b)(9), relating to processing facilities, and new subsection (c)(4) and (5), relating to land application operations. The effect will be the same.

*Subchapter D. Permit Review Procedures and Standards*

*Section 287.201. Criteria for permit issuance of denial.*

On final-form rulemaking the Board added a new subsection (a)(4) to require that mitigation plans required by § 287.127 be implemented prior to obtaining a permit if required by the Department. This requirement is designed to help ensure proper and effective mitigation of harms and potential harms that can and should be mitigated prior to permitting.

*Section 287.202. Receipt of application and completeness review.*

One commentator suggested that a project approval or disapproval timeline should be established for all applications, if requested by the applicant. The Department's "Money-Back Guarantee Permit Review Program Expansion," published in 26 Pa.B. 3038 (June 29, 1996), establishes timelines for Department approval or denial of all permit applications. The Board declined to make this change in the final-form regulations.

On final-form rulemaking the Board added language relating to the procedures for receiving an application and performing a completeness review. These changes are consistent with the approach used in the municipal waste program. In general, the new procedures afford a greater opportunity for concerned parties to participate in the

application review process for new facilities and for certain permit modifications to existing facilities.

In subsection (b), a permit application for a new facility or a permit modification that would result in an increased average or maximum daily volume, increased disposal capacity or expansion of the permit area will not be considered to be "received" by the Department until the Department, applicant and municipal officials have met to discuss the proposed application. For purposes of this section, the term "municipal officials" includes representatives of local municipalities, including the host municipality and county, municipalities adjacent to the host municipality, municipalities located within 1 mile of the permitted or proposed area, other municipalities that demonstrate that they may be adversely affected by the proposed project and municipalities along the approach routes (subsection (f)).

Subsection (b)(2) requires an alternative project timeline to be developed for a noncaptive residual waste landfill, disposal impoundment or incinerator permit application. The Department's money-back guarantee permit review program will be updated to reflect these new regulatory requirements. The final-form regulations require an alternative timeline for these three types of facilities because these facilities tend to invoke the most public concern and are therefore the best candidates in the residual waste program for an alternative project timeline.

New subsection (f) includes definitions of the terms "local municipalities," "approach routes" and "municipal officials," as those terms are used in this section.

#### *Section 287.203. Review period.*

The Board has amended subsection (a) to identify the timelines for review of permit applications for captive landfills and disposal impoundments and for noncaptive residual waste landfills, disposal impoundments and incinerators.

#### *Section 287.211. Term of permits.*

A commentator recommended that subsection (e) be amended to allow the measurement of the 5-year period from the date of the ultimate resolution of any litigation challenging the validity of the permit. Also, the same commentator recommended that a new subsection be added to allow activities at permitted sites to be suspended pursuant to a temporary shutdown plan approved by the Department. The Board declined to make the changes because the project initially approved may require upgrading to meet current technology and management practices.

On final-form rulemaking, the Board added language to subsection (d) to require an operator to provide a summary of changes to the operations since approval of the initial permit or latest major permit modification when the Department conducts its 5-year review of the facility. This requirement was added because it provides the Department with the information in a format that will facilitate the review of the existing permit.

#### *Section 287.212. Conditions of permits—general and right of entry.*

One commentator indicated that in this era of corporate mergers and acquisitions, providing the compliance history information regarding the entity acquiring the controlling interest may be difficult within the time tables specified in the proposed regulations. The identification of interests and compliance information are important components of a permit application review. The 45-day allow-

ance will not prohibit mergers or acquisitions but will require the operator to clearly indicate the track record of persons who have an influence on the day to day operations of the facility.

The proposed regulations in paragraph (4) required the permittee to notify the Department after the transfer of a controlling interest in the permittee. The final-form regulations clarify that this notification should occur when there is a transfer of a controlling interest in the owner or operator of the facility, regardless of whether that party is a permittee. The final-form regulations also clarify that if the transfer of controlling interest triggers a major permit modification or permit reissuance, notification under this Section is not required. Paragraph (4) is not intended to apply to changes in managers or directors, which will be described in the permittee's annual report.

#### *Section 287.221. Permit reissuance.*

One commentator stated that requiring permit reissuance for persons who sell or buy facilities with waste permits places these waste industries at a competitive disadvantage. The transfer, assignment or sale of rights may necessitate the processing of new bonding, insurance and compliance history information for the person assuming liability.

#### *Section 287.222. Permit modification.*

One commentator recommended that the regulations should include administrative permit modifications that may be made upon notification to the Department without prior approval. The final-form rulemaking includes activities that may be approved through onsite minor permit modifications and that only require follow-up written notice to the Department. (Modified subsection (c) and new subsection (d).) This tool is limited to modifications made during the construction phase only. It should not be used as a substitute for poor design plans submitted in the permit application.

#### *Section 287.223. Permit renewal.*

On final-form rulemaking, the Board amended the regulation to require earlier submission of permit renewal applications so that there will be adequate opportunity for timely review by the Department. The final-form regulation has been amended to require a processing facility or land application operation to submit a permit renewal application 270 days prior to the expiration date of the permit term and a disposal facility to submit a permit renewal application at least one year before the expiration date. To address applications received near the effective date of the final-form regulations that could not meet the new requirements, the final-form regulation provides that renewal applications for permits that will expire within 270 days and 1 year, respectively, of the effective date of the final-form rulemaking need only be submitted within 180 days of their expiration date.

#### *Subchapter E. Bonding and Insurance Requirements*

#### *Section 287.301. Scope.*

One commentator suggested that the requirement to bond and the bonding rates should be reconsidered for composting since these facilities are "recycling" wastes and do not accept a wide variety of wastes. The bonding requirements are based upon the total estimated cost to the Commonwealth to complete closure and to take measures necessary to prevent adverse effects upon public health and the environment. Under the SWMA, the minimum bond amount mandated for a processing facility individual permit is \$10,000. For composting facilities,

the vast majority of the costs are associated with the cost to dispose of the compost in the event that material cannot be sold. The bond amount is based on the volume of waste approved to be received at the facility. If a person applies for a general permit for processing that results in beneficial use of waste, it may be possible to obtain a waiver of the bond requirement if the waste managed is not potentially harmful and large quantities of waste are not stored.

*Section 287.313. Form, term and conditions of the bond.*

One commentator suggested that the regulations should provide additional mechanisms for securing a bond for a residual waste facility, such as the use of a financial test to demonstrate the ability of a company to satisfy the obligations. The financial test option, like the one identified in the federal regulations for municipal waste landfills at 40 CFR Part 258 Subpart G, is not available under section 505 of the SWMA.

*Section 287.321. Special terms and conditions for surety bonds.*

Subsection (b) has been modified on final-form rulemaking. First, language has been deleted to be consistent with a repealer in the laws relating to casualty insurance. 40 P. S. § 730, which provided for foreign companies, associations and exchanges to do business through resident agents, was repealed December 21, 1998 (P. L. 1108, No. 150).

Secondly, language has been added that requires surety bonds for facilities permitted after the effective date of these regulations and permit modifications issued after the effective date of these regulations to be listed in Circular 570 of the United States Department of Treasury. If the surety is removed from the Circular, the bond issued by such surety must be replaced. The Federal government uses different, more comprehensive standards to qualify a surety than the State Insurance Commission. The listing and bond replacement requirements are consistent with federal requirements for both municipal waste landfills and hazardous waste facilities.

*Section 287.332. Bond amount adjustments.*

On final-form rulemaking, the Board added language to subsection (b)(2) that allows the Department to require additional bonding at the time of a bond replacement if the bond being replaced is inadequate to protect human health and the environment.

*Section 287.341. Release of bonds.*

One commentator indicated that the duration a bond must be maintained creates hardship for business. The hardship relates to the time after completion of closure activities that the bond must be maintained and the burden of proof that must be provided for bond release. The Board continues to support the existing regulations that provide for partial bond releases based upon completion of bonded activities. The new language does not change the conditions for bond release but indicates that long-term maintenance of remediation measures, such as groundwater pumping and treating to maintain the remediation standard, need to be considered in the postclosure portion of the bond amount.

On final-form rulemaking, the Board changed the phrase "completion of a stage of closure" in subsection (b)(3) to "completion of a measure carried out in preparation for closure" to avoid confusion, as "closure" is the point at which the entire facility permanently ceases to accept waste. Areas of the facility may not be used for

further waste disposal during operations, but these areas are integrated together for the purpose of closure.

*Section 287.342. Final closure certification.*

One commentator suggested that the regulations should be modified to allow for pathway elimination where there is no current or projected future use of groundwater at the property boundary and where modeling demonstrates that there is no risk to the public (that is, incorporate the concept of nonuse aquifer). The nonuse aquifer option is not included in the final-form rulemaking because the Board decided that permitted facilities should minimize offsite migration of contamination. A facility that is operating in accordance with state-of-the-art performance and design standards is subject to early warning monitoring requirements that should prevent contamination from leaving the facility's property.

One commentator indicated that the proposed language in subsection (i) adds burden to the business that has completed remediation and is eligible for a bond release. Subsection (i) requires additional remediation if changes in land use or chemical exposure data cause an increase in the level of risk beyond the acceptable range at a facility. If the remediation standards identified for final closure certification are attained and maintained, the Department will release a bond no later than 10 years after the certification. The Board continues to maintain support, however, for requiring additional remediation if the risks to the community change while the permittee is in control of the facility.

One commentator recommended the adoption of the standards in Act 2 and the reference in section 501 of Act 2 to release from liability upon completion of remediation activities. The final-form regulations incorporate the numerical remediation standards of Act 2 for groundwater, with the exception of the nonused aquifer standards (as discussed above). The SWMA does not authorize relief from liability prior to bond release. Bond liability, alone, under section 505 of the SWMA remains in place for the duration of the waste management operation and for a period of up to 10 years after the final closure of the permit site.

On final-form rulemaking, the Board added a definition for "property boundary" in new subsection (j) to clarify a point in time when the point of compliance cannot be extended by purchasing additional property to avoid remediation.

*Subchapter F. Civil Penalties and Enforcement*

*Section 287.413. Assessment of penalties; minimum penalties.*

One commentator recommended that the regulations should be changed to allow the Department to reduce or eliminate penalties for violations discovered by the applicant under a voluntary system of audits and inspections conducted by the applicant, provided the violation is promptly reported to the Department and voluntarily and promptly corrected by the applicant. The Department has a policy, titled "Policy to Encourage Voluntary Compliance by Means of Environmental Compliance Audits and Implementation of Compliance Management Systems," (technical guidance document number 012-0840-001) that addresses the reduction or elimination of penalties for violations discovered by the applicant pursuant to a voluntary audit system.

On final-form rulemaking, the Board added a provision to subsection (c) that clarifies the minimum penalty for a



person that applies residual waste to an area that is not permitted. The penalty is \$500 per acre, or portion thereof.

*Section 287.421. Administrative inspections.*

One commentator indicated that beneficial use approvals should not be classified as permits. Under the residual waste program, there are no beneficial use approvals. Beneficial uses are covered under either permits-by-rule or general permits-both of which are types of permits.

*Subchapter G. Demonstration Facilities*

*Section 287.501. Scope.*

One commentator indicated that the proposed changes to the regulations didn't go far enough to reduce the permitting burden for R&D operations. Another commentator supported the changes made to this section. The Board declined to make further revisions to this section. Adequate flexibility in permitting was expressed in the proposed amendments.

*Section 287.502. Relationship to other requirements.*

The Board added a requirement that the public notice requirements of § 287.151 (relating to public notice by applicant) may not be waived or modified.

*Subchapter H. Beneficial Use*

*Section 287.611. Authorization for general permit*

One commentator was concerned that the Department eliminated the opportunity to beneficially use residual waste at disposal facilities (that is, as daily cover). The use of residual waste as alternative daily cover continues to be encouraged; however, the mechanism for approving the use of the waste is an equivalency review, not a general permit.

The Board amended subsection (d) to clarify that a general permit for processing or beneficial use of combinations of sewage sludge and residual waste shall be issued under Chapter 271, Subchapter I (relating to beneficial use) of the municipal waste regulations.

*Section 287.621. Application for general permit.*

On final-form rulemaking, the Board added in subsection (b)(5)(vi) a criterion for demonstrating the use of waste as a construction material. The criterion requires that a description of the construction activities and detailed timelines for the prompt completion of construction activities be included in the demonstration. This language addresses problems encountered by the Department where persons placed waste on land with no subsequent beneficial use.

*Section 287.623. Public notice and review period.*

One commentator suggested that the regulations be amended to require the publication of a list that is codified of approved general permits. The Department publishes notice in the Pennsylvania Bulletin of each general permit issued. In addition, the Department maintains a complete list of each general permit issued on its website.

*Section 287.632. Waiver and modification requirements.*

On final-form rulemaking the Board added language that clarifies the Department's intention not to waive the permit application requirements in § 287.123 pertaining to the Commonwealth's right of entry and the landowner's consent to solid waste activities. Although the requirements of this section cannot be waived, the Department may modify the requirements. Circumstances relating to imminent sale of property present an example

of when the Department has modified the requirements in an effort to work with the existing and future landowners to meet the regulatory obligations of a landowner.

*Section 287.662. Use of coal ash as a soil substitute or soil additive.*

One commentator recommended that the regulations be revised to be consistent with the changes proposed in § 287.661. On final-form rulemaking, the Board modified the distance limitation from a water source, to be consistent with § 287.661. This change was made because the buffer requirement in the final-form regulations provides that adequate protection and other controls, such as erosion and sedimentation requirements, must be met at these sites to protect water. In addition, when coal ash is mixed with soil for use as a soil additive or soil substitute, there is less concern about the potential for contaminants to leach into groundwater. The Board declined to make changes to the exceptional wetland provision in this Section because the existing buffers are necessary to protect these sensitive areas from coal ash runoff.

*Chapter 288. Residual Waste Landfills*

*Subchapter B. Application Requirements*

*Section 288.112. Facility plan.*

The Board added language in paragraph (2) to require the permit application for a residual waste landfill to include a description of the method by which the soil necessary for construction and operation will be delivered. If soil is not located on-site, the traffic, access roads, and other impacts need to be evaluated when performing the environmental assessment process.

One commentator questioned whether the proposed language indicates that only soil may be used for construction. This restriction is not indicated; § 288.232 allows the permit applicant to propose other materials for daily cover if they meet the performance standards through an equivalency review.

One commentator suggested that replacement language for the deleted soil cover provision contain a requirement for the permit applicant to indicate how the estimated soil quantities will be provided. The Board agrees and added language that requires the applicant to identify how the estimated soil quantities will be provided. This may be important when considering traffic and other factors evaluated in the environmental assessment.

One commentator requested that the requirement for the facility plan to predict the origin of wastes to be received at the facility be deleted. The Board declined to delete this requirement since information on waste location origins will help determine access routes to the facility, which need to be evaluated during the environmental assessment.

*Section 288.113. Maps and related information.*

One commentator suggested that the requirement in § 288.113 (a)(3) and (5) to identify offsite borrow areas be deleted; and to either delete the requirement to identify and map all wetlands within one quarter mile, or modify the requirement to apply only to wetlands located within 300 feet or within the "adjacent area." The Board declined to make these changes since the requirement to identify borrow areas or describe how soil will be obtained from off-site sources if specific borrow areas are not used is an important factor in evaluating impacts from the facility. Similarly, the existing requirement to identify all wetlands within 1/4 mile of the proposed facility is used

to help characterize the surface and groundwater conditions in the adjacent areas, which may be impacted by the facility.

*Section 288.122. Geology and groundwater description.*

The Board added language in subsection (a)(9) to allow the Department to require more frequent water level measurements after significant precipitation events. This information is necessary if the monthly measurements required by the regulations do not adequately represent the highest possible water levels which are needed to design the site.

Two commentators suggested that the duration and frequency of water level measurements was unreasonable as a preapplication obligation. One of these commentators also indicated that the required groundwater contour map should be made from measurements obtained during the same month, not the highest measurement obtained from a particular well. The Board declined to make changes to address the first issue, since water level measurements obtained over the course of a year, and after significant precipitation events, are the only way to determine the inherent periodic and seasonal groundwater fluctuations that occur at most sites. The Board agrees with the second issue but no changes to the Annex are necessary because the error was in the preamble explanation of how the contour map would be used. The contour map is only used to determine appropriate liner system isolation distances from the regional water table, and cannot be used to depict groundwater flow patterns.

One commentator requested clarification on the purpose, construction and duration of the borings used to measure water levels. The Board declined to modify the regulations to address this issue, as the specifics of borehole construction and maintenance may be tied to conditions unique to each facility. These details are routinely decided based upon discussions with the Department during the background groundwater characterization and monitoring process.

*Section 288.127. Mineral deposits information.*

The Board amended the language in subsection (b) to remove the ambiguity of the term mineable mineral deposits and instead apply the restrictions to mineable coals, which is the mineral most likely to be mined. An exception to the restrictions is provided for surface mining activities approved in the permit for purposes of facility construction.

Two commentators suggested that owners of captive residual waste facilities not be exempt from the requirements of this subsection. The Board agrees and has deleted the exception for expansions of captive facilities.

One commentator suggested that the evaluation of potential mine subsidence risks and the preparation of a mineral support plan be limited only to areas of actual disposal and leachate storage. The Board declined to make this change since mine subsidence adjacent to the disposal area could affect the liner and groundwater monitoring systems.

*Section 288.128. Notification of proximity to airport.*

The Board has amended this section to require that the applicant notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed landfill that accepts putrescible waste or lateral expansion is within 6 miles of an airport runway. This was added to be consistent with the municipal waste regulations and will assist the Department in determining whether construction of the

facility or modification thereof would be safe. If any of the respondents expresses safety concerns, the applicant will generally be required to submit a mitigation plan under § 287.127 (relating to environmental assessment), at a minimum.

*Section 288.132. Operation Plan.*

One commentator suggested that the operation plan not be required to identify proposed hours for construction and other activities unrelated to the actual acceptance of waste for disposal. The Board declined to make this change since the term "operate" includes the construction phase and activities relating to the receipt and disposal of waste. It is necessary to consider hours for construction and other activities when developing nuisance control plans and when performing the environmental assessment analysis. On final-form rulemaking, minor clarifying language has been added to indicate that procedures for inspection and monitoring of incoming waste must be included in the operation plan of a permit application.

*Section 288.133. Map and grid requirements.*

The Board has added a requirement in new subsection (a)(14) that an application for a noncaptive residual waste landfill indicate on the topographic map a designated area for vehicles for use in the event of the detection of waste containing radioactive material. As with other requirements in this subchapter, this requirement applies to all permit applications, not just applications for new facilities. A transition schedule has been developed in § 287.135 (relating to transition period for radiation monitoring) for existing facilities to come into compliance with this regulation. The designated area must protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

One commentator suggested eliminating the requirement for a permanent benchmark for horizontal and vertical control of the grid coordinate system. The Board declined to make this change since it is needed for proper construction and final elevation contours. Design requirements, such as subbase elevation, rely upon the map and grid requirements as baseline measurements.

*Section 288.134. Plan for access roads.*

One commentator suggested the term "adequately handle" was vague as a requirement for the ability of an access road to handle truck traffic. The Board agrees and deleted this provision from the application requirements.

One commentator questioned if the plans for access roads should comply with a Department of Transportation standard. The Board declined to address this issue since a Department of Transportation standard is not necessary. All plans submitted to the Department are certified by a professional engineer and are designed based upon expected use.

*Section 288.136. Nuisance minimization and control.*

One commentator suggested deleting the requirement for prior approval of installation of meteorological data collection equipment. The Board declined to make this change since input prior to the installation and collection of data prevents the operator from conducting preapplication monitoring that may prove to be incomplete.

One commentator requested clarification on what constitutes a "professional" in regard to nuisance minimiza-

tion and control, and if certification is required. Certification is not required for plan development, but persons preparing a nuisance and control plan should be familiar with the technical standards of the activities addressed by the plan.

*Section 288.138. Daily volume.*

One commentator suggested establishing separate volume limits for alternative cover materials and waste received for recycling. The Board declined to change this since any waste received at a disposal facility must be factored into measured volumes for environmental assessment considerations, such as traffic.

One commentator requested allowing daily volume limits to be exceeded in emergencies or unusual weather conditions. Section 287.103 (relating to emergency disposal or processing) does provide for emergency disposal to address this issue, however.

*Section 288.139. Radiation protection action plan.*

The Board has added a new Section in the final-form rulemaking requiring that an application for a noncaptive residual waste landfill contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, record keeping and reporting. As with the other requirements of this subchapter, this requirement applies to all permit applications, not just applications for new facilities. A transition schedule has been developed in § 287.135 (relating to transition period for radiation monitoring) for existing facilities to come into compliance with this regulation. The action plan must be incorporated into the landfill's approved waste analysis plan, under § 287.134 (relating to waste analysis plan). The permit modification will be a major modification. The action plan must be prepared in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001 or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

An approved action plan will specify the radiation exposure rate, in accordance with these regulations and the foregoing guidance document, at which the facility's radiation detection monitors will indicate the presence of radioactive material in waste in accordance with § 288.222 (relating to radiation monitoring and response). A waste load that does not trigger a radiation monitor will need no further action regarding radioactive materials screening. A waste load that does trigger a radiation monitor may only be accepted at the landfill if it is within the acceptable range approved in the action plan in accordance with these final-form regulations and the operator obtains additional written approval of the Department for that particular waste load. The Department's written approvals will be decided for that particular waste load. The Department's written approvals will be decided situation by situation or in advance in the facility's approved action plan. The Department will not authorize any waste containing radioactive material to be accepted at a landfill if it is above regulatory limits or if its disposal would endanger the health and safety of the public or the environment.

*Section 288.142. Revegetation plan.*

One commentator suggested that any required revegetation not be inconsistent with the postclosure land use plan. The Board declined to amend the existing requirement, since postclosure land use may not be

realized for many years after the facility operates. Therefore, a revegetation plan is necessary in the event that the land use plan cannot be implemented immediately upon construction of the cap and final cover.

*Section 288.152. Water quality monitoring plan.*

One commentator suggested modifying the plan to be consistent with federal Subtitle D regulations (40 CFR Part 258, Subpart E). The Board declined to modify this Section since 40 CFR Part 258 Subpart E provides for less stringent monitoring frequency than that provided in § 288.152. Additionally, adopting 40 CFR Part 258 Subpart E would incorporate definitions found in other sections of 40 CFR which are not consistent with analogous terms in the final-form rulemaking.

*Section 288.182. Closure plan.*

Two commentators suggested revising the term "toward and after closure" and allowing the definition of "closure" to allow for temporary closure. To provide clarification, the Board replaced the phrase "toward and after closure" with "in preparation for closure and after closure." The Board decided not to allow, however, the definition of "closure" to include temporary closure. "Closure" is the point at which the entire facility permanently ceases to accept waste. It happens only once at a landfill. Under the final-form regulations, the application shall contain a plan describing the activities that are proposed to occur in preparation for closure and after closure and a narrative description of the measures that are proposed to be carried out.

*Section 288.191. Plan for disposal of PCB's.*

The Board added language to § 288.191(b) to clarify that the disposal of certain PCB-containing wastes, as described in the disposal plan, is only applicable to Class I or Class II residual waste landfills. Disposal at Class III, or unlined residual waste landfills, would not be permitted.

*Subchapter C. Operating Requirements*

*Section 288.201. Basic limitations.*

This Section has been revised in the final-form rulemaking to specify clearly the types of radioactive materials that might be found in the residual waste stream that may not be accepted at a residual waste landfill.

Subsection (g) lists six types of radioactive materials that are controlled under specific or general license or order. These may not be accepted unless they are specifically exempted from disposal restrictions by an applicable Pennsylvania or Federal statute or regulation.

The first type, in paragraph (1), is NARM, which includes naturally occurring and accelerator produced radioactive material. Examples of NARM are radium, potassium-40, various isotopes produced in accelerators, such as cobalt-57, and members of the uranium-238 and thorium-232 decay chains when they don't meet the requirements for source material or special nuclear material.

Paragraph (2) prohibits disposal of by-product materials. These are produced by nuclear fission, or otherwise, in the nuclear energy cycle. Prominent examples are cesium-137 and strontium-90.

Paragraph (3) prohibits disposal of source material which, by definition, is uranium and/or thorium present at a combined concentration, by weight, of 0.05% or more. Examples are uranium ores and slags produced by smelting rare metal earth ores containing uranium and thorium.

Paragraph (4) prohibits disposal of special nuclear material, which includes those isotopes of uranium and plutonium that will split, or fission, when struck by neutrons. Examples of special nuclear material include uranium-233, uranium-235, and plutonium-239.

Paragraph (5) prohibits disposal of transuranic radioactive materials, which include all elements with an atomic number greater than 92 (92 = uranium). Examples include neptunium, plutonium, americium, curium, californium, berkelium, einsteinium, fermium, mendelevium, and others. Transuranic elements do not occur naturally and are produced in high energy accelerators.

Paragraph (6) prohibits disposal of low-level radioactive waste. A definition of low-level radioactive waste is contained in section 130 of the Low Level Radioactive Waste Disposal Act (35 P. S. § 7130.130).

Subsection (h) lists three categories of radioactive materials that are prohibited from being accepted at a residual waste landfill unless approved in writing by the Department and the disposal does not endanger the environment, facility staff or public health and safety.

The first radioactive material, in paragraph (1), is short-lived radioactive material from a patient having undergone a medical procedure. Certain short-lived radioactive materials are administered to medical patients for diagnosing or treating some illnesses. Once these materials are administered to the patient, they no longer fall under NRC or Pennsylvania licensing. Some of the material is retained in the patient and some is excreted in urine, feces, sweat, saliva or mucous and may get into solid waste through disposal of personal care items. The Department's intent is to authorize such material to be disposed in waste facilities upon case-by-case permission from the Department's Area Health Physicists or Director of the Bureau of Radiation Protection, or advance authorization in the landfill's approved action plan, using the general concepts provided in the Department's *Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*, Document Number 250-3100-001.

Paragraph (2) addresses TENORM, which is naturally occurring radioactive material which has been altered by human activity in a manner that results in increased radiation exposure to people. The alteration could be a chemical or physical change in form, relocation of the norm, or removal of barriers that isolated the norm. The Department's intent is to authorize disposal of TENORM in landfills only in amounts and concentrations that will not result in concentrations of the NORM isotopes significantly above local background. Authorization will be given as case-by-case permission from the Area Health Physicists or Director of the Bureau of Radiation Protection, or advance authorization in the landfill's approved action plan.

Paragraph (3) addresses consumer products containing radioactive material. Some consumer products, such as smoke detectors, luminous dial clocks and watches, or some ceramics will wind up in the waste stream. The Department intends to allow disposal of small quantities of these under conditions specified in the facility's approved action plan or on a case-by-case basis with permission from the Area Health Physicist or Director of the Bureau of Radiation Protection.

Subsection (i) provides that the limitations set forth in this Section will not apply to radioactive material as found in the undisturbed natural environment of this

Commonwealth. The original soil and rock in many parts of this Commonwealth contain sufficient uranium, thorium, radium and potassium-40 to cause monitors to alarm even at quite high settings. This provision ensures that facilities may use soil and rock from undisturbed sites for cover, regardless of the content of radioactive material.

One commentator requested not to restrict the authority of the Department to allow mitigation activities to be conducted at the same time as waste acceptance only for "technical reasons" (subsection (f)). The Board declined to make changes in this subsection since allowing mitigation for technical reasons are the only items which can be resolved through proper design and operation. Mitigation measures are part of an approved application. Information provided in the application is incorporated into a permit issuance. Because mitigation is used to balance an environmental harm, it must be implemented immediately unless a technical design or operating reason is identified.

#### *Section 288.211. Signs and markers.*

One commentator requested that the name, address and telephone number of the operator of the facility be retained on the facility sign. The Board agrees and retains the name, business address and telephone number of the person or municipality that operates the facility, the operating hours and the permit identification number.

#### *Section 288.212. Access control.*

The requirement in subsection (a)(2) to "construct" a fence or other suitable barrier around the areas of operation has been deleted on final-form rulemaking because no "construction" is necessary in instances where a natural barrier is sufficient to prevent unauthorized access.

#### *Section 288.214. Measurement and inspection of waste.*

Subsection (a) has been amended to reflect the repeal of the Weights and Measures Act of 1965 and the Public Weighmasters Act of 1961. Both acts were replaced with the Consolidated Weights and Measures Act of 1996, 3 Pa.C.S. §§ 4101—4194.

Subsection (c) has been amended to delete the requirement to monitor and inspect incoming waste for radioactive isotopes. This requirement was refined and moved to §§ 288.133, 288.139, 288.222, 288.281 and 288.283. Similar provisions appear in Chapters 289, 293, 295 and 297 and a transition schedule appears in § 287.135.

#### *Section 288.217. Air resources protection.*

The Board clarified in subsection (b) that an air quality plan approval and air quality operating permit are issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources).

One commentator suggested that the Board clarify and better define air resources protection by requiring a plan in the waste management regulations which addresses odors, fugitive particulates, emissions from biological decomposition, etc. The Board declined to make changes in this regard since the current air quality plan (required before a landfill can accept waste), approved through the Department's Bureau of Air Quality Control, provides controls for odor, fugitive emissions, non-methane organic carbons and any other pollutants as required.

#### *Section 288.218. Nuisance minimization and control.*

The Board amended subsection (b) to require the operator to minimize and control "public nuisances" from

odors. The proposed subsection had only referenced “nuisances”. Subsection (b) is now consistent with subsection (c). Similarly, to harmonize subsection (b) with (c), the requirement was added that the operator implement the plan approved under § 288.136 (relating to nuisance minimization and control plan). The Board did not revert to the “prevent and eliminate” language of the prior regulation as suggested by several commentators because field experience shows that nuisances cannot always be prevented. Finally, the Board reversed the order of subsections (b) and (c) for clarity.

One commentator suggested the term “odors” be replaced with “malodors”. The Board declined to make this change since all odors need to be reduced to the greatest degree possible under the nuisance minimization and control plan as they have the potential to impact the surrounding receptors.

*Section 288.221. Daily volume.*

One commentator suggested that average daily volume not be the subject of a compliance obligation. Limits subject to enforcement should only include maximum daily volume and annual volume. The Board declined to make this change, since many of the operating details to address nuisances are based upon the volume of waste that would normally be received on a daily basis. The average daily volume is based on the total volume of waste received over the year.

*Section 288.222. Radiation monitoring and response for noncaptive landfills.*

A new § 288.222 has been added to this final-form rulemaking to address monitoring for and responding to radioactive materials in residual waste in noncaptive landfills. Subsection (a) requires the facility operator to implement the action plan approved under § 288.139 (relating to radiation protection action plan). Subsection (b) requires the operator to monitor in accordance with the Department’s “Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities,” Document Number 250-3100-001 (or in an equally protective manner) the facility’s approved radiation protection action plan and this section. Subsection (c) describes the required sensitivity of the monitors and establishes the maximum level of radiation at which they must be set to alarm. In addition to the monitors described in subsections (b) and (c), portable radiation monitors that can determine the radiation dose and the presence of contamination on a vehicle that has caused an alarm are required by subsection (d). When radiation is detected at a landfill and the alarm exceedance is confirmed, the operator must perform a radiological survey of the vehicle. If a dose rate specified in subsection (e) is detected, the operator must notify the Department immediately and isolate the vehicle. Once notified, the Department staff, and possible staff from federal agencies, will assist the facility and its consultants in identifying, localizing and quantifying the radioactive material in the load. This is a stepwise investigative process that will ultimately determine what corrective action is needed.

To ensure that the monitoring equipment continues to function properly, subsection (f) requires that it be calibrated at least once a year—and more often if so specified by the manufacturer.

Subsection (g) notes the Federal requirement that, once the presence of radioactivity is detected (that is, above Action Level I, as described in the guidance document), the vehicle is not permitted to leave the facility with the material on board without written Department approval

and an authorized United States Department of Transportation exemption form issued by the Department. The exemption forms will usually be issued by telephone or FAX communication for levels between Action Level I and the Action Level II limits specified in subsection (e).

*Section 288.231. Topsoil storage.*

While this section was proposed to be deleted, one commentator suggested that it may be more appropriate to modify this section to address topsoil used as part of a cap. The Board decided to delete this section as proposed since the design and performance standards for the final layer of soil placed over a cap are found in § 288.234 (relating to final cover and grading).

*Section 288.232. Daily cover.*

One commentator suggested that the term “noncombustible” be retained, as opposed to the proposed “capable of controlling fires”, as a performance standard for daily cover material. The Board decided not to revert to the original language. Technically, no material is truly “non-combustible”. “Capable of controlling fires” is just one of several performance standards that daily cover must meet or exceed. Also, the Department is unaware of any problems with approved alternate daily cover requests.

*Section 288.233. Intermediate cover and slopes.*

One commentator questioned a seemingly contradictory requirement of a material supporting vegetation and controlling infiltration. The Board declined to make any changes in this regard. Infiltration can be controlled by the cover material. The moisture holding capacity retains moisture that is then used by the vegetation that is established.

*Section 288.234. Final cover and grading.*

The Board amended subsection (b) to clarify the demonstration provisions for waiving the cap and drainage layer requirements. This includes a demonstration that leachate production without a cap will be equivalent to leachate production with a cap, and that waiver of a cap will not cause or contribute to groundwater degradation as a result of leachate production. These provisions will help address the most important environmental impacts considered when evaluating a waiver of the cap and drainage system requirements.

Two commentators questioned the proposed requirement that the cap should limit the migration of precipitation into the landfill to the greatest degree technologically possible. The Board agrees and deleted the requirement.

One commentator suggested that the minimum and maximum slopes be revised to match engineering capabilities. The Board declined to change the regulations, however, since § 288.234(h) allows the permit applicant to design with any slope, as long as the applicant demonstrates that the performance standards will be met. Steeper slopes are, however, not routinely constructed at residual waste landfills.

*Section 288.252. Number, location and depth of monitoring points.*

One commentator suggested retaining the requirement for well drillers to be licensed under the Water Well Drillers License Act (32 P. S. §§ 645.1—645.13). The Board agreed and retains the requirement for well drillers to be licensed.

*Section 288.253. Standards for wells and casing of wells.*

The Board amended subsection (a) to allow for alternative well casing designs in stable formations, if approved

by the Department. This provides some design flexibility based upon certain lithologic characteristics (stability and "tightness") of the formations under the site.

The Board also amended subsection (b) to clarify a concern raised by one commentator regarding well casing. The requirements in this subsection are applicable to the outer protective casing of the monitoring well, not the well casing itself.

*Section 288.254. Sampling and analysis.*

The Board amended this section to change magnesium from an annual testing parameter to a quarterly parameter. This places magnesium among the more frequently measured metals which are effective early indicators of liner leakage or failure, and removes it from the generally more dissimilar metals included in the annual testing list.

*Section 288.257. Abatement plan.*

Several commentators expressed a general concern that the groundwater abatement requirements do not fully parallel those provisions available in Act 2. The Board declined to change the abatement language from the proposed revisions. The residual waste abatement standards apply to operating facilities, which by design and practice are engineered to prevent contamination of groundwater. Conditions at the landfill are not static: waste continues to be received and the area of disposal may expand. More stringent standards than those available under Act 2 are needed to address the operational dynamics of such a waste management facility. This contrasts with an Act 2 site, typically an abandoned facility, not designed to properly contain waste or manage groundwater, where the property boundaries have been established for years. At final closure, when the dynamics of the operating landfill are static and the property boundaries established, Act 2 remediation standards and the points of compliance are available.

Two commentators expressed concern regarding establishing points of compliance for abatement standards at 150 meters from the perimeter of the disposal area, or the property boundary (whichever is closer), citing a conflict with Act 2. The Board declined to adjust the points of compliance where abatement standards are to be met. The abatement standards are similar to both Act 2 and RCRA Subtitle D corrective action requirements. Meeting abatement standards at the closer point (150 meters from the perimeter of the disposal area or at the property boundary) reflects the performance and design standards of the operational facility designed to detect, assess, and abate groundwater contamination as appropriate. The remediation points of compliance, at closure, are consistent with Act 2.

Two commentators questioned conditions defining the availability of a risk-based standard, citing a conflict with Act 2. The Board declined to change the conditions when use of a risk-based standard is available. Act 2 allows a more unrestricted use of the risk-based standard since many remediation sites are closed/abandoned and the adjacent property use is well known. These conditions, which are factored into the risk assessment, are less predictable during the operational lifetime of a residual waste management facility. At final closure, when these conditions have become more clearly established, use of the Act 2 site-specific standard is available. In addition, use of a risk-based standard is available for certain constituents (where no MCL exists), which include certain assumptions designed to prevent unacceptable risks off the site of the landfill.

One commentator suggested that Act 2-like flexibility should be included to extend the point of compliance beyond the property boundary. The Board declined to adopt the Act 2 provisions (§ 250.302(a)) to extend the point of compliance for a residual waste landfill. Unlike an Act 2 site, a residual waste landfill is designed, constructed, operated and closed in a manner which restricts groundwater contamination, and exposure pathways are less known while the facility continues to accept waste. These conditions are not conducive to allowing the point of compliance to be extended for the primary constituents. There is some flexibility to extend the point of compliance for secondary contaminants during an abatement process, as long as it is on land owned by the owner of the disposal area. After closure, when conditions are more predictable, the Department may approve a compliance point for secondary contaminants beyond the property boundary, up to a water source.

*Section 288.262. Gas control and monitoring.*

Subsection (f) has been modified on final-form rule-making to indicate that active forced ventilation is necessary to reduce the migration of combustible gas or prevent offsite odors.

*Section 288.271. Hazard prevention.*

One commentator recommended that subsection (b) be retained and the term "facilities" be changed to "equipment and supplies." The Board declined to retain this subsection. Part of the Pollution Prevention Compliance (PPC) plan submitted by the applicant identifies first aid equipment and procedures.

*Section 288.281. Daily operational records.*

Subsection (b)(8)(iv) has been added on final to require information to be kept in the daily record describing radioactive materials detected in waste loads. This information will be helpful to the operator, the municipality and the Department. If the origin of the material is known, it will be stated in the daily record, along with the identity of the supplier or handler of the radioactive material and the driver. Identifying these parties will enable the operator and the Department to take steps to prevent inappropriate distribution of radioactive material in the future. The final disposition of the material is also required to be stated in the daily record. This will help the operator, the municipality and the Department know that the material will be properly disposed.

Subsection (b)(8)(v) has been added on final to require a landfill operator to identify vehicles that have arrived at the landfill over the maximum gross weight allowed on Pennsylvania's roadways under, section 4941 of the Vehicle Code (relating to maximum gross weight of vehicles). This requirement is designed to help reduce the number of overweight waste vehicles travelling on roadways of this Commonwealth. While the Department will not use this part of the daily operational record to institute a direct enforcement action against a waste hauler for exceeding a roadway weight limit or against a waste facility for accepting an overweight vehicle, the Department may use the information in enforcing the daily volume limits at the facility, in selecting locations for routine vehicle inspections and in taking other steps toward reducing the number of overweight waste vehicles.

*Section 288.283. Annual operation report.*

The Board amended subsection (b)(4) to delete the requirement to identify areas that are closed in the annual report because there is only one closure at the facility, i.e. that time at which the facility permanently

ceases to accept waste. Instead, subsection (b)(4) has been amended to require the operator to describe the acreage used for disposal, areas revegetated, and a narrative describing the operator's progress in implementing its closure plan.

To provide a summary of the daily operational recordkeeping regarding radioactive waste, subsection (b)(12) was added to require the annual report to include a record of detected radioactive materials.

#### *Section 288.292. Closure.*

The Board deleted the proposed requirement that requires acceptance of the operators selection of the remediation standards because the decision may be impacted by other closure considerations.

One commentator indicated that groundwater degradation should not dictate implementation of abatement or submittal of a closure plan modification regarding selection of remediation standards. The Board declined to amend this section. Although active groundwater remediation may not be necessary at the time of closure, if groundwater degradation exists, a closure plan must identify the remediation standards that will be met and maintained to meet the final closure certification.

#### *Section 288.301. PCB's.*

The Board has amended subsection (a) to clarify that PCB-containing waste material is prohibited from disposal at a residual waste landfill, if the waste material is prohibited from disposal at a municipal waste landfill by the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629).

#### *Section 288.302. Disposal of friable asbestos-containing waste.*

The Board amended this Section to allow a distinction in timing and depth of covering between nonfriable asbestos-containing waste and friable asbestos-containing waste. The final-form rulemaking indicates that nonfriable asbestos-containing waste must be covered within 24 hours of placement with at least six inches of nonasbestos containing cover material. This requirement contrasts with friable asbestos-containing waste, which must be covered immediately after disposition and covered with at least 12 inches of nonasbestos containing cover material.

#### *Subchapter D. Additional Requirements for Class I Residual Waste Landfills*

#### *Section 288.412. Liner system and leachate control plan.*

Several changes were made to the final-form regulations in this section.

The Board amended the existing liner testing properties to reflect current liner compatibility testing procedures. The following properties were added: density, carbon black content, carbon black dispersion, stress crack resistance and oxidative induction time. The following properties were deleted: the modulus of elasticity, impact resistance, operating temperature range, ozone resistance, water vapor transmission, coefficient of linear thermal expansion and low temperature/brittleness.

One commentator questioned why the proposed regulations required percent recycled material as a testing property and suggested that it be deleted unless this information is relevant. The Board declined to make the change. The percent recycled material can vary significantly during the manufacturing of liners and can change the performance of the liner.

#### *Section 288.422. Areas where class I residual waste landfills are prohibited.*

Subsection (a)(4) was amended to indicate that the permittee, as opposed to the operator, must own the underlying coal. The section also removes the ambiguity of the proposed term "minerals" and instead maintains the restriction for "coal," which is the mineral most likely to be mined.

One commentator suggested that all setbacks be measured from areas used for disposal, processing, recycling or storage of solid waste, including the storage and treatment of leachate. The Board declined to make this change. All setback distances are measured from the facility boundary, in accordance with the statutory definition of "facility."

The Board has amended the isolation distance language in subsection (a)(7) relating to distances from occupied dwellings. Subsection (a)(7)(i) addresses operations at existing facilities. Under the final-form regulation, these facilities are subject to the old 300-foot setback. Disposal areas may not be closer than 500 feet except upon waiver by the owner of the dwelling.

Subsection (a)(7)(ii) addresses expansions of facilities where the facility was permitted before the effective date of this final-form rulemaking. Expansion of noncaptive landfills must be 900 feet from an occupied dwelling unless the owner provides a written waiver that meets the requirements of subparagraph (ii)(A), or the expansion will be on land owned by the applicant on the effective date of the regulations, subject to an enforceable option contract for purchase of the land on that date or purchased after the effective date of the regulations pursuant to an option contract entered into prior to the effective date (subparagraph (ii)(B)). If the contract/option provision applies, the expansion may not be operated closer than 300 feet and the disposal area may not be within 500 feet of an occupied dwelling unless the applicant obtains a waiver as described in subparagraph (ii)(A).

New noncaptive landfills will be subject to the 900-foot isolation distance, unless they obtain a written waiver from the owner. A closed noncaptive landfill that submits an application to reopen and expand will also be subject to this paragraph.

Access roads are not subject to the 900-foot isolation distance. Under subsection (a)(7)(iv), access roads are subject to a 300-foot setback. While an increase in the setback to 900 feet from landfill activity is necessary to address issues such as noise, dust and odors, these issues can continue to be adequately addressed for access roads with a 300-foot setback. One commentator suggested that the setback distance required in subsection (a)(7)(iii) (subsection (a)(7)(ii) in the proposed amendments) be maintained at 300 feet, as the 300-yard setback is overly stringent and inconsistent with the brownfields initiative. The Board declined to amend this subsection. The requirement is drawn from the isolation distance in Act 101 of 300 yards from a school, park or playground for municipal waste landfills. In addition, most complaints from surrounding landowners deal with traffic, odors, dust and other nuisances that should be significantly reduced by the 300-yard isolation distance.

A new subsection (a)(11)(iii) was added to ensure that areas permitted on or after the effective date of the regulations would not be an obstruction to air navigation under 14 CFR 77.23 (a)(5) (relating to standards for determining obstructions). This will offer greater protection against intrusion into an airport's flight paths.

One commentator suggested that the airport isolation distance be measured from the disposal area, not the permit area. The Board declined to change this requirement since other permit areas at the landfill, such as leachate storage and treatment ponds, may attract birds and present a hazard to aircraft.

*Section 288.432. General limitations.*

The Board amended subsection (c) to clarify that in confined layers at least 8 feet shall be maintained between the bottom of the liner system and the level where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The term "upward" was added to clarify the intent, which was questioned by one commentator.

The Board added requirements to clarify the construction of berms and the placement of waste in relation to the berms.

One commentator suggested allowing a reduction in the eight-foot regional groundwater separation distance based upon multiyear groundwater monitoring if the statistical probability of contact between the groundwater and the waste is not increased. The Board declined to allow this exception, since multiyear groundwater monitoring may be interpreted to mean only 2 or 3 years, which is a fraction of the working life of a disposal facility. Significant fluctuations in the regional groundwater table may occur at intervals outside the time frame used to derive these statistical predictions.

One commentator suggested that a minimum isolation distance between the liner and water table is unnecessary, as long as a drainage system is present to prevent contact between the two. The Board declined to adopt this suggestion, since field experience has shown that the 8-foot isolation distance has proven to be an effective buffer to account for fluctuations in regional groundwater levels. The commentator's suggestion does, however, apply to perched water zones and the seasonal high water table.

*Section 288.434. Secondary liner.*

The Board amended subsection (e) to incorporate the term "composite" instead of the term "lower" to clarify the characteristics of a composite secondary liner in cases where a primary composite liner is not designed, constructed, operated and maintained. This term is more consistent with Appendix A, Table I.

One commentator expressed concern that best available technology (BAT) requirements are being retained, and these are unnecessary since there is information that less than BAT liner designs for coal ash have no impact on groundwater. The Board declined to modify the requirements, since there is flexibility in the design requirements for a residual waste disposal facility to allow the design to be based on the chemical characteristics of the coal ash. If the coal ash meets Class III minimum requirements for acceptable waste, the facility may be unlined. Coal ash not meeting the Class III criteria must be disposed in a single or double-lined facility.

*Section 288.435. Leachate detection zone.*

The Board added clarifying language in subsection (e) regarding the amount of leachate per area that must be exceeded before additional measures are to be implemented. The 100 gallons per acre of lined area was modified to read lined collection area.

*Section 288.436. Primary liner.*

The Board amended subsection (d) to incorporate the term "composite" instead of the term "lower" to clarify the

characteristics of a composite primary liner in cases where a secondary composite liner is not designed, constructed, operated and maintained. This term is more consistent with Appendix A, Table I.

One commentator suggested that facility designs should be able to demonstrate, with Department guidance on application of performance standards, that groundwater quality will not be adversely impacted. The Board declined to make amendments on this issue, since the regulations contain design and performance standards, and allow the operator the opportunity to make adjustments through the equivalency review process.

One commentator expressed concern that best available technology (BAT) requirements are being retained, and these are unnecessary since there is information that less than BAT liner designs for coal ash have no impact on groundwater. The Board declined to modify the requirements, since there is flexibility in the design requirements for a residual waste disposal facility to allow the design to be based on the chemical characteristics of the coal ash. If the coal ash meets Class III minimum requirements for acceptable waste, the facility may be unlined. Coal ash not meeting the Class III criteria must be disposed in a single or double-lined facility.

*Section 288.438. Leachate collection system within protective cover.*

The Board deleted the proposed requirement in subsection (a)(2), which allowed the leachate depth on the primary liner to exceed one foot in depth in certain instances, to be consistent with the municipal waste program.

The Board amended subsection (b)(4) to delete the requirement that stones or aggregates in the leachate collection zone be noncarbonate. The performance standards in subsection (a)(2) address this issue by requiring that the collection system be able to withstand chemical attack from the leachate.

One commentator suggested that there should be a requirement for at least two methods for leachate to flow to the low point of the landfill. The Board declined to make the change. The current design and performance standards for leachate removal are successfully being implemented at operating landfills.

*Section 288.455. Leachate collection and storage.*

The Board amended subsection (g) to apply the new requirements for the design of underground leachate pipes to facilities permitted after the effective date of the regulations. The new pipes must have secondary containment or comply with alternative methods of release detection identified in the underground storage tank regulations.

A commentator suggested that the 30-day leachate storage requirement allow more room for engineering mitigation. The Board declined to make the change because the 30-day storage requirement has proven to be necessary to ensure sufficient storage during adverse weather conditions or unforeseen leachate handling problems.

Two commentators indicated that the dual containment piping required in subsection (g) is excessive and proper performance can be assured through routine inspection. The Board amended subsection (g) to allow for alternative methods of release detection to be used.

One commentator questioned the need to require captive storage tanks or impoundments to meet The Clean



Streams Law if there is no point discharge from them. The Clean Streams Law prohibits the pollution of the waters of this Commonwealth, regardless of whether the source is a point or nonpoint discharge. All waste management activities must be in compliance with The Clean Stream Law.

One commentator questioned the need for pipes for leachate transport to have secondary containment at existing facilities. The Board amended subsection (g) to apply to the new requirements for the design of underground leachate pipes to areas permitted after the effective date of the regulations. The new pipes must have secondary containment or comply with alternative methods of release detection identified in the underground storage tank regulations.

*Section 288.456. Leachate analysis and sludge handling.*

The Board amended the proposed changes to subsection (a)(2) to not allow a reduction in the quarterly leachate chemical analysis testing requirements. It is necessary to have current information on the leachate quality to determine such things as the impact of the leachate on the liner system, the effectiveness of the leachate treatment system, and the need for additional groundwater monitoring.

*Subchapter E. Additional Requirements for Class II Residual Waste Landfills*

*Section 288.512. Liner system and leachate control plan.*

Several changes were made to the final-form regulations in this section.

The Board amended the existing liner testing properties to reflect current liner compatibility testing procedures. The following properties were added: density, carbon black content, carbon black dispersion, stress crack resistance and oxidative induction time. The following properties were deleted: the modulus of elasticity, impact resistance, operating temperature range, ozone resistance, water vapor transmission, coefficient of linear thermal expansion and low temperature/brittleness.

*Section 288.522. Areas where Class II residual waste landfills are prohibited.*

Subsection (a)(4) was amended to indicate that the permittee, as opposed to the operator, must own the underlying coal. The section also removes the ambiguity of the term "minerals" and instead maintains the restrictions to "coal," which is the mineral most likely to be mined.

One commentator suggested that all setbacks be measured from areas used for disposal, processing, recycling or storage of solid waste, including the storage and treatment of leachate. The Board declined to make this change. All setback distances are measured from the facility boundary, in accordance with the statutory definition of "facility."

The Board has amended the isolation distance language in subsection (a)(7). Subsection (a)(7)(i) addresses operations at existing facilities. Under the final-form regulation, these are subject to the old 300-foot setback. Disposal areas may not be closer than 500 feet except upon waiver by the owner of the dwelling.

Subsection (a)(7)(ii) addresses expansions of facilities where the facility was permitted before the effective date of this final-form rulemaking. Expansion of noncaptive landfills must be 900 feet from an occupied dwelling unless the owner provides a written waiver that meets the requirements of subparagraph (ii)(A), or the expansion

will be on land owned by the applicant on the effective date of the regulations, subject to an enforceable option contract for purchase of the land on that date or purchased after the effective date of the regulations pursuant to an option contract entered into prior to the effective date (subparagraph (ii)(B)). If the contract/option provision applies, the expansion may not be operated closer than 300 feet and the disposal area may not be within 500 feet of an occupied dwelling unless the applicant obtains a waiver as described in subparagraph (ii)(A).

New noncaptive landfills will be subject to the 900-foot isolation distance, unless they obtain a written waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this paragraph.

Access roads are not subject to the 900-foot isolation distance. Under subsection (a)(7)(iv), access roads are subject to a 300-foot setback. While an increase in the setback to 900 feet from landfill activity is necessary to address issues such as noise, dust and odors, these issues can continue to be adequately addressed for access roads with a 300-foot setback.

A new subsection (a)(11)(iii) was added to ensure that areas permitted on or after the effective date of the regulations would not be an obstruction to air navigation under 14 CFR 77.23 (a)(5) (relating to standards for determining obstructions). This will offer greater protection against intrusion into an airport's flight paths.

One commentator suggested that the airport isolation distance be measured from the disposal area, not the permit area. The Board declined to change this requirement since other permit areas at the landfill, such as leachate storage and treatment ponds, may attract birds and present a hazard to aircraft.

*Section 288.523. Minimum requirements for acceptable waste.*

One commentator questioned the justification for the establishment of "waste classification standards". The Board indicates that the term "waste classification standard" has replaced the term "groundwater parameter." The waste classification standard is used to determine the minimum requirements for acceptable waste at landfills and disposal impoundments. The requirements for acceptable waste have been in place since 1992.

*Section 288.532. General limitations.*

The Board amended subsection (c) to clarify that in confined layers at least 8 feet shall be maintained between the bottom of the liner system and the level where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The term "upward" was added to clarify the intent, which was questioned by one commentator.

The Board added requirements to clarify the construction of berms and the placement of waste in relation to the berms.

One commentator suggested allowing a reduction in the eight-foot regional groundwater separation distance based upon multiyear groundwater monitoring if the statistical probability of contact between the groundwater and the waste is not increased. The Board declined to allow this exception, since multiyear groundwater monitoring may be interpreted to mean only two or three years, which is a fraction of the working life of a disposal facility. Significant fluctuations in the regional groundwater table may occur at intervals outside the time frame used to derive these statistical predictions.

One commentator suggested that a minimum isolation distance between the liner and water table is unnecessary, as long as a drainage system is present to prevent contact between the two. The Board declined to adopt this suggestion, since field experience has shown that the 8 foot isolation distance has proven to be an effective buffer to account for fluctuations in regional groundwater levels. The commentator's suggestion does, however, apply to perched water zones and the seasonal high water table.

*Section 288.534. Leachate detection zone.*

The Board added clarifying language in subsection (e) regarding the amount of leachate per area that must be exceeded before additional measures are to be implemented. The 100 gallons per acre of lined area was modified to read lined collection area.

*Section 288.535. Liner.*

The Board amended the language regarding liner requirements in subsection (c) to replace the term "lower" with the term "composite." This term is more descriptive and consistent with Appendix A, Table I.

*Section 288.537. Leachate collection system within protective cover.*

The Board deleted the proposed requirement in subsection (a)(2) which allowed the leachate depth on the primary liner to exceed 1 foot in depth in certain instances. This change was made to be consistent with the municipal waste landfill requirements.

The Board amended subsection (b)(4) to delete the requirement that stones or aggregates in the leachate collection zone be noncarbonate. The performance standards in subsection (a)(2) address this issue by requiring that the collection system be able to withstand chemical attack from the leachate.

One commentator suggested making revisions to allow the leachate depth to exceed one foot under certain conditions. The Board had deleted the proposed requirement in subsection (a)(2), however, since it is inconsistent with the federal landfill requirements that implement Subtitle D of RCRA. The leachate collection system should be designed to handle the removal of leachate from storm events without exceeding the 1-foot maximum depth of leachate on the liner.

One commentator suggested that there should be a requirement for at least two methods for leachate to flow to the low point of the landfill. The Board declined to make the change. The current design and performance standards for leachate removal are successfully being implemented at operating landfills.

*Section 288.555. Leachate collection and storage.*

The Board amended subsection (g) to apply the new requirements for the design of underground leachate pipes to areas permitted after the effective date of the regulations. The new pipes must have secondary containment or comply with alternative methods of release detection identified in the underground storage tank regulations.

Two commentators indicated that existing facilities should not have to have secondary containment for leachate piping. The Board has amended subsection (g) to indicate that the final-form rulemaking requires that underground pipes constructed after the effective date of the final-form rulemaking must have secondary containment or comply with § 245.445 (relating to methods for release detection for piping).

A commentator suggested that the 30-day leachate storage requirement allow more room for engineering mitigation. The Board declined to make the change because the 30-day storage requirement has proven to be necessary to ensure sufficient storage during adverse weather conditions or unforeseen leachate handling problems.

*Section 288.556. Leachate analysis and sludge handling.*

The Board amended the proposed changes to subsection (a)(2) to not allow a reduction in the quarterly leachate chemical analysis testing requirements. It is necessary to have current information on the leachate quality to determine such things as the impact of the leachate on the liner system, the effectiveness of the leachate treatment system, and the need for additional groundwater monitoring.

*Subchapter F. Additional Requirements for Class III Residual Waste Landfills*

*Section 288.622. Areas where Class III residual waste landfills are prohibited.*

Subsection (a)(4) was amended to indicate that the permittee, as opposed to the operator, must own the underlying coal. The section also removes the ambiguity of the term "minerals" and instead apply the restrictions to "coal," which is the mineral most likely to be mined.

The Board has amended the isolation distance language in subsection (a)(7). Subsection (a)(7)(i) addresses operations at existing facilities. Under the final-form regulation, these are subject to the old 300-foot setback. Disposal areas may not be closer than 500 feet except upon waiver by the owner of the dwelling.

Subsection (a)(7)(ii) addresses expansions of facilities where the facility was permitted before the effective date of this final-form rulemaking. Expansion of noncaptive landfills must be 900 feet from an occupied dwelling unless the owner provides a written waiver that meets the requirements of subparagraph (ii)(A), or the expansion will be on land owned by the applicant on the effective date of the regulations, subject to an enforceable option contract for purchase of the land on that date or purchased after the effective date of the regulations under an option contract entered into prior to the effective date (subparagraph (ii)(B)). If the contract/option provision applies, the expansion may not be operated closer than 300 feet and the disposal area may not be within 500 feet of an occupied dwelling unless the applicant obtains a waiver as described in subparagraph (ii)(A).

New noncaptive landfills will be subject to the 900-foot isolation distance, unless they obtain a written waiver from the owner. A closed landfill that submits an application to reopen and expand will also be subject to this paragraph.

Access roads are not subject to the 900-foot isolation distance. Under subsection (a)(7)(iv), access roads are subject to a 300-foot setback. While an increase in the setback to 900 feet from landfill activity is necessary to address issues such as noise, dust and odors, these issues can continue to be adequately addressed for access roads with a 300-foot setback.

A new subsection (a)(11)(iii) was added to ensure that areas permitted on or after the effective date of the regulations would not be an obstruction to air navigation under 14 CFR 77.23 (a)(5) (relating to standards for determining obstructions). This will offer greater protection against intrusion into an airport's flight paths.

One commentator suggested that the airport isolation distance be measured from the disposal area, not the permit area. The Board declined to change this requirement since other permit areas at the landfill, such as leachate storage and treatment ponds, may attract birds and present a hazard to aircraft.

One commentator suggested that the setback distances in § 288.622(a)(7) not apply to captive facilities. The final-form regulations clarify that the new 300-yard setback is not applicable to captive facilities.

*Section 288.624. Attenuating soil.*

One commentator suggested developing a more practical formulation of the standard of performance in requiring that attenuating soil "prevent migration of contaminants to the surface and the groundwater to the greatest degree that is technologically possible." The Board declined to amend this section, since current design standards for attenuating soil provide the appropriate level of protection for groundwater and surface water. The final-form regulations add flexibility by allowing an operator to choose an alternative design that provides the equivalent or greater level of protection to groundwater and surface water.

*Appendix A, Table I.*

The Board has modified this table to be more consistent with the municipal waste regulations and reflect more current terminology.

*Chapter 289. Residual Waste Disposal Impoundments*

*Subchapter B. Application Requirements*

*Section 289.112. Facility plan.*

The Board added language in paragraph (2) to require the permit application for a residual waste disposal impoundment to include a description of the method by which the soil necessary for construction and operation will be delivered. If soil is not located onsite, the traffic, access roads, and other impacts need to be evaluated when performing the environmental assessment process.

One commentator questioned whether the proposed language indicates that only soil may be used for construction. The requirement does not limit the use of alternative materials for construction. To the extent that alternative materials are demonstrated through appropriate equivalency reviews, alternative materials can be used.

*Section 289.122. Geology and groundwater description.*

The Board added language in subsection (a)(9) to allow the Department to require more frequent water level measurements after significant precipitation events. This information is necessary if the monthly measurements required by the regulations do not adequately represent the highest possible water levels which are needed to design the site.

One commentator indicated that the required groundwater contour map should be made from measurements obtained during the same month, not the highest measurement obtained from a particular well. The Board agrees but no changes to the Annex are necessary because the error was in the preamble explanation of how the contour map would be used. The contour map is only used to determine appropriate liner system isolation distances from the regional water table, and cannot be used to depict groundwater flow patterns.

*Section 289.127. Mineral deposits information.*

The Board amended the language in subsection (b) to remove the ambiguity of the term mineable mineral deposits and instead maintain the restrictions to mineable coals, which is the mineral most likely to be mined. An exception to the restrictions is provided for surface mining activities approved in the permit for purposes of facility construction.

One commentator suggested that the language should not apply to noncoal minerals which are adjacent to the facility. The Board amended the language to only apply to mineable coals, but retained the current requirement that also considers adjacent areas to the extent that coal mining in those areas would have an impact on the design and operation of the waste disposal impoundment. Another commentator felt that captive facilities should not be exempt from the new requirements in this section. The Board deleted the language exempting captive facilities from meeting the new change to this Section as it will allow surface mining, if necessary.

*Section 289.128. Notification of proximity to airport.*

The Board has amended this Section to require the applicant to notify the Bureau of Aviation of the Pennsylvania Department of Transportation, the Federal Aviation Administration and the airport if a proposed disposal impoundment or lateral expansion is within 6 miles of an airport runway. This was added to be consistent with the municipal waste regulations and will assist the Department in determining whether construction of the facility or modification thereof would be safe. If any of the respondents expresses safety concerns, the applicant will generally be required to submit a mitigation plan under § 287.127 (relating to environmental assessment), at a minimum.

*Section 289.132. Operation plan.*

On final-form rulemaking, minor clarifying language has been added to indicate that procedures for inspection and monitoring of incoming waste must be included in the operation plan of a permit application.

*Section 289.133. Map and grid requirements.*

The Board has added a requirement in new subsection (a)(13) that an application for a noncaptive residual waste disposal impoundment indicate on the topographic map a designated area for vehicles for use in the event of the detection of waste containing radioactive material. As with other requirements in this subchapter, this requirement applies to all permit applications, not just applications for new facilities. A transition schedule has been developed in § 287.135 (relating to transition period for radiation monitoring) for existing facilities to come into compliance with this regulation. The designated area must protect the environment, facility staff and public from radiation originating in the vehicle. The Department's *Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*, Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

*Section 289.134. Plan for access roads.*

One commentator suggested the term "adequately handle" was vague as a requirement for the ability of an access road to handle truck traffic. The Board agrees and deleted this provision from the application requirements.

*Section 289.136. Nuisance minimization and control plan.*

The Board amended subsection (a) to include the term "unsightliness" to address a commentator's suggestion

that the application requirements for nuisance minimization and control reflect the operating requirements.

*Section 289.138. Radiation protection and action plan.*

The Board has added a new section in the final-form rulemaking requiring that an application for a noncaptive residual waste disposal impoundment contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, record keeping and reporting. As with the other requirements of this subchapter, this requirement applies to all permit applications, not just applications for new facilities. A transition schedule has been developed in § 287.135 (relating to transition period for radiation monitoring) for existing facilities to come into compliance with this regulation. The action plan must be incorporated into the impoundment's approved waste analysis plan, under § 287.134 (relating to waste analysis plan). The permit modification will be a major modification. The action plan must be prepared in accordance with the Department's *Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*, Document Number 250-3100-001 or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

An approved action plan will specify the radiation exposure rate, in accordance with these regulations and the foregoing guidance document, at which the facility's radiation detection monitors will indicate the presence of radioactive material in waste in accordance with § 289.230 (relating to monitoring and response for noncaptive residual waste disposal impoundments). A waste load that does not trigger a radiation monitor will need no further action regarding radioactive materials screening. A waste load that does trigger a radiation monitor may only be accepted at the landfill if it is within the acceptable range approved in the action plan in accordance with these final regulations and the operator obtains additional written approval of the Department for that particular waste load. The Department's written approvals will be decided situation by situation or in advance in the facility's approved action plan. The Department will not authorize any waste containing radioactive material to be accepted at a residual waste landfill if it is above regulatory limits or if its disposal would endanger the health and safety of the public or the environment.

*Section 289.172. Closure plan.*

One commentator suggested revising the term "toward and after closure" and allowing the definition of "closure" to allow for temporary closure. To provide clarification, the Board replaced the phrase "toward and after closure" with "in preparation for closure and after closure." "Closure" is the point at which the entire facility permanently ceases to accept waste. It happens only once at a landfill. Under the final regulations, the application shall contain a plan describing the activities that are proposed to occur in preparation for closure and after closure and a narrative description of the measures that are proposed to be carried out.

*Section 289.201. Basic limitations.*

This Section has been revised in the final-form rulemaking to specify clearly the types of radioactive materials that might be found in the residual waste stream that may not be accepted at a residual waste landfill.

Subsection (f) lists six types of radioactive materials that are controlled under specific or general license or order. These are prohibited from disposal at a residual waste impoundment unless they are specifically exempted from disposal restrictions by an applicable Pennsylvania or Federal statute or regulation.

The first type, in paragraph (1), is NARM, which includes naturally occurring and accelerator produced radioactive material. Examples of NARM are radium, potassium-40, various isotopes produced in accelerators, such as cobalt-57, and members of the uranium-238 and thorium-232 decay chains when they don't meet the requirements for source material or special nuclear material.

Paragraph (2) prohibits disposal of by-product materials. These are produced by nuclear fission, or otherwise, in the nuclear energy cycle. Prominent examples are cesium-137 and strontium-90.

Paragraph (3) prohibits disposal of source material which, by definition, is uranium and/or thorium present at a combined concentration, by weight, of 0.05% or more. Examples are uranium ores and slags produced by smelting rare metal earth ores containing uranium and thorium.

Paragraph (4) prohibits disposal of special nuclear material, which includes those isotopes of uranium and plutonium that will split, or fission, when struck by neutrons. Examples of special nuclear material include uranium-233, uranium-235, and plutonium-239.

Paragraph (5) prohibits disposal of transuranic radioactive materials, which include all elements with an atomic number greater than 92 (92= uranium). Examples include neptunium, plutonium, americium, curium, californium, berkelium, einsteinium, fermium, mendelevium, and others. Transuranic elements do not occur naturally and are produced in high energy accelerators.

Paragraph (6) prohibits disposal of low-level radioactive waste. A definition of low-level radioactive waste is contained in section 130 of the Low Level Radioactive Waste Disposal Act.

Subsection (g) lists three categories of radioactive materials that are prohibited from being accepted at a residual waste landfill unless approved in writing by the Department and the disposal does not endanger the environment, facility staff or public health and safety.

The first radioactive material, in paragraph (1), is short-lived radioactive material from a patient having undergone a medical procedure. Certain short-lived radioactive materials are administered to medical patients for diagnosing or treating some illnesses. Once these materials are administered to the patient, they no longer fall under NRC or Pennsylvania licensing. Some of the material is retained in the patient and some is excreted in urine, feces, sweat, saliva or mucous and may get into solid waste through disposal of personal care items. The Department's intent is to authorize such material to be disposed in waste facilities upon case-by-case permission from the Area Health Physicists or Director of the Bureau of Radiation Protection, or advance authorization in the landfill's approved action plan, using the general concepts provided in the Department's *Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*, Document Number 250-3100-001.

Paragraph (2) addresses TENORM, which is naturally occurring radioactive material which has been altered by human activity in a manner that results in increased

radiation exposure to people. The alteration could be chemical or physical change in form, relocation of the norm, or removal of barriers that isolated the norm. The Department's intent is to authorize disposal of TENORM in landfills only in amounts and concentrations that will not result in concentrations of the NORM isotopes significantly above local background. Authorization will be given as case-by-case permission from the Area Health Physicists or Director of the Bureau of Radiation Protection, or advance authorization in the landfill's approved action plan.

Paragraph (3) addresses consumer products containing radioactive material. Some consumer products, such as smoke detectors, luminous dial clocks and watches, or some ceramics will wind up in the waste stream. The Department intends to allow disposal of small quantities of these under conditions specified in the facility's approved action plan or on a case-by-case basis with permission from the Area Health Physicist or Director of the Bureau of Radiation Protection.

Subsection (h) provides that the limitations set forth in this section will not apply to radioactive material as found in the undisturbed natural environment of this Commonwealth. The original soil and rock in many parts of the Commonwealth contain sufficient uranium, thorium, radium and potassium-40 to cause monitors to alarm even at quite high settings. This provision ensures that facilities may use soil and rock from undisturbed sites for cover, regardless of the content of radioactive material.

One commentator requested not to restrict the authority of the Department to allow mitigation activities to be conducted at the same time as waste acceptance only for "technical reasons" (subsection (e)). The Board declined to make changes in this subsection since allowing mitigation for technical reasons is the only items which can be resolved through proper design and operation. Mitigation measures are part of an approved application. Information provided in the application is incorporated into a permit issuance. Because mitigation is used to balance an environmental harm, it must be implemented immediately unless a technical design or operating reason is identified.

Section 289.224. Measurement and inspection of waste.

Subsection (a) has been amended to require noncaptive facilities receiving 30,000 or more cubic yards or more of solid waste in a calendar year to weigh incoming waste on a scale or an alternative method approved by the Department. This is consistent with the residual waste landfill requirements and will be used to monitor the maximum daily volume in the permit.

Subsection (c) has been amended to delete the requirement to monitor and inspect incoming waste for radioactive isotopes. This requirement was refined and moved to the various other sections throughout the final-form rulemaking.

Section 289.227. Air resources protection.

The board amended subsection (a) to reflect the applicable provisions of the Air Pollution Control Act (35 P. S. §§ 4001—4015), which required the operator to implement fugitive air contaminant control measures.

Section 289.228. Nuisance minimization and control.

The Board amended subsection (b) to require the operator to minimize and control "public nuisances" from odors. The proposed subsection had only referenced "nuisances". Subsection (b) is now consistent with subsection

(c). Similarly, to harmonize subsection (b) with (c), the requirement was added that the operator implement the plan approved under § 289.136 (relating to nuisance minimization and control plan). Finally, the Board reversed the order of subsections (b) and (c) for clarity.

Section 289.230. Radiation monitoring and response for noncaptive residual waste disposal impoundments.

A new § 289.230 has been added to this final-form rulemaking to address monitoring for and responding to radioactive materials in residual waste in noncaptive disposal impoundments. Subsection (a) requires the facility operator to implement the action plan approved under § 289.138 (relating to radiation protection action plan). Subsection (b) requires the operator to monitor in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001 (or in an equally protective manner), the facility's approved radiation protection action plan and this section. Subsection (c) describes the required sensitivity of the monitors and establishes the maximum level of radiation at which they must be set to alarm. In addition to the monitors described in subsections (b) and (c), portable radiation monitors that can determine the radiation dose and the presence of contamination on a vehicle that has caused an alarm are required by subsection (d). When radiation is detected at an impoundment and the alarm exceedance is confirmed, the operator must perform a radiological survey of the vehicle. If a dose rate specified in subsection (e) is detected, the operator must notify the Department staff, and possible staff from Federal agencies will assist the facility and its consultants in identifying, localizing and quantifying the radioactive material in the load. This is a stepwise investigative process that will ultimately determine what corrective action is needed. The entire problem may be in one bag or the whole load may require disposal.

To ensure that the monitoring equipment continues to function properly, subsection (f) requires that it be calibrated at least once a year—and more often if so specified by the manufacturer.

Subsection (g) notes the Federal requirement that, once the presence of radioactivity is detected (such as, above Action Level I, as described in the guidance document), the vehicle is not permitted to leave the facility with the material on board without written Department approval and an authorized United States Department of Transportation exemption form issued by the Department. The exemption forms will usually be issued by telephone or fax communication for levels between Action Level I and the Action Level II limits specified in subsection (e).

Section 289.242. Cover

One commentator questioned the proposed performance standard that required the cap to limit the migration of precipitation into the disposal impoundment to the greatest degree technologically possible. The Board agrees and deleted the requirement. Instead, subsection (b) has been amended to require the cap to minimize the migration of precipitation into the landfill.

Section 289.263. Standards for wells and casing of wells.

The Board amended subsection (a) to allow for alternative well casing designs in stable formations, if approved by the Department. This provides some design flexibility based upon certain lithologic characteristics (stability and "tightness") of the formations under the site.

*Section 289.264. Sampling and analysis.*

The Board amended this section to change magnesium from an annual testing parameter to a quarterly parameter. This places magnesium among the more frequently measured metals which are effective early indicators of liner leakage or failure, and removes it from the generally more dissimilar metals included in the annual testing list.

*Section 289.267. Abatement plan.*

One commentator expressed a general concern that the groundwater abatement requirements do not fully parallel those provisions available in the Act 2. The Board declined to change the abatement language from the proposed revisions. The residual waste abatement standards apply to operating facilities, which by design and practice are engineered to prevent contamination of groundwater. Conditions at the disposal impoundment are not static: waste continues to be received and the area of disposal may expand. More stringent standards than those available under Act 2 are needed to address the operational dynamics of such a waste management facility. This contrasts with an Act 2 site, typically an abandoned facility, not designed to properly contain waste or manage groundwater, where the property boundaries have been established for years. At final closure, when the dynamics of the operating disposal impoundment are static and the property boundaries established, Act 2 remediation standards and the point of compliance are available.

*Section 289.301. Daily operational records.*

Subsection (b)(7)(iv) has been added on final to require information to be kept in the daily record describing radioactive materials detected in waste loads. This information will be helpful to the operator, the municipality and the Department. If the origin of the material is known, it will be stated in the daily record, along with the identity of the supplier or handler of the radioactive material and the driver. Identifying these parties will enable the operator and the Department to take steps to prevent inappropriate distribution of radioactive material in the future. The final disposition of the material is also required to be stated in the daily record. This will help the operator, the municipality and the Department know that the material will be properly disposed.

Subsection (b)(7)(v) has been added on final to require a disposal impoundment operator to identify vehicles that have arrived at the disposal impoundment over the maximum gross weight allowed on the roadways of this Commonwealth under section 4941 of the Vehicle Code. This requirement is designed to help reduce the number of overweight waste vehicles travelling on roadways of this Commonwealth. While the Department will not use this part of the daily operational record to institute a direct enforcement action against a waste hauler for exceeding a roadway weight limit or against a waste facility for accepting an overweight vehicle, the Department may use the information in enforcing the daily volume limits at the facility, in selecting locations for routine vehicle inspections and in taking other steps toward reducing the number of overweight waste vehicles.

*Section 289.303. Annual operation report.*

The Board amended subsection (b)(3) to delete the requirement to identify areas that are closed in the annual report because there is only one closure at the facility, that time at which the facility permanently ceases to accept waste. Instead, subsection (b)(3) has been amended to require the operator to describe the acreage

used for disposal, areas revegetated, and a narrative describing the operator's progress in implementing its closure plan.

To provide a summary of the daily operational recordkeeping regarding radioactive waste, subsection (b)(10) was amended to require the annual report to include a record of detected radioactive materials at the disposal impoundment. This requirement was added to allow the Department to track the amount of radioactive material arriving at solid waste facilities and to use the data to better resolve the extent of the problem and for future problem solving.

*Section 289.312. Closure.*

The Board deleted the proposed requirement that requires acceptance of the operator's selection of the remediation standard because the decision may be impacted by other closure considerations.

*Additional Requirements for Class I Residual Waste Disposal Impoundments**Section 289.412. Liner system and leachate control plan.*

Several changes were made to the final regulations in this section.

The Board amended the existing liner testing properties to reflect current liner compatibility testing procedures. The following properties were added: density, carbon black content, carbon black dispersion, stress crack resistance and oxidative induction time. The following properties were deleted: the modulus of elasticity, impact resistance, operating temperature range, ozone resistance, water vapor transmission, coefficient of linear thermal expansion and low temperature/brittleness.

One commentator questioned why the proposed regulations required percent recycled material as a testing property and suggested that it be deleted unless this information is relevant. The Board declined to make the change. The percent recycled material can vary significantly during the manufacturing of liners and can change the performance of the liner.

*Section 289.422. Areas where Class I residual waste disposal impoundments are prohibited.*

Subsection (a)(4) was amended to indicate that the permittee, as opposed to the operator, must own the underlying coal. The Section also removes the ambiguity of the term "minerals" and instead apply the restrictions to "coal," which is the mineral most likely to be mined. One commentator suggested that captive facilities should not be exempt from the requirements of this subsection because it is an intrusion on the mineral owner's property rights. The Board deleted the exemption for captive facilities in this subsection.

The Board has amended the isolation distance language in subsection (a)(7). Subsection (a)(7)(i) addresses operations at existing facilities. Under the final regulation, these are subject to the old 300-foot setback. Disposal areas may not be closer than 500 feet except upon waiver by the owner of the dwelling.

Subsection (a)(7)(ii) addresses expansions of noncaptive facilities where the facility was permitted before the effective date of this final-form rulemaking. Expansions of noncaptive disposal impoundments must be 900 feet from an occupied dwelling unless the owner provides a written waiver that meets the requirements of subparagraph (ii)(A), or the expansion will be on land owned by the applicant on the effective date of the regulations, subject to an enforceable option contract for purchase of the land

on that date or purchased after the effective date of the regulations pursuant to an option contract entered into prior to the effective date (subparagraph (ii)(B)). If the contract/option provision applies, the expansion may not be operated closer than 300 feet and the disposal area may not be within 500 feet of an occupied dwelling unless the applicant obtains a waiver as described in subparagraph (ii)(A).

New noncaptive disposal impoundments will be subject to the 900-foot isolation distance, unless they obtain a written waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this paragraph.

Access roads are not subject to the 900-foot isolation distance. Under subsection (a)(7)(iv), access roads are subject to a 300-foot setback. While an increase in the setback to 900 feet from disposal impoundment activity is necessary to address issues such as noise, dust and odors, these issues can continue to be adequately addressed for access roads with a 300-foot setback.

A new subsection (a)(11)(iii) was added to ensure that areas permitted on or after the effective date of the regulations would not be an obstruction to air navigation under 14 CFR 77.23 (a)(5) (relating to standards for determining obstructions). This will offer greater protection against intrusion into an airport's flight paths.

One commentator had concerns with the clarity with subsection (a) (12) because it begins with "if a school park or playground is nearby, the following apply:..." The Board declined to make changes to the language in this subsection, because the introductory language merely indicates that if a school, park or playground is near the proposed waste impoundment site, the applicant or operator must check and make sure that the 300-yard isolation distance is met.

*Section 289.432. General limitations.*

The Board amended subsection (c) to clarify that in confined layers at least 8 feet shall be maintained between the bottom of the liner system and the level where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The term "upward" was added to clarify the intent.

One commentator suggested that a minimum isolation distance between the liner and water table is unnecessary, as long as a drainage system is present to prevent contact between the two. The Board declined to adopt this suggestion, since field experience has shown that the 8-foot isolation distance has proven to be an effective buffer to account for fluctuations in regional groundwater levels.

*Section 289.434. Secondary liner.*

The Board changed the word "lower" to "composite" when describing the liner component made of earthen material in subsection (d) to be more descriptive and to be consistent with Appendix A, Table 1. One commentator suggested that the regulations only include BAT or performance standards for liner system design that will protect the groundwater. The Board declined to make changes to this section. The current regulations contain design and performance standards and allow the applicant or operator to make adjustment through the equivalency review process.

*Section 289.435. Leachate detection zone.*

Subsection (e) was amended to require the flow calculation be based upon the flow in a lined collection area

instead of the entire lined area. This can be used to more effectively address the leak on a localized basis.

*Section 289.436. Primary liner.*

The Board changed the word "lower" to "composite" when describing the liner component made of earthen material in subsection (d) to be more descriptive and to be consistent with Appendix A, Table 1.

Two commentators suggested that the regulations only include BAT or performance standards for liner system design that will protect the groundwater. The Board declined to make changes to this section. The current regulations contain design and performance standards and allow the applicant or operator to make adjustments through the equivalency review process.

*Section 289.438. Leachate collection system within protective cover.*

The reference to "noncarbonate" stones aggregates has been deleted in subsection (b)(4) on final-form rule-making. The performance standards in subsection (a) address this issue by requiring that the collection system be able to withstand chemical attack from the leachate and function without clogging.

*Section 289.455. Leachate collection and storage.*

The Board amended subsection (g) to apply the new requirements for the design of underground leachate pipes to areas permitted after the effective date of the regulations. The new pipes must have secondary containment or comply with alternative methods of release detection identified in the underground storage tank regulations.

A commentator suggested that the 30-day leachate storage requirement allow more room for engineering mitigation. The Board declined to make the change because the 30-day storage requirement, in effect since 1992, has proven to be necessary to ensure sufficient storage during adverse weather conditions or unforeseen leachate handling problems.

*Section 289.456. Leachate analysis and sludge handling.*

The Board amended the proposed changes to subsection (a)(2) to not allow a reduction in the quarterly leachate chemical analyses testing requirements. It is necessary to have current information on the leachate quality to determine such things as the impact of the leachate on the liner system, the effectiveness of the leachate treatment system, and the need for additional groundwater monitoring.

*Subchapter E. Additional Requirements for Class II Residual Waste Disposal Impoundments*

*Section 289.512. Liner system and leachate control plan.*

Several changes were made to the final regulations in this Section.

The Board amended the existing liner testing properties to reflect current liner compatibility testing procedures. The following properties were added: density, carbon black content, carbon black dispersion, stress crack resistance and oxidative induction time. The following properties were deleted: the modulus of elasticity, impact resistance, operating temperature range, ozone resistance, water vapor transmission, coefficient of linear thermal expansion and low temperature/brittleness.

One commentator questioned why the proposed regulations require percent recycled material as a testing property and suggested that it be deleted unless this information is relevant. The Board declined to make the

change. The percent recycled material can vary significantly during the manufacturing of liners and can change the performance of the liner.

*Section 289.522. Areas where Class II residual waste disposal impoundments are prohibited.*

Subsection (a)(4) was amended to indicate that the permittee, as opposed to the operator, must own the underlying coal. The section also removes the ambiguity of the term "minerals" and instead apply the restrictions to "coal," which is the mineral most likely to be mined. One commentator suggested that captive facilities should not be exempt from the requirements of this subsection because it is an intrusion on the mineral owner's property rights. The Board deleted the exemption for captive facilities in this subsection.

The Board has amended the isolation distance language in subsection (a)(7). Subsection (a)(7)(i) addresses operations at existing facilities. Under the final-form regulations, these are subject to the old 300-foot setback. Disposal areas may not be closer than 500 feet except upon waiver by the owner of the dwelling.

Subsection (a)(7)(ii) addresses expansions of noncaptive facilities where the facility was permitted before the effective date of this final rulemaking. Expansions of noncaptive disposal impoundments must be 900 feet from an occupied dwelling unless the owner provides a written waiver that meets the requirements of subparagraph (ii)(A), or the expansion will be on land owned by the applicant on the effective date of the regulations, subject to an enforceable option contract for purchase of the land on that date or purchased after the effective date of the regulations pursuant to an option contract entered into prior to the effective date (subparagraph (ii)(B)). If the contract/option provision applies, the expansion may not be operated closer than 300 feet and the disposal area may not be within 500 feet of an occupied dwelling unless the applicant obtains a waiver as described in subparagraph (ii)(A).

New noncaptive disposal impoundments will be subject to the 900-foot isolation distance, unless they obtain a written waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this paragraph.

Access roads are not subject to the 900-foot isolation distance. Under subsection (a)(7)(iv), access roads are subject to a 300-foot setback. While an increase in the setback to 900 feet from disposal impoundment activity is necessary to address issues such as noise, dust and odors, these issues can continue to be adequately addressed for access roads with a 300-foot setback.

A new subsection (a)(11)(iii) was added to ensure that areas permitted on or after the effective date of the regulations would not be an obstruction to air navigation under 14 CFR 77.23 (a)(5) (relating to standards for determining obstructions). This will offer greater protection against intrusion into an airport's flight paths.

*Section 289.532. General limitations.*

The Board amended subsection (c) to clarify that in confined layers at least eight (8) feet shall be maintained between the bottom of the liner system and the level where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The term "upward" was added to clarify the intent.

One commentator suggested that a minimum isolation distance between the liner and water table is unnecessary, as long as a drainage system is present to prevent

contact between the two. The Board declined to adopt this suggestion, since field experience has shown that the 8 foot isolation distance has proven to be an effective buffer to account for fluctuations in regional groundwater levels.

*Section 289.534. Leachate detection zone.*

Subsection (e) was amended to require that the flow calculation be based upon the flow in a lined collection area instead of the entire lined area. This can be used to more effectively address the leak on a localized basis.

*Section 289.535. Liner*

The Board changed the word "lower" to "composite" when describing the liner component made of earthen material in this subsection to be more descriptive and to be consistent with Appendix A, Table 1.

One commentator suggested that the regulations only include BAT or performance standards for liner system design that will protect the groundwater. The Board declined to make changes to this section. The current regulations contain design and performance standards and allow the applicant or operator to make adjustment through the equivalency review process.

*Section 289.537. Leachate collection system within protective cover.*

The Board amended subsection (b)(4) to delete the requirement that stones or aggregates in the leachate collection zone be noncarbonate. The performance standards in subsection (a)(2) address this issue by requiring that the collection system be able to withstand chemical attack from the leachate.

*Section 289.555. Leachate collection and storage.*

The Board amended subsection (g) to apply the new requirements for the design of underground leachate pipes to areas permitted after the effective date of the regulations. The new pipes must have secondary containment or comply with alternative methods of release detection identified in the underground storage tank regulations.

A commentator suggested that the 30-day leachate storage requirement allow more room for engineering mitigation. The Board declined to make the change because the 30-day storage requirement, in effect since 1992, has proven to be necessary to ensure sufficient storage during adverse weather conditions or unforeseen leachate handling problems.

*Section 289.556. Leachate analysis and sludge handling.*

The Board amended the proposed changes to subsection (a)(2) to not allow a reduction in the quarterly leachate chemical analyses testing requirements. It is necessary to have current information on the leachate quality to determine the things as the impact of the leachate on the liner system, the effectiveness of the leachate treatment system, and the need for additional groundwater monitoring.

*Appendix A, Table I.*

The Board amended the minimum liner design standards to be consistent with the municipal waste requirements and to insert new terminology.



*Chapter 291. Land Application of Residual Waste*

*Subchapter C. General Operating Requirements for Land Application of Residual Waste*

*Section 291.201. General provisions.*

On final rulemaking, the Board added language to address the land application of human waste that is not sewage sludge. Human waste generated at a location where other residual waste is generated, that is then land applied, is subject to the operating requirements for pathogen and vector attraction reduction in Chapter 271, Subchapter J (relating to beneficial use) in addition to the operating requirements of this chapter.

*Section 291.203. Limitations on land application of residual waste.*

One commentator expressed concerns that land application of what some consider "hazardous waste" to pastures may be harmful to beef and milk industries. The Board declined to make changes to this Section in response to this concern because the land application of residual waste to agricultural land would not be approved if the application would harm animal health, human health or the environment. In addition, the Board modified § 291.201(c) to clarify that hazardous waste may not be stored, processed or disposed at a land application facility.

*Subchapter D. Additional Requirements for the Agricultural Utilization of Residual Waste*

*Section 291.315. Water quality monitoring.*

The Board amended this section to clarify that soil and groundwater monitoring, when required by the Department for agricultural utilization of waste, must be conducted in accordance with requirements specified in §§ 288.525—288.258. These sections address the number and locations of monitoring wells, standards for casing of wells, sampling and analysis, reporting of results, assessment and abatement plans and recordkeeping requirements. The Board also added subsection (b) to substitute terms used in §§ 288.252—288.258 to reference disposal activities with terms used to reference land application activities.

*Subchapter E. Additional Requirements for Land Reclamation*

*Section 291.416. Water quality monitoring.*

The Board amended this section to clarify that soil and groundwater monitoring, when required by the Department land reclamation, must be conducted in accordance with requirements specified in §§ 288.525—288.258. These sections address the number and locations of monitoring wells, standards for casing of wells, sampling and analysis, reporting of results, assessment and abatement plans and recordkeeping requirements. The Board also added subsection (b) to substitute terms used in §§ 288.252—288.258 to reference disposal activities with terms used to reference land application activities.

*Chapter 293. Transfer Facilities for Residual Waste*

*Subchapter B. Application Requirements for Transfer Facilities*

*Section 293.102. Operating plan.*

The Board amended subsection (c) requiring that safety measures to prevent injuries be part of the facility operation plan. The Board added subsection (f), requiring the procedures for inspection and monitoring of incoming waste be included in the application, because these facilities need to ensure the wastes are consistent with the approved waste acceptance plan.

*Section 293.103. Maps and related information.*

The Board added a requirement in new subsection (a)(18) that an application for a noncaptive transfer facility indicate on the topographic map a designated area for vehicles for use in the event of the detection of waste containing radioactive material. This provision is the same as the provision added for residual waste landfills, in § 288.133, which is discussed in more detail above.

*Section 293.104. Plan for access roads.*

A commentator objected to the need for a road specification requirement in the plan and to the phrase "adequately handle." According to this commentator, any specification to an access road should be added to § 293.213. The phrase "adequately handle" is vague, according to this commentator, as it does not provide clear design standards. The Board agreed and deleted the proposed language from § 293.104, retaining the current language.

*Section 293.110. Daily volume.*

The Board added a new Section requiring a permit applicant to justify proposed maximum daily volume requested in a permit application. This information is needed to develop the design and operating plan and is used in the environmental assessment process.

*Section 293.111. Radiation protection action plan.*

The Board has added a new Section in the final rulemaking requiring that an application for a noncaptive transfer facility contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting. This provision is the same as the provision added for residual waste landfills in § 288.139 (relating to radiation protection action plan), which is discussed in more detail above.

*Subchapter C. Operating Requirements for Transfer Facilities*

*Section 293.201. Basic limitations.*

In subsection (d), the Board added language on final rulemaking to clarify that hazardous waste may not be stored, processed or disposed at a residual waste transfer facility. In addition, the Board added new subsections to specify clearly the types of radioactive materials that might be found in the waste stream that may not be accepted at a residual waste transfer facility. These provisions are the same as the provisions added for residual waste landfills in § 288.201 (relating to basic limitations), which are previously discussed in more detail.

*Section 293.202. Areas where transfer facilities are prohibited.*

A commentator objected to the proposed amendment to § 293.202(a)(5), which would require a facility to be enclosed, for any aspect of storage and processing, even if storage and processing do not occur within 100 feet of the stream. The Board amended this subsection by adding a provision which allows a facility to be sited within 100 feet of a perennial stream if no storage or processing will occur within that distance.

One commentator requested clarification on what constitutes "nearby" in § 293.202(a)(7), in the phrase, "if a school, park or playground is nearby." If a school, park or a playground is in the area, the applicant must make sure that the isolation distance of 300 yards is met.

The Board added a new requirement to paragraph (6) that allows a facility to be located within 50 feet of a property line as long as actual storage and processing will not occur within that distance.

*Section 293.214. Measuring waste.*

The Board deleted the current regulation requiring that solid waste delivered to a facility be accurately weighed or measured. The Board replaced this with subsection (a), requiring that only facilities receiving more than 30,000 cubic yards of waste per year weigh waste when it is received at the facility. A facility not required under subsection (a) to weigh the waste received is required to accurately measure the waste by volume or weight prior to unloading. The measurement of waste is necessary to address the daily volume operating requirements. Standards for the weigh scale and a licensing requirement for the operator of the scale are included.

*Section 293.215. Operations and equipment.*

The inspection and monitoring requirement that was proposed to be added in this section has been deleted. The radiation monitoring requirements have been refined and moved to various other sections throughout the final-form rulemaking.

*Section 293.222. Daily volume.*

The Board added a new section to the final-form regulations to indicate that a transfer facility may not receive more solid waste than the maximum daily volume that is approved in the permit.

*Section 293.223. Radiation monitoring and response for noncaptive residual waste transfer facilities.*

This new section has been added to the final-form rulemaking to address monitoring for and responding to radioactive materials in the waste stream. This section is the same as the section added for noncaptive residual waste landfills, § 288.222 (relating to radiation monitoring and response), which is discussed in more detail above.

*Section 293.233. Soil and groundwater monitoring.*

The Board amended this section to clarify that soil and groundwater monitoring, when required by the Department, must be conducted in accordance with requirements specified in §§ 288.252-288.258. These sections address the number and locations of monitoring wells, standards for casing of wells, sampling and analysis, reporting of results, assessment and abatement plans and recordkeeping requirements. The Board also added subsection (b) to substitute terms used in §§ 288.252—288.258 to reference disposal activities with terms used to reference storage and processing activities.

*Section 293.251. Daily operational records.*

Subsection (b)(11) has been added on final to require information to be kept in the daily record describing radioactive materials detected in waste loads at noncaptive facilities. This requirement is the same as the requirement added for noncaptive residual waste landfills, in § 288.281 (relating to daily operational records), which was previously discussed in more detail.

*Section 293.252. Annual operation report.*

The Board added subsection (b)(9) on final to require an annual reporting to the Department of radioactive materials detected at a transfer facility. This requirement was added to allow the Department to track the amount of radioactive material arriving at solid waste facilities. The

date will be used to characterize the extent of the problem and for future problem solving.

*Section 293.262. Cessation of operations.*

The Board amended subsection (c) to clarify that when an operator makes a request to the Department to approve discontinuation of groundwater monitoring after cessation of transfer facility operations, the Department will consider, among other factors, whether the remediation standards in § 287.342(c) (relating to final closure certification) are met and maintained.

*Chapter 295. Composting Facilities For Residual Waste*

*Chapter B. Application Requirements for Composting Facilities Operations*

*Section 295.111. Operating plan.*

The Board added paragraph (11), which requires that a permit application include procedures for inspection and monitoring of incoming waste.

*Section 295.112. Maps and related information.*

The Board added a requirement in new subsection (a)(20) that an application for a noncaptive composting facility indicate on the topographic map a designated area for vehicles for use in the event of the detection of waste containing radioactive material. This provision is the same as the provision added for residual waste landfills, in § 288.133, which was previously discussed in more detail.

*Section 295.115. Plan for access roads.*

A commentator objected to the need for a road specification requirement in the plan and to the phrase “adequately handle”. According to this commentator, any specification to an access road should be added to § 295.212. The phrase “adequately handle” is vague, according to this commentator, as it does not provide clear design standards. The Board agreed and deleted the proposed language from this section.

*Section 295.119. Daily volume.*

The Board added a new section requiring a permit applicant to justify proposed maximum daily volume requested in a permit application. This information is needed to develop the design and operating plan, and is used in the environmental assessment process.

*Section 295.120. Radiation protection action plan.*

The Board has added a new section in the final-form rulemaking requiring that an application for a noncaptive composting facility contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting. This provision is the same as the provision added for residual waste landfills in § 288.139, which was previously discussed in more detail.

*Subchapter C. Operating Requirements for Composting Facilities*

*Section 295.201. Basic limitations.*

The Board amended subsection (d)(3) to clarify that hazardous waste may not be stored, processed or disposed at a residual waste composting facility. In addition, the regulations were amended in subsection (e) to prohibit the management of sewage sludge at these facilities. Sewage sludge composting is managed under the municipal waste regulations.

In addition, the Board added new subsections to specify clearly the types of radioactive materials that might be found in the waste stream that may not be accepted at a residual waste composting facility. These provisions are the same as the provisions added for residual waste landfills in § 288.201 (relating to basic limitations), which were previously discussed in more detail.

*Section 295.202. Areas where composting facilities are prohibited.*

The Board amended this subsection by adding a provision that allows a facility to be sited within 100 feet of a perennial stream if no storage or processing will occur within that distance.

The Board also added provisions in subsection (a)(6) that provide greater flexibility to the application of the siting restriction for proximity to a property line. The amendments are the same options available when applying the site restriction for distance from a perennial stream. A facility may be closer than 50 feet from the property line if the storage and processing take place only in an enclosed facility, if the adjacent property owner provides a written waiver of consent or if actual storage and processing activities do not occur within that distance.

One commentator requested clarification on what constitutes “nearby” in subsection (a)(9), in the phrase, “if a school, park or playground is nearby.” If a school, park or a playground is in the area, the applicant must make sure that the isolation distance of 300 yards is met.

*Section 295.213. Access control.*

The requirement to “construct” a fence or other suitable barrier around the areas of operation has been deleted on final-form rulemaking because no “construction” is necessary in instances where a natural barrier is sufficient to prevent unauthorized access.

*Section 295.214. Measuring and inspection of waste.*

Subsection (a) has been amended to reflect the repeal of the Weights and Measures Act of 1965 and the Public Weighmasters Act of 1961. Both acts were replaced with the Consolidated Weights and Measures Act of 1996, 3 Pa.C.S. §§ 4101—4194.

Due to redundancy, the Board deleted proposed language in subsection (c) that referred to consistency with the permit.

*Section 295.221. Daily Volume.*

The Board added a new section to the final-form regulations to indicate that a composting facility may not receive more solid waste than the maximum daily volume that is approved in the permit.

*Section 295.222. Radiation monitoring and response for noncaptive residual waste composting facilities.*

This new section has been added to the final-form rulemaking to address monitoring for and responding to radioactive materials in the waste stream. This section is the same as the section added for noncaptive residual waste landfills, § 288.222 (relating to radiation monitoring and response), which was previously discussed in more detail.

*Section 295.254. Soil and groundwater monitoring.*

The Board amended this section to clarify that soil and groundwater monitoring, when required by the Department, must be conducted in accordance with requirements specified in §§ 288.252—288.258. These sections address the number and locations of monitoring wells,

standards for casing of wells, sampling and analysis, reporting of results, assessment and abatement plans and record keeping requirements. The Board also added subsection (b) to substitute terms used in §§ 288.252—288.258 to reference disposal activities with terms used to reference storage and processing activities.

*Section 295.271. Daily operational records.*

Subsection (b)(7) has been added on final to require information to be kept in the daily record describing radioactive materials detected in waste loads at noncaptive facilities. This requirement is the same as the requirement added for noncaptive residual waste landfills, in § 288.281 (relating to daily operational records), which was previously discussed in more detail.

*Section 295.272. Annual operation report.*

The Board added subsection (b)(10) on final to require an annual reporting to the Department of radioactive materials detected at a transfer facility. This requirement was added to allow the Department to track the amount of radioactive material arriving at solid waste facilities. The data will be used to characterize the extent of the problem and for future problem solving.

*Section 295.282. Cessation of operations.*

The Board amended subsection (d) to clarify that when an operator makes a request to the Department to approve discontinuation of groundwater monitoring after cessation of composting operations, the Department will consider, among other factors, whether the remediation standards in § 287.342(c) (relating to final closure certification) are met and maintained.

*Chapter 297. Incinerators and Other Processing Facilities*

*Subchapter B. Application Requirements for Processing Facilities*

*Section 297.102. Operating plan.*

The Board added paragraph (7), which requires that a permit application include procedures for inspection and monitoring of incoming waste at a processing facility.

*Section 297.103. Maps and related information.*

The Board added a requirement in new subsection (a)(20) that an application for a noncaptive processing facility indicate on the topographic map a designated area for vehicles for use in the event of the detection of waste containing radioactive material. This provision is the same as the provision added for residual waste landfills, in § 288.133, which was previously discussed in more detail.

*Section 297.105. Plan for access roads.*

A commentator objected to the need for a road specification requirement in the plan and to the phrase “adequately handle.” According to this commentator, any specification to an access road should be added to § 297.213. The phrase “adequately handle” is vague, according to this commentator, as it does not provide clear design standards. The Board agreed and deleted the proposed language from this section.

*Section 297.112. Daily volume.*

The Board added a new section requiring a permit applicant to justify the proposed maximum daily volume requested in a permit application. This information is needed to develop the design and operating plan, and is used in the environmental assessment process.

*Section 297.113. Radiation protection action plan.*

The Board has added a new section in the final-form rulemaking requiring that an application for a noncaptive processing facility contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting. This provision is the same as the provision added for residual waste landfills in § 288.139, which was previously discussed in more detail.

*Subchapter C. Operating Requirements For Processing Facilities**Section 297.201. Basic limitations.*

The Board amended subsection (d)(3) to clarify that hazardous waste may not be stored, processed or disposed at a residual waste composting facility. In addition, the regulations were amended in subsection (e) to prohibit the management of sewage sludge at these facilities. Sewage sludge composting is managed under the municipal waste regulations.

This section has been revised in the final regulation to specify clearly the types of radioactive materials that might be found in the waste stream that may not be accepted at a residual waste processing facility. These provisions are the same as the provisions added for residual waste landfills in § 288.201 (relating to basic limitations), which were previously discussed in more detail.

*Section 297.202. Areas where incinerators and other processing facilities are prohibited.*

The Board amended subsection (a)(5) by adding a provision that allows a facility to be sited within 100 feet of a perennial stream if no storage or processing will occur within that distance.

*Section 297.214. Measuring and inspection of waste.*

Subsection (a) has been amended to reflect the repeal of the Weights and Measures Act of 1965 and the Public Weighmasters Act of 1961. Both acts were replaced with the Consolidated Weights and Measures Act of 1996, 3 Pa.C.S. §§ 4101—4194.

Subsection (c) has been amended to delete the requirement to monitor and inspect incoming waste for radioactive isotopes. This requirement was refined and moved to the various other sections throughout the final rulemaking.

*Section 297.222. Daily Volume.*

The Board added a new section to the final-form regulations to indicate that a composting facility may not receive more solid waste than the maximum daily volume that is approved in the permit.

*Section 297.223. Radiation monitoring and response for noncaptive residual waste processing facilities.*

This new section has been added to the final-form rulemaking to address monitoring for and responding to radioactive materials in the waste stream. This section is the same as the section added for noncaptive residual waste landfills, § 288.222 (relating to radiation monitoring and response), which was previously discussed in more detail.

*Section 297.233. Soil and groundwater monitoring.*

The Board amended this section to clarify that soil and groundwater monitoring, when required by the Department, must be conducted in accordance with require-

ments specified in §§ 288.252—288.258. These sections address the number and locations of monitoring wells, standards for casing of wells, sampling and analysis, reporting of results, assessment and abatement plans and record keeping requirements. The Board also added subsection (b) to substitute terms used in §§ 288.252—288.258 to reference disposal activities with terms used to reference storage and processing activities.

*Section 297.261. Daily operational records.*

Subsection (b)(11) has been added on final to require information to be kept in the daily record describing radioactive materials detected in waste loads at noncaptive facilities. This requirement is the same as the requirement added for noncaptive residual waste landfills, in § 288.281 (relating to daily operational records), which was previously discussed in more detail.

Subsection (b)(12) has been added on final to require a processing facility operator to identify vehicles that have arrived at the facility over the maximum gross weight allowed on roadways of this Commonwealth under section 4941 of the Vehicle Code. This requirement is designed to help reduce the number of overweight waste vehicles travelling on roadways of this Commonwealth. While the Department will not use this part of the daily operational record to institute a direct enforcement action against a waste hauler for exceeding a roadway weight limit or against a waste facility for accepting an overweight vehicle, the Department may use the information in enforcing the daily volume limits at the facility, in selecting locations for routine vehicle inspections and in taking other steps toward reducing the number of overweight waste vehicles.

*Section 297.262. Annual operation report.*

The Board added subsection (b)(9), requiring that a record of detected radioactive materials at the facility should be included in the annual report.

*Section 297.272. Cessation of operation.*

The Board amended subsection (c) to clarify that when an operator makes a request to the Department to approve discontinuation of groundwater monitoring after cessation of operations, the Department will consider, among other factors, whether the remediation standards are met and maintained.

*Chapter 299. Storage and Transportation of Residual Waste**Subchapter A. Standards for Storage of Residual Waste**Section 299.121. Containers.*

The Board amended subsection (b) to clarify that containers shall be designed to prevent leaks. Language requiring the operator to prevent leaks was deleted. The Board added subsection (e) to require a maximum height, width and depth for a group of containers. These requirements are necessary to provide enough aisle space for inspections and remedial actions that involve emergency vehicles and equipment.

*Section 299.122. Storage tanks.*

In subsection (a), the Board added the requirement that storage tanks must be clearly labeled as "residual waste." The Board added subsection (b), for aboveground storage tanks, and subsection (c), for underground storage tanks, to clarify the design and performance standards that are necessary for tanks used to store residual wastes. Alternative designs may be approved by the Department if it can be demonstrated that they perform at levels equivalent to the requirements in subsections (b) and (c).

*Section 299.155. Storage of whole and processed waste tires.*

The Board amended this Section to apply to whole and processed waste tires, rather than just waste tires, as these are the ultimate state once tires become a waste. The Board amended §§ 299.155 to 299.163 to delete the term "tire derived material" because tire derived material is included within the category of processed waste tires.

Two commentators indicated the management standards proposed in §§ 299.155—299.163 are not required for tires qualified as coproducts. Facilities that burn incoming waste tires for fuel use them as coproducts, not waste. They do not store "waste tires." The Board did not amend this section to address this issue because tires stored at the point of use for fuel that are qualified as coproducts do not need to comply with the storage requirements in §§ 299.156—299.163. The tires must, however, not be accumulated speculatively or be abandoned or disposed.

Another commentator was concerned that the proposed storage standards are costly and will discourage smaller tire recyclers, especially in rural areas. This commentator requested that the Board add a third, small operator category to encourage such recycling. A clarification on the phrase "small piles" was requested. The Board declined to modify this section because 500 waste tires is an appropriate exemption for small piles. The final-form regulations do not apply to persons storing less than 500 waste tires in open storage or less than 1,500 waste tires in enclosed storage unless such storage is harmful to public health and the environment. Further, the Department has the latitude to waive or modify storage requirements for small piles at the site of generation.

*Section 299.162. Annual report for waste tire storage.*

One commentator has objected to and asked for justification for the requirement to maintain certain annual reports for a minimum of 5 years, and not for three years. The Board agreed with this commentator and, although the annual report is still required to be submitted to the Department in the final-form regulations, it is not required to be maintained onsite.

The Board amended this section to require that the annual report include, along with the approximate number of tires, the weight of the whole or processed waste tires stored at the facility. In addition, the weights and numbers must be reported in passenger tire equivalents (PTE) with 1 (one) PTE equal to 20 pounds.

*Section 299.220. Signs on vehicles.*

The Board amended the final-form rulemaking to add a new section on signs on vehicles. The requirements currently exist in the municipal waste regulations. Since they also pertain to residual waste transporters, the requirements were repeated in these regulations to assist with compliance.

*Section 299.221. Transporting foodstuffs and feedstuffs in vehicles used to transport waste.*

The Board added a new section on final rulemaking to address the transportation of foodstuffs and feedstuffs in vehicles used to transport waste. The requirements currently exist in the municipal waste regulations. Since they also pertain to residual waste transporters, the requirements were repeated in these regulations to assist with compliance.

*F. Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

*Benefits*

The final-form amendments to the residual waste regulations clarify existing regulations; eliminate requirements which are no longer necessary or are redundant; encourage performance-based requirements; encourage green technologies; and support a pollution prevention approach.

By modifying the definition of "waste" and related terms, more generators will be encouraged to use materials since no regulations will apply to materials used as an ingredient in manufacturing or used as a substitute for a commercial product.

Numerous changes are made to encourage flexibility and innovation by facility operators. The final amendments to the technical standards for residual waste landfills, for example daily cover requirements, focus on providing performance standards instead of design standards whenever appropriate. Where a design standard is stated and an equivalent method or technology is available if demonstrated by the applicant/operator to be adequate, the equivalency approval process has been simplified. Similarly, the proposed amendments limit the types of permit modifications that must go through a major modification process (including public notice and comment).

To promote green technologies, the final-form regulations allow for the demonstration of new technology at existing facilities to be performed through a permit modification process.

The citizens of this Commonwealth will benefit as a result of the more detailed environmental assessment process, which requires actual mitigation of existing and potential harms to the public and the environment from the facility. Citizens will also benefit from better protection from the improper disposal of radioactive materials.

*Compliance Costs*

Although this is a large, comprehensive rulemaking, it should not result in increased costs to the regulated community. Increased costs to industry will be reflected in the requirements of establishing systems for monitoring for and responding to radioactive materials unlawfully arriving at a waste facility. Industry will experience minor cost increases as a result of increases in permit application fees.

It is projected that there will be no increased costs or savings to local government for implementation or compliance monitoring activities associated with the regulations. The tire storage requirements have the potential to save local communities significant costs related to compliance monitoring and cleanup.

Savings are projected to be significant. The regulated community may realize savings up to \$7 million due to changes in the definition of "waste," and the addition of industry-wide coproduct determination provisions. The regulated community will save the cost of performing coproduct determinations in many instances where material will be used as an ingredient in manufacturing or as a substitute to a commercial product. In addition, the definition of "coproduct" has been expanded to allow more materials to qualify and thus avoid regulation. If a coproduct determination is necessary, costs may be reduced in some instances by the ability to qualify for an

industry-wide coproduct determination. Operators of residual waste facilities may avoid cleanup costs by complying with the modified remediation standards. Costs of over \$8 million for the cleanup of waste tire piles because of fire may be prevented with the proper storage of waste tires and installation of safety systems.

#### *Compliance Assistance Plan*

The Department will assist the regulated community by developing fact sheets where they would be helpful based on suggestions from industry groups. The Department's field staff will provide compliance assistance during routine facility permitting and inspections. In addition, the Department will continue to work with the Pennsylvania Chamber of Business and Industry and other industry groups at regularly scheduled intervals.

#### *Paperwork Requirements*

The final-form regulations should result in a net reduction in paperwork requirements due to revisions to the definition of "waste" and related terms. A coproduct determination will not have to be done by a generator in instances where, for example, the material is recycled by being used as an ingredient in an industrial process or as a substitute for a commercial product. In addition, the paperwork requirements may be significantly reduced as a result of changes to the regulations that provide for electronic submissions of data and applications.

#### *G. Pollution Prevention*

The Federal Pollution Prevention Act of 1990 established a national policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, or the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

The residual waste regulations have required generators to develop source reduction strategies since 1992. No revisions to these requirements have been included in this rulemaking. The existing requirements have caused the development of a highly successful source reduction program.

#### *H. Sunset Review*

This regulation 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 July 29, 1998, the Department submitted a copy of the notice of proposed rulemaking, published at 28 Pa. B. 4037 to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), these final form regulations were deemed approved by the House Environmental Resources and Energy Committee on October 10, 2000, and were approved by the Senate Environmental Resources and Energy Committee on October 10, 2000. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 19, 2000 and approved the final-form regulations.

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

The Board finds that:

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

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

(3) These regulations do not enlarge the purpose of the proposal published at 28 Pa.B. 407.

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

#### *K. Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 250 and 287—299, are amended by amending §§ 250.9, 287.1, 287.2, 287.4, 287.51—287.55, 287.101, 287.102, 287.112, 287.115, 287.117, 287.122—287.125, 287.127, 287.131—287.134, 287.141, 287.151, 287.152, 287.154, 287.201—287.203, 287.211, 287.212, 287.221—287.223, 287.231, 287.321, 287.332, 287.341, 287.342, 287.371, 287.413, 287.421, 287.501, 287.502, 287.504, 287.611, 287.621, 287.632, 287.661, 287.662, 288.111—288.113, 288.121—288.124, 288.127, 288.131—288.134, 288.136, 288.141, 288.152, 288.182, 288.191, 288.201, 288.202, 288.211—288.218, 288.232—288.234, 288.245, 288.252—288.254, 288.256, 288.257, 287.261, 288.262, 288.271, 288.272, 288.281, 288.283, 288.292, 288.301, 288.302, 288.412, 288.422, 288.423, 288.432—288.436, 288.438, 288.454, 288.455, 288.512, 288.522, 288.523, 288.532—288.535, 288.537, 288.554, 288.555, 288.621—288.624, 289.111—289.113, 289.121, 289.122, 289.124, 289.127, 289.131—289.134, 289.136, 289.141, 289.152, 289.172, 289.201, 289.212, 289.221—289.225, 289.227, 289.228, 289.242, 289.255, 289.262—289.264, 289.266, 289.267, 289.281, 289.282, 289.291, 289.292, 289.301, 289.303, 289.312, 289.412, 289.422, 289.423, 289.432—289.436, 289.438, 289.454—289.456, 289.512, 289.522, 289.523, 289.532, 289.534, 289.535, 289.537, 289.554, 289.555, Appendix A, 291.101—291.103, 291.201—291.203, 291.205, 291.207, 291.210, 291.221, 291.222, 291.301, 291.311, 291.312, 291.315, 291.316, 291.412, 291.414, 291.416, 291.417, 293.1, 293.102, 292.103, 293.106, 293.109, 293.201, 293.202, 293.211—293.219, 293.221, 293.231—293.234, 293.241, 293.251, 293.252, 293.262, 295.111, 295.112, 295.201, 295.202, 295.211—295.215, 295.217, 295.218, 295.220, 295.231, 295.253—295.255, 295.261, 295.271, 295.272, 295.282, 297.102, 297.103, 297.201, 297.202, 297.211—297.219, 297.221, 297.232—297.234, 297.253, 297.261, 297.262, 297.272, 299.101, 299.115, 299.121, 299.122, 299.131, 299.144, 299.201 and 299.219; by adding §§ 287.8—287.10, 287.135, 288.128, 288.138, 288.139, 288.221, 288.222, 289.127, 289.128, 289.137, 289.138, 289.229, 289.230, 291.209, 291.314, 291.501—291.503, 291.511—291.517,

291.521—291.528, 293.110, 293.111, 293.222, 293.223, 295.119, 295.120, 295.121, 295.221, 295.222, 297.112, 297.113, 297.222, 297.223, 299.155—299.163, 299.220 and 299.221; and by deleting §§ 288.231, 289.241, 289.302, 291.209, 291.314, 291.501—291.503, 291.511—291.517 and 291.521—291.528 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(e) This order shall take effect immediately 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. 5807 (November 4, 2000).)*

**Fiscal Note:** Fiscal Note 7-336 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**

**ARTICLE VI. GENERAL HEALTH AND SAFETY**

**CHAPTER 250. ADMINISTRATION OF LAND RECYCLING PROGRAM**

**Subchapter A. GENERAL PROVISIONS**

**§ 250.9. Interaction with other environmental statutes.**

(a) A release of a regulated substance at a solid waste facility which did not receive waste after September 7, 1980, shall be remediated in accordance with this chapter and the act.

(b) Nothing in this chapter affects the permitting, operation, design, performance or closure requirements under the environmental protection acts or regulations thereunder. The remediation standards as defined in Chapters 271 and 287 (relating to municipal waste management—general provisions; and residual waste management—general provisions), do not substitute for design and performance standards required under the solid waste management regulations. See Articles VIII and IX (relating to municipal waste; and residual waste management). In the case of hazardous waste facilities, remediations shall comply with requirements applicable under the Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6091—6986).

(c) An unpermitted release or spill of a regulated substance at a permitted solid waste facility that is outside a disposal or processing unit, including surface impoundments, waste storage areas, associated piping

and underlying containment systems, shall be remediated in accordance with this chapter and the act.

**ARTICLE IX. RESIDUAL WASTE**

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

**Subchapter A. GENERAL**

**§ 287.1. Definitions.**

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

*ASTM*—The American Society for Testing and Materials.

*Abatement*—The restoration, reclamation, recovery, and the like, of a natural resource adversely affected by the activity of a person, permittee or municipality.

*Abatement standards*—Background, Statewide health and risk-based standards as those terms are defined under this article.

*Access road*—A roadway or course providing access to a residual waste processing or disposal facility, or areas within the facility, from a road that is under Federal, State or local control.

*Accumulated speculatively*—A material that is accumulated before being recycled.

(i) The term does not include material if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled or transferred to a different site for recycling, equals at least 75% by weight or volume of the amount of that material accumulated at the beginning of the period.

(A) In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type—for example, slags from a single smelting process—that is recycled in the same way (that is, from which the same material is recovered or that is used in the same way).

(B) Materials that are already defined as wastes also are not to be included in making the calculation.

(ii) Materials are no longer in this category once they are removed from accumulation for recycling.

(iii) The term does not include a waste pile if the waste is being mined and if one of the following is met:

(A) An approved waste closure plan allows mining of the waste.

(B) If waste was disposed prior to September 7, 1980, an approved mining permit allows mining of the waste.

*Act*—The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

*Adjacent area*—Contiguous and noncontiguous land located outside the permit area, where air, surface water or groundwater, fish, wildlife, vegetation or other resources protected by this article may be adversely affected by residual waste management.

*Adversely affect*—In the context of water supplies, the term has the following meaning: to cause or contribute to a measurable increase in the concentration of one or more contaminants in a water supply above background levels, or to cause or contribute to a decrease in the quantity of the water supply.

*Agricultural utilization*—The land application of solid waste for its plant nutrient value or as a soil conditioner as part of an agricultural operation.

*Agricultural waste*—Poultry and livestock manure, or residual materials in liquid or solid form generated in the production and marketing of poultry, livestock, fur bearing animals and their products, if the agricultural waste is not hazardous. The term includes the residual materials generated in producing, harvesting and marketing of agronomic, horticultural, aquacultural and silvicultural crops or commodities grown on what are usually recognized and accepted as farms, forests or other agricultural lands. The term also includes materials in liquid or solid form generated in the production and marketing of fish or fish hatcheries.

*Airport*—A public airport, as defined in 67 Pa. Code § 471.2 (relating to definitions). The term does not include heliports.

*Aquaculture*—The practice of raising plants or animals, such as fish or shellfish, in manmade or natural bodies of water.

*Aquifer*—A geologic formation, group of formations or part of a formation capable of yielding sufficient groundwater for monitoring purposes.

*Association*—A corporation, partnership, limited liability company, business trust or two or more persons associated in a common enterprise or undertaking.

*Attenuating soil*—Soil material existing in place or placed beneath solid waste that will provide natural attenuation of leachate emanating from the waste.

*Attenuation*—A decrease in the maximum concentration or total quantity of an applied chemical or biological constituent of solid waste in a fixed time or distance that results from physical, chemical or biological reactions or transformations.

*Autofluff*—Residue from the shredding of automobiles after all fluids have been removed.

*Background standard*—A numerical value as determined under section 302 of the Land Recycling and Environmental Remediation Standards Act (35 P.S. § 6026.302) and § 250.202 (relating to establishing background concentrations).

*Beneficial use*—Use or reuse of residual waste or residual material derived from residual waste for commercial, industrial or governmental purposes, if the use does not harm or threaten public health, safety, welfare or the environment, or the use or reuse of processed municipal waste for any purpose, if the use does not harm or threaten public health, safety, welfare or the environment.

*By-product*—A material that is not one of the primary products of a production process or a coproduct and is not solely or separately produced by the production process.

*Byproduct materials*—The Federal definition for "byproduct material" in 10 CFR 20.1003 (relating to definitions) is incorporated by reference.

*Captive residual waste facility*—A residual waste processing or disposal facility that is located upon lands owned by the person or municipality that generated the residual waste and which is operated to provide for the processing or disposal solely of the generator's residual waste.

*Chemical Abstract Service Registry Number*—A number assigned to a corresponding type of chemical or chemical category as referenced in regulations promulgated under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C.A. §§ 11001—11050). The list of Chemical Abstract Service Registry numbers is codified at

40 CFR 372.65 (relating to chemicals and chemical categories to which this part applies).

*Clean fill*—Uncontaminated, nonwater-soluble, inert solid material used to level an area or bring the area to grade. The term does not include materials placed in or on the waters of this Commonwealth.

*Clean Streams Law*—35 P.S. §§ 691.1—691.1001.

*Closure*—The act of permanently ceasing to accept waste at a residual waste processing, storage or disposal facility, and limiting access to those activities necessary for postclosure care, maintenance and monitoring.

*Coal ash*—Fly ash, bottom ash or boiler slag resulting from the combustion of coal, that is or has been beneficially used, reused or reclaimed for a commercial, industrial or governmental purpose. The term includes such materials that are stored, processed, transported or sold for beneficial use, reuse or reclamation. For purposes of this article, the term also includes fly ash, bottom ash or boiler slag resulting from the combustion of coal, that is not and has not been beneficially used, reused or reclaimed for a commercial, industrial or governmental purpose.

*Collateral bond*—A penal bond agreement in a sum certain, payable to the Department, executed by the operator, and which is supported by the deposit with the Department of cash, negotiable bonds of the United States, the Commonwealth, the Turnpike Commission, the General State Authority, the State Public School Building Authority or a Commonwealth municipality, Commonwealth bank automatically renewable and assignable certificates of deposit, or irrevocable and standby Commonwealth bank letters of credit.

*Commercial establishment*—An establishment engaged in nonmanufacturing or nonprocessing business. The term includes stores, markets, office buildings, restaurants, shopping centers and theaters.

*Composting*—The process by which organic solid waste is biologically decomposed under controlled anaerobic or aerobic conditions to yield a humus-like product.

*Composting facility*—A facility for processing solid waste by composting.

*Composting pad*—An area within a composting facility where compost or solid waste is processed, stored, loaded or unloaded.

*Confined aquifer*—An aquifer in which the uppermost surface is at greater than atmospheric pressure.

*Construction material*—The engineered use of residual waste as a substitute for a raw material or a commercial product in a construction activity, if the waste has the same engineering characteristics as the raw material or commercial product for which it is substituting. The term includes the use of residual waste as a road bed material, for pipe bedding, and in similar operations. The term does not include valley fills, the use of residual waste to fill open pits from coal or other fills, or the use of residual waste solely to level an area or bring the area to grade where a construction activity is not completed promptly after the placement of the solid waste.

*Container*—A portable device in which waste is stored or transported.

*Coproduct*—

(i) A material generated by a manufacturing or production process, or a spent material, of a physical character and chemical composition that is consistently equivalent



to the physical character and chemical composition of an intentionally manufactured product or produced raw material, if the use of the material presents no greater threat of harm to human health and the environment than the use of the product or raw material. A material may not be compared, for physical character and chemical composition, to a material that is no longer determined to be waste in accordance with § 287.7 (relating to determination that a material is no longer a waste). A coproduct determination, which shall be made in accordance with § 287.8 (relating to coproduct determinations), only applies to materials that will be applied to the land or used to produce products that are applied to the land, including the placement of roadway aggregate, pipe bedding or construction materials, or that will be used for energy recovery as is with a minimum BTU value of 5,000/lb. as generated or as fired. If the proposed coproduct material is oil, a determination may only be made for oil refined from crude oil or synthetically produced oil, not contaminated by physical or chemical impurities, that will be used for energy recovery if the material has a minimum heat content (BTU value) comparable to the petroleum fuel it will replace.

(ii) The term only applies to one of the following:

(A) If the material is to be transferred in good faith as a commodity in trade, for use in lieu of an intentionally manufactured product or produced raw material, without processing that would not be required of the product or raw material, and the material is not accumulated speculatively. Sizing, shaping or sorting of the material will not be considered processing for the purpose of this definition.

(B) If the material is to be used by the manufacturer or producer of the material in lieu of an intentionally manufactured product or produced raw material, without processing that would not be required of the product or raw material, and the material is not accumulated speculatively. Sizing, shaping or sorting of the material will not be considered processing for the purpose of this definition.

(iii) If no product or produced raw material exists for purposes of chemical and physical comparison, the Department will review, upon request, information provided and determine whether the material is a coproduct because it is an effective substitute for an intentionally manufactured product or produced raw material, based on the criteria in subparagraph (ii) and whether the material presents a threat of harm to human health and the environment in accordance with § 287.8.

(iv) A waste may become a coproduct after processing if it would otherwise qualify as a coproduct.

(v) Persons producing, selling, transferring, possessing or using a material who claim that the material is a coproduct and not a waste shall demonstrate that there is a known market or disposition for the material, and that they meet the terms of this definition and § 287.8. In doing so, they shall provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste.

*Crude material*—A naturally occurring material in its unrefined or natural state.

*Disposal*—The deposition, injection, dumping, spilling, leaking, incineration or placing of solid waste into or on the land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of this Commonwealth.

*Disposal area*—The part of the site where disposal has occurred, is occurring or will occur.

*Dredged material*—Material dredged or excavated from waters for the direct or indirect purpose of establishing or increasing water depth, or increasing the surface or cross-sectional area of a waterway and which includes sediment, soil, mud, shells, gravel or other aggregate. The material does not include waste removed or dredged from an impoundment that has received solid waste.

*Drill cuttings*—Rock cuttings and related mineral residues created during the drilling of wells under the Oil and Gas Act (58 P. S. § 601.101–601.605) if the materials are disposed of at the well site and under section 206 of the Oil and Gas Act (58 P. S. § 601.206).

*Environmental protection acts*—The Clean Streams Law, the Air Pollution Control Act (35 P. S. §§ 4001–4015), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1–1396.31), the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301–3326), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1–693.27) and other State or Federal statutes relating to environmental protection or the protection of the public health, including statutes adopted or amended after July 4, 1992.

*Exceptional value wetlands*—Wetlands that exhibit one or more of the following characteristics:

(i) Wetlands which serve as habitat for fauna or flora listed as “threatened” or “endangered” under the Endangered Species Act of 1973 (7 U.S.C.A. § 136; 16 U.S.C.A. §§ 4601-9, 460k-1, 668dd, 715i, 715a, 1362, 1371, 1372, 1402, and 1531–1543), the Wild Resource Conservation Act (32 P. S. §§ 5301–5314), 30 Pa.C.S. (relating to the Fish and Boat Code) or 34 Pa.C.S. (relating to the Game and Wildlife Code).

(ii) Wetlands that are hydrologically connected to or located within 1/2-mile of wetlands identified under subparagraph (i) and that maintain the habitat of the threatened or endangered species within the wetland identified under subparagraph (i).

(iii) Wetlands that are located in or along the floodplain of the reach of a wild trout stream or waters listed as exceptional value under Chapter 93 (relating to water quality standards) and the floodplain of streams tributary thereto, or wetlands within the corridor of a watercourse or body of water that has been designated as a National wild or scenic river in accordance with the Wild and Scenic Rivers Act of 1968 (16 U.S.C.A. §§ 1271–1287) or designated as wild or scenic under the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.21–820.29).

(iv) Wetlands located along an existing public or private drinking water supply, including both surface water and groundwater sources, that maintain the quality or quantity of the drinking water supply.

(v) Wetlands located in areas designated by the Department as “natural” or “wild” areas within State forest or park lands, wetlands located in areas designated as Federal wilderness areas under the Wilderness Act (16 U.S.C.A. §§ 1131–1136) or wetlands located in areas designated as National natural landmarks by the Secretary of the Interior under the Historic Sites Act of 1935 (16 U.S.C.A. §§ 461–467).

*FAA*—The Federal Aviation Administration of the United States Department of Transportation.

*Facility*—Land, structures and other appurtenances or improvements where municipal or residual waste disposal

or processing is permitted or takes place or where hazardous waste is treated, stored or disposed. The term includes land thereby used or affected during the lifetime of operations, including areas where solid waste management actually occurs, support facilities, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities, contiguous borrow areas and other activities in which the natural land surface has been disturbed or used as a result of or incidental to operation of the facility.

*Failure*—Actual or potential leakage, breach or overtopping of an impoundment.

*Final closure*—The date after which no further treatment, maintenance or other action is or will be necessary at a residual waste processing or disposal facility to ensure compliance with the act and this article.

*Food processing sludge*—A solid, semisolid or liquid waste generated by a food processing water treatment or wastewater treatment facility, containing food processing waste and additional materials. The additional materials may include detergents, dispersal agents, flocculants, disinfectants and biological agents.

*Food processing waste*—Residual materials in liquid and solid form generated in the slaughtering of poultry and livestock, or in processing and converting fish, seafood, milk, meat and eggs to food products. The term includes residual materials generated in the processing, converting or manufacturing of fruits, vegetables, crops and other commodities into marketable food items. The term also includes vegetative residuals from food processing activities that are usually recognizable as part of a plant or vegetable, including cabbage leaves, bean snips, onion skins, apple pomace and grape pomace.

*Food processing wastes used for agricultural purposes*—The use of food processing wastes in normal farming operations.

*Free liquids*—Liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

*Friable asbestos-containing waste*—Waste material containing more than 1% asbestos by weight that hand pressure can crumble, pulverize or reduce to powder when dry. The term also includes nonfriable asbestos-containing waste which is rendered friable during management.

*Garbage*—Solid waste.

*General permit*—A regional or Statewide permit issued by the Department for a specified category of beneficial use or processing of solid waste, the terms and conditions of which allow an original applicant, a registrant and person or municipality that obtains a determination of applicability, to operate under the permit if the terms and conditions of the permit and certain requirements of this article are met.

*Generator*—A person or municipality that produces or creates a residual waste.

*Groundwater*—Water beneath the surface of the ground that exists in a zone of saturation.

*Groundwater degradation*—A measurable increase in the concentration of one or more contaminants in groundwater above background concentrations for those contaminants.

*Hazardous waste*—

(i) The term includes garbage, refuse or sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations, and from community activities, or a combination of these materials, which because of its quantity, concentration or physical, chemical or infectious characteristics may do one of the following:

(A) Cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population.

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(ii) The term does not include coal refuse as defined in the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.101); treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on under and in compliance with a valid permit issued under the Clean Streams Law; solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C.A. §§ 1342) or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011—2394). The term is further defined in Chapter 261a (relating to identification and listing of hazardous waste) and 40 CFR Part 261 (relating to identification and listing of hazardous waste) to the extent incorporated in § 261a.1 (relating to incorporation by reference, purpose and scope).

*IRIS*—Integrated Risk Information System.

*Impoundment*—A facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials although it may be lined with synthetic materials, and which is designed to hold an accumulation of liquid wastes or wastes containing free liquids. The term includes holding, storage, settling and aeration pits, ponds and lagoons. The term does not include injection wells.

*Incinerator*—An enclosed device using controlled combustion for the primary purpose of thermally breaking down solid waste, which is equipped with a flue as defined in § 121.1 (relating to definitions).

*Incorporating*—Injecting solid waste beneath the surface of the soil or mixing solid waste with the surface soil.

*Industrial establishment*—An establishment engaged in manufacturing or processing, including factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

*Intermittent stream*—A body of water flowing in a channel or bed composed primarily of substrates associated with flowing water, which during periods of the year, is below the local water table and obtains its flow from both surface runoff and groundwater discharges.

*Land application*—The management of solid waste through agricultural utilization or land reclamation. The term does not include the disposal of solid waste in a landfill or disposal impoundment.

*Landowner*—The person or municipality in whom legal title to the surface of the land is vested.

*Land reclamation*—The land application of solid waste for its plant nutrient value or as a soil conditioner to restore or enhance the soil to establish vegetative growth.

*Leachate*—A liquid, including suspended or dissolved components in the liquid, that has percolated through or drained from solid waste.

*Leaf waste*—Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.

*Lift*—A compacted layer of solid waste upon which daily, intermediate or final cover may be applied.

*Liquid waste*—Residual waste that contains free liquids as determined by Method 9095 (paint filter liquids test), as described in the EPA's "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication No. SW-846.)

*Local captive residual waste facility*—A captive facility which is located at one of the following locations:

- (i) On the same tract of land where the waste was generated.
- (ii) On a tract of land that is contiguous to the tract where the waste was generated.
- (iii) On a tract of land that is connected to the tract where the waste was generated by a right-of-way controlled by the generator to which the public does not have access.
- (iv) On a tract of land that is separated from the tract where the waste was generated by only a public or private right-of-way and access between the two tracts is by crossing rather than traveling along the right-of-way.

*MCL*—Maximum contaminant level.

*Management*—The entire process or a part thereof, of storage, collection, transportation, processing, treatment and disposal of solid wastes by a person engaged in the process.

*Mine*—A deep or surface mine, whether active, inactive or abandoned.

*Mining*—The process of the extraction of minerals from the earth, from waste or stockpiles, or from pits or banks.

*Monofill*—A facility that disposes solely of waste which is generated by the same industrial or manufacturing process and which has the same, or substantially similar, physical and chemical characteristics and composition.

*Municipality*—A city, borough, incorporated town, township, county or an authority created by one or more of the foregoing.

*Municipal waste*—Garbage, refuse, industrial lunch-room or office waste and other material, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities, and sludge not meeting the definition of "residual" or "hazardous waste" under this section from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility.

*NARM*—Naturally occurring or accelerator-produced radioactive material—The term does not include byproduct, source or special nuclear material.

*NORM*—Naturally occurring radioactive material—A nuclide which is radioactive in its natural physical state—that is, not manmade—but does not include source or special nuclear material.

*NPDES*—National Pollutant Discharge Elimination System.

*Noncaptive facility*—A residual waste processing or disposal facility that is not a captive residual waste facility.

*Normal farming operations*—The customary and generally accepted activities, practices and procedures that farms adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products; and in the production, harvesting and preparation for market of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities, if the operations are conducted in compliance with applicable laws, and if the use or disposal of these materials will not pollute the air, water or other natural resources of this Commonwealth. The term includes the storage and utilization of agricultural and food processing wastes, screenings and sludges for animal feed, and the agricultural utilization of septic tank cleanings and sewage sludges which are generated offsite. The term includes the management, collection, storage, transportation, use or disposal of manure, other agricultural waste and food processing waste, screenings and sludges on land where the materials will improve the condition of the soil, the growth of crops or in the restoration of the land for the same purposes.

*Occupied dwelling*—A permanent building or fixed mobile home that is being used on a regular or temporary basis for human habitation.

*Operate*—To construct a residual waste management facility in anticipation of receiving solid waste for the purpose of processing or disposal; to receive, process or dispose of solid waste; to carry on an activity at the facility that is related to the receipt, processing or disposal of waste or otherwise uses or affects land at the facility; to conduct closure and postclosure activities at a facility.

*Operator*—A person or municipality engaged in solid waste processing or disposal by operating a facility. If more than one person is engaged in a single operation, all persons shall be deemed jointly and severally responsible for compliance with this article.

*Owner*—The person or municipality who is the owner of record of a facility or part of a facility.

*PCB*—A chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or a substance which contains that substance.

*PCB-containing waste*—Solid waste containing PCBs in the following concentrations:

- (i) More than 4 parts per million, but less than 50 parts per million.
- (ii) 50 parts per million or more, if the following are met:
  - (A) Regulations promulgated under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629) provide that the waste may be disposed of as municipal solid waste.
  - (B) The waste is not a hazardous waste under the act.
  - (C) The Resource Conservation and Recovery Act (42 U.S.C.A. §§ 6901—6991) does not impose specific standards or requirements for the disposal of the waste.

*Perched aquifer*—An aquifer that is separated from an underlying aquifer by an unsaturated zone.

*Perched water table*—The water table of a perched aquifer.

*Perennial stream*—A body of water flowing in a channel or bed composed of substrates associated with flowing waters and is capable, in the absence of pollution or other manmade disturbances, of supporting a benthic macroinvertebrate community which is composed of two or more recognizable taxonomic groups of organisms which are large enough to be seen by the unaided eye and can be retained by United States Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system.

*Permanent water supply*—A well, interconnection with a public water supply, extension of a public water supply, similar water supply or a treatment system determined by the Department to be capable of restoring the water supply to the quantity and quality of the original unaffected water supply.

*Permit*—A permit issued by the Department to operate a residual waste disposal or processing facility or to beneficially use residual waste. The term includes a general permit, permit-by-rule, permit modification, permit reissuance and permit renewal.

*Permit area*—The area of land and water within the boundaries of the permit which is designated on the permit application maps as approved by the Department. The term includes areas which are or will be used or affected by the residual waste processing or disposal facility.

*Permit-by-rule*—A permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with § 287.102 (relating to permit-by-rule).

*Person*—An individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal government or agency, State institution and agency—including the Department of General Services and the State Public School Buildings Authority—or another legal entity which is recognized by law as the subject of rights and duties. In the provisions of this article pertaining to a fine or penalty, or both, the term includes the officers and directors of a corporation or other legal entity having officers and directors.

*Pollution*—The contamination of air, water, land or other natural resources of this Commonwealth which will create or is likely to create a public nuisance or render the air, water, land or other natural resources harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other life.

*Postclosure*—Activities after closure which are necessary to ensure compliance with the act and this article, including application of final cover, grading and revegetation; groundwater, surface water and gas monitoring; erosion control and gas control; leachate treatment, and abatement of pollution or degradation to land, water, air or other natural resources.

*Principal shareholder*—A person or municipality that owns, holds or controls at least 5% of the stock of a publicly held corporation or at least 10% of the stock of a privately held corporation.

*Processing*—

(i) The term includes one or more of the following:

(A) A method or technology used for the purpose of reducing the volume or bulk of municipal or residual waste or a method or technology used to convert part or all of the waste materials for offsite reuse.

(B) Transfer facilities, composting facilities and resource recovery facilities.

(ii) The term does not include a collection center that is only for source separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

*Product*—A commodity that is the sole or primary intended result of a manufacturing or production process.

*Radioactive material*—A substance which spontaneously emits alpha or beta particles or photons (gamma radiation) in the process of decay or transformation of the atom's nucleus.

*Raw material*—Material, including crude material, that can be converted by manufacture or processing into a product.

*Rechanneling*—The moving or relocation of a channel or stream and the reestablishment of the channel or stream to its former condition at a new location. The term does not include stream or channel enclosures, rock drains or the use of other materials to facilitate water flow under a facility.

*Reclaimed*—A material is "reclaimed" if it is processed to recover a useable product, or if it is regenerated.

*Recycled*—A material is "recycled" if it is used, reused or reclaimed.

*Refuse*—Solid waste.

*Regional groundwater table*—The fluctuating upper water level surface of an unconfined or confined aquifer, where the hydrostatic pressure is equal to the ambient atmospheric pressure. The term does not include the perched water table or the seasonal high water table.

*Related party*—A person or municipality engaged in solid waste management that has a financial relationship to a permit applicant or operator. The term includes a partner, associate, officer, parent corporation, subsidiary corporation, contractor, subcontractor, agent or principal shareholder of another person or municipality, or a person or municipality that owns land on which another person or municipality operates a solid waste management facility.

*Remediation standards*—Background, Statewide health and site-specific standards as those terms are defined under this article.

*Residual waste*—Garbage, refuse, other discarded material or other waste, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, mining and agricultural operations and sludge from an industrial, mining or agricultural water supply treatment facility, wastewater treatment facility or air pollution control facility, if it is not hazardous. The term does not include coal refuse as defined in the Coal Refuse Disposal Control Act. The term does not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on under and in compliance with a valid permit issued under the Clean Streams Law.

*Residual waste disposal impoundment*—A facility for disposing of residual waste by impoundment.

*Residual waste disposal or processing facility*—A facility for disposing or processing of residual waste.

*Residual waste landfill*—A facility for disposing of residual waste. The term does not include a residual waste disposal impoundment or a facility for the land application of residual waste. The term also does not include a facility at which municipal waste, other than industrial lunchroom or office waste generated by the operator, construction/demolition waste generated by the operator, or certain special handling waste is disposed.

*Risk-based standard*—A risk-based abatement standard for substances that have no primary MCLs under the Federal and State Safe Drinking Water Acts (42 U.S.C.A. §§ 300F–300J-18 and 35 P. S. §§ 721.1–721.17).

(i) For carcinogens, the standard represents a concentration associated with an excess lifetime cancer risk level between  $1 \times 10^{-4}$  and  $1 \times 10^{-6}$ , including the cumulative risk of all contaminants.

(ii) For systemic toxicants, the standard represents a concentration to which the human population (including sensitive subgroups) could be exposed on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime.

(iii) When several systemic toxicants affect the same target organ or act by the same method of toxicity, the hazard index may not exceed one.

*Salvaging*—The controlled removal of material from a solid waste processing or disposal facility.

*Scrap metal*—Bits and pieces of metal parts—for example—bars, turnings, rods, sheets and wire—or metal pieces that may be combined together with bolts or soldering—for example, radiators, scrap automobiles and railroad box cars—and which when worn or superfluous, can be reused.

*Seasonal high water table*—The minimum depth from the soil surface at which redoximorphic features are present in the soil.

*Secondary contaminants*—A substance for which a secondary MCL exists, and no lifetime health advisory level exists.

*Sewage sludge*—Liquid or solid sludges and other residues from a municipal sewage collection and treatment system; and liquid or solid sludges and other residues from septic and holding tank pumpings from commercial, institutional or residential establishments. The term includes material derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screening generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system or grit, screenings and nonorganic objects from septic and holding tank pumpings.

*Site*—The area where a residual waste processing or disposal facility is operated. If the operator has a permit to operate the facility, and is operating within the boundaries of the permit, the site is equivalent to the permit area.

*Site-specific standard*—A numerical value as determined under section 304 of the Land Recycling and Environmental Remediation Standards Act (35 P. S. § 6026.304) and Chapter 250, Subchapter F (relating to exposure and risk determinations).

*Soil additive or soil substitute*—The land application of coal ash or residual waste, at specified loading or application rates, to replace soil that was previously available at the site, to enhance soil properties or to enhance plant growth. The term does not include structural fills, construction material, valley fills, or the use of coal ash or residual waste to fill open pits from coal or noncoal mining or the disposal of coal ash.

*Soil mottling*—Irregularly marked spots in the soil profile that vary in color, size and number.

*Solid waste*—Waste, including, but not limited to, municipal, residual or hazardous waste, including solid, liquid, semisolid or contained gaseous materials. The term does not include coal ash that is beneficially used under Subchapter H (relating to beneficial use) or drill cuttings.

*Source material*—The Federal definition for “source material” in 10 CFR 20.1003 is incorporated by reference.

*Source reduction*—The reduction or elimination of the quantity or toxicity of residual waste generated, which may be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, increases in the efficiency of machinery and recycling within a process. The term does not include dewatering, compaction, waste reclamation or the use or reuse of waste.

*Special handling waste*—Solid waste that requires the application of special storage, collection, transportation, processing or disposal techniques due to the quantity of material generated or its unique physical, chemical or biological characteristics. The term includes dredged material, sewage sludge, infectious waste, chemotherapeutic waste, ash residue from a solid waste incineration facility, friable asbestos-containing waste, PCB-containing waste, waste oil that is not hazardous waste, fuel contaminated soil, waste tires and water supply treatment plant sludges.

*Special nuclear material*—The Federal definition for “special nuclear material” in 10 CFR 20.1003 is incorporated by reference.

(i) The term “Commission” refers to the Nuclear Regulatory Commission.

(ii) The term “act” refers to the Atomic Energy Act of 1954 (42 U.S.C.A. §§ 2011–2297h-13).

(iii) The term “Department” shall be substituted for the term “Commission” when the Department assumes agreement state status from the Nuclear Regulatory Commission.

*Spent material*—Material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

*Standard Industrial Code Number*—A number assigned to a corresponding type of industry, manufacture or product under the Standard Industrial Code prepared by the United States Office of Management and Budget.

*Statewide health standard*—A numerical value as determined under section 303 of the Land Recycling and Environmental Remediation Standards Act (35 P. S. § 6026.303) and §§ 250.304, except for subsection (d), 250.305 and 250.308 (relating to MSCs for groundwater; MSCs for soil; and soil to groundwater pathway numeric values).

*Steel slag*—The uncontaminated, nonwater-soluble, solid material generated in the making of steel in an electric arc furnace, open hearth furnace, blast furnace or secondary steel-refining process.

*Storage*—The containment of waste on a temporary basis in a manner that does not constitute disposal of the waste. It shall be presumed that containment of waste in excess of 1 year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

*Storage impoundment*—An impoundment that is designed to hold an accumulation of liquid waste for storage, processing or treatment, but not disposal.

*Structural fill*—The engineered use of coal ash as a base or foundation for a construction activity that is completed promptly after the placement of the coal ash, including the use of coal ash as a backfill material for retaining walls, foundations, ramps or other structures. The term does not include valley fills or the use of solid waste to fill open pits from coal or noncoal mining.

*Surety bond*—A penal bond agreement in a sum certain, payable to the Department, executed by the operator and a corporation licensed to do business as a surety in the Commonwealth and approved by the Department, which is supported by the guarantee of payment on the bond by the surety.

*Surface land disposal*—Application of solid waste to the land surface for purposes other than agricultural utilization or land reclamation.

*Tank*—A stationary containment device which provides its own structural support and is constructed entirely of nonearthen and nonwood materials.

*Temporary water supply*—Bottled water, a water tank supplied by a bulk water hauling system and similar water supplies in quantities sufficient to accommodate normal usage.

*TENORM*—Technologically enhanced naturally occurring radioactive materials—TENORM is not subject to regulation under the laws of the Commonwealth or the Atomic Energy Act, whose radionuclide concentrations or potential for human exposure have been increased above levels encountered in the natural state by human activities.

*Topmost*—The bedrock lithology unit closest to the surface of the earth.

*Transfer facility*—A facility which receives and processes or temporarily stores municipal or residual waste at a location other than the generation site, and which facilitates the transportation or transfer of municipal or residual waste to a processing or disposal facility. The term includes a facility that uses a method or technology to convert part or all of the waste materials for offsite reuse. The term does not include a collection or processing center that is only for source separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

*Transportation*—The offsite removal of solid waste after generation.

*Transuranic radioactive material*—Material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium and curium.

*Treatment*—A method, technique or process, including neutralization, designed to change the physical, chemical

or biological character or composition of waste to neutralize the waste or to render the waste nonhazardous, safer for transport, suitable for recovery, suitable for storage or reduced in volume. The term includes an activity or process designed to change the physical form or chemical composition of waste to render it neutral or nonhazardous.

*Unconfined aquifer*—An aquifer in which the uppermost surface is at atmospheric pressure.

*Used oil*—A petroleum-based or synthetic oil which is used in an internal combustion engine as an engine lubricant, or as a product for lubricating motor vehicle transmissions, gears or axles which through use, storage or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities or loss of original properties.

*Used oil recycling*—Preparing used oil for reuse as a petroleum product or petroleum product substitute by refining, rerefining, reclaiming, reprocessing or other means, or preparing used oil in a manner that substitutes for a petroleum product made from new oil, if the preparation or use is operationally safe, environmentally sound and complies with laws and regulations.

*Used or reused*—A material that meets one of the following conditions:

(i) The material is employed as an ingredient, including use as an intermediate, in an industrial process to make a product. A material will not satisfy this condition if distinct components of the material are recovered as separate end products, as when metals are recovered from metal-containing secondary materials.

(ii) The material is employed in a particular function or application as an effective substitute for a commercial product.

*Visible emissions*—Emissions that are visually detectable without the aid of instruments. The term does not include condensed uncombined water vapor.

*Waste*—

(i) Discarded material which is recycled or abandoned. A waste is abandoned by being disposed of, burned or incinerated or accumulated, stored or processed before or in lieu of being abandoned by being disposed of, burned or incinerated. A discarded material includes contaminated soil, contaminated water, contaminated dredge material, spent material or by-product recycled in accordance with subparagraph (iii), processed or disposed.

(ii) Materials that are not waste when recycled include materials when they can be shown to be recycled by being:

(A) Used or reused as ingredients in an industrial process to make a product or employed in a particular function or application as an effective substitute for a commercial product, provided the materials are not being reclaimed. This includes materials from the slaughter and preparation of animals that are used as raw materials in the production or manufacture of products. Steel slag is not waste if used onsite as a waste processing liming agent in acid neutralization or onsite in place of aggregate. Sizing, shaping or sorting of the material will not be considered processing for the purpose of this subclause of the definition.

(B) Coproducts.

(C) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material shall be returned as a substitute

for feedstock materials. When the original process to which the material is returned is a secondary process, the materials shall be managed so that there is no placement on the land and the secondary process takes place onsite.

(iii) The following materials are wastes, even if the recycling involves use, reuse or return to the original process (as described as follows):

(A) Except for coproducts, materials used in a manner constituting disposal, or used to produce products that are applied to the land.

(B) Except for coproducts, materials burned for energy recovery, used to produce fuel or contained in fuel.

(C) Materials accumulated speculatively.

(iv) Discarded or recycled material may not be waste if a determination is made by the Department in accordance with § 287.7 (relating to determination that a material is no longer a waste).

(v) In enforcement actions implementing the act, a person who claims that the material is not a waste in accordance with subparagraph (ii) shall demonstrate that there is a known market or disposition for the material, and that the terms of the exclusion have been met. In doing so, appropriate documentation shall be provided (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste. In addition, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment to do so.

*Waste classification standard*—For purposes of this article, the waste classification standard for a contaminant shall be:

(i) The final maximum contaminant level goal (MCLG) for the contaminant determined by the Department or the EPA under the Safe Drinking Water Acts (21 U.S.C.A. § 349; 42 U.S.C.A. §§ 300f—300j-25; and 35 P.S. §§ 721.1—721.17), if one exists, unless the MCLG is 0.

(ii) For contaminants for which no MCLG has been established, or for contaminants for which the MCLG has been established as 0, the final primary maximum contaminant level (MCL) for the contaminant determined by the Department or the EPA under the Safe Drinking Water Acts, if one exists.

(iii) For contaminants for which no MCLG has been established or for which the MCLG has been established as 0, and for which no MCL has been established, the final secondary maximum contaminant level (SMCL) for the contaminant determined by the Department or the EPA under the Safe Drinking Water Acts, if one exists.

(iv) For other contaminants, the more stringent of the following concentrations:

(A) For EPA Class A or Class B carcinogens, as specified in the EPA's IRIS or its successor,  $0.000035$  divided by the oral cancer slope factor of the contaminant in units of  $(\text{mg/kg/day})^{-1}$  obtained from IRIS or its successor. The quotient shall be expressed in units of mg/l. Information about IRIS and access methods to IRIS may be obtained from IRIS user support (MS-190), Environmental Criteria and Assessment Office, Office of Research and Development, United States Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45286.

(B) For contaminants which produce noncarcinogenic effects, 35 times the oral chronic reference dose in units of mg/kg/day obtained from IRIS or its successor. The product shall be expressed in units of mg/l.

*Waste oil*—Oil refined from crude oil or synthetically produced, used and as a result of the use, contaminated by physical or chemical impurities. The term includes used oil.

*Water source*—The site or location of a well, spring or water supply stream intake which is used for human consumption.

*Water supply*—Existing, designated or planned sources of water or facilities or systems for the supply of water for human consumption or for agricultural, commercial, industrial or other legitimate use, protected by the applicable water supply provisions of § 93.3 (relating to protected water uses).

*Wetlands*—Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

**§ 287.2. Scope.**

(a) This chapter specifies general procedures and rules for persons or municipalities who generate, manage or handle residual waste. This article specifies the Department's requirements for residual waste processing, disposal, transportation, collection and storage.

(b) Management of the following types of residual waste is subject to Article VIII (relating to municipal waste) instead of this article, and shall be regulated as if the waste is municipal waste regardless of whether the waste is a municipal waste or residual waste:

(1) Construction/demolition waste, as defined in § 271.1 (relating to definitions).

(2) Infectious and chemotherapeutic waste. The terms shall have the same meaning for residual waste as set forth in § 271.1.

(3) Leaf waste and grass clippings.

(4) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

(c) Management of the following types of waste is subject to this article instead of Article VIII, and shall be regulated as if the waste is residual waste, regardless of whether the waste is municipal waste or residual waste:

(1) Water supply treatment plant sludges.

(2) Waste oil that is not hazardous waste.

(3) Waste tires and autoluff.

(4) Contaminated soil.

(5) Used asphalt.

(6) Dredged material.

(d) The disposal, processing, storage and transportation at a municipal waste management facility of the following types of special handling waste is subject to the applicable additional requirements for the disposal, processing, storage and transportation of these wastes in this article, and shall be regulated as if the waste is residual waste regardless of whether the waste is municipal waste or residual waste:

(1) Friable asbestos-containing waste.

(2) PCB-containing waste.

(e) The following activities shall be regulated under Chapter 77 (relating to noncoal mining), instead of this article:

(1) The short-term storage of residual waste generated by noncoal surface mining activities, as defined in § 77.1 (relating to definitions), under a permit under the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326), if the residual waste is being stored within the permit area of the site where it was generated.

(2) The stockpiling and use of residual waste generated by noncoal surface mining activities, as defined in § 77.1, at the site where it is generated, to reclaim the land affected by the activities pursuant to a permit under the Noncoal Surface Mining Conservation and Reclamation Act.

(f) The extraction, processing, handling and short-term storage of slag pursuant to a permit under the Noncoal Surface Mining Conservation and Reclamation Act shall be regulated under Chapter 77, if applicable, instead of this article, if the slag to be excavated, processed, handled or stored on a short-term basis is not hazardous waste and does not contain solid waste other than slag.

(g) A pit, impoundment, method or facility employed for the disposal, storage or processing of residual waste which is generated by drilling or production of an oil or gas well, and is located on the well site as defined in section 603a of the Oil and Gas Act (58 P. S. § 601.603a), shall be regulated under Chapter 78 (relating to oil and gas wells), instead of this article, if the owner or operator of the well meets the conditions of section 603a of the Oil and Gas Act.

(h) The management and disposal of low-level radioactive waste shall be regulated under Chapter 236 (relating to low-level radioactive waste management and disposal), instead of this article.

(i) If residual waste is disposed, processed or treated at a permitted hazardous waste treatment, storage or disposal unit at a facility, it shall be managed as a hazardous waste at that unit under Article VII (relating to hazardous waste management) rather than as a residual waste under this article.

(j) Action taken by the Department under this article will be subject to the Environmental Hearing Board Act (35 P. S. §§ 7511—7514) and Chapter 1021 (relating to practice and procedures).

(k) The Department may waive or modify requirements in this article that would otherwise apply to a residual waste management facility that is permitted by the EPA under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629).

#### § 287.4. Computerized data submission.

(a) Data required under this article may be submitted electronically or on magnetic or optic storage media in a format specified by the Department, if authorized by the Department.

(b) Data required under this article shall be submitted electronically or on magnetic or optic storage media in a format specified by the Department, if required by the Department.

(c) The Department may require a different scale than required in the application and operation requirements in this article to facilitate the use of data on maps, reports and plans submitted electronically or on magnetic or optic storage media.

#### § 287.8. Coproduct determinations.

(a) In addition to meeting the conditions of the definition of “coproduct” in § 287.1 (relating to definitions), a

person performing a coproduct determination shall evaluate chemical composition and threat of harm to the environment and public health in accordance with this section. A proposed coproduct may not present a greater threat of harm to human health and the environment than use of an intentionally manufactured product or produced raw material. A greater threat of harm is presented if one of the following is met:

(1) For comparison of the proposed coproduct with a product or produced raw material, hazardous or toxic constituents are present at elevated levels unless an assessment of hazardous and toxic constituents demonstrates that the constituents are not biologically available.

(2) For a proposed coproduct where no product or produced raw material will be replaced, an assessment of hazardous and toxic constituents demonstrates that the constituents are not biologically available.

(b) If the proposed coproduct is being compared to an intentionally manufactured product or produced raw material, a person performing a coproduct determination shall demonstrate that the use of a proposed coproduct does not present a greater threat of harm to human health and the environment by performing the following:

(1) An evaluation to determine which, if any, hazardous or toxic constituents are present in the proposed coproduct at levels exceeding those found in the material it is replacing.

(2) An evaluation of the total levels of hazardous or toxic constituents, including the constituents in § 261.34(e) (relating to appendices), to determine whether the total levels of constituents contained in the proposed coproduct exceed the total levels found in the intentionally manufactured product or produced raw material it is replacing. Based on generator knowledge, if a hazardous or toxic constituent is not present evaluation of total levels is not required.

(3) An evaluation of the levels of leaching of hazardous or toxic constituents, including the constituents in § 261.34(e), to determine whether the levels of leaching from the proposed coproduct exceed the levels of leaching from the manufactured product or produced raw material it is replacing. A leaching procedure shall be performed that is appropriate for the intended use of the proposed product. Based on generator knowledge, if a hazardous or toxic constituent is not present evaluation of leaching levels is not required.

(4) The routes of exposure to humans and ecological receptors shall be identified. These routes of exposure shall include ingestion, inhalation, dermal contact, leaching to the groundwater, plant uptake and surface runoff potential. Mitigating circumstances, such as protective gear worn by workers to reduce exposure during processing or application of the proposed coproduct, shall be identified.

(5) The use of a 95% upper confidence interval, using the “*Test Methods for Evaluating Solid Waste*” (EPA SW-846), may be applied to the comparisons of constituent levels between the proposed coproduct and the intentionally manufactured product or produced raw material it is replacing.

(c) If the proposed coproduct is not being compared to an intentionally manufactured product or produced raw material, a person performing a coproduct determination shall demonstrate that the proposed coproduct does not present a threat of harm to human health and the



environment and the hazardous or toxic constituents are not biologically available by performing the following:

(1) An evaluation of the total levels of hazardous or toxic constituents, including the constituents in § 261.34(e). Based on generator knowledge, if a hazardous or toxic constituent is not present evaluation of total levels is not required.

(2) An evaluation of the levels of leaching of hazardous or toxic constituents, including the constituents in § 261.34(e). Based on generator knowledge, if a hazardous or toxic constituent is not present evaluation of leaching levels is not required.

(3) The routes of exposure to humans and ecological receptors shall be identified. These routes of exposure include ingestion, inhalation, dermal contact, leaching to the groundwater, plant uptake and surface runoff potential. Mitigating circumstances, such as protective gear worn by workers to reduce exposure during processing or application of the proposed coproduct, shall be identified.

(4) The use of a 95% upper confidence interval, using the "Test Methods for Evaluating Solid Waste" (EPA SW-846), may be applied to the analytical results of the constituents evaluated.

(d) A person who completes a coproduct determination shall maintain documentation supporting the determination. This documentation shall be available to the Department upon request.

(e) A person who completes a coproduct determination shall provide documentation supporting the determination to persons selling, transferring, possessing or using the material.

**§ 287.9. Industry-wide coproduct determinations.**

(a) Based on existing documentation for coproduct determinations, the Department may determine that, on an industry-wide basis, classes of materials are coproducts for specific uses if the following conditions are met:

(1) Chemical and physical characteristics of the material generated do not vary over time.

(2) Historical use of the material complies with industry standards and specifications.

(3) Historical use of the material over an extended time period has demonstrated that the material, when used as specified, performs as an effective substitute for an intentionally manufactured product or produced raw material.

(4) There is historical documentation that a market for the material and its use exists.

(5) Historical use of the material does not violate the Environmental Protection Acts or regulations thereunder and does not harm or present a threat of harm to public health, safety, welfare or the environment based on an evaluation under § 287.8 (relating to coproduct determinations).

(b) The Department may establish a list of approved coproducts that meet the requirements of subsection (a). The Department will publish notice of its intent to establish or modify the list in the *Pennsylvania Bulletin* and will establish a comment period of at least 30 days. After the close of the 30-day comment period, the Department will publish the final list or any modification to the final list in the *Pennsylvania Bulletin*.

(c) The Department may remove an approved coproduct from the list if it finds that one or more of the criteria used as a basis for the Department's determination was

incorrect, or new information has become available that invalidates the determination. Removal of an approved coproduct from the list will be published in the *Pennsylvania Bulletin* with a comment period of at least 30 days. After the close of the comment period, the Department will publish any modification of the list in the *Pennsylvania Bulletin*.

**§ 287.10 Coproduct determination transition.**

(a) A coproduct determination made after January 13, 2001, shall be performed in accordance with this chapter.

(b) A person may continue to operate under a coproduct determination made prior to January 13, 2001, provided that the person maintains documentation that demonstrates continuing compliance with the coproduct determination.

(c) After January 13, 2003, a person shall only operate under a coproduct determination that meets the requirements of this chapter.

**Subchapter B. DUTIES OF GENERATORS**

**§ 287.51. Scope.**

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

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

(c) Sections 287.52—287.54 (relating to biennial report; source reduction strategy; and chemical analysis of waste) do not apply to the following:

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

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

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

**§ 287.52. Biennial report.**

(a) By March 1 of each odd numbered year, a person or municipality subject to this subchapter shall file a report with the Department.

(b) The report, which shall be submitted on a form prepared by the Department, shall include the following:

(1) The name, mailing address, county and telephone number of the person or municipality that generated the waste.

(2) A generator identification number for the facility that generated the waste, which will be provided by the Department. If an EPA identification number has been assigned to the person or municipality, the EPA identification number shall be the generator number.

(3) The name and telephone number of a contact person who can answer questions about the report.

(4) A brief description of the nature of the business and up to four Standard Industrial Code (SIC) numbers which best reflect the principal products or services provided by the facility.

(5) The types of residual waste generated in the previous year, related SIC numbers and weight of each type of residual waste. For each type of residual waste, the report shall also state:

(i) Whether the waste was disposed or processed on the premises where it was generated or at a facility that is not on the premises where the waste was generated.

(ii) Whether the waste was liquid waste.

(iii) If the generating facility was required to file a Toxic Chemical Release Inventory (TRI) Reporting Form under section 313 of the Emergency Planning and Community Right to Know Act (42 U.S.C.A. § 11023), Chemical Abstract Service Registry numbers, as they appear in the Reporting Form, for up to five constituents that represent the most concentrated reportable constituents in the waste.

(6) A description of the generator's efforts to implement its source reduction strategy under § 287.53 (relating to source reduction strategy) and, to the extent the information is available for years before 1991, a description of changes in the weight or toxicity of waste achieved during the year compared to previous years.

(7) The name, location and permit identification number for each processing or disposal facility that has been authorized to receive the generator's waste.

(c) The report shall be signed by a responsible official for the person or municipality that generated the residual waste. If the person or municipality is a corporation, limited liability company or partnership, the report shall be signed by an officer of the corporation, manager of the limited liability company or a partner in the partnership, whichever is applicable.

**§ 287.53. Source reduction strategy.**

(a) A person or municipality subject to this subchapter shall prepare a source reduction strategy in accordance with this section. Except as otherwise provided in this article, the strategy shall be maintained on the premises where the waste is generated, shall be available on the premises for inspection by a representative of the Department and shall be submitted to the Department upon request.

(b) For each type of waste generated, the strategy shall include:

(1) A description of the source reduction activities conducted by the person or municipality in the 5 years prior to the date that the strategy is required to be prepared. The description shall quantify reductions in the weight or toxicity of waste generated on the premises.

(2) A statement of whether the person or municipality has established a source reduction program.

(3) If the person or municipality has established a source reduction program as described in paragraph (2), the strategy shall identify the methods and procedures that the person or municipality will implement to achieve a reduction in the weight or toxicity of the waste generated on the premises, quantify the projected reduction in weight or toxicity of waste to be achieved by each

method or procedure and specify when each method or procedure will be implemented.

(4) If the person or municipality has not established a source reduction program as described in paragraph (2), the strategy shall include the following:

(i) A waste stream characterization, including source, hazards, chemical analyses, properties, generation rate, management techniques and management costs.

(ii) A description of potential source reduction options.

(iii) A description of how the options were evaluated.

(iv) An explanation of why each option was not selected.

(c) The strategy required by this section shall be updated when one or more of the following occur:

(1) There is a significant change in a type of waste generated on the premises or in the manufacturing process, other than a change described in the strategy as a source reduction method.

(2) Every 5 years, unless the Department establishes, in writing, a different period for the person or municipality that generated the waste.

(d) If residual waste generated by a person or municipality will be processed or disposed of at a solid waste management facility which has applied to the Department for approval to process or dispose of the waste, the person or municipality that generated the residual waste shall submit the source reduction strategy required by this section to the facility upon the request of the facility. If residual waste generated by a person or municipality is processed or disposed of at a solid waste management facility which has received written approval from the Department to process or dispose of the waste, the person or municipality shall submit the source reduction strategy required by this section to the facility whenever the Department requires the person or municipality to update the strategy.

(e) The strategy shall be signed by a responsible official for the person or municipality that generated the waste. If the person or municipality is a corporation, limited liability company or partnership, the report shall be signed by an officer of the corporation, manager of the limited liability company or a partner in the partnership, whichever is applicable.

(f) The Department may in writing waive or modify the requirements of this section for research and development activities.

**§ 287.54. Chemical analysis of waste.**

(a) In accordance with subsection (b), a person or municipality subject to this subchapter shall:

(1) Perform a detailed analysis that fully characterizes the physical properties and chemical composition of each type of waste that is generated. This analysis shall include available information from material safety data sheets or similar sources that may help characterize the physical properties and chemical composition of the waste.

(2) Make a determination of whether the waste is a hazardous waste under Chapter 261a (relating to identification and listing of hazardous waste) and 40 CFR Part 261 (relating to identification and listing of hazardous waste) to the extent incorporated in § 261a.1 (relating to incorporation by reference, purpose and scope).

(3) Submit a copy of the analysis, determination and a record of laboratory quality control procedures and the use of those procedures to the Department on forms prepared by the Department and to each solid waste management facility which accepts or proposes to accept the waste from the person or municipality for processing or disposal in accordance with written approval from the Department. The information which shall be submitted to a solid waste management facility may be limited to information pertaining to the particular types of waste which the facility receives in accordance with Departmental approval. The submittal of quality control procedures and procedure information may be waived by the Department if the information has been previously submitted to the Department.

\* \* \* \* \*

(g) Notwithstanding the certification permitted in subsection (f), a chemical analysis that meets the requirements of subsections (a), (c) and (d) shall be completed every five years.

(h) The Department may, in writing, waive or modify the requirements of this section for special handling waste.

**§ 287.55. Retained recordkeeping.**

(a) A person or municipality that generates any quantity of residual waste shall:

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

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

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

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

**Subchapter C. GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS**

**GENERAL**

**§ 287.101. General requirements for permit.**

(a) Except as provided in subsection (b), a person or municipality may not own or operate a residual waste disposal or processing facility unless the person or municipality has first applied for and obtained a permit for the activity from the Department under this article.

(b) A person or municipality is not required to obtain a permit under this article, comply with the bonding or insurance requirements of Subchapter E (relating to bonding and insurance requirements) or comply with Subchapter B (relating to duties of generators) for one or more of the following:

(1) Agricultural waste produced in the course of normal farming operations, if the waste is not hazardous. An agricultural waste will be presumed to be produced in the course of normal farming operations if its application is consistent with that for normal farming operations. A person managing mushroom waste shall implement best management practices. The Department will prepare a manual for the management of mushroom waste which

identifies best management practices and may approve additional best management practices on a case-by-case basis. If a person fails to implement best management practices for mushroom waste, the Department may require compliance with the land application, composting and storage operating requirements of Chapters 291, 295 and 299 (relating to land application of residual waste; composting facilities for residual waste; storage and transportation of residual waste).

(2) The use of food processing waste or food processing sludge in the course of normal farming operations if the waste is not hazardous. A person managing food processing waste shall implement best management practices. The Department will prepare a manual for the management of food processing waste which identifies best management practices and may approve additional best management practices on a case-by-case basis. If a person fails to implement best management practices for food processing waste, the Department may require compliance with the land application, composting and storage operating requirements of Chapters 291, 295 and 299.

(3) The beneficial use of coal ash under Subchapter H (relating to beneficial use).

(4) The activities described in § 287.2(e)—(h) (relating to scope).

(5) The processing or disposal of residual waste described in § 287.2(b) that is subject to a permit issued by the Department under Article VIII (relating to municipal waste).

(6) The use as clean fill of the materials in subparagraphs (i) and (ii) if they are separate from other waste. The person using the material as clean fill has the burden of proof to demonstrate that the material is clean fill.

(i) The following materials, if they are uncontaminated: soil, rock, stone, gravel, brick and block, concrete and used asphalt.

(ii) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

(7) Processing that results in the beneficial use of scrap metal.

(c) Subsection (b) does not relieve a person or municipality of the requirements of the environmental protection acts or regulations promulgated thereto. Notwithstanding subsection (b), the Department may require a person or municipality to apply for, and obtain, an individual or general solid waste permit, or take other appropriate action, when the person or municipality is conducting a solid waste activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(d) The Department will not require a permit under this article for cleanup or other remediation at the site of a spill, release, fire, accident or other unplanned event, unless the site is part of a permit area for an active facility or the proposed permit area in an application. In requiring cleanup or other remediation at the site, the Department may require compliance with only those provisions of this article that the Department determines necessary to protect human health, safety, welfare and the environment.

(e) The Department will not require a permit under this article for the movement of waste encountered when performing a site remediation under Chapter 250 (relating to administration of land recycling program) where

the site-specific standard is specified as the remediation goal for contamination of soil and groundwater, provided the following conditions are met:

(1) The response to the release of regulated substances is being conducted pursuant to the site-specific standard in Chapter 250, Subchapter D (relating to site-specific standards).

(2) The area containing the waste unit is part of the site, as identified under the notice of intent to remediate (NIR), and the notice includes identification of the waste types.

(3) The excavation, movement and placement onsite of the waste shall be incorporated as part of the remedial investigation report which shall be approved by the Department prior to the initiation of remediation activities. The report shall include plans for grading, construction and management of the wastes. The disturbance of a waste disposal unit that is not part of an approved remedial investigation report is not covered under this permit waiver.

(4) The excavation, movement and placement of waste materials onsite may not increase the potential for onsite or offsite runoff of water or dispersal of waste.

(5) The excavation, movement and placement of waste onsite may not adversely affect or endanger public health, safety, welfare, or the environment or cause a public nuisance.

(6) Waste may not be stored or placed in waters of the Commonwealth or in a manner that will cause groundwater or surface water degradation.

**§ 287.102. Permit-by-rule.**

(a) *Purpose.*

(1) This section sets forth classes of facilities that are subject to permit-by-rule. A facility will not be deemed to have a permit-by-rule if it causes or allows violations of the act, the regulations promulgated thereunder, the terms or conditions of a permit issued by the Department or causes a public nuisance. A facility that is subject to permit-by-rule under this section is not required to apply for a permit under this article or comply with the operating requirements of Chapters 288—297, if that facility operates in accordance with this section.

(2) A facility is not subject to permit-by-rule under this section unless it meets the following:

(i) The facility complies with Chapter 299 (relating to storage and transportation of residual waste), except as provided in subsections (b)(7), (c)(3) and (k).

(ii) The facility or activity has the other necessary permits under the applicable environmental protection acts, and is operating under the acts and the regulations promulgated thereunder, and the terms and conditions of the permits.

(3) A facility is not subject to permit-by-rule under this section unless the operator prepares and maintains the following at the facility in a readily accessible place:

(i) A copy of a Preparedness, Prevention and Contingency (PPC) plan that is consistent with the Department's most recent guidelines for the development and implementation of PPC plans.

(ii) Daily records of the weight or volume of waste that is processed, the method and location of processing or disposal facilities for wastes from the facility, and waste handling problems or emergencies.

(4) Subchapter E (relating to bonding and insurance requirements) is not applicable to facilities which are deemed to have a permit under this section.

(5) Subchapter F (relating to civil penalties and enforcement) is applicable to facilities subject to this section.

(6) The Department may require a person or municipality subject to permit-by-rule to apply for, and obtain, an individual or general permit, or take other appropriate action, when the person or municipality is not in compliance with the conditions of the permit-by-rule or is conducting an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

\* \* \* \* \*

(f) *Beneficial use.* The beneficial use of residual waste which the Department has approved, in writing, prior to July 4, 1992, shall be deemed to have a residual waste processing or disposal permit if the person or municipality uses the residual waste in accordance with the terms and conditions of the written approval and the Department has not revoked the approval. The expiration date for permits issued pursuant to this subsection is July 4, 2002, unless a specific permit term is written as a condition of the prior written approval.

\* \* \* \* \*

(k) *Temporary storage of residual waste at a hazardous waste transfer facility.* A facility that receives and temporarily stores residual waste at a hazardous waste transfer facility and that facilitates the transportation or transfer of that waste to a processing or disposal facility shall be deemed to have a residual waste processing permit under this article if, in addition to the requirements in subsection (a), the following are met:

(1) The residual waste is stored in accordance with the hazardous waste transfer facility requirements in 40 CFR 263.12 (relating to transfer facility requirements) as incorporated by reference in § 263a.10 and modified in § 263a.12 (relating to incorporation by reference and scope; and transfer facility requirements). The management of residual waste shall be included in the PPC plan submitted under § 263a.12.

(2) Residual waste may not be stored unless there is secondary containment around the containers.

(3) The residual waste remains in its original container and is not mixed with other waste.

(4) The containers that store residual waste are clearly labeled with the words "residual waste."

(5) Residual waste is stored separately from hazardous waste.

(6) Nonputrescible residual waste is stored in accordance with the time periods specified in § 263a.12(1). Putrescible residual waste may not be stored for more than 24 hours.

(7) The bond required under § 263a.32 (relating to bonding) includes coverage for the processing of residual waste.

(8) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

**TRANSITION SYSTEM FOR EXISTING FACILITIES**

**§ 287.112. Storage impoundments and storage facilities.**

\* \* \* \* \*

(f) Modification of operating requirements on repermitting are as follows:

(1) For residual waste storage impoundments permitted and constructed on or before July 4, 1992, the Department may waive or modify the liner system and leachate treatment system requirements that would otherwise be applicable under this article if the following conditions are met:

(i) The Department has approved a groundwater monitoring system for the facility and the system has been installed.

(ii) The operator demonstrates based on sampling and analysis data taken by the operator or the Department that groundwater degradation from the facility does not exceed one of the following for any contaminant:

(A) The Statewide health standard for the contaminant at the property boundary.

(B) The background standard for the contaminant at the property boundary.

(2) For residual waste storage impoundments permitted under the act or The Clean Streams Law before July 4, 1992, the Department may modify the impoundment design requirements that are otherwise applicable under § 299.144(a)(6) after an approval of a complete application for permit modification, if the operator demonstrates that the existing design is structurally as sound as the design required by § 299.144(a)(6).

(3) The Department may revoke action taken under this subsection if conditions at the site no longer meet the requirements in that paragraph.

(4) Nothing in this subsection prevents the Department from requiring the operator of a storage impoundment subject to this subsection to take measures to abate offsite leachate migration, groundwater degradation, or another public nuisance or threat of harm to public health, safety, welfare or the environment caused by the failure of the operator to install or maintain the liner system and leachate treatment system that would otherwise be required by this article.

\* \* \* \* \*

**§ 287.115. Filing by permitted facilities.**

\* \* \* \* \*

(c) *Modification.*

(1) For residual waste landfills permitted under the act before July 4, 1992, and residual waste disposal impoundments permitted under the act or The Clean Streams Law before July 4, 1992, the Department may waive or modify the liner system and leachate treatment requirements that would otherwise be applicable under this article after approval of a complete application for permit modification, if the following conditions are met:

(i) The Department approves, and the operator implements, a groundwater monitoring plan that meets the requirements of this article.

(ii) The operator demonstrates one of the following in the preliminary application:

(A) Groundwater degradation from the facility, based on sampling and analysis data for a 1-year period that

meets the requirements of this article, does not exceed the background or Statewide health standard for a contaminant at the property boundary.

(B) The operator has complied and will continue to comply with the applicable requirements for groundwater assessment and groundwater abatement in this article and has demonstrated that the abatement will result in restoration of the groundwater to levels that are at least equivalent to the background or Statewide health standards for a contaminant at the property boundary. It is not necessary, for purposes of this demonstration, that restoration of groundwater to these levels occur before closure. However, this paragraph in no way alters the operator's obligations for final closure certification under § 287.342 (relating to final closure certification) or as otherwise provided in Subchapter E (relating to bonding and insurance requirements).

(iii) The physical properties and chemical composition of the waste have not changed since the permit was issued based on continued sampling and analysis of the waste that is consistent with the permit.

(2) For residual waste disposal impoundments permitted under the act or The Clean Streams Law before July 4, 1992, the Department may modify the impoundment design requirements that are otherwise applicable under §§ 289.271—289.273 (relating to general requirements; inside slopes; and outside slopes and terraces) after an approval of a complete application for permit modification, if the operator demonstrates that the existing design is structurally as sound as the design required in §§ 289.271—289.273.

(3) The Department may revoke action taken under this subsection if the conditions at the site no longer meet the requirements in this subsection.

(4) The liner system and leachate treatment system requirements may not be modified or waived for areas identified in an application for a new permit or permit modification submitted after January 13, 2001.

(d) *Complete application.* Within a period not to exceed 9 months after receiving notice from the Department, a person or municipality that filed a preliminary application for permit modification shall file with the Department a complete application for permit modification to correct differences between the existing permit and the requirements of this chapter. The Department's notice may specify a period of less than 9 months.

(e) *Deadline for allowing interim operation.* By July 4, 1994, a person or municipality that operates a facility subject to this section may not dispose or process waste at the facility unless a preliminary application for permit modification or a closure plan is filed under this section.

(f) *Deadline for allowing continued operation.* By July 4, 1997, a person or municipality that operates a facility subject to this section may not store, dispose or process waste at the facility unless one of the following applies:

(1) A complete application for permit modification is filed under this section, and the Department has not yet rendered a decision with respect to the application.

(2) The person or municipality possesses a permit for the facility that is consistent with this article.

(g) *Closure plan.* A person or municipality that is required under subsection (e) or (f) to cease storage, disposal or processing of waste shall submit a closure plan under § 287.117 (relating to closure plan). An

application for a new permit shall be filed in accordance with this article to receive, process or dispose of solid waste.

**§ 287.117. Closure plan.**

(a) A closure plan for a residual waste processing or disposal facility submitted under § 287.113 or 287.115 (relating to permitting procedure for unpermitted processing or disposal facilities; and filing by permitted facilities) shall show how the operator plans to close in a manner that will protect public health, safety and the environment. Except as provided in subsections (c) and (d), the closure plan shall be consistent, at a minimum, with the applicable regulations for the type of facility concerning the following:

- (1) Sedimentation and erosion control.
- (2) Revegetation.
- (3) Water quality monitoring.
- (4) Bonding and insurance.
- (5) For residual waste landfills and residual waste disposal impoundments:
  - (i) Final cover and grading.
  - (ii) Leachate management.
  - (iii) Gas venting and monitoring.
- (6) For residual waste disposal impoundments, waste solidification.
- (b) The Department may waive or modify the applicable regulations concerning subsection (a) if a person or municipality can demonstrate that an existing system or design performs at a level that is equivalent to the applicable regulations.

(c) A person or municipality that has submitted a water quality monitoring plan and bonding as part of the notice required by § 287.111 (relating to notice by impoundments and unpermitted processing or disposal facilities) is not required to resubmit the information as part of the closure plan.

(d) A person or municipality may propose, as part of the closure plan submitted under subsection (a), to remove standing liquids, waste and waste residues, liners, and underlying and surrounding contaminated soil, and to dispose of the waste material at a solid waste management facility that is permitted to accept the waste. The person or municipality may request final closure certification under § 287.342 (relating to final closure certification) upon completion of a closure plan approved under this section.

(e) The Department may approve, approve with modifications, or disapprove a closure plan submitted under this subchapter.

(f) A person or municipality may not implement a closure plan submitted under this subchapter until the Department has approved the closure plan.

(g) A person or municipality that submitted a closure plan to the Department under § 287.113 shall cease receiving waste at the facility and begin implementation of the closure plan on the earliest of the following dates:

- (1) The date stated in the closure plan approved by the Department under this section.
- (2) By July 4, 1995.

(h) A person or municipality that submitted a closure plan to the Department under § 287.115 shall cease

receiving waste at the facility and begin implementation of the closure plan on the earliest of the following dates:

- (1) The date stated in the closure plan approved by the Department under this section.
- (2) By July 4, 1997.
- (3) When the facility reaches final permitted capacity.

(i) The Department may require a person or municipality that closed a residual waste processing or disposal facility after September 7, 1980, to submit a closure plan under this section. The person or municipality shall submit the closure plan within 6 months after receiving written notice.

(j) Groundwater degradation at a solid waste facility that ceased receiving waste after September 7, 1980, shall be remediated in accordance with one of the following:

(1) An approved closure plan, permit or any administrative consent order, consent adjudication, judicially approved consent order or other settlement agreement entered into with the Department prior to January 13, 2001.

(2) Section 287.342 (relating to final closure certification), if paragraph (1) is not applicable or if a remediation is conducted under a document in paragraph (1) that has been so modified and approved.

**GENERAL APPLICATION REQUIREMENTS**

**§ 287.122. Form of application.**

(a) Applications for a permit under this chapter shall be submitted to the Department in writing, on forms provided by the Department.

(b) Each application for a permit shall be accompanied by information, maps, plans, specifications, designs, analyses, test reports and other data as may be required by the Department to determine compliance with this article.

(c) Information in the application shall be current, presented clearly and concisely and supported by appropriate references to technical and other written material available to the Department.

(d) Each application for a permit shall be prepared by, or under the supervision of, a Pennsylvania registered professional engineer. The design section of the application shall bear the seal of a Pennsylvania registered professional engineer. The soils, geology and groundwater sections of a permit application shall be completed by experts in the fields of soil science, soil engineering, geology and groundwater. The geology and groundwater sections of a permit application also shall be completed under the supervision of a registered professional geologist licensed in this Commonwealth.

**§ 287.123. Right of entry.**

(a) Each application shall contain a description of the documents upon which the applicant bases his legal right to enter and operate a residual waste processing or disposal facility within the proposed permit area. The application shall also state whether that right is the subject of pending litigation.

(b) The application shall provide one of the following for lands within the permit area:

(1) A copy of the written consent to the applicant by the current landowner to operate a residual waste processing or disposal facility.

(2) A copy of the document of conveyance that expressly grants or reserves the applicant the right to operate a residual waste processing or disposal facility and an abstract of title relating the documents to the current landowner.

(c) Each application shall include, upon a form prepared and furnished by the Department, the irrevocable written consent of the landowner to the Commonwealth and its authorized agents to enter the proposed permit area. The consent shall be applicable prior to the initiation of operations, for the duration of operations at the facility, and for up to 10 years after final closure for the purpose of inspection and monitoring, maintenance or abatement measures deemed necessary by the Department to carry out the purposes of the act and the environmental protection acts.

(d) The forms required by subsections (b) and (c) shall be recordable documents. Prior to the initiation of operations under the permit, the forms shall be recorded by the applicant at the office of the recorder of deeds in the county in which the proposed permit area is situated. This subsection does not apply to agricultural utilization permits under Chapter 291 (relating to land application of residual waste).

(e) Subsequent landowners shall be deemed to have constructive knowledge if the forms required by this section have been properly filed at the office of the recorder of deeds in the county in which the proposed solid waste activity is situated.

**§ 287.124. Identification of interests.**

(a) Each application for a residual waste processing or disposal permit shall contain the following information on a form provided by the Department:

- (1) The name, addresses and telephone numbers of:
  - (i) The permit applicant.
  - (ii) Any contractor, including a contractor for gas or energy recovery from the proposed operation, if the contractor is a person other than the applicant.
  - (iii) Related parties to the applicant, including their relationship to the applicant.

(2) The names and addresses of the owners of record of surface and subsurface areas within, and contiguous to, any part of the proposed permit area.

(3) The names and addresses of the holders of record of any leasehold interest of surface and subsurface areas within, and contiguous to, any part of the proposed permit area.

(b) Each application shall contain a statement of whether the applicant is an individual, corporation, partnership, limited partnership, limited liability company, government agency, proprietorship, municipality, syndicate, joint venture or other association or entity. For applicants other than sole proprietorships, the application shall contain the following information, if applicable:

(1) The names and addresses of every officer, general and limited partner, director and other persons performing a function similar to a director of the applicant.

(2) For corporations, the principal shareholders.

(3) For corporations, the names, principal places of business and Internal Revenue Service tax identification numbers of United States parent corporations of the applicant, including ultimate parent corporations, and all United States subsidiary corporations of the applicant and the applicant's parent corporations.

(4) The names and addresses of other persons or entities having or exercising control over any aspect of the proposed facility that is regulated by the Department, including associates and agents.

(c) If the applicant, or an officer, principal shareholder, general or limited partner, limited liability company member or manager, or other related party to the applicant, has a beneficial interest in, or otherwise manages or controls another person or municipality engaged in the business of solid waste collection, transportation, storage, processing, treatment or disposal, the application shall contain the following information:

(1) The name, address and tax identification number or employer identification number of the corporation or other person or municipality.

(2) The nature of the relationship or participation with the corporation or other person or municipality.

(d) Each application shall list permits or licenses issued by the Department under the environmental protection acts to each person or municipality identified in subsection (b), and any other related parties to the applicant that are currently in effect or have been in effect in at least part of the previous 10 years. This list shall include the type of permit or license, number, location, issuance date, and if applicable, the expiration date.

(e) Each application shall identify the solid waste processing or disposal facilities in this Commonwealth which the applicant or a person or municipality identified in subsection (b), and other related party to the applicant currently owns or operates, or owned or operated in the previous 10 years. For each facility, the applicant shall identify the location, type of operation, and State or Federal permits under which they operate or have operated. Facilities which are no longer permitted or which were never under permit shall also be listed.

**§ 287.125. Compliance information.**

An application shall contain the following information for the 10-year period prior to the date on which the application is filed:

(1) A description of notices of violation, including the date, location, nature and disposition of the violation, that were sent by the Department to the applicant or a related party, concerning the act, the environmental protection acts, a regulation or order of the Department or a condition of a permit or license. In lieu of a description, the applicant may provide a copy of notices of violation.

(2) A description of administrative orders, civil penalty assessments and bond forfeiture actions by the Department, and civil penalty actions adjudicated by the EHB, against the applicant or related party concerning the act, the environmental protection acts, a regulation or order of the Department or of a condition of a permit or license. The description shall include the date, location, nature and disposition of the actions. In lieu of a description, the applicant may provide a copy of the orders, assessments and actions.

(3) A description of summary, misdemeanor or felony convictions, pleas of guilty or pleas of no contest that have been obtained in this Commonwealth against the applicant or a related party under the act and the environmental protection acts or other acts in this Commonwealth concerning the storage, collection, treatment, transportation, processing or disposal of solid waste. The description shall include the date, location, nature and disposition of the actions.

(4) A description of court proceedings concerning the act or the environmental protection acts that was not described under paragraph (3), in which the applicant or a related party has been party. The description shall include the date, location, nature and disposition of the proceedings.

(5) A description of consent orders, consent adjudications, consent decrees or settlement agreements in this Commonwealth entered by the applicant or a related party concerning the act, the environmental protection acts or an environmental protection ordinance, in which the Department, the EPA or a county health department was a party. The description shall include the date, location, nature and disposition of the action. In lieu of a description, the applicant may provide a copy of the order, adjudication, decree or agreement.

(6) For facilities and activities identified under § 287.124 (relating to identification of interests), a statement of whether the facility or activity was the subject of an administrative order, consent agreement, consent adjudication, consent order, settlement agreement, court order, civil penalty, bond forfeiture proceeding, criminal conviction, guilty or no-contest plea to a criminal charge, or permit or license suspension or revocation under the act or the environmental protection acts. If the facilities or activities were subject to one or more of these actions, the applicant shall state the date, location, nature and disposition of the violation. In lieu of a description, the applicant may provide a copy of the appropriate document. The applicant shall also state whether the Department has denied a permit application filed by the applicant or a related party, based on compliance status.

(7) When the owner or operator is a corporation, partnership or limited liability company, a list of each principal shareholder, partner or member that has also been principal shareholder, partner or member of another corporation, partnership or limited liability company which has committed violations of the act or the environmental protection acts. The list shall include the date, location, nature and disposition of the violation, and shall explain the relationships between the principal shareholder, partner or member and both of the following:

- (i) The owner or operator.
- (ii) The other corporation, partnership or limited liability company.

(8) A description of misdemeanor or felony convictions, pleas of guilty, and pleas of no contest, by the applicant or a related party for violations outside this Commonwealth of the environmental protection acts. The description shall include the date of the convictions or pleas, and the date, location and nature of the offense.

(9) A description of final administrative orders, court orders, court decrees, consent decrees or adjudications, consent orders, final civil penalty adjudications, final bond forfeiture actions or settlement agreements involving the applicant or a related party for violations outside this Commonwealth of the environmental protection acts. The description shall include the date of the action and the location and nature of the underlying violation. In lieu of a description, the applicant may provide a copy of the appropriate document.

#### § 287.127. Environmental assessment.

(a) *Impacts.* Each environmental assessment in a permit application shall include a detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including traffic,

aesthetics, air quality, water quality, stream flow, fish and wildlife, plants, aquatic habitat, threatened or endangered species, water uses and land use. The applicant shall consider environmental features such as scenic rivers, recreational river corridors, local parks, State and Federal forests and parks, the Appalachian trail, historic and archaeological sites, National wildlife refuges, State natural areas, National landmarks, farmland, wetland, special protection watersheds designated under Chapter 93 (relating to water quality standards), airports, public water supplies and other features deemed appropriate by the Department or the applicant. The permit application shall also include all correspondence received by the applicant from any state or Federal agency contacted as part of the environmental assessment.

(b) *Harms.* The environmental assessment shall describe the known and potential environmental harms of the proposed project. The applicant shall provide the Department with a written mitigation plan which explains how the applicant plans to mitigate each known or potential environmental harm identified and which describes any known and potential environmental harms not mitigated. The Department will review the assessment and mitigation plans to determine whether there are additional harms and whether all known and potential environmental harms will be mitigated. In conducting its review, the Department will evaluate each mitigation measure and will collectively review mitigation measures to ensure that individually and collectively they adequately protect the environment and the public health, safety and welfare.

(c) *Noncaptive landfills, disposal impoundments and incinerators.* If the application is for the proposed operation of a noncaptive landfill, disposal impoundment or incinerator, the applicant shall demonstrate that the benefits of the project to the public clearly outweigh the known and potential environmental harms. In making this demonstration, the applicant shall consider harms and mitigation measures described in subsection (b). The applicant shall describe in detail the benefits relied upon. The benefits of the project shall consist of social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and shall also consist of the environmental benefits of the project, if any.

(d) *Other facilities.* If the application is for the proposed operation of another type of facility and the applicant or the Department upon review determines that known or potential environmental harm remains despite the mitigation measures described in subsection (b), the applicant shall demonstrate that the benefits of the project to the public clearly outweigh the known and potential environmental harms. In making this demonstration, the applicant shall consider harms and mitigation measures described in subsection (b). The applicant shall describe in detail the benefits relied upon. The benefits of the project shall consist of social and economic benefits that remain after taking into consideration the known and potential social and economic harms of the project and shall also consist of the environmental benefits of the project, if any.

(e) *Identification of harms and benefits.* Known and potential harms and benefits of a proposed project may also be identified by the Department or any other person or municipality.

(f) *Evaluation.* After consultation with other appropriate agencies and potentially affected persons, the Depart-



ment will evaluate the environmental assessment in Phase I of permit review or otherwise prior to technical review.

(g) *Revision.* The Department may require submission of a revised environmental assessment if additional harms or potential harms are discovered during any phase of permit application review.

**WASTE ANALYSIS**

**§ 287.131. Scope.**

(a) Sections 287.132—287.135 apply to residual waste management facilities that apply to receive residual waste. Sections 287.132—287.134 do not apply to:

(1) Captive transfer facilities, except as otherwise required in writing by the Department.

(2) The disposal at permitted Class I or Class II residual waste landfills of residual waste from a person or municipality that generates a total quantity of 2,200 pounds or less of residual waste per generating location in each month, if the applicant demonstrates to the Department's satisfaction that the waste is not hazardous.

(3) The disposal at permitted Class I or Class II residual waste landfills of an individual type of residual waste from a person or municipality that generates a total or 2,200 pounds or less of that type of residual waste per generating location in each month, if approved by the Department in writing.

(b) The requirements of these sections are in addition to the application and operating requirements in this article.

**§ 287.132. Chemical analysis of waste.**

(a) *Application.*

(1) An application shall contain the following information for each waste on a form provided by the Department:

(i) The name and location of the generator of the waste.

(ii) A detailed analysis that fully characterizes the physical properties and chemical composition of the waste. This analysis shall include available information from material safety data sheets or similar sources that may help characterize the physical properties and chemical composition of the waste.

(iii) An evaluation of the ability of the waste and the constituents in the waste to leach into the environment.

(iv) A determination of whether the waste is hazardous under Chapter 261a (relating to identification and listing of hazardous waste) and 40 CFR Part 261 (relating to identification and listing of hazardous waste) to the extent incorporated in § 261a.1 (relating to incorporation by reference, purpose and scope).

(v) If the waste will be disposed of at a residual waste landfill or residual waste disposal impoundment, a demonstration that the waste meets the requirements for disposal at the facility without adversely affecting the effectiveness of the liner or leachate treatment system or attenuating soil at a Class III residual waste landfill.

(2) More than one type of waste from a single generator may be included on a single application, if the information required by this section is separately included for each type of waste.

(3) The analysis required by this subsection shall include a waste sampling plan, including quality assurance and quality control procedures. The plan shall ensure an accurate and representative sampling of the waste.

(4) The Department may, in writing, waive or modify the evaluation required by this subsection for waste to be received at permitted facilities if the conditions in subparagraph (i) are met and the conditions in subparagraph (ii) or (iii) are met:

(i) The applicant has submitted a description of the process by which the waste was generated, a physical description of the waste, and a certification that the waste is not hazardous.

(ii) The applicant has demonstrated to the Department's satisfaction that no additional analysis is necessary to determine if the waste can be received at the facility without adversely affecting the effectiveness of the liner or leachate treatment systems or attenuating soil at a Class III residual waste landfill and established emission and wastewater discharge limits.

(iii) The applicant has demonstrated to the Department's satisfaction that no additional analysis is necessary to determine if the waste can be received at the facility without adversely affecting the effectiveness of waste processing operations and established emission and wastewater discharge limits.

(b) *Waste generation.* Except as provided in subsection (e), an application shall also include a description of the waste generation process, including a description of the raw materials used in the process, the primary chemical reactions which occur during the process, the sequence of events which occur during the process, the points of waste generation in the process and the manner in which each of the wastes is managed subsequent to its generation. A schematic drawing of the process shall be included.

(c) *Methodologies.* The analytical methodologies used to meet the requirements of subsection (a) shall be those set forth in the most recent edition of the EPA's "Test Methods for Evaluating Solid Waste" (SW-846), "Methods for Chemical Analysis of Water and Wastes" (EPA 600/4-79-020), "Standard Methods for Examination of Waste and Wastewater" (prepared and published jointly by the American Public Health Association, American Waterworks Association, and Water Pollution Control Federation), or a comparable method subsequently approved by the EPA or the Department.

(d) *Quality control.* The person taking the samples and the laboratory performing the analysis required by subsection (a) shall employ the quality assurance/quality control procedures described in the EPA's "Handbook for Analytical Quality Control in Water and Wastewater Laboratories" (EPA 600/4-79-019) or "Test Methods for Evaluating Solid Waste" (SW-846). The laboratory's quality control procedures, as well as the documentation of the use of those procedures, shall be included in the application unless waived by the Department.

(e) *Generator information.* An applicant may submit information received from a person or municipality under § 287.54 (relating to chemical analysis of waste) to meet the corresponding requirements of this section.

**§ 287.133. Source reduction strategy.**

An application for the processing or disposal of residual waste shall contain a copy of the source reduction strategy required by § 287.53 (relating to source reduction strategy) for each residual waste to be received at the facility.

**§ 287.134. Waste analysis plan.**

(a) The application shall include a waste analysis plan for each type of waste proposed to be received at the permitted facility. The plan shall take into account the waste analysis required by § 287.132 (relating to chemical analysis of waste). At a minimum, the plan shall include:

(1) The parameters for which each residual waste will be analyzed and the rationale for the selection of these parameters. For the land application of residual waste under Chapter 291 (relating to land application of residual waste), the parameters shall include total nitrogen, organic nitrogen and ammonium.

(2) The test methods that will be used to test for these parameters. The test methods shall be the same as those used under § 287.132.

(3) An explanation of the sampling methods that will be used to obtain an accurate and representative sample of the waste to be analyzed, including quality assurance and quality control procedures.

(4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date. The rationale for the frequency shall also be explained.

(b) The application shall also include a plan for screening and managing incoming waste to ensure that the disposal or processing of the waste is consistent with the permit and this article. Except as otherwise required by the Department, the application shall include, at a minimum, a plan for checking each load of waste received at the facility for color, physical state and phases of waste.

(c) The application shall describe how rejected waste will be managed, including responsible persons or municipalities and the method by which an alternative processing or disposal facility will be selected.

**§ 287.135. Transition period for radiation monitoring.**

A person or municipality possessing a permit for a noncaptive residual waste disposal or processing facility which was issued by the Department prior to January 13, 2001, shall file with the Department an application for permit modification to bring the facility operation into compliance with the following requirements for radioactive material monitoring and detection that became effective on January 13, 2001, according to the following schedule, unless the Department imposes in writing an earlier date, in a specific situation for reasons of public health, safety or environmental protection:

(1) *Noncaptive residual waste landfill.* An application for a permit modification addressing the requirements of §§ 288.133(a)(14) and 288.139 (relating to map and grid requirements and radiation protection action plan) shall be filed by January 13, 2002.

(2) *Noncaptive residual waste disposal impoundment.* An application for a permit modification addressing the requirements of §§ 289.133(a)(13) and 289.138 (relating to map and grid requirements and radiation protection action plan) shall be filed by January 13, 2002.

(3) *Noncaptive residual waste transfer facility.* An application for a permit modification addressing the requirements of §§ 293.103(a)(13) and 293.111 (relating to maps and related information and radiation protection action plan) shall be filed by January 13, 2002.

(4) *Noncaptive residual waste composting facilities.* An application for a permit modification addressing the

requirements of §§ 295.112(a)(20) and 295.120 (relating to maps and related information and radiation protection action plan) shall be filed by January 13, 2002.

(5) *Noncaptive residual waste incinerator or other processing facilities.* An application for a permit modification addressing the requirements of §§ 297.103(a)(20) and 297.113 (relating to maps and related information and radiation protection action plan) shall be filed by January 13, 2002.

**FEES****§ 287.141. Permit application fee.**

(a) Each application for a new permit and each application for permit modification under § 287.115 (relating to filing by permitted facilities) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amount:

(1) Twenty-five thousand nine hundred dollars for residual waste landfills.

(2) Eight thousand five hundred dollars for residual waste disposal impoundments.

(3) Five thousand one hundred dollars for the agricultural utilization of residual waste.

(4) Five thousand one hundred dollars for the utilization of residual waste for land reclamation.

(5) Five thousand two hundred dollars for residual waste transfer facilities.

(6) For residual waste processing facilities other than transfer facilities:

(i) Eight thousand three hundred dollars for noncaptive residual waste incinerators.

(ii) Two thousand two hundred dollars for captive residual waste incinerators.

(iii) Five thousand two hundred dollars for other residual waste processing facilities.

(7) Eight thousand five hundred dollars for demonstration facilities.

(b) Each application for a permit modification under § 287.154 (relating to public notice and public hearings for permit modifications) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amount:

(1) Six hundred dollars for the addition of types of waste not approved in the permit.

(2) Seven thousand eight hundred dollars for residual waste landfills.

(3) Six hundred dollars for the agricultural utilization of residual waste.

(4) One thousand nine hundred dollars for the utilization of residual waste for land reclamation.

(5) Four thousand six hundred dollars for residual waste disposal impoundments.

(6) For residual waste processing facilities:

(i) One thousand five hundred dollars for incinerators.

(ii) Seven hundred dollars for other residual waste processing facilities.

(7) Five thousand eight hundred dollars for demonstration facilities.

(c) An application for a minor permit modification, including a minor permit modification under § 287.222 (relating to permit modification), shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$300.

(d) Each application for a permit reissuance under § 287.221 (relating to permit reissuance) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$400.

(e) Each application for a permit renewal under § 287.223 (relating to permit renewal) shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$300.

(f) A fee is not required for closure plans submitted under § 287.113 (relating to permitting procedure for unpermitted processing or disposal facilities) or § 287.115.

**PUBLIC NOTICE AND COMMENTS**

**§ 287.151. Public notice by applicant.**

(a) An applicant for a new permit, major permit modification, permit renewal, permit reissuance and a person or municipality submitting a closure plan shall publish once a week for 3 consecutive weeks a notice in a newspaper of general circulation in the area where the facility or proposed facility is located. The notice shall meet the following requirements:

(1) The notice shall include a brief description of the location and proposed operation or closure of the facility, and shall indicate where copies of the application or closure plan will be filed. If groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants, abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. If the permittee proposes to utilize the site-specific standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site.

(2) The notice shall state that the host municipality and county may submit comments to the Department within 60 days of receipt of the application or closure plan, recommending conditions upon, revisions to and approval or disapproval of the permit or closure plan, with the specific reason described in the comments.

(3) The notice shall state that the Department will accept comments from the public on the permit application or closure plan and shall state the procedure for submission of comments.

(4) The notice shall state if the applicant proposes a design alternative under § 287.231 (relating to equivalency review procedure) and shall briefly describe the alternative design.

(5) If the application is for a new residual waste landfill, residual waste disposal impoundments, transfer facility or incinerator or for a major modification of a residual waste landfill or residual waste disposal impoundment permit, the notice shall be in the form of a display advertisement.

(b) An applicant for a new permit, permit reissuance, permit renewal or major permit modification, and a person or municipality submitting a closure plan, shall also notify by certified mail, owners and occupants of land contiguous to the site or the proposed permit area of the nature and extent of the proposed facility or closure plan.

If the applicant proposes design alternative under § 287.231, the notice shall so state and shall briefly describe the alternative design. The applicant shall submit proof of the notice in the form of a United States Postal Service postmarked signature card or other dated acknowledgment form of private letter carrier services.

(c) The Department may require the person or municipality to provide additional public notice if the Department determines that the proposed facility or closure plan is of significant interest to the public or may cause significant environmental impact.

(d) An applicant for a new permit, permit reissuance, permit renewal or major permit modification, and a person or municipality submitting a closure plan shall, immediately before the application or plan is filed with the Department, give written notice to each municipality in which the site or proposed permit area is located. If groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants, abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. If the permittee proposes to utilize the site-specific standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site. The notice shall state if the applicant proposes a design alternative under § 287.231, and shall briefly describe the alternative design. The applicant shall file with the Department a copy of the notice as part of the application or plan. The Department will not issue a permit for 60 days from the date of this notice unless each municipality to which this notice is sent submits a written statement to the Department expressly waiving the 60-day period.

(e) Proof of compliance with the applicable requirements of this section shall be submitted within 30 days of filing its permit application or closure plan with the Department.

(f) For new or expanded residual waste landfills or residual waste disposal impoundments for which the Phase I and Phase II applications are submitted separately, the notice required by this section shall be provided only for the Phase I application.

**§ 287.152. Public notice by Department.**

(a) The Department will publish a notice in the *Pennsylvania Bulletin* of the following:

(1) Receipt of an application for a new permit, permit reissuance, permit renewal or major permit modification. For new or expanded residual waste landfills or residual waste disposal impoundments for which the Phase I and Phase II applications are submitted separately, this notice shall be provided only for the Phase I application.

(2) Receipt of a closure plan and if groundwater degradation exists at closure or occurs after closure, the notice shall include a list of contaminants, abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. If the permittee proposes to utilize the site-specific standard, the notice shall include a 30-day public and municipal comment period during which the municipality can request to be involved in the development of the remediation and reuse plans for the site.

(3) Issuance or denial of an application for a new permit, permit reissuance, permit renewal or major permit modification.

(4) Justification for overriding county or host municipality recommendations regarding an application for a new permit, permit reissuance, permit renewal or major permit modification under section 504 of the act (35 P. S. § 6018.504).

(b) The Department will submit a copy of each application for a new permit, permit reissuance, permit renewal or major permit modification, and each closure plan to the host municipality and the appropriate county, county planning agency and county health department, if one exists. If groundwater degradation exists at closure or occurs after closure, the Department will include a copy of the applicant's list of contaminants, identification of abatement measures taken prior to closure, if applicable, proposed remediation measures and proposed remediation standards to be met. For new or expanded residual waste landfills or residual waste disposal impoundments for which the Phase I and Phase II applications are submitted separately, copies of the Phase I and Phase II applications will be submitted.

(c) The Department will provide written notice of each final action taken on an application for a new permit, permit reissuance, permit renewal or permit modification, and each closure plan to the host municipality and the appropriate county, county planning agency and county health department, if one exists.

**§ 287.154. Public notice and public hearings for permit modifications.**

(a) An application for a permit modification for a residual waste landfill or residual waste disposal impoundment shall be considered an application for a major permit modification under §§ 287.151—287.153 (relating to public notice by applicant; public notice by Department; and public comments) if the application involves one or more of the following:

- (1) A change in site volume or waste capacity.
- (2) A change in the average or maximum daily waste volume.
- (3) A change in excavation contours or final contours, including final elevations and slopes, if the change results in increased disposal or storage capacity or impacts groundwater isolation distances or groundwater quality.
- (4) A change in permitted acreage.
- (5) A change in the approved groundwater monitoring plan, except for the addition or replacement of wells or parameters, or a change in the groundwater monitoring plan for a facility permitted prior to the effective date of these regulations to comply with the requirements of this article.
- (6) A change in approved leachate collection and treatment method.
- (7) A change in gas monitoring or management plan, or both, except where installation of additional wells or improvements to the collection systems are proposed.
- (8) A change in the approved closure plan.
- (9) The acceptance for disposal of types of waste not approved in the permit.
- (10) A change in approved design under § 287.231 (relating to equivalency review procedure) if the design has not been previously approved through an equivalency review.
- (11) The submission of an abatement plan.

(12) Change in ownership, unless the owner is the permittee, in which case permit reissuance is required under § 287.221 (relating to permit reissuance).

(13) Change in operator, unless the operator is the permittee, in which case permit reissuance is required under § 287.221.

(14) The disposal of waste in areas that have reached final permitted elevations.

(15) Submission of a radiation protection action plan.

(b) An application for a permit modification for a residual waste processing facility shall be considered an application for a major permit modification under §§ 287.151—287.153 if the application involves one or more of the following:

(1) A change in specifications or dimensions of waste storage or residue storage areas if the change results in an increase in processing or storage capacity.

(2) A change in the approved groundwater monitoring plan, except for the addition or replacement of wells or parameters.

(3) A change in an approved closure plan.

(4) The acceptance for processing of types of waste not approved in the permit.

(5) A change in residue disposal area, if applicable.

(6) A change in approved design under § 287.231 if the design has not been previously approved through an equivalency review.

(7) Change in ownership, unless the owner is the permittee, in which case permit reissuance is required under § 287.221.

(8) Change in operator, unless the operator is the permittee, in which case permit reissuance is required under § 287.221.

(9) Change in the maximum daily waste volume.

(10) Submission of a radiation protection action plan.

(c) An application for a permit modification for the land application of residual waste shall be considered an application for a major permit modification under §§ 287.151—287.153 if the application involves one or more of the following:

(1) A change in the approved maximum application rates.

(2) The acceptance of residual waste from generators not approved in the permit.

(3) A change in the approved groundwater monitoring plan, if groundwater monitoring is required, except for the addition of wells or parameters.

(4) Change in ownership, unless the owner is the permittee, in which case permit reissuance is required under § 287.221.

(5) Change in operator, unless the operator is the permittee, in which case permit reissuance is required under § 287.221.

(d) The Department may require public notice or public hearings for an application for permit modification not described in this section that the Department believes should be subject to public notice or public hearings.

(e) If the Department modifies a permit under section 503(e) of the act (35 P. S. § 6018.503(e)) without first

receiving a permit application, it will subsequently publish notice of the permit modification in the *Pennsylvania Bulletin*.

**Subchapter D. PERMIT REVIEW PROCEDURES AND STANDARDS**

**PERMIT REVIEW**

**§ 287.201. Criteria for permit issuance or denial.**

(a) A permit application will not be approved unless the applicant affirmatively demonstrates to the Department's satisfaction that the following conditions are met:

- (1) The permit application is complete and accurate.
- (2) Residual waste management operations can be feasibly accomplished pursuant to the application as required by the act, the environmental protection acts and this title.
- (3) The requirements of the act, the environmental protection acts, this title and PA. CONST. Art. I, § 27 have been complied with.
- (4) The mitigation plans required by § 287.127 (relating to environmental assessment) are implemented if required by the Department.
- (5) Residual waste management operations under the permit will not cause air pollution, or water pollution, except that the Department may approve an application for permit modification to control or abate groundwater degradation under a new or modified groundwater collection or treatment facility.
- (6) When the potential for mine subsidence exists, subsidence will not endanger or lessen the ability of the proposed facility to operate in a manner that is consistent with the act, the environmental protection acts and this title, and will not cause the proposed operation to endanger the environment or public health, safety or welfare.
- (7) The compliance status of the applicant or a related party under section 503(c) and (d) of the act (35 P. S. § 6018.503(c) and (d)) does not require or allow permit denial.

(b) Failure by the Department to comply with a timetable in § 287.202 or § 287.203 (relating to completeness review; and review period) will not be construed or understood to constitute grounds for issuance of a permit.

**§ 287.202. Receipt of application and completeness review.**

(a) After receipt of a permit application, the Department will determine whether the application is administratively complete.

(b) For purposes of this section, "receipt of a permit application" does not occur for an application for a new facility or a permit modification that would result in an increased average or maximum daily waste volume, increased disposal capacity or expansion of the permit area, until the following requirements are met:

(1) The Department, applicant and municipal officials meet to discuss the permit application, the Department's permit application review process and the public involvement steps in that process and to hear and understand the concerns and questions of the municipal officials, as described in the Department's *Local Municipality Involvement Process Policy*, Document Number 254-2100-100. The Department may invite other persons from the local municipalities who have an interest in the application.

(2) An alternative project timeline is established for review of a permit application for a noncaptive residual

waste landfill, disposal impoundment or incinerator through negotiation among the Department, applicant and representatives of the host county and host municipality. If the parties are unable to reach agreement, the Department will determine an appropriate timeline, taking into consideration the level of public interest and incorporating into the timeline sufficient opportunity for meaningful public participation. Public notice of a negotiated timeline will be made in the *Pennsylvania Bulletin* as part of the permit application receipt announcement required by § 287.152 (relating to public notice by the Department).

(c) For purposes of this section, an application is administratively complete if it contains necessary information, maps, fees and other documents, regardless of, whether the information, maps, fees and documents would be sufficient for issuance of the permit. If the Phase I and Phase II parts of the application for a landfill are submitted separately the application will not be considered to be administratively complete until both parts are determined to be administratively complete.

(d) If the application is not administratively complete, the Department will, within 60 days of receipt of the application, return it to the applicant, along with a written statement of the specific information, maps, fees and documents that are required to make the application administratively complete.

(e) The Department will deny the application if the applicant fails to provide the information, maps, fees and documents within 90 days of receipt of the notice in subsection (d).

(f) The following definitions apply in this section:

*Approach routes*—Routes from the nearest limited access (or major) highway used by vehicles traveling to and from the facility.

*Local municipalities*—Include the host municipality, the host county, municipalities adjacent to the host municipality or municipalities, municipalities located within 1 mile of the permitted or proposed area, other municipalities that demonstrate that they may be adversely impacted by the proposed project and municipalities located along the approach routes.

*Municipal officials*—Representatives of local municipalities with whom the Department will coordinate prepermit application and early permit application review.

**§ 287.203. Review period.**

(a) The Department will issue or deny permit applications under this article within the following periods of time:

(1) For captive residual waste landfills and disposal impoundments, within 12 months from the date of the Department's determination under § 287.202 (relating to receipt of application and completeness review) that the application is administratively complete.

(2) For noncaptive residual waste landfills, disposal impoundments and incinerators, within the period established in the alternative project timeline developed under § 287.202 (relating to receipt of application and completeness review).

(3) For other permits, within 6 months from the date of the Department's determination under § 287.202 that the application is administratively complete.

(b) The time periods set forth in subsection (a) do not include periods beginning with the date that the Depart-

ment in writing has requested the applicant to make substantive corrections or changes to the application and ending with the date that the applicant submits the corrections or changes to the Department's satisfaction.

#### GENERAL PERMIT RESTRICTIONS

##### § 287.211. Term of permits.

(a) A permit issued under this article will be issued for a fixed term consistent with the approved operation and design plans of the facility, and not to exceed 10 years. An operator may apply for permit renewal prior to the expiration of the permit term under § 287.223 (relating to permit renewal).

(b) The Department may grant a longer fixed term if the following are met:

(1) The application is complete for the longer fixed term.

(2) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for the facility, and this need is confirmed, in writing, by the applicant's source of financing.

(c) Residual waste may not be disposed, processed or beneficially used under a permit after the expiration of the permit term for disposal, processing or beneficial use. Expiration of the permit term does not limit the operator's responsibility for complying with closure and postclosure requirements and all other requirements under the act, the environmental protection acts, the regulations promulgated thereunder or the terms or conditions of its permit.

(d) The Department will, from time to time, but at intervals not to exceed 5 years, review a permit issued under this article. In its review, the Department will evaluate the permit to determine whether it reflects currently applicable operating requirements, as well as current technology and management practices. The Department may require modification, suspension or revocation of the permit when necessary to carry out the purposes of the act, the environmental protection acts and this title. The Department will require the operator to provide a summary of changes to the operations since the initial permit or the latest major permit modification was approved.

(e) If no residual waste is processed or disposed under a permit within 5 years of the date of issuance by the Department of a permit for the facility, the permit is void.

##### § 287.212. Conditions of permits—general and right of entry.

Each permit issued by the Department will ensure and contain the following conditions:

(1) Except to the extent that the permit states otherwise, the permittee shall operate the facility as described in the approved application.

(2) The permittee shall allow authorized representatives of the Commonwealth, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to have access to areas in which the solid waste management facility will be, is being, or has been operated to ensure compliance with the act, regulations promulgated under the act, and a permit, license or order issued by the Department under the act.

(3) The permittee shall affect by solid waste management operations only those lands specifically approved in

the permit and for which a bond has been filed with the Department under Subchapter E (relating to bonding and insurance requirements).

(4) The permittee shall notify the Department within the time stated in the permit and if no time is stated not later than 45 days, on a form prepared by the Department, after the transfer has occurred of a controlling interest in the owner or operator, if the transfer does not require a permit modification under § 287.154 (relating to public notice and public hearings for permit modifications) or a permit reissuance under § 287.221 (relating to permit reissuance). The notification shall contain the same information relating to the person who obtained the controlling interest in the owner or operator as is required of a permit applicant in a permit application under §§ 287.124 and 287.125 (relating to identification of interests; and compliance information). A "controlling interest" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

#### PERMIT REISSUANCE, MODIFICATION AND RENEWAL

##### § 287.221. Permit reissuance.

(a) A transfer, assignment or sale of rights granted under a permit may not be made without obtaining permit reissuance.

(b) An application for permit reissuance shall be made on forms provided by the Department and shall contain the following:

(1) A written statement that the person assumes, upon reissuance of the permit, all liability for operation, maintenance, pollution, closure, postclosure maintenance, final cover and other responsibilities under the act, the environmental protection acts, this title and the terms and conditions of the permit from the date of original issuance of the permit.

(2) A detailed explanation of the schedule and procedure for transferring control of the facility to the applicant.

(3) For applications for the reissuance of permits that were issued prior to July 4, 1992, a complete application for permit modification to correct deficiencies identified under § 287.115 (relating to filing by permitted facilities).

(4) One of the following:

(i) An entirely new application under this article.

(ii) A written statement expressly agreeing to abide by permit conditions, and assuming responsibility for violations which have occurred or may occur on the area previously affected. The statement shall include the following:

(A) The identity of the applicant as required in § 287.124 (relating to identification of interests) and the compliance information required in § 287.125 (relating to compliance information).

(B) For residual waste disposal permits, a property map showing the extent to which disposal has been accomplished under the existing permit.

(C) The name and address of the existing permittee.

(D) Appropriate bond and insurance in the amount specified by the Department under Subchapter E (relating to bonding and insurance requirements).

(E) Proof of public notice as required by § 287.151 (relating to public notice by applicant).

(F) Departmental approval of permit reissuance under this section will not be deemed to limit the original permittee's responsibility, liability, duty or obligation under law.

**§ 287.222. Permit modification.**

(a) A permittee shall file with the Department an application for permit modification, and obtain Departmental approval of the permit modification:

(1) Prior to making a change in the design or operational plans set forth in the application upon which the permit is issued.

(2) Prior to making a change that would affect the terms or conditions of the existing permit.

(3) When required by the Department under § 287.115 (relating to filing by permitted facilities).

(4) Prior to conducting solid waste processing or disposal activities that are not approved in this permit.

(5) If otherwise required by the Department.

(b) Application for permit modification shall be complete and contain the following information:

(1) The permittee's name, address and permit number.

(2) A description of the proposed modifications, including appropriate maps, plans and applications to demonstrate that the proposed modification complies with the act, the environmental protection acts and this title.

(c) The Department may issue, onsite, in writing, a conditional approval of a minor permit modification for the construction of liner systems or of erosion and sedimentation control devices if it is impracticable to comply with subsections (a) and (b) and if the modification will improve the permitted design. Approval is conditioned upon timely submission of the information and fee required in subsection (d).

(d) Within 5 working days of obtaining written onsite Department conditional approval of a minor modification under subsection (c), the permittee shall file with the Department documentation to modify its permit application in accordance with the conditional approval issued under subsection (c). The permit modification documentation shall be accompanied by the fee required in § 287.141(c) (relating to permit application fee).

**§ 287.223. Permit renewal.**

(a) A permittee that plans to dispose of or process residual waste after the expiration of the term set under § 287.211 (relating to term of permits) shall file a complete application for permit renewal on forms provided by the Department. The complete application for a processing facility or land application permit shall be filed at least 270 days before the expiration date of the permit term and for a disposal permit at least 1 year before the expiration date of the permit term.

(1) For a processing facility with a permit term that expires on or before October 10, 2001, the application for permit renewal shall be filed at least 180 days prior to the expiration date of the permit term.

(2) For a disposal facility with a permit term that expires on or before January 13, 2002, the application for permit renewal shall be filed at least 180 days prior to the expiration date of the permit term.

(b) An application for renewal of a residual waste disposal permit shall include a clear statement of the remaining permitted capacity of the facility, with documentation, in relation to the requested term of the permit renewal.

(c) A permit renewal, if approved by the Department, may only continue the term of the permit on its presently permitted acreage, including terms and conditions of the permit. An applicant that seeks to add permitted acreage or change the conditions of the permit shall also file an application for a permit modification.

(d) A permit renewal shall be for a term not to exceed the term of the original permit.

(e) A permit may not be renewed except under this article for facilities permitted after July 4, 1992.

**OTHER PERMITTING PROVISIONS**

**§ 287.231. Equivalency review procedure.**

(a) This section authorizes the Department, in approving a permit application under this article, to authorize, in writing, alternatives to the design requirements in this article. The alternative requirements may be authorized only if, and only to the extent that, specific sections in this article expressly state that alternatives may be authorized under this section.

(b) A person requesting an alternative under this section shall submit a request to the Department, in writing. The request shall:

(1) Identify the specific regulation for which an equivalency alternative is being sought.

(2) Demonstrate, through supporting technical documentation, justification and quality control procedures, that the requested alternative to the design requirements in a section of the regulations will, for the life of operations at the facility, achieve the performance standards set forth in that section, and will do so in a manner that is equivalent or superior to the design requirements in that section.

(c) An equivalency alternative will not be approved unless the application affirmatively demonstrates that the following conditions are met:

(1) The request is complete and accurate and the requirements of this section have been complied with.

(2) The proposed alternative will, for the life of operations at the facility, achieve the performance standards set forth in the section of regulations for which the alternative to the design requirements in that section is sought, and will do so in a manner that is equivalent or superior to the design requirements in that section.

(3) The proposed alternative will not cause pollution to the air, water or other natural resources of this Commonwealth, and will not harm or endanger public health, safety or welfare.

(d) In lieu of approving an equivalency alternative for the entire facility, the Department may approve an equivalency alternative for part of a site as provided in Subchapter G (relating to demonstration facilities).

(e) If an alternative design is approved through a major permit modification, the Department may approve the applicability of the alternative design to another applicant through a minor permit modification.

**Subchapter E. BONDING AND INSURANCE REQUIREMENTS**

**TYPES OF BONDS**

**§ 287.321. Special terms and conditions for surety bonds.**

(a) The Department will not accept the bond of a surety company that has failed or unduly delayed, as determined by the Department, in making payment on a forfeited surety bond.

(b) The Department will accept only the bond of a surety licensed or authorized to do business in this Commonwealth. In addition, for facilities permitted after January 13, 2001, and modifications issued after January 13, 2001, the Department will accept only the bond of a surety which is listed in circular 570 of the United States Department of Treasury. If a surety is removed from circular 570 or is no longer authorized to do business in this Commonwealth, the bond of the surety shall be replaced.

\* \* \* \* \*

**BOND AMOUNT**

**§ 287.332. Bond amount adjustments.**

(a) The operator shall submit bond documents required by the Department to increase the total bond liability, and deposit additional bond amounts, upon demand by the Department according to § 287.333 (relating to failure to maintain adequate bond), or whenever additional bond amounts are required under this chapter, including §§ 287.327 and 287.331 (relating to surety/collateral combination bond; and bond amount determination).

(b) The Department will require an operator to deposit additional bond amounts determined under § 287.331 when the existing bond does not meet the requirements of this subchapter for any reason, including the following:

(1) Inflationary cost factors have resulted in a new cost estimate which exceeds the estimate used for the original bond amount determination.

(2) The permit is to be renewed, reissued, subject to a major permit modification or the bond on deposit is to be replaced.

(3) The Department otherwise determines that the existing total bond liability amount does not meet the purposes of the act, the environmental protection acts, this title, the permit or orders of the Department.

(c) Periodically after the date on which a bond was required to be submitted under this subchapter, the Department may determine the adequacy of bond amount requirements for residual waste processing or disposal facilities and, if necessary, require additional bond amounts.

(d) A request for reduction of the required bond shall be considered a request for bond release under § 287.341 (relating to release of bonds).

**BOND RELEASE**

**§ 287.341. Release of bonds.**

(a) An operator seeking a release of a bond previously submitted to the Department shall file a written request with the Department for release of all or part of the bond amount posted for the facility as part of a request for bond adjustment under § 287.332 (relating to bond amount adjustments), or after certification of final closure of the facility.

(b) The written request for bond release shall contain the following:

(1) The name of the operator and identification of the facility for which bond release is sought.

(2) The total amount of bond in effect for the facility and the amount for which release is sought.

(3) A detailed explanation why bond release is requested. The explanation shall include, but is not limited to, details relating to completion of a measure carried out in preparation for closure as defined in the closure plan or otherwise discernible upon inspection of the facility, closure of the facility, completion of postclosure measures, final closure certification abatement measures taken, and amendments to the permit or changes in the facts or assumptions made during the bond amount determination which demonstrate and would authorize a release of part or all of the bond deposited for the facility.

(4) A revised cost estimate for closure and postclosure care under § 287.331 (relating to bond amount determination).

(5) Other information that may be required by the Department.

\* \* \* \* \*

(g) The following apply with regard to bond release:

(1) The Department will not release a bond amount deposited for a facility if the release would reduce the total remaining amount of bond to an amount which would be insufficient for the Department to complete closure and postclosure care, including long-term maintenance of remediation measures, and to take measures that may be necessary to prevent adverse effects upon the environment or public health, safety or welfare under the act, the environmental protection acts, this title, the terms and conditions of the permits and orders of the Department.

(2) The release of a bond by the Department does not constitute a waiver or release of other liability provided in law, nor does it abridge or alter rights of action or remedies of a person or municipality now or hereafter existing in equity or under criminal and civil common law or statutory law. The release of a bond does not discharge an owner or operator from liability to restore the groundwater to remediation standards and to maintain groundwater quality, at a minimum, at those levels.

(3) The Department may grant bond releases immediately upon final closure, for facilities other than landfills, and disposal impoundments if it is clearly demonstrated that further monitoring, restoration or maintenance is not necessary to protect the public health, safety and welfare and the environment.

**§ 287.342. Final closure certification.**

(a) If the operator of a residual waste processing or disposal facility believes that all closure and postclosure requirements applicable to the facility have been met, the operator may file a request for final closure certification with the Department.

(b) The final closure certification request shall be accompanied by a nonrefundable administration fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amount:

(1) Eight thousand eight hundred dollars for residual waste landfills and residual waste disposal impoundments.



(2) Six hundred dollars for all other residual waste processing or disposal facilities.

(c) The Department will not issue a final closure certification unless the operator demonstrates that:

(1) The applicable operating requirements of the act, the environmental protection acts, this title, the permit, the approved closure plan and orders of the Department have been complied with.

(2) One of the following remediation standards is met and maintained at the identified compliance points:

(i) The Statewide health standard at and beyond the property boundary.

(ii) The background standard at each well selected to determine the extent of contamination, as identified in § 288.256(c)(1) or § 289.266(c)(1) (relating to groundwater assessment plan).

(iii) The site-specific standard at and beyond the property boundary.

(3) No further remedial action, maintenance or other activity by the operator is necessary to continue compliance with the act, the environmental protection acts, this title, the permit, the approved closure plan and orders of the Department.

(4) The facility is not causing adverse effects on the environment, and is not causing a nuisance.

(d) For measuring compliance with secondary contaminants, under subsection (c)(2)(i) or (iii), the Department may approve a compliance point beyond the property boundary up to a water source.

\* \* \* \* \*

(g) The final closure certification will not be construed as a guarantee of future performance nor will it constitute a waiver or release of bond liability or other liability existing in law or equity for adverse environmental effects or conditions of noncompliance at the time of the certification or at a future time, for which the operator shall remain expressly liable. The issuance of a final closure certification does not discharge an owner or operator from liability to restore the groundwater to remediation standards and to maintain groundwater quality, at a minimum, at those levels.

\* \* \* \* \*

(i) If after the issuance of a certification of final closure the Department determines that the level of risk is increased beyond the acceptable range at a facility due to substantial changes in exposure conditions, such as in a change in land use from a nonresidential to a residential use, or new information is obtained about a substance associated with the facility which revises exposure assumptions beyond the acceptable range, additional remediation shall be required.

(j) For purposes of this section, "property boundary" is the delineation of the parcel of land as described in the deed existing on the date the facility ceases to accept waste.

**PUBLIC LIABILITY INSURANCE REQUIREMENTS**  
**§ 287.371. Insurance requirement.**

(a) A person or municipality that has not submitted proof of insurance under the act may not dispose or process residual waste unless the person or municipality has submitted proof of a commercial policy of liability insurance covering third-party claims for property damage and bodily injury as provided by this section.

(b) An applicant for a permit to operate a residual waste processing or disposal facility, and every person or municipality that submits a closure plan under § 287.117 (relating to closure plan), shall submit to the Department proof of a commercial policy of liability insurance covering third party claims for property damage and bodily injury.

(1) The insurance policy shall be effective prior to the initiation of residual waste processing or disposal operations under the permit, or, for a closure plan submitted under § 287.117, prior to the initiation of the closure plan.

(2) The Department may accept as proof of insurance an insurance policy issued to a person that operates the facility who is not the permittee, in lieu of a policy issued to the permittee, if the insurance policy meets the requirements of this subchapter.

(c) Permit applications for new facilities shall certify that the operator has in force, or will, prior to initiation of operations, an insurance policy that complies with the requirements of this subchapter.

(d) A department or agency of the United States or the Commonwealth which owns or operates a residual waste processing or disposal facility may satisfy the requirements of this section by other means of financial assurance approved by the Department which satisfy the terms and conditions for insurance under this subchapter.

**Subchapter F. CIVIL PENALTIES AND ENFORCEMENT**

**CIVIL PENALTIES**

**§ 287.413. Assessment of penalties; minimum penalties.**

(a) This section sets forth minimum civil penalties for certain violations of the act and the regulations promulgated thereunder. The Department will assess a civil penalty under § 287.412 (relating to assessment of penalties; general) only if a civil penalty calculated under § 287.412 is greater in amount than the civil penalty calculated under this section.

(b) If a person or municipality operates a residual waste landfill or residual waste disposal impoundment on an area for which the person or municipality was not permitted to operate the facility, or in excess of final permitted elevations, the Department will assess a minimum civil penalty of \$5,000 per 1/2 acre, or portion thereof. Intermediate acreages will be assessed at the next highest 1/2 acre. This subsection does not require the imposition of a civil penalty on persons or municipalities operating without a permit on July 4, 1992, if the persons or municipalities are in compliance with §§ 287.111 and 287.113 (relating to notice by impoundments and unpermitted processing or disposal facilities; and permitting procedure for unpermitted processing or disposal facilities).

(c) If a person or municipality applies residual waste to an area for which the person or municipality was not permitted to apply the residual waste, the Department will assess a minimum civil penalty of \$500 per acre, or portion thereof.

(d) If a person or municipality fails to provide notification on a timely basis of an incident for which a reporting requirement exists in the act, the regulations promulgated thereunder, the terms or conditions of a permit, or order of the Department, the Department will assess a minimum civil penalty of \$1,000.

(e) If a person or municipality generating residual waste fails to provide notice to the Department as required by § 287.52 (relating to biennial report), the Department will assess a minimum civil penalty of \$300.

(f) If a person or municipality refuses, hinders, obstructs, delays or threatens an agent or employe of the Department in the course of performance of a duty under the act, including entry and inspection, the Department will assess a minimum civil penalty of \$1,000.

(g) If a violation is included as a basis for an administrative order requiring cessation of solid waste management operations, or for any other abatement order, and if the violation has not been abated within the abatement period set in the order, a minimum civil penalty of at least \$1,000 shall be assessed for each day during which the failure continues. This subsection does not limit the Department's authority to assess an appropriate civil penalty for violations that formed the basis for issuing an order, and that occurred prior to the issuance of the order or prior to a date for compliance in the order.

### ENFORCEMENT

#### § 287.421. Administrative inspections.

(a) The Department and its agents and employes will:

(1) Have access to, and require the production of, books and papers, documents and physical evidence pertinent to matters under investigation.

(2) Require a person or municipality engaged in the storage, transportation, processing, treatment or disposal of a residual waste to establish and maintain the records and make reports and furnish information as the Department may prescribe.

(3) Enter a building, property, premises or place where residual waste is generated, stored, processed, treated or disposed for the purpose of making an investigation or inspection necessary to ascertain the compliance or non-compliance by the person or municipality with the provisions of the act, the environmental acts and the regulations thereunder.

(4) In connection with an inspection or investigation, samples may be taken of solid, semisolid, liquid or contained gaseous material for analysis. If an analysis is made of the samples, a copy of the results of the analysis will be furnished within 5 business days after receiving the analysis from the laboratory to the person having apparent authority over the building, property, premises or place.

(b) The Department, its employes and agents may conduct routine inspections as follows:

(1) For residual waste landfills and residual waste disposal impoundments, at least 12 times per year.

(2) For residual waste incinerators and resource recovery facilities, at least 2 times per year.

(3) For transfer facilities, composting facilities and processing facilities, at least 4 times per year.

(4) For facilities for the agricultural utilization of residual waste, or for utilization of residual waste for land reclamation, at least 2 times per year.

(5) For facilities and beneficial use areas subject to permit-by-rule under § 287.102 (relating to permit-by-rule), general permit for beneficial use or processing, or both, under §§ 287.611, 287.612, 287.621—287.625, 287.631, 287.632, 287.641—287.644, 287.651 and 287.652 and beneficial use areas under §§ 287.661—287.665, at least once per year.

(c) The Department, its employes and agents may conduct additional inspections, including follow-up inspections, of residual waste processing, treatment, disposal, storage, collection and transportation facilities or to observe practices or conditions related to public health, safety, welfare or the environment, compliance with the act, the environmental protection acts, this title, the terms or conditions of a permit or a requirement of an order.

(d) The Department, its employes and agents may also conduct inspections of residual waste processing, treatment, disposal, storage, collection or transportation activities or facilities, if the person or municipality presents information to the Department which gives the Department reason to believe that:

(1) A person or municipality may have engaged in unlawful conduct under the act.

(2) A person or municipality may have violated an environmental protection act.

(3) A condition exists which may pose a threat to public health, safety, welfare or the environment.

(e) This section does not create a duty on the Department to conduct a minimum number of inspections per year at a facility.

(f) This section does not create defenses to Department actions.

### Subchapter G. DEMONSTRATION FACILITIES

#### § 287.501. Scope.

This subchapter applies to applications for residual waste processing or disposal facilities or parts of facilities, that are based on a new or unique technology for processing or disposing of residual waste. For purposes of this subchapter, a technology is new or unique if it has not previously been demonstrated in this Commonwealth or another comparable area. The Department may approve in writing, as a permit modification, the demonstration of new or unique technology for the processing or disposal of residual waste at permitted residual waste processing or disposal facilities provided the requirements of this subchapter are met.

#### § 287.502. Relationship to other requirements.

(a) An operation that is approved under this subchapter is subject to this article.

(b) The Department may waive or modify any application and operating requirements in this article. The Department will not waive or modify subchapter A, §§ 287.124, 287.125, 287.151 and 287.128, Subchapter E or Subchapter F.

#### § 287.504. Operating requirements.

In addition to applicable operating requirements set forth in this article, each person or municipality that operates a demonstration facility shall comply with the following:

(1) The facility may not be larger than the area needed to adequately test the new or unique technology.

(2) Waste may not be processed or disposed at the facility after 2 years from the initial processing or disposal of waste at the facility, unless a different period is stated in the permit. The permittee may request permit renewal under § 287.223 (relating to permit renewal).

(3) The operator shall submit periodic reports to the Department concerning the effectiveness and environmental effect of the facility.

(4) The permittee shall immediately cease operations and begin clean up and removal actions if the Department determines that the facility is causing or likely to cause harm to public health, safety, welfare or to the environment.

(5) Within 90 days from the expiration of the term of the permit, the permittee shall submit to the Department an analysis of the effectiveness of the technology, taking into consideration the factor set forth in § 287.503 (relating to application requirements).

(6) If Chapter 288, 289, 291, 293, 295, 297 or 299 is not clearly applicable to the facility, the permittee shall annually submit to the Department a nonrefundable permit administration fee of an amount set forth in the approved permit, but not more than \$1,800, in the form of a check payable to the "Commonwealth of Pennsylvania." The fee will be based on the administrative costs of the Department under section 104 of the act (35 P.S. § 6018.104(8)).

**Subchapter H. BENEFICIAL USE**

**GENERAL PERMITS FOR PROCESSING OR BENEFICIAL USE, OR BOTH, OF RESIDUAL WASTE OTHER THAN CERTAIN USES OF COAL ASH—AUTHORIZATION AND LIMITATIONS**

**§ 287.611. Authorization for general permit.**

(a) In accordance with §§ 287.612, 287.621—287.625, 287.631, 287.632, 287.641—287.644, 287.651 and 287.652 and this section, the Department may issue general permits on a regional or Statewide basis for a category of processing when processing is necessary to prepare the waste for beneficial use, or for a category of beneficial use, or both, of residual waste when the following are met:

(1) The wastes included in the category are generated by the same or substantially similar operations and have the same or substantially similar physical character and chemical composition. If wastes are not the same or substantially similar and are blended for use, the blend shall be consistently reproduced with the same physical character and chemical composition.

(2) The wastes included in the category are proposed for the same or substantially similar beneficial use or processing operations.

(3) The activities in the category can be adequately regulated utilizing standardized conditions without harming or presenting a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. At a minimum, the use of the waste as an ingredient in an industrial process or as a substitute for a commercial product may not present a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(b) The Department may issue a general permit upon its own motion under § 287.625 (relating to Department initiated general permits) or upon an application from a person or municipality under §§ 287.621—287.624.

(c) The Department may modify, suspend, revoke or reissue general permits or coverage under a general permit under this subchapter as it deems necessary to prevent harm or threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(d) The Department may issue a general permit for processing combinations of municipal and residual wastes when processing is necessary to prepare a waste for

beneficial use, or for beneficial use of combinations of municipal and residual wastes, or both, under Article VIII (relating to municipal waste) or this article, whichever the Department determines appropriate. The Department will determine which article is appropriate based on factors including whether the facility is captive or noncaptive, and the proportion of municipal and residual waste. The requirements in this subchapter that apply to residual waste also apply to municipal waste when mixed with residual waste. A general permit for processing or beneficial use of combinations of sewage sludge and residual waste will be issued only under Chapter 271, Subchapter I.

(e) The Department will not issue a general permit for the following:

- (1) A residual waste disposal impoundment.
- (2) A residual waste landfill, a valley fill or other fill.
- (3) The use of residual waste to fill open pits from coal or noncoal mining except for coal ash mixed with residual waste when the use does not present a safety hazard, will improve the overall quality of the area, is limited to the filling to natural contours of the land and does not present a threat to public health or the environment.

(4) The use of residual waste solely to level an area or bring the area to grade unless construction activity is completed on the area promptly after placement of the waste. A general permit may be issued for the beneficial use of waste as a construction material.

(5) The placement of waste oil or asbestos-containing waste on roads in this Commonwealth.

(6) Surface land disposal activities.

(7) The use of residual waste for construction or operations at a disposal facility.

(f) The Department may issue a general permit on a regional or Statewide basis for a category of processing when processing is necessary to prepare a residual waste for beneficial use, or for a category of beneficial use, or both, for coal ash mixed with other residual waste.

(g) The Department may issue a general permit on a regional or Statewide basis for the use, as construction material, of soil and other materials that do not meet the clean fill criteria.

**§ 287.621. Application for general permit.**

(a) A person or municipality may apply to the Department for the issuance of a general permit for a category of beneficial use of residual waste or for a category of processing of residual waste, where processing is necessary to prepare the waste for beneficial use.

(b) An application for the issuance of a general permit shall be submitted on a form prepared by the Department and shall contain the following:

(1) A description of the type of residual waste to be covered by the general permit, including physical and chemical characteristics of the waste. The chemical description shall contain an analysis meeting the requirements of § 287.132 (relating to chemical analysis of waste) for a sufficient number of samples of residual waste in the waste type to accurately represent the range of physical and chemical characteristics of the waste type.

(2) A description of the proposed type of beneficial use or processing activity to be covered by the general permit.

(3) A detailed narrative and schematic diagram of the production or manufacturing process from which the waste to be covered by the general permit is generated.

(4) For beneficial use general permits, proposed concentration limits for contaminants in the waste which is to be beneficially used, and a rationale for those limits.

(5) For general permits that involve beneficial use of a processed or unprocessed waste, a detailed demonstration of the efficacy of the waste for the proposed beneficial use, which shall include:

(i) If the waste is to be used as a substitute for a commercial product, a demonstration that the waste is capable of performing the desired functions of the commercial product, and that the waste meets or exceeds all applicable ASTM, Department of Transportation or other applicable National, state, local or industry standards or specifications for the material for which the waste is being substituted.

(ii) If the waste is to be used as a raw material for a product with commercial value, a demonstration that the waste will contribute significant properties or materials to the end product, and that the waste meets or exceeds all applicable ASTM, Department of Transportation or other applicable National, state, local or industry standards or specifications for the material for which the waste is being substituted.

(iii) If the waste is to be used in general roadway application or highway construction, a demonstration that approval has been granted by the Department of Transportation Product Evaluation Board, if applicable, for the use of the waste for the intended application.

(iv) If the waste is to be used as a construction material, soil substitute, soil additive or antiskid material, or is to be otherwise placed directly onto the land, an evaluation of the potential for adverse public health and environmental impacts from the proposed use of the residual waste. The evaluation shall identify the particular constituents of the waste which present the potential for adverse public health and environmental impacts, and the potential pathways of human exposure to those constituents, including exposure through groundwater, surface water, air and the food chain. The Department may waive or modify this requirement in writing.

(v) If the waste is to be used without reclamation as a construction material, soil additive, soil substitute or antiskid material or is to be otherwise placed directly onto the land, a demonstration that the residual waste to be beneficially used meets, at a minimum, the requirements of § 288.623(a) (relating to minimum requirements for acceptable waste). The Department may waive the requirements of § 288.623(a) that relate to secondary MCLs for this demonstration. The Department may waive or modify this provision for the use of oil and gas brines for road stabilization.

(vi) If the waste is to be used as a construction material, a description of the construction activities and detailed timelines for the prompt completion of the construction activities.

(6) If residual wastes are blended for use, a demonstration that each waste results in a beneficial contribution to the use of the mixed waste and that the consistency of the blend will be maintained. The applicant shall specify the quantities and proportions of all materials included in the blended waste and the mixture shall meet appropriate standards for use.

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**§ 287.632. Waiver and modification requirements.**

(a) An operation that is approved under this subchapter is subject to this article.

(b) The Department may waive or modify any application and operating requirements in this article, except the Department will not waive § 287.123 (relating to right of entry) and will not waive or modify Subchapter A, §§ 287.124, 287.125 and 287.128, Subchapter E in accordance with Section 287.621(d) or Subchapter F.

**BENEFICIAL USE OF COAL ASH**

**§ 287.661. Use of coal ash as structural fill.**

\* \* \* \* \*

(e) Coal ash used as a structural fill will not be considered a beneficial use unless the following requirements are met:

(1) The person or municipality has provided to the Department the information required by subsection (b) at least 60 days before using coal ash as a structural fill.

(2) The pH of the coal ash shall be in the range of 6.0 to 9.0, unless otherwise approved by the Department.

(3) The slope of a structural fill may not be greater than 2.5 horizontal to 1.0 vertical. The Department may approve a greater slope based on a demonstration of structural stability.

(4) Coal ash shall be spread uniformly and compacted in layers not exceeding 2 feet in thickness.

(5) Surface runoff from the fill area shall be minimized during filling and construction activity. Collection of surface runoff shall be managed in accordance with The Clean Streams Law and the regulations promulgated thereunder.

(6) Surface water shall be diverted away from the disturbed area during filling and construction activity.

(7) Coal ash shall be covered with 12 inches of soil, unless infiltration is prevented by other cover material.

(8) Coal ash may not be placed in contact with the seasonal high water table.

(9) Coal ash may not be placed within 8 feet of the regional groundwater table.

(10) Coal ash may not be used as a structural fill in a way that causes water pollution.

(f) Structural fills may not be located:

(1) Within 100 feet of an intermittent or perennial stream, unless the structural fill is otherwise protected by a properly engineered diversion or structure that is permitted by the Department under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

(2) Within 300 feet of a water source unless the operator obtains a waiver from the water source's owner, allowing for another distance.

(3) Within 25 feet of a bedrock outcrop, unless the outcrop is properly treated to minimize infiltration into fractured zones.

(4) Within 100 feet of a sinkhole or area draining into a sinkhole.

(5) Within a 100-year floodplain of a water of this Commonwealth, unless a properly engineered dike, levee or other structure that can protect the structural fill from a 100-year flood is permitted by the Department in a manner that is consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601), the Storm Water

Management Act (32 P. S. §§ 680.1—680.17) and the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

(6) In or within 100 feet of a wetland.

**§ 287.662. Use of coal ash as a soil substitute or soil additive.**

\* \* \* \* \*

(d) Coal ash used as a soil substitute or soil additive may not be considered a beneficial use unless the following requirements are met:

(1) The person or municipality has provided to the Department the information required by subsection (b) at least 60 days before using coal ash as a soil substitute or soil additive.

(2) The pH of the coal ash and the pH of the soil shall be in the range of 6.5 to 8.0 when mixed together in the manner required by the project, as shown by field and laboratory testing. Lime addition may be used to raise pH.

(3) Surface runoff from the project area shall be controlled during the project. Collection of surface runoff shall be controlled in accordance with The Clean Streams Law and the regulations promulgated thereunder.

(4) Diversion ditches, terraces and other runoff control structures shall be utilized to control erosion on the disturbed area of the project.

(5) The person or municipality conducting the activity shall have a Department-approved erosion and sedimentation control plan under Chapter 102 (relating to erosion control).

(6) Coal ash may not be placed in contact with the seasonal high water table.

(7) Coal ash may not be placed within 8 feet of the regional groundwater table.

(8) Coal ash may not be used in a way that causes water pollution.

(9) Coal ash shall be incorporated into the soil within 48 hours of application, unless otherwise approved by the Department. The coal ash shall be incorporated into the top 1-foot layer of surface soil. If 1 foot of surface soil is not present, coal ash may be combined with the surface soil that is present until the layer of combined surface soil and coal ash is 1 foot. The coal ash required for the beneficial use is limited to the amount necessary to enhance soil properties or plant growth.

(10) Coal ash shall be applied at a rate per acre that will protect public health, public safety and the environment.

(11) Coal ash may not be applied to soil being used for agriculture where the soil pH is less than 5.5.

(12) Coal ash may not be applied if resultant chemicals or physical soil conditions would be detrimental to biota.

(e) Coal ash may not be used as a soil substitute or soil additive:

(1) Within 100 feet of an intermittent or perennial stream, or a wetland other than an exceptional value wetland.

(2) Within 300 feet of a water source unless the operator obtains a waiver from the water source's owner, allowing for another distance.

(3) Within 100 feet of a sinkhole or area draining into a sinkhole.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the current owner thereof has provided a written waiver consenting to the activities closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(5) In or within 300 feet of an exceptional value wetland.

**CHAPTER 288. RESIDUAL WASTE LANDFILLS**

**Subchapter B. APPLICATION REQUIREMENTS**

**PHASE I APPLICATION REQUIREMENTS—GENERAL**

**§ 288.111. Basic requirements.**

The Phase I application shall comply with the following:

(1) Sections 288.112, 288.113 and 288.121—288.129 (relating to facility plan; maps and related information; and Phase I application requirements—site analysis).

(2) Chapter 287, Subchapter C (relating to general requirements for permits and permit applications).

**§ 288.112. Facility plan.**

An application to operate a residual waste landfill shall contain conceptual drawings and a narrative describing the following:

(1) The general operational concept for the proposed facility, including the origin, composition and weight or volume of solid waste that is proposed to be disposed of at the facility, the type of liner system, the proposed capacity of the facility, the expected life of the facility and the size, sequence and timing of solid waste disposal operations at the facility.

(2) A detailed description of the volume of soil needed to construct and operate the facility and the method by which the soil will be delivered. The description will include the number of trucks, the access roads they will use, delivery times and any other information relevant to assessing the impacts of the operation.

**§ 288.113. Maps and related information.**

(a) An application shall contain a topographic map, on a scale of 1 inch equals no more than 200 feet with 10-foot maximum contour intervals. The Department may, in writing, approve the use of a different horizontal scale. The application shall include the map and necessary narrative descriptions, which show the following:

\* \* \* \* \*

(b) An application shall contain a topographic map showing the location and name of public water sources within 3 miles downstream or downgradient from the proposed facility, and the boundary of the proposed permit area. The map shall be on a scale of 1 inch equals no more than 2,000 feet with 20-foot contour intervals, including necessary narrative descriptions.

**PHASE I APPLICATION REQUIREMENTS—SITE ANALYSIS**

**§ 288.121. Description of geology, soils and hydrology; general requirements.**

In preparing the soils, geology and hydrology descriptions required by this section and §§ 288.122—288.127 the applicant shall include information about the proposed permit area and the adjacent area. Plans and cross sections submitted to comply with this section and §§ 288.122—288.127 shall be on a scale satisfactory to

the Department. The map shall be on a scale of 1 inch equals no more than 200 feet, with contour intervals at a maximum of 10 feet. Maps and cross sections submitted for a particular application shall be of the same or easily compared scales.

**§ 288.122. Geology and groundwater description.**

(a) An application shall contain a description of the geology and groundwater in the proposed permit area and adjacent area down to and including the lowest aquifer that may be affected by the facility, including the following:

\* \* \* \* \*

(8) Well head protection areas in accordance with § 109.1 (relating to definitions) that may be impacted by the facility.

(9) A groundwater contour map based upon the highest groundwater level recorded monthly in each boring for the previous year. The Department may require more frequent measurements after significant precipitation events.

(b) A boring or coring not cased and capped and not to be used for groundwater monitoring shall be grouted shut or otherwise sealed in a manner approved by the Department.

**§ 288.123. Groundwater quality description.**

(a) An application shall contain a description of the chemical characteristics of each aquifer in the proposed permit area and adjacent area, based on at least two quarters, one of which shall include the season of highest local groundwater levels. This description shall be based on quarterly sampling and analysis from each monitoring well for the following parameters:

(1) Ammonia-nitrogen, bicarbonate, calcium, chloride, chemical oxygen demand, fluoride, nitrate-nitrogen, pH, specific conductance, sulfate, total alkalinity, total dissolved solids, total organic carbon, turbidity, iron, manganese, potassium and sodium.

\* \* \* \* \*

**§ 288.124. Soil description.**

(a) An application for a Class I or Class II landfill shall contain:

(1) The depth to the seasonal high water table within the proposed permit area and adjacent area to demonstrate that the seasonal high water table will not be in contact with the liner system.

(2) A description of the soils to be used for daily, intermediate and final cover, and facility construction, including chemical description, texture, laboratory particle size analyses and quantity. Cross sections of the borrow pits within the proposed permit area shall be included.

(b) An application for a Class III landfill shall contain:

(1) A description of the soils within the proposed permit area and adjacent area down to the bedrock, including for each soil horizon, depth, matrix color, texture, structure, consistency, degree of mottling, mottling colors and laboratory particle size analyses.

(2) The depth to the seasonal high water table within the proposed permit area and adjacent area to demonstrate that the seasonal high water table will not be in contact with the liner system.

(3) A description of the soils to be used for daily, intermediate and final cover, attenuating soil base and facility construction, including texture, chemical description, laboratory particle size analyses and quantity. Cross sections of the borrow pits within the proposed permit area shall be included.

(c) In preparing the description of soils and elevations, the applicant shall do the following:

(1) Base the description on a sufficient number of pits, excavations and samples to allow an accurate characterization of the soils in the proposed permit area and adjacent area and each onsite and offsite borrow area.

(2) Use the following soil classification systems:

(i) For daily, intermediate and final cover, and for attenuating soil, if applicable, the United States Department of Agriculture Soil Classification System.

(ii) For the liner system, site construction and other noncover uses, the Unified Soil Classification System.

(3) Conduct required laboratory particle size analysis according to ASTM D422 (Standard Method for Particle-Size Analysis of Soils) or another analytical method approved in writing by the Department prior to the analyses.

**§ 288.127. Mineral deposits information.**

(a) If the proposed permit area and adjacent area overlies existing workings of an underground mine, the applicant shall submit sufficient information to evaluate the potential for mine subsidence damage to the facility, including the following:

(1) Maps and plans showing previous mining operations underlying the proposed facility.

(2) An investigation, with supporting documentation, by a registered professional engineer with geotechnical expertise addressing the probability and potential impacts of future subsidence. The investigation shall address the potential for additional mining beneath the permit and adjacent area, the stability of the final underground workings, the maximum subsidence likely to occur in the future and the effect of that subsidence on the integrity of the facility, and any measures which have been or will be taken to stabilize the surface.

(b) If the proposed permit area and adjacent area overlies recoverable or mineable coals, the applicant shall demonstrate that the applicant owns the coal and shall warrant that the coal will not be mined as long as residual waste remains on the site, except for surface mining activities approved in the permit for purposes of facility construction.

**§ 288.128. Notification of proximity to airport.**

An applicant shall notify the Bureau of Aviation of the Pennsylvania Department of Transportation, the Federal Aviation Administration and the airport if a proposed landfill or expansion, that is planned to receive putrescible waste, is within 6 miles of an airport runway. The application shall include a copy of each notification and each response to each notification received by the applicant.

**PHASE II APPLICATION  
REQUIREMENTS—GENERAL**

**§ 288.131. Basic requirements.**

(a) The Phase II permit application shall comply with the following:

(1) This section and §§ 288.132—288.139, 288.141, 288.142, 288.151, 288.152, 288.161, 288.171, 288.181 and 288.182.

(2) Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(b) Applications, plans, cross sections, modules and narratives shall demonstrate how the construction and operating requirements of Subchapter C (relating to operating requirements) will be implemented, and shall include quality control measures necessary to ensure proper implementation.

(c) The plans, designs, cross sections and maps required by this section and §§ 288.132—288.139, 288.141, 288.142, 288.151, 288.152, 288.161, 288.171, 288.181 and 288.182 shall be on a scale in which 1 inch equals no more than 200 feet with 10-foot maximum contour intervals.

**§ 288.132. Operation plan.**

An application shall contain a description of the residual waste landfill operations proposed during the life of the facility within the proposed permit area, including the following:

(1) A narrative describing the type and method of residual waste landfill procedures, procedures for inspection and monitoring of incoming waste, sequence of landfilling activity, type of landfilling activity, proposed engineering techniques and the major equipment to be used under § 288.215 (relating to equipment), using the maps and grids required by § 288.133 (relating to map and grid requirements) as a basis for the description.

(2) A narrative explaining the method and schedule for construction, operation, modification, use, maintenance and removal of the following components of the proposed facility, unless their retention is proposed for postclosure land use:

- (i) Dams, embankments, ditches and other impoundments.
- (ii) Borrow pits, soil storage and handling areas and structures.
- (iii) Scales and weigh station, if required.
- (iv) Water and air pollution control facilities.
- (v) Erosion and sedimentation control facilities.
- (vi) Equipment storage and maintenance buildings, and other buildings.
- (vii) Access roads.

(3) A construction schedule and sequence of operations tied to the grid coordinate system required by § 288.211 (relating to signs and markers), a site preparation plan and a schedule for disposing of solid waste at the site, including the maximum daily weight or volume of waste that will be received at the facility.

(4) An explanation of how the applicant intends to comply with § 288.214 (relating to measurement of waste).

(5) A plan for assuring that solid waste received at the facility is consistent with the following:

- (i) Section 288.201 (relating to basic limitations).
- (ii) Section 288.423, § 288.523 or § 288.623 (relating to minimum requirements for acceptable waste; minimum requirements for acceptable waste; and minimum requirements for acceptable waste), whichever is applicable.

(6) The proposed operating hours of the proposed facility. The operating hours include those hours related to construction and other activities related to operation of the facility.

**§ 288.133. Map and grid requirements.**

(a) An application shall contain a topographic map of the proposed permit and adjacent areas showing the following:

(1) The boundaries of lands proposed to be affected over the estimated total life of the proposed operation and the sequence of landfilling and closure.

(2) A change in a component of the facility or a feature within the proposed permit area to be caused by the proposed operation.

(3) The buildings, utility corridors and facilities which will be used in the operation.

(4) The areas of land for which a bond will be posted under Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(5) The solid waste storage, processing or unloading areas.

(6) The water diversion, collection, conveyance, erosion and sedimentation control, treatment, storage and discharge facilities to be used.

(7) The location and elevation of the permanent physical markers for the grid coordinate system under subsection (b).

(8) The gas management, collection and control facilities, if required.

(9) The boundaries of construction activities.

(10) The location of barriers, fences and similar structures required by § 288.212 (relating to access control).

(11) The location of each sedimentation pond, permanent water impoundment or similar facility.

(12) The location of access roads to the site, including slopes, grades and lengths of the roads.

(13) The location and identity of monitoring wells.

(14) For noncaptive residual waste landfills, a designated area for vehicles for use in the event of the detection of waste containing radioactive material. The designated area shall, by location or shielding, protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

(b) The applicant shall also submit a grid coordinate system for the entire proposed permit area. The horizontal control system shall consist of a grid not to exceed 200-foot square sections unless the facility is larger than 250 acres and the Department approves, in writing, a grid that exceeds 200-foot square sections. A permanent benchmark for horizontal and vertical control shall be shown. The grid system shall be a state or universal grid system and shall be tied to the benchmark and the baseline.

**§ 288.134. Plan for access roads.**

The application shall contain designs, cross sections and specifications for access roads, including load limits, under § 288.213 (relating to access roads).

**§ 288.136. Nuisance minimization and control plan.**

(a) The application shall contain a plan in accordance with § 288.218 (relating to nuisance minimization and control) to minimize and control hazards or nuisances from vectors, odors, noise, dust, unsightliness and other nuisances not otherwise provided for in the permit application.

(b) The plan shall include the following:

(1) Provisions for the routine assessment and control of vector infestation.

(2) Methods to minimize and control nuisances from odors, dustfall and noise off the property boundary from the facility.

(3) For odors, the determination of normal and adverse weather conditions based on site-specific meteorological data. Prior to the installation of equipment and collection of meteorological data, a protocol for the installation and data collection shall be approved by the Department.

(c) The plan required in subsection (a) may include a contractual arrangement for services of an exterminator or an air quality, noise, dust control or other professional.

**§ 288.138. Daily volume.**

The application shall contain proposed average and maximum daily volumes for the facility, and a detailed justification for these volumes, based on §§ 287.126 and 287.127 (relating to requirements for environmental assessment; and environmental assessment).

**§ 288.139. Radiation protection action plan.**

(a) An application for a noncaptive residual waste landfill shall contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting.

(b) The action plan shall be prepared in accordance with the Department's "*Guidance Document on Radioactivity Monitoring at Solid Processing and Disposal Facilities*," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

(c) The action plan shall be incorporated into the landfill's approved waste analysis plan under § 287.134 (relating to waste analysis plan).

**PHASE II APPLICATION REQUIREMENTS—COVER AND REVEGETATION****§ 288.141. Compaction and cover plan.**

An application shall contain a plan for compaction and cover at the proposed facility under §§ 288.216 and 288.232—288.234 and shall include the following information:

(1) The procedures for placement and compaction of solid waste and the degree of compaction of solid waste.

(2) The number and thickness of lifts.

(3) The materials and procedures for application of daily, intermediate and final cover material, that meet the standards in §§ 288.232—288.234 (relating to daily cover; intermediate cover and slopes; and final cover and grading).

(4) The procedures to establish elevation and grade of final cover.

**PHASE II APPLICATION REQUIREMENTS—WATER QUALITY PROTECTION AND MONITORING****§ 288.152. Water quality monitoring plan.**

(a) An application shall contain a water quality monitoring plan showing how the operator intends to comply with §§ 288.251—288.258 (relating to water quality monitoring). The plan shall include the following:

(1) The number, location and design of proposed monitoring points.

(2) For new facilities, pre-operational data showing existing groundwater quality, as required by § 288.123 (relating to groundwater quality description), and a procedure to establish this groundwater quality. For existing facilities, adequate monitoring data as required by § 288.123 to characterize background groundwater quality and a procedure to establish this groundwater quality.

(b) The application shall contain a groundwater sampling and analysis plan. The plan shall include:

(1) Procedures and techniques designed to accurately measure groundwater quality upgradient, beneath and downgradient of the proposed waste disposal area.

(2) Department approved sampling and analytical methods that are specific to the proposed facility and that will accurately measure solid waste, solid waste constituents, leachate or constituents of decomposition in the groundwater.

(3) Procedures and techniques for sample collection, sample preservation and shipment, analytical procedures, chain of custody control and field and laboratory quality assurance and quality control.

(4) Procedures and techniques for evaluation of analytical results to determine if groundwater degradation has occurred.

(c) The Department may approve the use of an alternate groundwater monitoring system for facilities located in the anthracite coal region if the applicant demonstrates the following to the Department's satisfaction with a detailed hydrogeologic study:

(1) The nature and extent of underground coal mining beneath the proposed facility makes impracticable the installation of the groundwater monitoring system required by this subchapter.

(2) The proposed alternate system is capable of completely and accurately identifying adverse effects on groundwater from the proposed facility.

**PHASE II APPLICATION REQUIREMENTS—CLOSURE PROVISIONS****§ 288.182. Closure plan.**

(a) The application shall contain a plan describing the activities that are proposed to occur in preparation for closure and after closure to ensure compliance with this chapter.

(b) The closure plan shall include:

(1) A plan for the decontamination and removal of equipment, structures and related material from the facility.

(2) An estimate of the year in which final closure will occur, including an explanation of the basis for the estimate.

(3) A description of the steps necessary for closure if the facility closes prematurely.



(4) A narrative description, including a schedule, of measures that are proposed to be carried out in preparation for closure and after closure at the facility, including measures relating to the following:

- (i) Water quality monitoring.
- (ii) Gas control and monitoring.
- (iii) Leachate collection and treatment.
- (iv) Erosion and sedimentation control.
- (v) Revegetation and regrading, including maintenance of the final cover.
- (vi) Access control, including maintenance of access control.

(5) A description of the means by which funds will be made available to cover the cost of postclosure operations, which shall include an assessment of project postclosure maintenance costs, a description of how the necessary funds will be raised, a description of where the funds will be deposited, copies of relevant legal documents and a description of how the funds will be managed prior to closure.

(6) The name, address and telephone number at which the operator can be reached during the postclosure period.

**PHASE II APPLICATION  
REQUIREMENTS—ADDITIONAL PROVISIONS  
FOR CERTAIN WASTES**

**§ 288.191. Plan for disposal of PCBs.**

(a) An application for the disposal of electrical transformers that previously contained between 50 and 500 ppm of PCBs shall contain a narrative description and necessary plans and drawings to show how the applicant plans to comply with § 288.301 (relating to PCBs).

(b) For other PCB-containing wastes which are proposed to be disposed at a Class I or Class II residual waste landfill, the applicant shall provide the information the Department states in writing is necessary to protect public health, safety, welfare and the environment.

**Subchapter C. OPERATING REQUIREMENTS  
GENERAL PROVISIONS**

**§ 288.201. Basic limitations.**

(a) Except as provided in subsection (b), a person or municipality may not own or operate a residual waste landfill unless the Department has first issued a permit to that person or municipality for the facility under this chapter.

(b) A person or municipality may conduct monitoring under § 288.123 (relating to groundwater quality description) without a permit from the Department if the Department has given written approval for the monitoring based on written plans that are consistent with this chapter.

(c) A person or municipality that operates a residual waste landfill shall comply with the following:

- (1) The act, this article and other applicable regulations promulgated under the act.
- (2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(d) A person or municipality may not allow residual waste to be disposed at the facility unless the Department has specifically approved the disposal of the waste at the facility, in the permit.

(e) A coal ash monofill shall be located in an area that has been previously mined and left unreclaimed unless the operator provides a detailed written explanation in the permit application why locating the facility in such an area is not feasible.

(f) All approved mitigation measures identified in the application shall be completed before a facility may accept waste unless otherwise authorized in writing by the Department for technical reasons.

(g) The following radioactive material controlled under specific or general license or order authorized by any Federal, state or other government agency may not be disposed at the facility, unless specifically exempted from disposal restriction by an applicable Pennsylvania or Federal statute or regulation:

- (1) Naturally occurring and accelerator produced radioactive material.
- (2) Byproduct material.
- (3) Source material.
- (4) Special nuclear material.
- (5) Transuranic radioactive material.
- (6) Low-level radioactive waste.

(h) The following radioactive material may not be disposed at the facility, unless approved in writing by the Department and the disposal does not endanger the environment, facility staff or public health and safety.

- (1) Short-lived radioactive material from a patient having undergone a medical procedure.
- (2) TENORM.
- (3) Consumer products containing radioactive material.

(i) The limitations in subsections (g) and (h) do not apply to radioactive material as found in the undisturbed natural environment of this Commonwealth.

**§ 288.202. Certification.**

(a) The operator shall submit a certification by a Pennsylvania registered professional engineer on forms provided by the Department upon completion of each major construction activity identified in the permit for each phase or sequence of construction at the facility. Major construction activities include the following:

- (1) Construction of the groundwater monitoring system.
- (2) Construction of the subbase.
- (3) Construction of secondary liner.
- (4) Construction of the leachate detection zone.
- (5) Construction of the primary liner.
- (6) Construction of the protective cover and the collection system within the protection cover.
- (7) Placement of attenuating soil at natural attenuation facilities.
- (8) Construction of a leachate treatment facility.
- (9) Construction of a sedimentation pond.
- (10) Closure.
- (11) Final closure.

(12) Construction of the landfill gas extraction system.

(b) The certification shall describe the construction activity and the phase or sequence of construction being certified, using drawings and plans, if appropriate. The certification shall include testing results to prove compliance with the approved quality assurance plan. The certification shall state that the actual construction was observed by the engineer or persons under his direct supervision, and that the supervision was carried out in a manner that is consistent with the approved permit.

(c) Upon completion of each construction activity described in subsection (a) other than construction of a leachate treatment facility, the operator shall notify the Department that the construction activity is ready for inspection. Waste may not be disposed in the area subject to the inspection until the Department has conducted an inspection and has transmitted its written approval to the permittee indicating that construction was done according to the permit. The Department may, as part of an approved quality assurance and control plan, authorize a Pennsylvania registered professional engineer who is on the site continuously during construction to certify completion of a construction activity and authorize continuation of the next phase of construction activity prior to written approval from the Department.

#### DAILY OPERATIONS

##### § 288.211. Signs and markers.

(a) Permanent physical markers for the grid coordinate system and permit area markers shall be:

(1) Posted and maintained for the duration of the operations to which they pertain.

(2) Clearly visible, readable and uniform throughout the operation.

(3) Permanently fixed and made of a durable material.

(b) The perimeter of the site shall be clearly marked before the beginning of operations. The perimeter of a disposal area shall be clearly marked before the beginning of residual waste disposal within that area.

(c) The permanent physical markers for the grid coordinate system shall be installed at the locations in the permit, prior to the beginning of operations. The base line of the grid system shall be marked with two permanent monuments that show elevation.

(d) A person or municipality that operates a noncaptive residual waste landfill shall identify the facility for the duration of operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road. The sign shall be constructed of a durable, weather-resistant material. The sign shall show the name, business address and telephone number of the person or municipality that operates the facility, the operating hours of the facility and the number of the current permit authorizing operation of the facility.

##### § 288.212. Access control.

(a) The following conditions apply at all facilities except local captive facilities:

(1) A gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(2) The operator shall maintain a fence or other suitable barrier around the site, including impoundments,

lagoons, leachate collection and treatment systems and gas processing facilities, sufficient to prevent unauthorized access.

(3) Access to the site shall be limited to times when an attendant is on duty.

(b) At local captive facilities, the operator shall comply with subsection (a) unless the Department approves in the permit alternative means of protecting access to the site that afford an equivalent degree of protection.

##### § 288.213. Access roads.

(a) An access road shall be designed, constructed and maintained to prevent erosion to the maximum extent possible and to prevent contributions of sediment to streams or runoff outside the site.

(b) Crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. For roads that are used or in existence for more than 30 days, the drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 288.242 (relating to soil erosion and sedimentation control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 288.134 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12% unless otherwise approved by the Department for local captive facilities.

(e) Except for local captive facilities where the Department has set forth alternate requirements in the permit, and except for roads not leading to the disposal area, the landfill shall maintain a minimum cartway width of one of the following:

(1) Twenty-two feet for two-way traffic.

(2) Twelve feet for one-way traffic with pull-off intervals every 100 yards or a greater distance where there is a clear view of approaching vehicles.

(f) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the facility to each unloading area. An access road shall also be provided to each treatment facility, impoundment and groundwater monitoring point. Other monitoring points shall be readily accessible.

(g) Disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(h) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off the site.

(i) An access road shall be designed, constructed and maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

**§ 288.214. Measurement and inspection of waste.**

(a) For a noncaptive facility that has received, is receiving or will receive 30,000 or more cubic yards of solid waste in a calendar year, the following apply:

(1) Except as provided in paragraph (2), the operator shall weigh solid waste when it is received. The scale used to weigh solid waste shall conform to 3 Pa.C.S. Chapter 41 (relating to Consolidated Weights and Measures Act) and 70 Pa. Code Part I (relating to weighmaster). The operator of the scale shall be a licensed public weighmaster under 3 Pa.C.S. Chapter 41 and 70 Pa. Code Part I.

(2) The Department may approve, in the permit, an alternative method of accurately measuring waste when it is received.

(b) For other facilities, solid waste received or disposed of at the facility shall be accurately weighed or otherwise accurately measured.

(c) The operator shall inspect and monitor incoming waste to ensure that the disposal of waste is consistent with this article.

**§ 288.215. Equipment.**

(a) The operators shall maintain on the site equipment necessary for the operation of the facility in accordance with the permit. The equipment shall be maintained in an operable condition.

(b) If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and permit conditions.

**§ 288.216. Unloading and compaction.**

(a) Solid waste shall be spread and compacted in accordance with § 288.141 (relating to compaction and cover plan).

(b) The working face shall be kept to a size which can be easily compacted and covered daily, if daily cover is required, with available equipment.

(c) The following apply at each facility other than a local captive facility:

(1) An attendant or clearly marked signs shall direct vehicles to the unloading area.

(2) The operator shall ensure that collection vehicles unload waste promptly in unloading areas.

**§ 288.217. Air resources protection.**

(a) The operator shall implement fugitive air contaminant control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015), Article III (relating to air resources) and § 288.218 (relating to nuisance minimization and control). Minimization and control measures shall include the following:

(1) Ensuring that operation of the facility will not cause or contribute to an exceedance of an ambient air quality standard under § 131.3 (relating to ambient air quality standards).

(2) Ensuring that no open burning occurs at the facility.

(3) Minimizing the generation of fugitive dust emissions from the facility.

(b) The operator shall comply with the terms and conditions of an air quality plan approval and air quality

operating permit issued to the facility under Chapter 127 (relating to construction, modification, reactivation and operation of sources).

**§ 288.218. Nuisance minimization and control.**

(a) *Vectors.* An operator may not cause or allow the attraction, harborage or breeding of vectors.

(b) *Odors.*

(1) An operator shall implement the plan approved under § 288.136 (relating to nuisance minimization and control plan) to minimize and control public nuisances from odors. If the Department determines during operation of the facility that the plan is inadequate to minimize or control public nuisances, the Department may modify the plan or require the operator to modify the plan and obtain Department approval.

(2) An operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.

(3) An operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under paragraph (2).

(c) *Other conditions.* An operator shall implement the plan approved under § 288.136 (relating to nuisance minimization and control plan) to minimize and control other conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

**§ 288.221. Daily volume**

(a) A person or municipality operating a residual waste landfill may not receive solid waste at the landfill in excess of the maximum or average daily volume approved in the permit.

(b) The average daily volume is a limit on the volume of solid waste that is permitted to be received at the facility, and shall be computed annually by averaging the total volume received over the year.

**§ 288.222. Radiation monitoring and response for noncaptive landfills.**

(a) An operator shall implement the action plan approved under § 288.139 (relating to radiation protection action plan).

(b) An operator shall monitor incoming waste in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, the facility staff and the public health and safety. Monitoring shall meet the requirements of this section and the facility's approved radiation protection action plan.

(c) Radiation detector elements shall be as close as practical to the waste load and in an appropriate geometry to monitor the waste. The radiation monitoring system shall be set to alarm at a level no higher than 10 microrentgen per hour (uR/hr) above the average background at the facility when any of the radiation detector elements is exposed to a cesium-137 gamma radiation field. Radiation detector elements shall be shielded to maintain the average background below 10 uR/hr. If capable of energy discrimination, the radiation monitoring system shall be set to detect gamma rays of a 50 kiloelectron volt (keV) energy and higher.

(d) An operator shall have portable radiation monitors capable of determining the radiation dose rate and presence of contamination on a vehicle that has caused an alarm. Upon a confirmed exceedance of the alarm level in subsection (c), a radiological survey of the vehicle shall be performed.

(e) An operator shall notify the Department immediately and isolate the vehicle when radiation dose rates of 20  $\mu\text{Sv/hr}$  (2 mrem/hr) or greater are detected in the cab of a vehicle, 500  $\mu\text{Sv/hr}$  (50 mrem/hr) or greater are detected from any other surface, or contamination is detected on the outside of the vehicle.

(f) Monitoring equipment shall be calibrated at a frequency specified by the manufacturer, but not less than once a year.

(g) If radioactive material is detected, the vehicle containing the radioactive material may not leave the facility without written Department approval and an authorized United States Department of Transportation exemption form.

#### COVER AND REVEGETATION

**§ 288.231. (Reserved).**

**§ 288.232. Daily cover.**

(a) Except as provided in subsection (b), a uniform cover of the approved daily cover material shall be placed on exposed solid waste at the end of each working day, at the end of every 24 hours, or at the completion of every lift, whichever interval is less.

(b) The Department may waive the daily cover material requirements of this section in the permit if the operator demonstrates that the composition of solid waste disposed at the facility prevents vectors, odors, blowing litter and other nuisances, is noncombustible and allows loaded vehicles to successfully maneuver over it after placement without change in its properties and without regard to weather.

(c) The composition of the daily cover material shall meet the following performance standards. The daily cover shall:

- (1) Prevent vectors, odors, blowing litter and other nuisances.
- (2) Cover solid waste after it is placed without change in its properties and without regard to weather.
- (3) Be capable of allowing loaded vehicles to successfully maneuver over it after placement.
- (4) Be capable of controlling fires.
- (5) Be consistent with the waste acceptance plan for the facility.

(d) A 5-day supply of cover material shall be maintained on the site.

**§ 288.233. Intermediate cover and slopes.**

(a) Except as provided in subsection (b), a uniform intermediate cover shall be placed within 7 days of waste disposal on the following:

- (1) A partial lift for which the operator intends to place no additional waste for 6 months.
- (2) A partial or completed lift that represents final permitted elevations for that part of the facility.

(b) The Department may waive the intermediate cover requirements of this section if the operator demonstrates that the composition of solid waste disposed at the facility prevents vectors, odors, blowing litter, erosion and other

nuisances, is noncombustible, allows loaded vehicles to successfully maneuver over it after placement without change in its properties and without regard to weather, and is capable of supporting the germination and propagation of vegetative cover as required by §§ 288.236 and 288.237 (relating to revegetation; and standards for successful revegetation).

(c) The composition of the intermediate cover material shall meet the following performance standards. The intermediate cover shall:

- (1) Prevent vectors, odors, blowing litter and other nuisances.
- (2) Cover solid waste after it is placed without change in its properties and without regard to weather.
- (3) Be capable of allowing loaded vehicles to successfully maneuver over it after placement.
- (4) Be capable of controlling fires.
- (5) Be consistent with the waste acceptance plan for the facility.
- (6) Support the germination and propagation of vegetative cover as required by §§ 288.236 and 288.237 unless vegetative cover is not necessary to control infiltration of precipitation and erosion and sedimentation.
- (7) Control infiltration of precipitation and erosion and sedimentation.

(d) Unless alternative design requirements to meet the performance standards in subsection (c) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), intermediate cover shall meet the following design requirements:

- (1) If soil or soil-like material is used, the layer of cover soil shall be at least 12 inches in thickness.
- (2) If soil or soil-like material is used, the layer of cover soil shall be uniformly graded.
- (e) If intermediate cover requires revegetation, the revegetation shall be established within 30 days.

(f) Slopes constructed during daily landfilling and intermediate cover activities may not exceed 50%.

**§ 288.234. Final cover and grading.**

(a) Except as provided in subsection (b), the operator shall provide final cover in the following manner:

(1) A cap shall be placed and graded over the entire surface of each final lift. The cap may be no more permeable than  $1.0 \times 10^{-7}$  cm/sec. The following performance standards for the cap shall be met:

- (i) The cap shall minimize the migration of precipitation into the landfill.
- (ii) The cap shall be resistant to physical and chemical failure.
- (iii) The cap shall cover all areas where waste is disposed.

(2) A drainage layer capable of transmitting flow and preventing erosion of the soil layer shall be placed over the cap.

(3) A uniform layer of material shall be placed over the drainage layer. The layer of material shall support vegetation and protect the cap.

(b) The Department may waive the cap and drainage layer requirements of subsection (a)(1) and (2) based on a

demonstration that it is not necessary to limit infiltration into the waste. The demonstration shall include the following:

(1) The leachate production without a cap will be equivalent to leachate production with a cap.

(2) Waiver of a cap will not cause or contribute to groundwater degradation as a result of leachate production.

(c) Unless alternative design requirements to meet the performance standards in subsection (a)(1) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the cap shall meet the design requirements set forth for caps in Appendix A, Table II (relating to liner design standards).

(d) The operator shall place final cover within 1 year after disposal in the final lift ceases or as soon thereafter as weather permits, unless the Department, in the permit, allows a later period based on a demonstration that a later period is necessary to protect the cap and drainage layer from differential settlement of waste at the facility. The Department will not allow a later period unless, at a minimum, delayed installation will not cause or allow violations of this article, the act or the environmental protection acts.

(e) The layer of material described in subsection (a)(3) shall meet the following performance standards. The layer shall:

(1) Prevent vectors, odors, blowing litter and other nuisances.

(2) Cover solid waste after it is placed without change in its properties and without regard to weather.

(3) Be capable of allowing loaded vehicles to successfully maneuver over it after placement.

(4) Be capable of controlling fires.

(5) Be capable of preventing frost damage to the cap.

(6) Be capable of supporting the germination and propagation of vegetative cover as required by §§ 288.236 and 288.237 (relating to revegetation; and standards for successful revegetation).

(7) Not crack excessively when dry.

(8) Be consistent with the waste acceptance plan.

(f) Unless alternative design requirements to meet the performance standards in subsection (e) are approved as part of the permit under § 287.231 (relating to equivalency review procedure) the layer of material described in subsection (a)(3) shall meet the following design requirements:

(1) The cover soil shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam as defined in the *Soil Survey Manual* published by the United States Department of Agriculture, Soil Conservation Service (available from the Department or the Northeast National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19013-6092).

(2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

(3) The cover may not include rocks that are greater than 6 inches in diameter.

(4) The layer of cover soil shall be at least 2 feet in thickness.

(g) The grade of final slopes shall be designed, installed and maintained to accomplish the following:

(1) Ensure permanent stability.

(2) Control erosion due to rapid water velocity and other factors.

(3) Allow compaction, seeding and revegetation of cover material placed on the slopes.

(4) Ensure minimal infiltration and percolation of precipitation, surface water run-on and runoff into the disposal area.

(h) Unless the Department authorizes a different slope design in the permit based on a demonstration that the different design can meet the requirements of subsection (g), slopes shall be designed, installed and maintained as follows:

(1) The grade of the final surface of the facility may not be less than 3%.

(2) If the Department approves final grades of more than 15%:

(i) The operator shall construct a horizontal terrace at least 15 feet wide on the slope for every 25 feet maximum rise in elevations on the slope. The terrace width shall be measured as the horizontal distance between slope segments.

(ii) The gradient of the terrace shall be 5% into the landfill.

(iii) Drainage ditches shall be constructed on each horizontal terrace to convey flows.

(3) An operator may not leave final slopes that have a grade exceeding 33%, including slopes between benched terraces.

**WATER QUALITY PROTECTION**

**§ 288.245. Water supply replacement.**

(a) A person or municipality operating a residual waste landfill which adversely affects a water supply by degradation, pollution or other means shall restore the affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with distribution system, interconnection with a public water supply or extension of a private water

supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

#### WATER QUALITY MONITORING

##### § 288.252. Number, location and depth of monitoring points.

(a) The water quality monitoring system shall accurately characterize groundwater flow, groundwater chemistry and flow systems on the site and adjacent area. The system shall consist of the following:

(1) At least one monitoring well at a point hydraulically upgradient from the disposal area in the direction of increasing static head that is capable of providing representative data of groundwater not affected by the facility, except when the facility occupies the most upgradient position in the flow system. In that case, sufficient downgradient monitoring wells shall be placed to determine the extent of adverse effects on groundwater from the facility.

(2) At least three monitoring wells at points hydraulically downgradient in the direction of decreasing static head from the area in which solid waste has been or will be disposed. In addition to the downgradient wells, the Department may allow one or more springs for monitoring points if the springs are hydraulically downgradient from the area in which solid waste has been or will be disposed, if the springs are developed and protected in a manner approved by the Department and if the springs otherwise meet the requirements of this subchapter.

(3) A leachate detection system for the disposal area, when required for the facility.

(4) A leachate collection system for the disposal area, when required for the facility.

(5) Surface water monitoring points approved by the Department.

(b) The upgradient and downgradient monitoring wells shall be:

(1) Sufficient in number, location and depth to be representative of water quality.

(2) Located so as not to interfere with routine facility operations.

(3) Located within 200 feet of the permitted disposal area, except as necessary to comply with subsection (c), and located at the points of compliance.

(c) In addition to the requirements of subsection (b), upgradient monitoring wells shall be located so that they will not be affected by adverse effects on groundwater from the disposal area.

(d) In addition to the requirements of subsection (b), downgradient monitoring wells shall be located so that they will provide early detection of adverse effects on groundwater from the disposal area.

(e) Wells drilled under this section shall be drilled by drillers licensed under the Water Well Drillers License Act (32 P. S. §§ 645.1—645.13).

(f) The well materials shall be decontaminated prior to installation.

##### § 288.253. Standards for wells and casing of wells.

(a) A monitoring well shall be cased as follows:

(1) The casing shall maintain the integrity of the monitoring well borehole and shall be constructed of material that will not react with the groundwater being monitored.

(2) The minimum casing diameter shall be 4 inches unless otherwise approved by the Department in writing.

(3) The well shall be constructed with a screen that meets the following requirements:

(i) The screen shall be factory-made.

(ii) The screen may not react with the groundwater being monitored.

(iii) The screen shall maximize open area to minimize entrance velocities and allow rapid sample recovery.

(4) The well shall be filter-packed with chemically inert clean quartz sand, silica or glass beads. The material shall be well-rounded and dimensionally stable.

(5) The casing shall be clearly visible and protrude at least 1 foot aboveground, unless the Department has approved flush mount wells.

(6) The annular space above the sampling depth shall be sealed to prevent contamination of samples and the groundwater.

(7) The casing shall be designed and constructed to prevent cross contamination between surface water and groundwater.

(8) Alternative casing designs for wells in stable formations may be approved by the Department.

(b) Monitoring well casings shall be enclosed in a protective casing that shall:

(1) Be of sufficient strength to protect the well from damage by heavy equipment and vandalism.

(2) Be installed for at least the upper 10 feet of the monitoring well, as measured from the well cap, with a maximum stick up of 3 feet, unless otherwise approved by the Department in writing.

(3) Be grouted and placed with a concrete collar at least 3 feet deep to hold it firmly in position.

(4) Be numbered for identification with a label capable of withstanding field conditions and painted in a highly visible color.

(5) Protrude above the monitoring well casing.

(6) Have a locked cap.

(7) Be made of steel or other material of equivalent strength.

##### § 288.254. Sampling and analysis.

(a) A person or municipality operating a residual waste landfill shall conduct sampling and analysis from each monitoring point for the following parameters at the following frequencies:

(1) Quarterly, for ammonia-nitrogen, bicarbonate, calcium, chloride, fluoride, chemical oxygen demand, nitrate-nitrogen, pH, specific conductance, sulfate, total alkalinity, total organic carbon, total dissolved solids, turbidity, iron, manganese, magnesium, potassium and sodium.

(2) Quarterly, for groundwater elevations in monitoring wells recorded as a distance from the elevation at the well head referenced to mean sea level based on United States Geological Survey datum.

(3) Annually, for total and dissolved concentrations of each of the following: arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver and zinc.

(4) Annually, for the following volatile organic compounds: tetrachloroethene, trichloroethene, 1,1,1-trichloroethane, 1,2-dibromoethane, 1,1-dichloroethene,

1,2-dichloroethene (cis and trans isomers), vinyl chloride, 1,1-dichloroethane, 1,2-dichloroethane, methylene chloride, toluene, ethylbenzene, benzene and xylene.

(5) Other constituents contained in the waste that may leach into the environment, as determined under § 287.132 (relating to chemical analysis of waste). For facilities with leachate collection and treatment, the quarterly analysis shall be adjusted to reflect parameters detected from leachate analysis under § 288.456 or § 288.556 (relating to leachate analysis and sludge handling; and leachate analysis and sludge handling).

(b) The Department may modify the requirements of this section, based on the waste analysis conducted under § 287.132 for residual waste monofills for parameters and monitoring frequencies that are not necessary to determine the actual or potential effect of the facility on surface or groundwater. This subsection does not apply to subsection (a)(1).

(c) For facilities permitted before July 4, 1992, the parameters described in this section shall be sampled and analyzed beginning October 5, 1992.

**§ 288.256. Groundwater assessment plan.**

(a) *Requirement.* A person or municipality operating a residual waste landfill shall prepare and submit to the Department a groundwater assessment plan within 60 days after one of the following occurs:

(1) Data obtained from monitoring by the Department or the operator indicates groundwater degradation at any monitoring point.

(2) Laboratory analysis of one or more public or private water supplies indicates groundwater degradation that could reasonably be attributed to the facility.

(b) *Exception.* The operator is not required to conduct an assessment under this section if one of the following applies:

(1) Within 10 working days after receipt of sample results indicating groundwater degradation, the operator resamples the affected wells and analysis from resampling shows, to the Department's satisfaction, that groundwater degradation has not occurred.

(2) Within 20 working days after receipt of sample results indicating groundwater degradation, the operator demonstrates that the degradation was caused entirely by earthmoving and other activities related to facility construction, or by seasonal variations.

(c) The groundwater assessment plan shall specify the manner in which the operator will determine the existence, quality, quantity, areal extent and depth of groundwater degradation and the rate and direction of migration of contaminants in the groundwater. A groundwater assessment plan shall be prepared by an expert in the field of hydrogeology. The plan shall contain the following information:

(1) The number, location, size, casing type and depth of wells, lysimeters, borings, pits, piezometers and other assessment structures or devices to be used. If the operator establishes compliance points as part of the assessment, the points shall be wells constructed in accordance with §§ 288.252 and 288.253 (relating to number location and depth of monitoring points; and standards for wells and casing of wells).

(2) The sampling and analytical methods for the parameters to be evaluated.

(3) The evaluation procedures, including the use of previously gathered groundwater quality information, to determine the concentration, rate and extent of groundwater degradation from the facility.

(4) An implementation schedule.

(5) Identification of the abatement standard that will be met.

(d) The groundwater assessment plan shall be implemented upon approval by the Department in accordance with the approved implementation schedule, and shall be completed in a reasonable time not to exceed 6 months, unless otherwise approved by the Department. If the Department determines that the proposed plan is inadequate, it may modify the plan and approve the plan as modified. The operator shall notify, in writing, each owner of a private or public water supply that is located within 1/2-mile downgradient of the disposal area that an assessment has been initiated.

(e) Within 45 days after the completion of the groundwater assessment plan, the operator shall submit a report containing the new data collected, analysis of the data and recommendations on the necessity for abatement.

(f) If the Department determines after review of the groundwater assessment report that implementation of an abatement plan is not required by § 288.257 (relating to abatement plan), the operator shall submit a permit modification application under § 287.222 (relating to permit modification) for necessary changes to the groundwater monitoring plan. The operator shall implement the modifications within 30 days of the Department's approval.

(g) This section does not prevent the Department from requiring, or the operator from conducting groundwater abatement or water supply replacement concurrently with or prior to implementation of the assessment.

**§ 288.257. Abatement plan.**

(a) The operator of a residual waste landfill shall prepare and submit to the Department an abatement plan whenever one of the following occurs:

(1) The groundwater assessment plan prepared and implemented under § 288.256 (relating to groundwater assessment plan) shows the presence of groundwater degradation for one or more contaminants at one or more monitoring points and the analysis under § 288.256(c) indicates that an abatement standard under subsection (c) will not be met.

(2) Monitoring by the Department or operator shows the presence of an abatement standard exceedance from one or more compliance points as indicated in subsection (c) even if a groundwater assessment plan has not been completed. The operator is not required to implement an abatement plan under this paragraph if the following apply:

(i) Within 10 days after receipt of sample results showing an exceedance of an abatement standard at a point of compliance described in subsection (c), the operator resamples the affected wells.

(ii) Analysis from resampling shows to the Department's satisfaction that an exceedance of an abatement standard has not occurred.

(b) An abatement plan shall be prepared by an expert hydrogeologist and submitted to the Department. The plan shall contain the following information:

(1) The specific methods or techniques to be used to abate groundwater degradation at the facility.

(2) The specific methods or techniques to be used to prevent further groundwater degradation from the facility.

(3) A schedule for implementation.

(c) If abatement is required in accordance with subsection (a), the operator shall demonstrate compliance with one or more of the following standards at the identified compliance points:

(1) For constituents for which Statewide health standards exist, the Statewide health standard for that constituent at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer.

(2) The background standard for constituents at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer.

(3) For constituents for which no primary MCLs under the Federal and State Safe Drinking Water Acts (42 U.S.C.A. §§ 300f—300j-18; and 35 P. S. §§ 721.1—721.17) exist, the risk-based standard at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer, if the following conditions are met:

(i) The risk assessment used to establish the standard assumes that human receptors exist at the property boundary.

(ii) The level is derived in a manner consistent with Department guidelines for assessing the health risks of environmental pollutants.

(iii) The level is based on scientifically valid studies conducted in accordance with good laboratory practice standards (40 CFR Part 792 (relating to good laboratory practice standards)) promulgated under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2692) or other scientifically valid studies approved by the Department.

(iv) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level of  $1 \times 10^{-5}$  at the property boundary.

(d) For measuring compliance with secondary contaminants under subsection (c), paragraph (1) or (3), the Department may approve a compliance point beyond 150 meters on land owned by the owner of the disposal area.

(e) The abatement plan shall be completed and submitted to the Department for approval within 90 days of the time the obligation arises under this section unless the date is otherwise modified, in writing, by the Department.

(f) If the Department determines that the proposed plan is inadequate, the Department may modify the plan and approve the plan as modified or require the submission of an approvable modification.

(g) The abatement plan shall be implemented within 60 days of approval by the Department in accordance with the approved implementation schedule.

(h) If, after plan approval or implementation, the Department finds that the plan is incapable of achieving the groundwater protection contemplated in the approval, the Department may issue one or more of the following:

(1) An order requiring the operator to submit proposed modifications to the abatement plan.

(2) An order requiring the operator to implement the abatement plan as modified by the Department.

(3) An other order the Department deems necessary to aid in the enforcement of the act.

## MINERALS AND GAS

### § 288.261. Mineral resources.

(a) The operator shall isolate coal seams, coal outcrops and coal refuse from combustible waste deposits to prevent the combustion of the waste and that prevents damage to the liner system.

(b) Mine openings within the site shall be sealed in a manner approved by the Department.

(c) The operator shall implement a plan for controlling potential for damage from subsidence that was submitted and approved under § 288.127 (relating to mineral deposits information).

### § 288.262. Gas control and monitoring.

(a) If the waste disposed at the facility generates, or is likely to generate gas, the operator shall establish and implement a gas control and monitoring program plan under § 288.161 (relating to gas monitoring and control plan).

(b) The operator shall control decomposition gases generated within the site to prevent danger to workers, structures and to occupants of adjacent property.

(c) Gas venting and monitoring systems shall be installed during construction at facilities.

(d) Gas monitoring shall be conducted in accordance with the approved plan. Gas monitoring shall be conducted quarterly by the operator during active operations and after closure until the Department determines in writing that gas monitoring is not necessary to ensure compliance with the act, the environmental protection acts, regulations promulgated thereunder and the terms and conditions of the permit.

(e) Combustible gas levels may not equal or exceed:

(1) Twenty-five percent of the lower explosive limit in a structure within the site.

(2) The lower explosive limit at the boundaries of the site.

(f) The operator shall conduct active forced ventilation of the facility, using vents located at least 3 feet above the landfill surface, if one of the following apply:

(1) Passive venting has caused or may cause violations of subsection (e).

(2) Induced positive gas flows will prevent or control offsite odors.

## EMERGENCY PROCEDURES

### § 288.271. Hazard prevention.

A residual waste landfill shall be designed, constructed, maintained and operated to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth that could threaten public health or safety, public welfare or the environment.

### § 288.272. Emergency equipment.

(a) Except as provided in subsection (b), the operator shall have available, in proper working condition, the following equipment at the immediate operating area of the facility:



(1) An internal communications or alarm system capable of providing immediate emergency instruction by voice or signal to facility personnel.

(2) A communications system capable of summoning emergency assistance from local police, fire departments, emergency medical services and from State and local emergency response agencies.

(3) Portable fire extinguishers, fire control equipment, spill control equipment, self contained breathing apparatus and decontamination equipment. For fire control equipment requiring water, the facility shall have a water supply of adequate quantity and pressure to supply the equipment.

(4) Portable gas explosimeters and gas monitoring equipment.

(b) The Department may waive or modify one or more of the requirements of subsection (a) in the permit if the operator demonstrates to the Department's satisfaction that the requirements are not necessary to protect health and safety, public welfare and the environment.

(c) Equipment and material required by this section shall be tested and maintained so that it is operable in time of emergency.

(d) Adequate space shall be maintained to allow the unobstructed movement of emergency personnel and equipment to operating areas of the facility.

**RECORDKEEPING AND REPORTING**

**§ 288.281. Daily operational records.**

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

(b) The operational record shall include the following:

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

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

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

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

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

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

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

(8) For noncaptive facilities, the following:

(i) The transporters of the waste.

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

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

(iv) A record of each incident in which radioactive material is detected in waste loads. The record shall include:

(A) The date, time and location of the occurrence.

(B) A brief narrative description of the occurrence.

(C) Specific information on the origin of the material, if known.

(D) A description of the radioactive material involved, if known.

(E) The name, address and telephone numbers of the supplier or handler of the radioactive material and the name of the driver.

(F) The final disposition of the material.

(v) A record of each vehicle, other than a combination, that exceeds 73,280 pounds gross weight and of each combination that exceeds 80,000 pounds gross weight.

(A) The record shall include:

(I) The gross weight of the vehicle when weighed at the facility.

(II) The registration plate number and home, or base state registration of the vehicle.

(III) The name, business address and telephone number of the owner of the vehicle.

(IV) The date that the weight scale was last tested in accordance with 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act).

(V) The date and time when the vehicle was weighed at the facility.

(B) For purposes of this subparagraph, the following terms shall have the following meanings:

*Combination*—Two or more vehicles physically interconnected in tandem. An example of a combination is a truck trailer attached to a semitrailer.

*Gross weight*—The combined weight of a vehicle or combination of vehicles and its load excluding the driver's weight.

*Registration*—The authority for a vehicle to operate on a highway as evidenced by the issuance of an identifying card and plate or plates.

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

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

**§ 288.283. Annual operation report.**

(a) An operator shall submit to the Department an annual operation report by June 30 of each year.

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

(1) The weight or volume of each type of solid waste received. For noncaptive facilities, the report shall include

the average daily volume totals computed in accordance with § 288.221 (relating to daily volume).

(2) Unless otherwise provided by the Department in writing, a topographic survey map of the same scale, contour interval and grid system as the original site plans showing the following:

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

(ii) The completed areas of the site as well as areas partially filled but not active during the previous year.

(3) A calculation of capacity used in the previous year and remaining permitted capacity.

(4) A description of the acreage used for disposal, the acreage seeded, the acreage that has been vegetated, the acreage where vegetation is permanently established and a narrative of the operator's progress in implementing its closure plan.

(5) A current certificate of insurance as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for public liability insurance as required by § 287.371 (relating to insurance requirement).

(6) Changes in the previous year concerning the information required by §§ 287.124 and 287.125 (relating to identification of interests; and compliance information). The report shall state if no changes have occurred.

(7) A change in the ownership of the land upon which the facility is located or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the land.

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

(9) A written update of the total bond liability for the facility under § 287.331 (relating to bond amount determination). If additional bonding is determined to be necessary, it shall be submitted to the Department within 90 days after the annual report is due.

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

(11) For noncaptive facilities, the type and weight or volume of solid waste received from each generator, including the name, mailing address, county and state of each generator.

(12) A record of detected radioactive material.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$4,600 in the form of a check payable to the "Commonwealth of Pennsylvania."

(d) The report shall include an evaluation of whether the monitoring plan implemented under this subchapter needs to be revised to comply with § 288.252 (relating to number, location and depth of monitoring points) because of changes in groundwater elevation or other reasons. If this evaluation determines that changes in the approved groundwater monitoring plan are necessary, the operator shall immediately notify the Department and submit an

application for permit modification under § 287.222 (relating to permit modification) for necessary changes in the monitoring plan.

### CLOSURE PROVISIONS

#### § 288.292. Closure.

(a) The operator shall implement the closure plan approved by the Department under § 288.182 (relating to closure plan).

(b) At least 180 days before implementation of a closure plan, the operator shall review its approved closure plan to determine whether the plan requires modification, and shall submit proposed changes to the Department for approval under § 287.222 (relating to permit modification).

(c) If groundwater degradation exists at closure or occurs after closure, a person shall meet one of the following:

(1) Continue to implement an approved abatement plan.

(2) Submit an application for a closure plan modification in accordance with the procedures for a major permit modification. The operator shall select one or more remediation standards that will be met in accordance with the final closure certification requirements in § 287.342 (relating to final closure certification).

(d) An application for a closure plan modification shall include the following:

(1) Technical information and supporting documentation identifying the remediation activities that will be conducted to meet and maintain the remediation standards.

(2) If a remedy relies on access to or use of properties owned by third parties, for remediation or monitoring, documentation of cooperation or agreement.

### ADDITIONAL REQUIREMENTS FOR CERTAIN WASTES

#### § 288.301. PCBs.

(a) Solid waste containing PCBs may not be disposed at a residual waste landfill if the disposal of the waste at a municipal waste landfill is prohibited by the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629).

(b) Electrical transformers that contain or previously contained between 50 and 500 p.p.m. of PCBs may not be disposed until the equipment has been treated to meet either of the following:

(1) The transformer has been drained and rinsed.

(2) Free liquids have been removed from the transformer utilizing oil absorbent materials.

(c) The solvent used to rinse electrical equipment or the oil absorbent materials generated under subsection (b) shall be incinerated or disposed at a facility approved by the EPA under the Toxic Substances Control Act.

(d) The Department may impose additional requirements on the disposal of PCB-containing wastes at a residual waste landfill as the Department deems necessary to protect public health, safety, welfare and the environment.

#### § 288.302. Disposal of friable asbestos-containing waste.

(a) Friable asbestos-containing waste shall be covered immediately after deposition with at least 12 inches of nonasbestos containing cover material and compacted in

accordance with the permit. Nonfriable asbestos-containing waste shall be covered within 24 hours of placement with at least 6 inches of nonasbestos containing cover material and compacted in accordance with the permit.

(b) Friable asbestos-containing waste may not be stored where residual waste landfill operations are being conducted. If insufficient cover material is available to meet the requirements of subsection (a), friable asbestos-containing waste may not be accepted or received at the facility.

(c) Friable asbestos-containing waste may not be mixed with other waste at the facility prior to being covered.

(d) The operator may not cause or allow visible emissions from areas where friable asbestos-containing waste is handled or disposed.

(e) The operator shall comply with the applicable provisions of 40 CFR 61.140—61.156 (relating to National emission standard for asbestos).

(f) Friable asbestos-containing waste may not be placed within 10 feet of the base of final cover.

(g) The operator shall establish a three dimensional grid or alternate system which can identify the disposal location of the friable asbestos-containing waste. These locations shall be recorded on a log and topographic map.

**Subchapter D. ADDITIONAL REQUIREMENTS FOR CLASS I RESIDUAL WASTE LANDFILLS  
ADDITIONAL APPLICATION REQUIREMENTS**

**§ 288.412. Liner system and leachate control plan.**

(a) The application shall contain plans, drawings, cross sections and specifications for a liner system to demonstrate compliance with §§ 288.431—288.440 (relating to additional operating requirements—liner system), including the following:

(1) The design of the liner system, including thickness and characteristics of the subbase, the thickness and characteristics of the leachate detection zone, the design for the leachate monitoring system in the leachate detection zone, the nature and thickness of the liner material, the thickness and characteristics of the protective cover and leachate collection zone, and the design for the leachate collection system in the collection zone.

(2) A plan for installing the liner system.

(b) The application shall include a quality assurance and quality control plan for the construction and installation of the liner system. The plan shall include the following:

(1) A description of the testing procedures and construction methods proposed to be implemented during construction of the liner system.

(2) A description of the manner in which the protective cover and liner system will be maintained and protected in unfilled portions of the disposal area prior to and during placement of the initial lift of solid waste.

(3) A description of the manner in which the protective cover and liner system will be protected from weather prior to and during placement of the initial lift of solid waste.

(4) A description of the qualifications of the quality assurance and quality control personnel, presented in terms of experience and training necessary to implement the plan.

(5) A sampling plan for every component of the liner system, including sample size, methods for determining sample locations, sampling frequency, acceptance and rejection criteria, and methods for ensuring that corrective measures are implemented as soon as possible.

(6) A plan for documenting compliance with the quality assurance and quality control plan.

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteristics of the proposed liner system, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate, based on EPA or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed primary and secondary liners, based on ASTM methods when appropriate. Except to the extent that the Department waives in writing one or more of the following for nonsynthetic secondary liners, these properties include:

- (1) Thickness.
- (2) Tensile strength at yield.
- (3) Elongation at yield.
- (4) Elongation at break.
- (5) Density.
- (6) Tear resistance.
- (7) Carbon black content.
- (8) Puncture resistance.
- (9) Seam strength—% of liner strength.
- (10) Ultraviolet light resistance.
- (11) Carbon black dispersion.
- (12) Permeability.
- (13) Liner friction.
- (14) Stress crack resistance.
- (15) Oxidative induction time.
- (16) Chemical compatibility.
- (17) Percent recycled materials.

**ADDITIONAL OPERATING REQUIREMENTS—GENERAL**

**§ 288.422. Areas where Class I residual waste landfills are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, Class I residual waste landfills may not be operated as follows:

(1) In the 100-year floodplain of waters of this Commonwealth.

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following is true:

(i) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(4) In coal bearing areas underlain by recoverable or mineable coals unless the permittee owns the underlying coal.

(5) In a valley, ravine or head of hollow where the operation would result in the elimination, pollution or destruction of a portion of a perennial stream, except that rechanneling may be allowed as provided in Chapter 105.

(6) In areas underlain by limestone or carbonate formations where the formations are greater than 5 feet in thickness and present at the topmost geologic unit. The areas include an area mapped by the Pennsylvania Geological Survey as underlain by these formations, unless competent geologic studies demonstrate the absence of sinkhole development and sinkhole-prone limestone and carbonate formations.

(7) If occupied dwellings are nearby, the following apply:

(i) Except as provided in subparagraphs (ii) and (iii), a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. Except as provided in subparagraphs (ii) and (iii), the disposal area of a residual waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(ii) For a permitted noncaptive residual waste landfill that was operating and not closed as of January 13, 2001, an expansion permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:

(A) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(B) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before January 13, 2001, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

(iii) A new, noncaptive residual waste landfill, permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed, noncaptive landfill that submits an application to reopen and expand shall also be subject to this paragraph.

(iv) Notwithstanding the prohibitions in subparagraphs (ii) and (iii), an access road to a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner of the

dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(8) Within 100 feet of a perennial stream unless storage, processing and disposal will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(9) Within 100 feet of a property line, unless one of the following applies:

(i) Actual disposal will not occur within that distance.

(ii) The owner has provided a written consent to the facility being closer than 100 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(10) Within 1/4 mile upgradient and within 300 feet downgradient of a private or public water source, for disposal, processing and storage areas, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(11) If the facility receives or proposes to receive putrescible waste the following apply:

(i) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(ii) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be end used by piston-type aircraft during the life of disposal operations under the permit.

(iii) For areas permitted on or after January 13, 2001, in a manner in which any portion of the landfill would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

(12) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a noncaptive residual waste landfill permit issued prior to January 13, 2001, for a noncaptive residual waste landfill permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver,

the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) The Department may waive or modify one or more of the isolation distances in subsection (a)(1), (5), (7), (8) and (10) for expansions of captive facilities if the operator of the captive facility demonstrates the following to the Department's satisfaction:

(1) The captive facility was permitted prior to July 4, 1992, or was permitted after July 4, 1992, if the Department determined the permit application for the facility to be administratively complete prior to July 4, 1992.

(2) The captive facility routinely and regularly disposed of residual waste on and after July 4, 1992.

(3) The expansion of the captive facility solely includes land which is contiguous to the captive facility.

(4) The expansion of the captive facility solely includes land which is owned by the applicant on July 4, 1992.

(5) No other site is available on contiguous land for the expansion of the captive facility.

(6) The expansion of the captive facility will be designed and operated to ensure that the facility does not harm public health, safety, welfare or the environment.

\* \* \* \* \*

**§ 288.423. Minimum requirements for acceptable waste.**

(a) A person or municipality may not dispose of residual waste at a Class I residual waste landfill unless the waste meets the following criteria:

(1) Neither the residual waste nor leachate from the waste will adversely affect the ability of the liner system to prevent groundwater degradation.

(2) Leachate generated from the residual waste will be treated by the facility's leachate treatment system under applicable laws and in a manner that will protect public health, safety and the environment.

(3) The residual waste will not react, combine or otherwise interact with other waste that is or will be disposed at the facility in a manner that will adversely affect the ability of the liner system to prevent groundwater degradation.

(4) Except to the extent that leachate recirculation is allowed in the permit, residual waste may not be bulk or noncontainerized liquid waste. Containers holding free liquids may not be accepted unless the container is less than 1 gallon in size, except as otherwise provided in the permit.

(5) The residual waste may not be allowed to react, combine or otherwise interact with other waste or materials in a way that endangers public health, safety and welfare or the environment by generating extreme heat or pressure, fire or explosion, or toxic mists, fumes, dusts or vapors. The potential for interaction shall be determined using the procedure in the EPA's "A Method for Determining the Compatibility of Hazardous Wastes" (EPA-600/2-80-076)—available through the Department or the National Technical Information Service (NTIS), United States Department of Commerce, Springfield, VA. 22161—or another equivalent method approved by the Department in the permit.

(6) The physical characteristics of this waste will not cause or contribute to structural instability or other operating problems at the site.

(b) A person or municipality may not dispose of municipal waste or special handling waste at a Class I residual waste landfill, except that the Department may, in the permit, approve the storage or disposal of the following types of waste generated by the operator:

(1) Industrial lunchroom or office waste.

(2) Special handling waste, other than sewage sludge, infectious or chemotherapeutic waste, waste oil or ash residue from the incineration of municipal waste.

(3) Construction/demolition waste.

(c) A person or municipality may not dispose of hazardous waste at a Class I residual waste landfill unless all of the following are met:

(1) Disposal of the waste at a residual waste landfill is authorized by Article VII (relating to hazardous waste management).

(2) The Department approves of the disposal of the waste at the residual waste landfill in the permit.

(d) A person or municipality may not dispose of solid waste at a Class I residual waste landfill if the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629) prohibits the disposal of the solid waste at the residual waste landfill.

**ADDITIONAL OPERATING REQUIREMENTS—LINER SYSTEM**

**§ 288.432. General limitations.**

(a) The bottom of the subbase of the liner system cannot be in contact with the seasonal high water table or perched water table without the use of groundwater pumping systems.

(1) Soil mottling may indicate the presence of a seasonal high water table.

(2) Drainage systems may be utilized to prevent contact between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is likely to adversely affect the quality or quantity of water provided by a public or private water supply, even if a replacement supply is available under § 288.245 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping, french drains or equivalent methods.

(b) For unconfined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table. The regional groundwater table may not be artificially lowered.

(c) For confined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The integrity of the confining layer may not be compromised by excavation.

(d) If the approved design plans provide for the placement of additional adjacent liner, the following apply:

(1) Waste may not be placed within 25 feet of an edge of the liner.

(2) The edge of the liner shall be protected by approved soil cover, or another material approved in the permit, until additional liner is added.

(3) A lined berm at least 4 feet high shall be constructed and maintained to prevent the lateral escape of leachate.

(4) Adequate spacing shall be maintained on the inside of the berm to collect stormwater and sediment.

(e) If the approved design plans do not provide for the placement of additional adjacent liner, waste may not be placed within 15 feet of the inside top of the lined perimeter berm.

(f) A lined perimeter berm at least 4 feet high shall be constructed and maintained along the edge of the lined disposal area to prevent the lateral escape of leachate.

(g) The edge of the liner shall be clearly marked.

**§ 288.433. Subbase.**

(a) The subbase shall meet the following performance standards. The subbase shall:

(1) Bear the weight of the liner system, waste, cover material and equipment operating on the facility without causing or allowing failure of the liner system.

(2) Accommodate potential settlement without damage to the liner system.

(3) Be a barrier to the transmission of liquids.

(4) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the subbase shall meet the following design requirements. The subbase shall:

(1) Consist of an upper 6 inches that is:

(i) Compacted to a standard proctor density of at least 95%.

(ii) No more permeable than  $1.0 \times 10^{-5}$  cm/sec., based on laboratory and field testing, unless the clay component of a composite liner is located directly above the subbase.

(iii) Hard, uniform, smooth and free of debris, rock fragments, plant materials and other foreign material.

(2) Have a postsettlement slope of at least 2% and no more than 33%.

**§ 288.434. Secondary liner.**

(a) *General.* The secondary liner shall meet the following requirements:

(1) The secondary liner shall prevent the migration of leachate through the liner to the greatest degree that is technologically possible.

(2) The effectiveness of the secondary liner in preventing the migration of leachate may not be adversely affected by the physical or chemical characteristics of solid waste, solid waste constituents or leachate from the facility.

(3) The secondary liner shall be resistant to physical failure, chemical failure and other failure from the sources identified under § 288.412(d) (relating to liner system and leachate control plan).

(4) The secondary liner shall cover the bottom and sidewalls of the facility.

(b) *Alternative design requirements.* Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the

secondary liner shall meet, at the minimum, the requirements of Appendix A, Table I (relating to minimum liner design standards).

(c) *Requirements.* A secondary liner shall:

(1) Be no more permeable than  $1.0 \times 10^{-7}$  cm/sec. based on laboratory testing. For nonsynthetic liners, field testing shall also be conducted.

(2) Be installed, if the liner is synthetic, according to manufacturer's specifications under the supervision of an authorized representative of the manufacturer. An approved quality assurance and quality control plan shall be implemented in the field during the installation of the liner.

(3) Be designed, installed and maintained, if the liners are remolded clay, according to a quality assurance and quality control plan approved by the Department for remolded clay liners.

(4) Be inspected for uniformity, damage and imperfections during construction and installation.

(d) *Compacted lifts.* Secondary liners made of clay, bentonite and bentonite-like materials shall be constructed in compacted lifts not exceeding 6 inches in depth. A lift shall be scarified before placement of the next lift.

(e) *Composite secondary liner.*

(1) If the operator does not design, construct, operate and maintain a composite primary liner, the operator shall design, construct, operate and maintain a composite secondary liner which has the following components:

(i) An upper component made of a manufactured geosynthetic liner that meets the requirements of this section independently of the composite component.

(ii) A composite component made of earthen material that meets the requirements of this section independently of the upper component, except that the composite component shall be no more permeable than  $1.0 \times 10^{-6}$  cm/sec. based on laboratory and field testing.

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact, between them.

(3) The use of a composite secondary liner does not relieve the operator of responsibility for a separate primary liner under § 288.436 (relating to primary liner).

(f) *Natural attenuation of leachate prohibited.* A facility or a component thereof that is subject to this section may not have a secondary liner based upon natural attenuation of leachate.

**§ 288.435. Leachate detection zone.**

(a) The leachate detection zone shall meet the following performance standards. The leachate detection zone shall:

(1) Rapidly detect and collect liquid entering the leachate detection zone, and rapidly transmit the liquid to the leachate treatment system.

(2) Withstand chemical attack from waste or leachate.

(3) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(4) Function without clogging.

(5) Prevent the liner from puncturing, cracking, tearing, stretching or otherwise losing its physical integrity.

(6) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements:

- (1) Be at least 12 inches thick.
- (2) Contain no material exceeding 0.5 inches in particle size.
- (3) Create a flow zone between the secondary liner and the primary liner equal to or more permeable than  $1.0 \times 10^{-2}$  cm/sec. based on a laboratory testing and, when required by the Department, field testing.

(4) Contain a perforated piping system capable of detecting and intercepting liquid within the leachate detection zone and conveying the liquid to a collection sump for storage, processing or disposal. The sump shall be separate from the leachate collection sump, and shall be of a sufficient size to transmit leachate that is generated.

(5) The piping system shall also meet the following requirements:

(i) The slope, size and spacing of the piping system shall assure that liquids drain from the leachate detection zone.

(ii) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(iii) The minimum diameter of the perforated pipe shall be 4 inches with a wall thickness of Schedule-80 or greater, as specified by ASTM, or equivalent.

(iv) The pipes shall be cleaned and maintained as necessary.

(6) The leachate detection zone shall have a minimum bottom slope of 2%.

(7) The system shall contain noncarbonate stone or aggregates with no sharp edges.

(c) The operator shall monitor the leachate detection zone weekly to determine whether liquid is flowing from the zone.

(d) If the liquid is flowing from the leachate detection zone, the operator shall immediately:

- (1) Notify the Department in writing.
- (2) Estimate, on a weekly basis, the volume of liquid flowing from the zone.
- (3) Sample and analyze the liquid, on a quarterly basis for pH, specific conductivity, total organic carbon and chlorides. The Department may also require sampling and analysis for other constituents expected to be found in the waste.
- (4) Provide written copies of flow and analysis data to the Department.

(e) If leachate flow is greater than 100 gallons per acre of lined collection area per day or more than 10% of leachate generation, the operator shall:

(1) Submit to the Department within 30 days a plan for locating the source of leachate in the leachate detection zone, and for determining the severity and cause of leachate penetration.

(2) Implement the plan upon Department approval, and complete the plan in a reasonable time not to exceed 6 months.

(3) Submit to the Department within 45 days after completion of the plan a report containing the new data collected, analysis of the data and recommendations concerning a remedial plan.

(4) Conduct quarterly sampling and analysis for the parameters in § 288.254(a)(1) (relating to sampling and analysis), and submit copies of the results of the analysis to the Department.

(f) If sampling results indicate the presence of constituents at concentrations that could result in groundwater degradation at a monitoring well, the operator shall:

(1) Submit to the Department a remedial plan for controlling the source of leachate in the leachate detection zone and correcting a malfunction or defect in the liner system, and implement the plan upon Department approval.

(2) Submit to the Department a permit modification application under § 287.222 (relating to permit modification) for increased groundwater monitoring, giving consideration to monitoring frequency, number of wells and other factors, and conduct increased groundwater monitoring upon Department approval of the application.

**§ 288.436. Primary liner.**

(a) *General.* The primary liner shall meet the following requirements:

(1) The primary liner shall prevent the migration of leachate through the liner to the greatest degree that is technologically possible.

(2) The effectiveness of the primary liner in preventing the migration of leachate may not be adversely affected by the physical or chemical characteristics of solid waste, solid waste constituents or leachate from the facility.

(3) The primary liner shall be resistant to physical failure, chemical failure and other failure from the properties identified under § 288.412(d) (relating to liner system and leachate control plan).

(4) The primary liner shall cover the bottom and sidewalls of the facility.

(b) *Alternative design standards.* Unless alternative design standards to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the primary liner shall meet, at the minimum, the requirements of Appendix A, Table I (relating to minimum liner design standards).

(c) *Requirements.* A primary liner shall:

(1) Be no more permeable than  $1.0 \times 10^{-7}$  cm/sec. based on laboratory testing.

(2) Be installed according to the manufacturer's specifications under the supervision of an authorized representative of the manufacturer. The approved quality control program shall be implemented in the field during the installation of the liner.

(3) Be inspected for uniformity, damage and imperfections during construction or installation.

(d) *Composite primary liner.*

(1) If the operator does not design, construct, operate and maintain a composite secondary liner, the operator

shall design, construct, operate and maintain a composite primary liner which has the following requirements:

(i) An upper component made of a manufactured geosynthetic liner that meets the requirements of this section independently of the composite component.

(ii) A composite component made of earthen material that meets the requirements of § 288.434 (relating to secondary liner) independently of the upper component, except that the composite component shall be no more permeable than  $1.0 \times 10^{-6}$  cm/sec. based on laboratory and field testing.

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact between them.

(3) The use of a composite primary liner does not relieve the operator of responsibility for a separate secondary liner under § 288.434.

(e) *Natural attenuation of leachate prohibited.* Except as provided in subsection (d), a facility or a component thereof that is subject to this section may not have a primary liner made of clay or earthen material or a primary liner based upon natural attenuation of leachate.

**§ 288.438. Leachate collection system within protective cover.**

(a) The leachate collection system within the protective cover shall meet the following performance standards. The leachate collection system shall:

(1) Ensure that free flowing liquids and leachate will drain continuously from the protective cover to the leachate treatment system without ponding or accumulating on the liner.

(2) Ensure that the depth of leachate on or above the primary liner does not exceed 1 foot.

(3) Withstand chemical attack from leachate.

(4) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(5) Function without clogging.

(6) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate collection system with the protective cover shall comply with the following design requirements:

(1) The leachate collection system shall include a perforated piping system which is capable of intercepting free flowing liquids and leachate within the protective cover and conveying them to a collection sump for storage, processing or disposal. The collection sump shall be of a sufficient size to transmit leachate that is generated and shall be capable of automatic and continuous functioning.

(2) The perforated piping system shall be sloped, sized and spaced to assure that free flowing liquids and leachate will drain continuously from the protective cover to the collection sump or point.

(3) The minimum diameter of the perforated pipes shall be 6 inches with a wall thickness of Schedule 80 or greater as specified by ASTM, or equivalent.

(4) The leachate collection system shall contain stones or aggregates.

(5) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(6) The leachate collection system shall be cleaned and maintained as necessary.

(7) The leachate collection system shall have a minimum bottom slope of 2%.

**ADDITIONAL OPERATING REQUIREMENTS—LEACHATE TREATMENT**

**§ 288.454. Leachate recirculation.**

(a) In conjunction with the treatment methods in §§ 288.452 and 288.453 (relating to basic treatment methods; and leachate transportation), recirculation of leachate generated at the facility may be utilized if the following exist:

(1) The area subject to leachate recirculation previously has been filled with solid waste.

(2) There is sufficient residual waste capacity to absorb the leachate.

(3) The area subject to leachate recirculation is underlain by a leachate collection system.

(4) Leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.

(5) The leachate is not a hazardous waste.

(b) An alternative leachate recirculation method may be used if approved by the Department.

**§ 288.455. Leachate collection and storage.**

(a) Impoundments or tanks for storing leachate before or during treatment shall be constructed in accordance with §§ 299.122, 299.142 and 299.145 (relating to storage tanks; general requirements; and failure).

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain impoundments or tanks for storage of leachate. For noncaptive facilities, the tanks or impoundments shall have a storage capacity at least equal to the maximum expected production of leachate for a 30-day period for the life of the facility estimated under § 288.413 (relating to leachate treatment plan). For captive facilities, the tank or impoundment shall have sufficient storage capacity to ensure proper operation of the treatment facility in accordance with the approved leachate treatment plan and shall meet the performance standard in § 288.438(a)(2) (relating to leachate collection system within protective cover). No more than 25% of the total leachate storage capacity may be used for flow equalization on a regular basis.

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, unless otherwise approved by the Department.

(d) The storage capacity of impoundments and tanks at a site shall be increased, if additional storage is required, prior to each major phase of construction and as otherwise necessary.

(e) Leachate storage capacity may not be considered to include leachate that may have collected in or on the liner system.

(f) Necessary collection and containment systems shall be installed prior to the deposition of solid waste at the site. The leachate treatment or handling system approved



by the Department under § 288.413 shall be installed or ready for use prior to the storage or disposal of solid waste at the site.

(g) For areas permitted after January 13, 2001, all underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or tanks shall be equipped with secondary containment or comply with the requirements in § 245.445 (relating to methods for release detection for piping). Secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.

**Subchapter E. ADDITIONAL REQUIREMENTS FOR CLASS II RESIDUAL WASTE LANDFILLS**

**ADDITIONAL APPLICATION REQUIREMENTS**

**§ 288.512. Liner system and leachate control plan.**

(a) The application shall contain plans, drawings, cross sections and specifications for a liner system to demonstrate compliance with §§ 288.531—288.539 (relating to additional operating requirements—liner system), including the following:

(1) Design of the liner system, including thickness and characteristics of the subbase, the thickness and characteristics of the leachate detection zone, the design for the leachate monitoring system in the leachate detection zone, the nature and thickness of the liner material, the thickness and characteristics of the protective cover and leachate collection zone and the design for the leachate collection system in the collection zone.

(2) A plan for installing the liner system.

(b) The application shall include a quality assurance and quality control plan for the construction and installation of the liner system. The plan shall include the following:

(1) A description of the testing procedures and construction methods proposed to be implemented during construction of the liner system.

(2) A description of the manner in which the protective cover and liner system will be maintained and protected in unfilled portions of the disposal area prior to and during placement of the initial lift of solid waste.

(3) A description of the manner in which the protective cover and liner system will be protected from weather prior to and during placement of the initial lift of solid waste.

(4) A description of the qualifications of the quality assurance and quality control personnel, presented in terms of experience and training necessary to implement the plan.

(5) A sampling plan for every component of the liner system, including sample size, methods of determining sample locations, sampling frequency, acceptance and rejection criteria, and methods for ensuring that corrective measures are implemented as soon as possible.

(6) A plan for documenting compliance with the quality assurance and quality control plan.

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteristics of the proposed liner system, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate based on EPA or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed liner, based on ASTM methods when appropriate. These properties shall include the following:

- (1) Thickness.
- (2) Tensile strength at yield.
- (3) Elongation at yield.
- (4) Elongation at break.
- (5) Density.
- (6) Tear resistance.
- (7) Carbon black content.
- (8) Puncture resistance.
- (9) Seam strength—% of liner strength.
- (10) Ultraviolet light resistance.
- (11) Carbon black dispersion.
- (12) Permeability.
- (13) Liner friction.
- (14) Stress crack resistance.
- (15) Oxidative induction time.
- (16) Chemical compatibility.
- (17) Percent recycled materials.

**ADDITIONAL OPERATING REQUIREMENTS—GENERAL**

**§ 288.522. Areas where Class II residual waste landfills are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, Class II residual waste landfills may not be operated as follows:

(1) In the 100-year floodplain of waters of this Commonwealth.

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following is true:

(i) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(4) In coal bearing areas underlain by recoverable or mineable coals unless the permittee owns the underlying coal.

(5) In a valley, ravine or head of hollow where the operation would result in the elimination, pollution or destruction of a portion of a perennial stream, except that rechanneling may be allowed as provided in Chapter 105.

(6) In areas underlain by limestone or carbonate formations where the formations are greater than 5 feet in thickness and present at the topmost geologic unit. The areas include areas mapped by the Pennsylvania Geological Survey as underlain by these formations, unless competent geologic studies demonstrate the absence of sinkhole development and sinkhole-prone limestone and carbonate formations.

(7) If occupied dwellings are nearby, the following apply:

(i) Except as provided in subparagraphs (ii) and (iii), a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. Except as provided in subparagraphs (ii) and (iii), the disposal area of a residual waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(ii) For a permitted noncaptive residual waste landfill that was operating and not closed as of January 13, 2001, an expansion permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:

(A) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(B) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before January 13, 2001, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

(iii) A new, noncaptive residual waste landfill, permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed, noncaptive landfill that submits an application to reopen and expand shall also be subject to this paragraph.

(iv) Notwithstanding the prohibitions in subparagraphs (ii) and (iii), an access road to a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(8) Within 100 feet of a perennial stream, unless storage, processing and disposal will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(9) Within 100 feet of a property line, unless one of the following applies:

(i) Actual disposal will not occur within that distance.

(ii) The owner has provided a written consent to the facility being closer than 100 feet. The waiver shall be

knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(10) For processing, disposal and storage areas, within 1/4-mile upgradient, and within 300 feet downgradient, of a private or public water source, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically reasonable and readily available for every public or private water source in the isolation area.

(11) If the facility receives or proposes to receive putrescible waste as follows:

(i) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(ii) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

(iii) For areas permitted on or after January 13, 2001, in a manner in which any portion of the landfill would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

(12) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a noncaptive residual waste landfill permit issued prior to January 13, 2001, for a noncaptive residual waste landfill permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) The Department may waive or modify one or more of the isolation distances in subsection (a)(1), (5), (7), (8) and (10) for expansions of captive facilities if the operator of the captive facility demonstrates the following to the Department's satisfaction:

(1) The captive facility was permitted prior to July 4, 1992, or was permitted after July 4, 1992, if the Department determined the permit application for the facility to be administratively complete prior to July 4, 1992.

(2) The captive facility routinely and regularly disposed of residual waste on and after the effective date of these regulations.

(3) The expansion of the captive facility solely includes land which is contiguous to the captive facility.

(4) The expansion of the captive facility solely includes land which is owned by the applicant on July 4, 1992.

(5) No other site is available on contiguous land for the expansion of the captive facility.

(6) The expansion of the captive facility will be designed and operated to ensure that the facility does not harm public health, safety, welfare or the environment.

\* \* \* \* \*

**§ 288.523. Minimum requirements for acceptable waste.**

(a) A person or municipality may not dispose of residual waste at a Class II residual waste landfill unless the waste meets the following criteria:

(1) The residual waste may not be of a type from which the maximum concentration obtained for a contaminant, based on a chemical analysis of its leachate submitted under § 287.132 (relating to chemical analysis of waste), and approved by the Department, exceeds 50 times the waste classification standard for that contaminant. If analytical quantitation limits prevent determination of the acceptability of a residual waste under this paragraph, the Department may consider the total analysis of the waste as well as the physical and chemical characteristics of the contaminant in making a determination of acceptability of the waste at the facility.

(2) Notwithstanding the limitation in paragraph (1), the Department may authorize the disposal of residual waste at a monofill if the waste is of a type from which the maximum concentration obtained for a contaminant, based on a chemical analysis of its leachate submitted under § 287.132, exceeds 50 times the SMCL for that contaminant, if the SMCL is the waste classification standard for the contaminant. The Department may authorize the disposal of the waste only upon a demonstration that disposal of the waste at the facility will not cause groundwater degradation that exceeds the SMCL for a contaminant at a monitoring point or groundwater degradation that exceeds background levels at the property boundary for the contaminant.

(3) Even if a waste meets the requirements of this section, and the Department has previously authorized the disposal of the waste at the facility, the Department may require that the waste be disposed at a Class I landfill if one of the following applies:

(i) Monitoring data indicate that the waste or contaminants of the waste are migrating from the landfill.

(ii) The approved chemical and leaching analysis no longer accurately predicts the leachability of the waste.

(4) The Department may authorize a facility which disposes of a waste in accordance with a permit under this article to continue to dispose of the waste at the facility although a waste classification standard for a contaminant has been changed so that the waste would no longer meet the criteria for disposal of the waste at the facility under paragraph (1), if the operator of the facility demonstrates to the Department's satisfaction that disposal of the waste will not cause groundwater degradation that exceeds the waste classification standard for a contaminant at a monitoring point or groundwater degradation that exceeds background levels at the property boundary for a contaminant.

(5) If more than one type of waste or waste contaminants are identified in the chemical and leaching analy-

sis, the waste shall be disposed at the most protective type of facility required for the waste types and waste contaminants identified in the analysis.

(6) Neither residual waste nor leachate from the waste will adversely affect the ability of the liner system to prevent groundwater degradation.

(7) Leachate generated from the residual waste will be treated by the facility's leachate treatment system under applicable laws in a manner that will protect public health, safety and the environment.

(8) The residual waste will not react, combine or otherwise interact with other waste that is or will be disposed at the facility that will adversely affect the ability of the liner system to prevent groundwater degradation.

(9) Except to the extent that leachate recirculation is allowed in the permit, residual waste may not be bulk or uncontainerized liquid waste. Containers holding free liquids may not be accepted unless the container is less than 1 gallon in size, except as otherwise provided in the permit.

(10) The residual waste shall have a pH between 5.0 and 12.5 unless otherwise specified by the Department in the permit. The pH may be adjusted to meet this requirement.

(11) The residual waste may not be allowed to react, combine or otherwise interact with other waste or materials to endanger public health, safety and welfare or the environment by generating extreme heat or pressure, fire or explosion, or toxic mists, fumes, dusts or vapors. The potential for the interaction shall be determined using the procedure in the EPA's "A Method for Determining the Compatibility of Hazardous Wastes" (EPA-600/2-80-076) or another equivalent method approved by the Department in the permit.

(12) The physical characteristics of the waste will not cause or contribute to structural instability or other operating problems at the site.

\* \* \* \* \*

**ADDITIONAL OPERATING REQUIREMENTS—LINER SYSTEM**

**§ 288.532. General limitations.**

(a) The bottom of the subbase of the liner system cannot be in contact with the seasonal high table or perched water table without the use of groundwater pumping systems.

(1) Soil mottling may indicate the presence of a seasonal high groundwater table.

(2) Drainage systems may be utilized to prevent contact between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is likely to adversely affect the quality or quantity of water provided by any public or private water supply, even if a replacement supply is available under § 288.245 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping and french drains, or equivalent methods.

(b) For unconfined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table. The regional groundwater table may not be artificially lowered.

(c) For confined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The integrity of the confining layer may not be compromised by excavation.

(d) If the approved design plans provide for the placement of additional adjacent liner, the following apply:

(1) Waste may not be placed within 25 feet of an edge of the liner.

(2) The edge of the liner shall be protected by an approved soil cover, or another material approved in the permit, until additional liner is added.

(3) A lined berm at least 4 feet high shall be constructed and maintained to prevent the lateral escape of leachate.

(4) Adequate spacing shall be maintained on the inside of the berm to collect stormwater and sediment.

(e) If the approved design plans do not provide for the placement of additional adjacent liner, waste may not be placed within 15 feet of the inside top of the lined perimeter berm.

(f) A lined perimeter berm at least 4 feet high shall be constructed and maintained along the edge of the lined disposal area to prevent the lateral escape of leachate.

(g) The edge of the liner shall be clearly marked.

**§ 288.533. Subbase.**

(a) The subbase shall meet the following performance standards. The subbase shall:

(1) Bear the weight of the liner system, waste, waste cover material and equipment operating on the facility without causing or allowing any failure of the liner system.

(2) Accommodate potential settlement without damage to the liner system.

(3) Be a barrier to the transmission of liquids.

(4) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the subbase shall meet the following design requirements. The subbase shall:

(1) Consist of an upper 6 inches that is:

(i) Compacted to a standard proctor density of at least 95%.

(ii) No more permeable than  $1.0 \times 10^{-5}$  cm/sec. based on laboratory and field testing.

(iii) Hard, uniform, smooth and free of debris, rock fragments, plant materials and other foreign material.

(2) Have a postsettlement slope of at least 2% and no more than 33%.

**§ 288.534. Leachate detection zone.**

(a) The leachate detection zone shall meet the following performance standards. The leachate detection zone shall:

(1) Rapidly detect and collect liquid entering the leachate detection zone, and rapidly transmit the liquid to the leachate treatment system.

(2) Withstand chemical attack from waste or leachate.

(3) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(4) Function without clogging.

(5) Prevent the liner from puncturing, cracking, tearing, stretching or otherwise losing its physical integrity.

(6) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements. The leachate detection zone shall:

(1) Be at least 12 inches thick.

(2) Contain no material exceeding 0.5 inches in particle size.

(3) Create a flow zone between the subbase and the liner equal to or more permeable than  $1.0 \times 10^{-2}$  cm/sec., based on laboratory testing, and when required by the Department, field testing.

(4) Contain a perforated piping system capable of detecting and intercepting liquid within the leachate detection zone and conveying the liquid to a collection sump for storage, processing or disposal. The sump shall be separate from the leachate collection sump and shall be of sufficient size to transmit leachate that is generated. The piping system shall also meet the following:

(i) The slope, size and spacing of the piping system shall assure that liquids drain from the leachate detection zone.

(ii) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(iii) The minimum diameter of the perforated pipe shall be 4 inches with a wall thickness of Schedule-80 or greater as specified by ASTM or equivalent.

(iv) The pipes shall be cleaned and maintained as necessary.

(5) Have a minimum bottom slope of 2%.

(6) Contain noncarbonate stones or aggregates with no sharp edges.

(c) The operator shall monitor the leachate detection zone weekly to determine whether liquid is flowing from the zone.

(d) If liquid is flowing from the leachate detection zone, the operator shall immediately:

(1) Notify the Department in writing.

(2) Estimate, on a weekly basis, the volume of liquid flowing from the zone.

(3) Sample and analyze the liquid, on a quarterly basis, for pH, specific conductivity, total organic carbon and chlorides. The Department may also require sampling and analysis for other constituents expected to be found in the waste.

(4) Provide written copies of flow and analysis data to the Department.

(e) If leachate flow is greater than 100 gallons per acre of lined collection area per day, or more than 10% of leachate generation, the operator shall:

(1) Submit to the Department a plan within 30 days for locating the source of leachate in the leachate detection zone, and for determining the severity and cause of leachate penetration.

(2) Implement the plan upon Department approval, and complete the plan in a reasonable time not to exceed 6 months.

(3) Submit to the Department within 45 days after completion of the plan a report containing the new data collected, analysis of the data, and recommendations concerning a remedial plan.

(4) Conduct quarterly sampling and analysis for the parameters in § 288.254(a)(1) (relating to sampling and analysis), and submit copies of the results of the analysis to the Department.

(f) If sampling results indicate the presence of constituents at concentrations that could result in groundwater degradation, the operator shall submit the following to the Department:

(1) A remedial plan for controlling the source of leachate in the leachate detection zone and correcting a malfunction or defect in the liner system, and implement the plan upon Department approval.

(2) A permit modification application under § 287.222 (relating to permit modification) for increased groundwater monitoring, giving consideration to monitoring frequency, number of wells and other factors, and conduct increased groundwater monitoring upon Department approval of the application.

**§ 288.535. Liner.**

(a) *Standards of performance.* The liner shall meet the following standards of performance:

(1) The liner shall prevent the migration of leachate through the liner to the greatest degree that is technologically possible.

(2) The effectiveness of the liner in preventing the migration of leachate may not be adversely affected by the physical or chemical characteristics of solid waste, solid waste constituents or leachate from the facility.

(3) The liner shall be resistant to physical failure, chemical failure and other failure from the sources identified under § 288.512(d) (relating to liner system and leachate control plan).

(4) The liner shall cover the bottom and sidewalls of the facility.

(b) *Alternative design requirements.* Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the liner shall meet, at a minimum, the requirements of Appendix A, Table II (relating to minimum liner design standards).

(c) *Requirements.* A liner shall meet the following standards. A liner shall include:

(1) An upper component made of a manufactured geosynthetic liner that meets the following requirements independently of the composite component:

(i) The upper component shall be no more permeable than  $1.0 \times 10^{-7}$  cm/sec. based on laboratory testing.

(ii) The upper component shall be installed according to manufacturer's specifications under the supervision of an authorized representative of the manufacturer. An

approved assurance and quality control program shall be implemented in the field during the installation of the liner.

(iii) The upper component shall be inspected for uniformity, damage and imperfections during construction and installation.

(2) A composite component made of earthen material that meets the following requirements independent of the upper component:

(i) The composite component shall be no more permeable than  $1.0 \times 10^{-6}$  cm/sec. based on laboratory testing and field testing.

(ii) The composite component shall be designed, installed and maintained according to a quality assurance and quality control plan approved by the Department.

(iii) The composite component shall be inspected for uniformity, damage and imperfections during construction and installation.

(iv) The composite component shall be constructed in compacted lifts not exceeding 6 inches in depth, if the composite component is more than 6 inches in thickness. A lift shall be scarified before placement of the next lift.

(3) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact, between them.

**§ 288.537. Leachate collection system within protective cover.**

(a) The leachate collection system within the protective cover shall meet the following performance standards. The leachate collection system shall:

(1) Ensure that free flowing liquids and leachate will drain continuously from the protective cover to the leachate treatment system without ponding or accumulating on the liner.

(2) Ensure that the depth of leachate on or above the liner does not exceed 1 foot.

(3) Withstand chemical attack from leachate.

(4) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(5) Function without clogging.

(6) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate collection system within the protective cover shall comply with the following design requirements:

(1) The leachate collection system shall include a perforated piping system which is capable of intercepting free flowing liquids and leachate within the protective cover and conveying them to a collection sump for storage, processing or disposal. The collection sump shall be of sufficient size to transmit leachate that is generated and shall be capable of automatic and continuous functioning.

(2) The perforated piping system shall be sloped, sized and spaced to assure that free flowing liquids and leachate will drain continuously from the protective cover to the collection sump or point.

(3) The minimum diameter of the perforated pipes shall be 6 inches with a wall thickness of Schedule 80 or greater as specified by ASTM, or equivalent.

(4) The leachate collection zone shall contain stones or aggregates.

(5) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(6) The leachate collection system shall be cleaned and maintained as necessary.

(7) The leachate collection system shall have a minimum bottom slope of 2%.

#### **ADDITIONAL OPERATING REQUIREMENTS—LEACHATE TREATMENT**

##### **§ 288.554. Leachate recirculation.**

(a) In conjunction with the treatment methods in §§ 288.552 and 288.553 (relating to basic treatment methods; and leachate transportation), recirculation of leachate generated at the facility may be utilized if the following conditions exist:

(1) The area subject to leachate recirculation previously has been filled with solid waste.

(2) There is sufficient residual waste capacity to absorb the leachate.

(3) The area subject to leachate recirculation is underlain by a leachate collection system.

(4) Leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.

(5) The leachate is not a hazardous waste.

(b) An alternate leachate recirculation method may be used if approved by the Department.

##### **§ 288.555. Leachate collection and storage.**

(a) Impoundments or tanks for storing leachate before or during treatment shall be constructed in accordance with §§ 299.122, 299.142 and 299.145 (relating to storage tanks; general requirements; and failure).

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain impoundments or tanks for storage of leachate. For noncaptive facilities, the tanks or impoundments shall have a storage capacity at least equal to the maximum expected production of leachate for a 30-day period for the life of the facility estimated under § 288.513 (relating to leachate treatment plan). For captive facilities, the tank or impoundment shall have sufficient storage capacity to ensure proper operation of the treatment facility in accordance with the approved leachate treatment plan and shall meet the performance standard in § 288.537(a)(2) (relating to leachate collection system within protective cover). No more than 25% of the total leachate storage capacity may be used for flow equalization on a regular basis.

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, unless otherwise approved by the Department.

(d) The storage capacity of impoundments and tanks at a site shall be increased, if additional storage is required, prior to each major phase of construction and as otherwise necessary.

(e) Leachate storage capacity may not be considered to include leachate that may have collected in or on the liner system.

(f) Necessary collection and containment systems shall be installed prior to the deposition of solid waste at the site. A leachate treatment or handling system approved by the Department under § 288.513 shall be installed or ready for use prior to the storage or disposal of solid waste at the site.

(g) For areas permitted after January 13, 2001, all underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or tanks shall be equipped with secondary containment or comply with the requirements in § 245.445 (relating to methods for release detection for piping). Secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.

#### **Subchapter F. ADDITIONAL REQUIREMENTS FOR CLASS III RESIDUAL WASTE**

##### **ADDITIONAL OPERATING REQUIREMENTS—GENERAL**

##### **§ 288.621. Basic requirements.**

(a) In addition to the operating requirements in Subchapter C (relating to operating requirements), a person or municipality that operates a Class III residual waste landfill shall comply with §§ 288.622—288.625.

(b) Only captive facilities, waste tire monofills, water treatment plant sludge monofills and coal ash monofills qualify as Class III residual waste landfills.

##### **§ 288.622. Areas where Class III residual waste landfills are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, a Class III residual waste landfill may not be operated as follows:

(1) In the 100-year floodplain of waters of this Commonwealth.

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland, unless storage, processing and disposal will not occur within that distance and one of the following is true:

(i) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(4) In coal bearing areas underlain by recoverable or mineable coals unless the permittee owns the underlying coal.

(5) In a valley, ravine or head of hollow where the operation would result in the elimination, pollution or destruction of a portion of a perennial stream, except that rechanneling may be allowed as provided in Chapter 105.

(6) In areas underlain by limestone or carbonate formations where the formations are greater than 5-feet in thickness and present at the topmost geologic unit. The areas include area mapped by the Pennsylvania Geological Survey as underlain by these formations, unless

competent geologic studies demonstrate the absence of sinkhole development and sinkhole-prone limestone and carbonate formations.

(7) If occupied dwellings are nearby, the following apply:

(i) Except as provided in subparagraphs (ii) and (iii), a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. Except as provided in subparagraphs (ii) and (iii), the disposal area of a residual waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(ii) For a permitted noncaptive residual waste landfill that was operated and not closed as of January 13, 2001, an expansion permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:

(A) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(B) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before January 13, 2001, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

(iii) A new, noncaptive residual waste landfill permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed, noncaptive landfill that submits an application to reopen and expand shall also be subject to this paragraph.

(iv) Notwithstanding the prohibitions in subparagraphs (ii) and (iii), an access road to a residual waste landfill may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(8) Within 100 feet of a perennial stream, unless storage, processing and disposal will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(9) Within 100 feet of a property line, unless one of the following applies:

(i) Actual disposal will not occur within that distance.

(ii) The owner has provided a written consent to the facility being closer than 100 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(10) For disposal, processing and storage areas, within 1/4-mile upgradient, and within 300 feet downgradient, of a private or public water source, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met.

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(11) If the facility receives or proposes to receive putrescible waste as follows:

(i) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(ii) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

(iii) For areas permitted on or after January 13, 2001, in a manner in which any portion of the landfill would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

(12) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a noncaptive residual waste landfill permit issued prior to January 13, 2001, for a noncaptive residual waste landfill permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) The Department may waive or modify one or more of the isolation distances in subsection (a)(1), (5), (7), (8) and (10) for expansions of captive facilities if the operator of the captive facility demonstrates the following to the Department's satisfaction:

\* \* \* \* \*

**§ 288.623. Minimum requirements for acceptable waste.**

(a) A person or municipality may not dispose of residual waste at a Class III residual waste landfill unless the waste meets all of the following criteria:

(1) The residual waste may not be of a type from which the maximum concentration obtained for contaminant, based on a chemical analysis of its leachate submitted under § 287.132 (relating to chemical analysis of waste), and approved by the Department, exceeds the following:

(i) For metals and other cations, 25 times the waste classification standard for a contaminant.

(ii) For contaminants other than metals and cations, the waste classification standard for a contaminant. If analytical quantitation limits prevent determination of the acceptability of a residual waste under this paragraph, the Department may consider the total analysis of the waste as well as the physical and chemical characteristics of the contaminant in making a determination of acceptability of the waste at the facility.

(2) Residual waste may not be disposed of at the facility if the disposal of the waste at the facility will result in a level of groundwater degradation at one or more monitoring points that exceeds the level of degradation that would result at the same monitoring points from the disposal of the waste at the facility if the facility were designed, constructed and operated as a Class II landfill. The Department may approve the disposal of waste at a monofill that contains contaminants other than metals or cations with a maximum concentration that is less than 10 times the waste classification standard for the contaminants, based on a chemical analysis of its leachate submitted under § 287.132, if the following are met:

(i) Disposal of the waste will improve preexisting groundwater degradation.

(ii) Preexisting degradation did not result from activities of the person or municipality that proposes to dispose of residual waste, or a related party to the person or municipality.

(3) Even if a waste meets the requirements of this section, and the Department has previously authorized the disposal of the waste at the facility, the Department may require that the waste be disposed at a Class II or Class I landfill if one of the following applies:

(i) Monitoring data indicate that the waste or contaminants of the waste are migrating from the landfill.

(ii) The approved chemical and leaching analysis of the waste no longer accurately predict the leachability of the waste.

(4) The Department may authorize a facility which disposes of a waste in accordance with a permit under this article to continue to dispose of the waste at the facility although a waste classification standard for a contaminant has been amended in a way that the waste would no longer meet the criteria for disposal of the waste at the facility under paragraph (1), if the operator of the facility demonstrates to the Department's satisfaction that disposal of the waste will not cause degradation that exceeds the waste classification standard for a contaminant at a monitoring point or groundwater degradation that exceeds background levels at the property boundary for a contaminant.

(5) If more than one type of waste or waste contaminants are identified in the chemical and leaching analysis, the waste shall be disposed at the most protective type of facility required for the waste types and waste contaminants identified in the analysis.

(6) The residual waste may not be a wastewater treatment sludge, unless it has been stabilized or solidified.

(7) The type, volume and concentration of constituents of residual waste being proposed for disposal shall indicate that the waste and its leachate are capable of being attenuated by the soil under the disposal area in a manner that will prevent groundwater degradation.

(8) The residual waste will not react, combine or otherwise interact with other waste that is or will be disposed at the facility in a manner that will adversely affect the ability of the attenuating soil to prevent degradation of groundwater.

(9) The residual waste may not have a petroleum based oil and grease content that exceeds 1% by dry weight.

(10) Except to the extent that leachate recirculation is allowed in the permit, residual waste may not be bulk or noncontainerized liquid waste. Containers holding free liquids may not be accepted unless the container is less than 1 gallon in size, except as otherwise provided in the permit.

(11) The residual waste shall have a pH between 5.5 and 9.5 unless otherwise specified by the Department in the permit. The pH may be adjusted to meet this requirement.

(12) The residual waste may not be allowed to react, combine or otherwise interact with other waste or materials to endanger public health, safety and welfare or the environment by generating extreme heat or pressure, fire or explosion, or toxic mists, fumes, dusts or vapors. The potential for interaction shall be determined using the procedure in the EPA's "A Method for Determining the Compatibility of Hazardous Wastes" (EPA-600/2-80-076) or another equivalent method approved by the Department in the permit.

(13) Municipal waste may not be stored, processed or disposed at the facility, except as follows:

(i) The Department may, in the permit, approve the storage or disposal of construction/demolition waste generated by the operator.

(ii) The Department may permit water treatment plant sludge monofills or waste tire monofills.

(14) The physical characteristics of the waste will not cause or contribute to structural instability or other operating problems at the site.

\* \* \* \* \*

#### § 288.624. Attenuating soil.

(a) *Disposal of residual waste.* Residual waste may not be disposed at a Class III residual waste landfill, unless attenuating soil exists in the disposal area or has been placed on the entire disposal area.

(1) At least 4 feet separate the seasonal high water table, perched water table or bedrock from the lowest area where waste is deposited. Soil mottling may indicate the presence of a seasonal high water table. The seasonal high water table and perched water table may not be artificially manipulated. The seasonal high water table may not be located within the attenuating soil base.



(2) At least 8 vertical feet separate the regional groundwater table from the lowest area where waste is deposited. The regional groundwater table may not be artificially manipulated. The regional groundwater table may not be located within the attenuating soil base.

(b) *Standards of performance.* The attenuating soil shall meet the following standards of performance:

(1) The attenuating soil shall prevent migration of contaminants to the surface and groundwater to the greatest degree that is technologically possible.

(2) The performance of the attenuating soil may not be affected by the physical or chemical characteristics of the waste.

(3) The attenuating soil shall cover the bottom and sidewalls of the facility.

(c) *Alternative design requirements.* Unless alternative design requirements to meet the performance standards in subsection (b) are approved as part of the permit under § 287.231 (relating to equivalency review procedure) where site-specific conditions are included in the demon-

stration, the attenuating soil shall meet the requirements of subsection (d). If a design under this section is modified, the modification shall be a major permit modification.

(d) *Requirements.* The attenuating soil required by this section shall meet the following requirements:

(1) The soil shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam.

(2) At least 40% by weight of the fragments in the soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

(3) The soil may not include rock fragments greater than 6 inches in diameter.

(4) The soil shall have a cation exchange capacity of at least 10 milliequivalents per 100 grams of soil.

(5) The soil shall have an organic carbon content of at least 0.1%.

**APPENDIX A**

**TABLE I**

**MINIMUM LINER DESIGN STANDARDS**

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Geosynthetics	Primary or Secondary Liner	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer. HDPE liners shall be at least 60 MIL.
Geosynthetics	Cap	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer.
* * * * *				
Geosynthetic Clay Liner (GCL)	Composite Component	N/A	N/A	1. Minimum of 3/4 pound of powdered or granular sodium bentonite per square foot.

\* Percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

**TABLE II**

**MINIMUM LINER DESIGN STANDARDS**

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Geosynthetics	Liner, Cap	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer. HDPE liners shall be at least 60 MIL.
Natural & Remolded Clay	Cap, Composite Component	2 feet 1 foot	>=90%* >=90%*	1. Minimum of 30% fines by weight less than 0.074 mm particle size (#200 sieve). 2. Plasticity Index greater than or equal to 10. 3. No coarse fragments greater than 3/4 inch in diameter.

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Sodium Bentonite and Bentonite-like materials	Cap, Composite Component	2 feet 1 foot	$\geq 90\%^*$ $\geq 90\%^*$	1. Minimum of 8% powdered sodium bentonite or manufacturer's recommendations, whichever is greater. 2. No coarse fragments greater than 3/4 inch in diameter. 3. No organic matter.
Geosynthetic Clay liner (GCL)	Composite Component	N/A	N/A	1. Minimum of 3/4 pound of powdered or granular sodium bentonite.

\* Percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

## CHAPTER 289. RESIDUAL WASTE DISPOSAL IMPOUNDMENTS

### Subchapter B. APPLICATION REQUIREMENTS

#### PHASE I APPLICATION REQUIREMENTS—GENERAL PROVISIONS

##### § 289.111. Basic requirements.

The Phase I application shall:

(1) Comply with §§ 289.112—289.114 and 289.121—289.129.

(2) Comply with Chapter 287, Subchapter C (relating to general requirements for permits and permit applications).

##### § 289.112. Facility plan.

An application to operate a residual waste disposal impoundment shall contain conceptual drawings and a narrative describing the following:

(1) The general operational concept for the proposed facility, including the origin, composition and weight or volume of solid waste that is proposed to be disposed of at the facility, the type of liner system, the proposed capacity of the facility, the expected life of the facility and the size, sequence and timing of solid waste disposal operations at the facility.

(2) A detailed description of the volume or soil needed to construct and operate the facility and the method by which the soil will be delivered. The description will include the number of trucks, the access roads they will use, delivery times and any other information relevant to assessing the impacts of the operation.

##### § 289.113. Maps and related information.

(a) An application shall contain a topographic map, on a scale of 1 inch equals no more than 200 feet with 10-foot maximum contour intervals. The Department may, in writing, approve the use of a different horizontal scale. The application shall include the map and necessary narrative descriptions, which show the following:

(1) Boundaries and names of the present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; and a description of title, deed or usage restrictions affecting the proposed permit area.

(2) The boundaries of the land to be affected during the estimated total life of the proposed operation, including the boundaries of areas that will be affected in each sequence of disposal impoundment activity and boundaries of areas that will be used for impoundments.

(3) The location of the areas on and off the permit area which are proposed to be excavated to obtain earthen material for the construction of the facility, for cover material, for the liner system and for other construction purposes.

(4) The location and name of public and private water sources within 1/2 mile of the proposed facility. If more than 50 wells are located within the 1/2-mile radius, the applicant may identify only the closest wells in each direction and generally describe the location and number of wells further away.

(5) The location, name and elevation of surface water bodies, such as springs, streams, lakes, ponds, wetlands, constructed or natural drains and irrigation ditches within 1/4 mile of the proposed facility.

(6) The location of the active and inactive gas and oil wells, active and inactive surface and underground coal and noncoal mines, coal seams to a depth of 500 feet, mine spoil piles, dumps, dams, embankments and mine pool discharge points within 1/4 mile of the proposed facility.

(7) The location of rights-of-way for high-tension power lines, pipelines, railroads and public and private roads within 1/4 mile of the proposed facility.

(8) The location of buildings in use within 1/4 mile of the proposed facility.

(9) If solid waste disposal or processing has previously taken place within 1/4 mile of the proposed facility, the names of the owners or operators, or both, of the facility, the type of solid waste processed or disposed, and if applicable, cross sections indicating the interface details between areas previously filled and areas to be filled.

(10) The anticipated location of water quality monitoring points.

(11) The boundaries of land within the proposed permit area and adjacent areas identified in § 289.422 or § 289.522 (relating to areas where Class I residual waste disposal impoundments are prohibited; and areas where Class II residual waste disposal impoundments are prohibited), whichever is applicable.

(12) The elevation and location of test borings and core samplings taken under § 289.122 (relating to geology and groundwater description), and the location of test pits or excavations taken under § 289.124 (relating to soil description).

(13) The municipalities in which the permit area is proposed to be located.

(14) The location of sinkholes, fractures, fracture traces, outcrops, lineaments and mine pools in the proposed permit area and adjacent area.

(15) The location of water discharges into a surface body of water in the proposed permit area and adjacent area.

(16) The location of 100-year floodplain boundaries in the proposed permit area and adjacent area.

(b) An application shall contain a topographic map showing the location and name of public water sources within 3 miles downstream or downgradient from the proposed facility, and the boundary of the proposed permit area. The map shall be on a scale of 1 inch equals no more than 2,000 feet with 20-foot maximum contour intervals, including necessary narrative descriptions.

**PHASE I APPLICATION REQUIREMENTS—SITE ANALYSIS**

**§ 289.121. Description of geology, soils and hydrology; general requirements.**

In preparing the soils, geology and hydrology descriptions required by this section and §§ 289.122—289.127 the applicant shall include information about the proposed permit area and the adjacent area. Plans and cross sections submitted to comply with this section and §§ 289.122—289.129 shall be on a scale satisfactory to the Department. The map shall be on a scale of 1 inch equals no more than 200 feet, with contour intervals at a maximum of 10 feet. Maps and cross sections submitted for a particular application shall be of the same or easily compared scales.

**§ 289.122. Geology and groundwater description.**

(a) An application shall contain a description of the geology and groundwater in the proposed permit area and adjacent areas down to and including the lowest aquifer that may be affected by the facility, including the following:

(1) The results of a sufficient number of test borings and core borings to accurately characterize geology, soils, groundwater flow, groundwater chemistry and flow systems of the proposed permit area and adjacent area, which shall be at least three test borings. At least one test boring shall be a core boring. The applicant shall include the actual surface elevations of the drill holes.

(2) The stratigraphy, lithologic, physical characteristics and thickness of each stratum, including the location and depth of aquifers.

(3) The hydrologic characteristics of each aquifer described in paragraph (2), including field test data for hydraulic conductivity, storage coefficient and transmissivity, groundwater hydraulic gradient and velocity. The description of these characteristics shall be based on multiple well aquifer tests. Alternative techniques approved by the Department may be employed when multiple well aquifer tests are not feasible. The application shall include the procedures and calculations used to determine these characteristics.

(4) The geologic structure within the proposed permit area and adjacent area, and its relation to the regional geological structure.

(5) The uses of each aquifer.

(6) The aquifer characteristics necessary to accurately describe three dimensional groundwater flow through the proposed permit area and adjacent area, including storage and discharge characteristics.

(7) The extent of coal and noncoal mineral deposits and mines within the proposed permit area, as required by § 289.127 (relating to mineral deposits information).

(8) Wellhead protection areas in accordance with § 109.1 (relating to definitions) that may be impacted by the facility.

(9) A groundwater contour map based upon the highest groundwater level recorded monthly in each boring for the previous year. The Department may require more frequent measurements after significant precipitation events.

(b) A boring or coring not cased and capped and not to be used for groundwater monitoring shall be grouted shut or otherwise sealed in a manner approved by the Department.

**§ 289.124. Soil description.**

(a) An application shall contain:

(1) The depth to the seasonal high water table within the proposed permit area and adjacent area to demonstrate that the seasonal high water table will not be in contact with the liner system.

(2) A description of the soils to be used for intermediate and final cover, and facility construction, including chemical description, texture, laboratory particle size analyses and quantity. Cross sections of the borrow pits within the proposed permit area shall be included.

(b) In preparing the description of soils and elevations, the applicant shall:

(1) Base the description on a sufficient number of pits, excavations and samples to allow an accurate characterization of the soils in the proposed permit area and adjacent area and each onsite or offsite borrow area.

(2) Use the following soil classification systems:

(i) For intermediate and final cover, the United States Department of Soil Classification System. The United States Department of Agriculture's Soil Classification System is published in "Soil Taxonomy"—Agriculture Handbook #436 of the United States Department of Agriculture, Soil Conservation Service, and is available from the Department or the National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19013-6092.

(ii) For the liner system, site construction and other noncover uses, the Unified Soil Classification System.

(3) Conduct required laboratory particle size analysis according to ASTM D 422 (Standard Method for Particle-Size Analysis of Soils) or another analytical method approved, in writing, by the Department prior to the analysis.

**§ 289.127. Mineral deposits information.**

(a) If the proposed permit area and adjacent area overlie existing workings of an underground mine, the applicant shall submit sufficient information to evaluate the potential for mine subsidence damage to the facility, including the following:

(1) Maps and plans showing the existing workings underlying and within 1,000 feet of the proposed facility.

(2) An investigation with supporting documentation, by a registered professional engineer with geotechnical expertise addressing the probability and potential impacts of future subsidence. The investigation shall address the potential for additional mining beneath the permit and adjacent area, the stability of the final underground workings, the maximum subsidence likely to occur in the future and the effect of that subsidence on the integrity of

the facility, and measures which have been or will be taken to stabilize the surface.

(b) If the proposed permit area and adjacent area overlies recoverable or mineable coals, the applicant shall demonstrate that the applicant owns the coal and shall warrant that the coal will not be mined as long as residual waste remains on the site, except for surface mining activities approved in the permit for purposes of facility construction.

**§ 289.128. Notification of proximity to airport.**

An applicant shall notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed disposal impoundment or expansion, that is planned to receive putrescible waste, is within 6 miles of an airport runway. The application shall include a copy of each notification and each response to each notification received by the applicant.

**PHASE II APPLICATION  
REQUIREMENTS—GENERAL PROVISIONS**

**§ 289.131. Basic requirements.**

(a) The Phase II permit application shall:

(1) Comply with this section and §§ 289.132—289.138, 289.141, 289.142, 289.151, 289.152, 289.161—289.163, 289.171 and 289.172.

(2) Comply with Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(b) Applications, plans, cross sections, modules and narratives shall demonstrate how the construction and operating requirements of Subchapter C (relating to operating requirements) will be implemented, and shall include quality control measures necessary to ensure proper implementation.

(c) The plans, designs, cross sections and maps required by this section and §§ 289.132—289.138, 289.141, 289.142, 289.151, 289.152, 289.161—289.163, 289.171 and 289.172 shall be on a scale in which 1 inch equals no more than 200 feet with 10-foot maximum contour intervals.

**§ 289.132. Operation plan.**

An application shall contain a description of the residual waste disposal impoundment operations proposed during the life of the facility within the proposed permit area, including, at a minimum, the following:

(1) A narrative describing the type and method of residual waste disposal impoundment procedures, procedures for inspection and monitoring of incoming waste, sequence of disposal activity, type of disposal activity, proposed engineering techniques and the major equipment to be used under § 289.225 (relating to equipment), using the maps and grids required by § 289.133 (relating to map and grid requirements) as a basis for the description.

(2) A narrative explaining the method and schedule for construction, operation, modification, use, maintenance and removal of the following components of the proposed facility, unless their retention is proposed for postclosure land use:

(i) Dams, embankments, ditches and other impoundments.

(ii) Borrow pits, soil storage and handling areas and structures.

(iii) Water and air pollution control facilities.

(iv) Erosion and sedimentation control facilities.

(v) Equipment storage and maintenance buildings, and other buildings.

(vi) Access roads.

(3) A construction schedule and sequence of operations, and a site preparation plan and a schedule for disposing of solid waste at the site.

(4) An explanation of how the applicant intends to comply with § 289.224 (relating to measurement of waste).

(5) A plan for assuring that solid waste received at the facility is consistent with the following:

(i) Section 289.201 (relating to basic limitations).

(ii) Section 289.423 or § 289.523 (relating to minimum requirements for acceptable waste; and minimum requirements for acceptable waste), whichever applies.

(6) The proposed operating hours of the proposed facility. The operating hours include those hours related to construction and other activities related to operation of the facility.

**§ 289.133. Map and grid requirements.**

(a) An application shall contain a topographic map of the proposed permit and adjacent areas showing the following:

(1) The boundaries of lands proposed to be affected over the estimated total life of the proposed operation and the sequence of disposal and closure.

(2) A change in a component of the facility or a feature within the proposed permit area to be caused by the proposed operation.

(3) Buildings, utility corridors and facilities which will be used in the operation.

(4) The areas of land for which a bond will be posted under Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(5) The solid waste storage, processing or unloading areas.

(6) The water diversion, collection, conveyance, erosion and sedimentation control, treatment, storage and discharge facilities to be used.

(7) The gas management, collection and control facilities, if required.

(8) The boundaries of construction activities.

(9) The location of barriers, fences and similar structures required by § 289.222 (relating to access control).

(10) The location of each sedimentation pond, permanent water impoundment or similar facility.

(11) The location of access roads to the site, including slopes, grades and lengths of the roads.

(12) The location and identity of monitoring wells.

(13) For noncaptive residual waste disposal impoundments, a designated area for vehicles for use in the event of the detection of waste containing radioactive material. The designated area shall, by location or shielding, protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

(b) The applicant shall also submit a grid coordinate system for the entire proposed permit area. The horizontal control system shall consist of a grid not to exceed 200-foot square sections unless the facility is larger than 250 acres and the Department approves, in writing, the use of a grid that exceeds 200-foot square sections. A permanent benchmark for horizontal and vertical control shall be shown. The grid system shall be a state or universal grid system and shall be tied to the benchmark and the baseline.

**§ 289.134. Plan for access roads.**

The application shall contain designs, cross sections and specifications for access roads, including load limits, in accordance with § 289.223 (relating to access roads).

**§ 289.136. Nuisance minimization and control plan.**

(a) The application shall contain a plan in accordance with § 289.228 (relating to nuisance minimization and control) to minimize and control hazards or nuisances from vectors, odors, noise, dust, unsightliness and other nuisances not otherwise provided for in the permit application.

(b) The plan shall include the following:

(1) Provisions for the routine assessment and control of vector infestation.

(2) Methods to minimize and control nuisances from odors, dustfall and noise off the property boundary from the facility.

(3) For odors, the determination of normal and adverse weather conditions based on site-specific meteorological data. Prior to the installation of equipment and collection of meteorological data, a protocol for the installation and data collection shall be approved by the Department.

(c) The plan required in subsection (a) may include a contractual arrangement for services of an exterminator or an air quality, noise, dust control or other professional.

**§ 289.137. Daily volume.**

The application shall contain proposed average and maximum daily volumes for the facility, and a detailed justification for these volumes, based on §§ 287.126 and 287.127 (relating to requirements for environmental assessment; and environmental assessment).

**§ 289.138. Radiation Protection Action Plan.**

(a) An application for a noncaptive residual waste disposal impoundment shall contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting.

(b) The action plan shall be prepared in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

(c) The action plan shall be incorporated into the disposal impoundment's approved waste analysis plan under § 287.134 (relating to waste analysis plan).

**PHASE II APPLICATION REQUIREMENTS—COVER AND REVEGETATION**

**§ 289.141. Cover plan.**

An application shall contain a plan for cover at the proposed facility under § 289.242 (relating to cover) including, at a minimum, the following information:

- (1) The procedures for application of cover material.
- (2) The procedures to establish elevation and grade of final cover.

**PHASE II APPLICATION REQUIREMENTS—WATER QUALITY PROTECTION AND MONITORING**

**§ 289.152. Water quality monitoring plan.**

(a) An application shall contain a water quality monitoring plan showing how the operator intends to comply with §§ 289.261—289.268 (relating to water quality monitoring). The plan shall include, at a minimum, the following:

(1) The number, location and design of proposed monitoring points.

(2) For new facilities, preoperational data showing existing groundwater quality, as required by § 289.123 (relating to groundwater quality description), and a procedure to establish this groundwater quality. For existing facilities, adequate monitoring data as required by § 288.123 (relating to groundwater quality description) to characterize background groundwater quality and a procedure to establish this groundwater quality.

(b) The application shall contain a groundwater sampling and analysis plan. The plan shall include:

(1) Procedures and techniques designed to accurately measure groundwater quality upgradient, beneath and downgradient of the proposed waste disposal area.

(2) Department approved sampling and analytical methods that are specific to the proposed facility and that will accurately measure solid waste, solid waste constituents, leachate or constituents of decomposition in the groundwater.

(3) Procedures and techniques for sample collection, sample preservation and shipment, analytical procedures, chain of custody control and field and laboratory quality assurance and quality control.

(4) Procedures and techniques for evaluation of analytical results to determine if groundwater degradation has occurred.

(c) The Department may approve the use of an alternate groundwater monitoring system for facilities located in the anthracite coal region if the applicant demonstrates the following to the Department's satisfaction with a detailed hydrogeologic study:

(1) The nature and extent of underground coal mining beneath the proposed facility makes impracticable the installation of the groundwater monitoring system required by this subchapter.

(2) The proposed alternate system is capable of completely and accurately identifying adverse effects on groundwater from the proposed facility.

**PHASE II APPLICATION REQUIREMENTS—CLOSURE PROVISIONS**

**§ 289.172. Closure plan.**

(a) The application shall contain a plan describing the activities that are proposed to occur in preparation for closure and after closure to ensure compliance with this chapter.

(b) The closure plan shall include:

(1) A plan for the decontamination and removal of equipment, structures and related material from the facility.

(2) An estimate of the year in which final closure will occur, including an explanation of the basis for the estimate.

(3) A description of the steps necessary for closure if the facility closes prematurely.

(4) A narrative description, including a schedule of measures that are proposed to be carried out in preparation for closure and after closure at the facility, including measures relating to the following:

- (i) Water quality monitoring.
- (ii) Gas control and monitoring.
- (iii) Leachate collection and treatment.
- (iv) Erosion and sedimentation control.
- (v) Revegetation and regrading, including maintenance of the final cover.
- (vi) Access control, including maintenance of access control.

(5) A description of the means by which funds will be made available to cover the cost of postclosure operations, which shall include an assessment of projected postclosure maintenance costs, a description of how the necessary funds will be raised, a description of where the funds will be deposited, copies of relevant legal documents and a description of how the funds will be managed prior to closure.

(6) The name, address and telephone number at which the operator may be reached during the postclosure period.

(c) A person or municipality may propose, as part of the closure plan submitted under this section, to remove standing liquids, waste and waste residues, liners, and underlying and surrounding contaminated soil, and to dispose of the waste material at a solid waste management facility that is permitted to accept the waste. The person or municipality may request final closure certification under § 287.342 (relating to final closure certification) upon completion of a closure plan approved under this subsection.

### **Subchapter C. OPERATING REQUIREMENTS GENERAL PROVISIONS**

#### **§ 289.201. Basic limitations.**

(a) Except as provided in subsection (b), a person or municipality may not own or operate a residual waste disposal impoundment unless the Department has first issued a permit to the person or municipality for the facility under this chapter.

(b) A person or municipality may conduct monitoring under § 289.123 (relating to groundwater quality description) without a permit from the Department if the Department has given written approval for the monitoring based on written plans that are consistent with this chapter.

(c) A person or municipality that operates a residual waste disposal impoundment shall comply with the following:

- (1) The act, this article and other applicable regulations promulgated under the act.
- (2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, the Department's regulations and orders issued by the Department.

(d) A person or municipality may not allow residual waste to be disposed at the facility unless the Department has specifically approved the disposal of the waste at the facility, in the permit.

(e) All approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless otherwise authorized in writing by the Department for technical reasons.

(f) The following radioactive material controlled under specific or general license or order authorized by any Federal, state or other government agency may not be disposed at the facility, unless specifically exempted from disposal restriction by an applicable Pennsylvania or Federal statute or regulation:

- (1) Naturally occurring and accelerator produced radioactive material.
- (2) Byproduct material.
- (3) Source material.
- (4) Special nuclear material.
- (5) Transuranic radioactive material.
- (6) Low-level radioactive waste.

(g) The following radioactive material may not be disposed at the facility, unless approved in writing by the Department and the disposal does not endanger the environment, facility staff or public health and safety.

- (1) Short-lived radioactive material from a patient having undergone a medical procedure.
- (2) TENORM.
- (3) Consumer products containing radioactive material.

(h) The limitations in subsections (f) and (g) do not apply to radioactive material as found in the undisturbed natural environment of the Commonwealth.

### **WASTE LIMITATIONS**

#### **§ 289.212. Waste solidification.**

(a) A person or municipality may not dispose of residual waste at a residual waste disposal impoundment unless the waste meets both of the following:

- (1) The free liquid fraction of the waste shall readily separate from the solid fraction and shall be collected and discharged in accordance with this chapter.
- (2) The waste shall solidify by a chemical or physical process concurrently with disposal or within the shortest period of time technologically practicable. Except for impoundments subject to §§ 289.438(c) and 289.537(c) (relating to leachate collection system within protective cover; and leachate collection system within protective cover), the waste shall solidify prior to closure.

(b) The waste in the impoundment after the requirements of subsection (a) have been met shall be capable of withstanding a minimum bearing capacity of 1.5 tons per square foot with a minimum factor of safety of 1.5. The bearing capacity and minimum factor of safety may be waived by the Department in the permit based upon the postclosure use of the facility.

### **DAILY OPERATIONS**

#### **§ 289.221. Signs and markers.**

- (a) Permanent physical elevation markers for the impoundment area shall be:
  - (1) Posted and maintained for the duration of the operations to which they pertain.

(2) Clearly visible, readable and uniform throughout the operation.

(3) Permanently fixed and made of a durable material.

(b) The perimeter of the site shall be clearly marked before the beginning of operations.

(c) The permanent physical elevation markers shall be installed at the locations in the permit, prior to the beginning of disposal operations.

(d) A person or municipality that operates a noncaptive residual waste disposal impoundment shall identify the facility for the duration of operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road. The sign shall be constructed of a durable, weather-resistant material. The sign shall show the name, business address and telephone number of the person or municipality that operates the facility, the operating hours of the facility and the number of the current permit authorizing operation of the facility.

**§ 289.222. Access control.**

(a) At facilities except local captive facilities the following requirements apply:

(1) A gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(2) The operator shall maintain a fence or other suitable barrier around the site, including impoundments, lagoons, leachate collection and treatment systems and gas processing facilities, sufficient to prevent unauthorized access.

(3) Access to the site shall be limited to times when an attendant is on duty.

(b) At local captive facilities, the operator shall comply with subsection (a) unless the Department approves in the permit alternative means of protecting access to the site that afford an equivalent degree of protection.

**§ 289.223. Access roads.**

(a) Access roads shall be designed, constructed and maintained to prevent erosion to the maximum extent possible and to prevent contributions of sediment to streams or runoff outside the site.

(b) Crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. For roads that are used or in existence for more than 30 days, the drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 289.252 (relating to soil erosion and sedimentation control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 289.134 (relating to plan for access roads). The maximum sustained grade of

an access road may not exceed 12% unless otherwise approved by the Department for captive facilities.

(e) Except for captive facilities where the Department has set forth alternate requirements in the permit and except for roads not leading to the disposal area, the disposal impoundment shall maintain a minimum cartway width of one of the following:

(1) Twenty-two feet for two-way traffic.

(2) Twelve feet for one-way traffic with pull-off intervals every 100 yards or a greater distance where there is a clear view of approaching vehicles.

(f) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the facility to each unloading area. An access road shall be provided to each treatment facility, impoundment, and groundwater monitoring point. Other monitoring points shall be readily accessible.

(g) Disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(h) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off the site.

(i) An access road shall be designed, constructed and maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

**§ 289.224. Measurement and inspection of waste.**

(a) For a noncaptive facility that has received, is receiving or will receive 30,000 or more cubic yards of solid waste in a calendar year, the following apply:

(1) Except as provided in paragraph (2), the operator shall weigh solid waste when it is received. The scale used to weigh solid waste shall conform to 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act) and 70 Pa. Code Part I (relating to weighmasters). The operator of the scale shall be a licensed public weighmaster under 3 Pa.C.S. Chapter 41 and 70 Pa. Code Part I.

(2) The Department may approve, in the permit, an alternative method of accurately measuring waste when it is received.

(b) For other facilities, solid waste received or disposed of at the facility shall be accurately weighed or otherwise accurately measured.

(c) The operator of a facility shall inspect and monitor incoming waste to ensure that the receipt of waste is consistent with this article.

**§ 289.225. Equipment.**

(a) The operator shall maintain on the site equipment necessary for the operation of the facility in accordance with the permit. The equipment shall be maintained in an operable condition.

(b) If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and permit conditions.

**§ 289.227. Air resources protection.**

(a) The operator shall implement fugitive air contaminant control measures and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015); Article III (relating to air

resources) and § 289.228 (relating to nuisance minimization and control). Minimization and control measures shall include the following:

(1) Ensuring that operation of the facility will not cause or contribute to an exceedance of an ambient air quality standard under § 131.3 (relating to ambient air quality standards).

(2) Ensuring that no open burning occurs at the facility.

(3) Minimizing the generation of fugitive dust emissions from the facility.

(b) The operator shall comply with the terms and conditions of an air quality plan approval and air quality operating permit issued to the facility.

**§ 289.228. Nuisance minimization and control.**

(a) *Vectors.* An operator may not cause or allow the attraction, harborage or breeding of vectors.

(b) *Odors.*

(1) An operator shall implement the plan approved under § 289.136 (relating to nuisance minimization and control plan) to minimize and control public nuisances from odors. If the Department determines during operation of the facility that the plan is inadequate to minimize or control public nuisances, the Department may modify the plan or require the operator to modify the plan and obtain Department approval.

(2) An operator shall perform regular, frequent and comprehensive site inspections to evaluate the effectiveness of cover, capping, gas collection and destruction, waste acceptance and all other waste management practices in reducing the potential for offsite odor creation.

(3) An operator shall promptly address and correct problems and deficiencies discovered in the course of inspections performed under paragraph (2).

(c) *Other.* An operator shall implement the plan approved under § 289.136 to minimize and control other conditions that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

**§ 289.229. Daily volume.**

(a) A person or municipality operating a residual waste impoundment may not receive solid waste at the impoundment in excess of the maximum or average daily volume approved in the permit.

(b) The average daily volume is a limit on the volume of solid waste that is permitted to be received at the facility, and shall be computed annually by averaging the total volume received over the year.

**§ 289.230. Radiation monitoring and response for noncaptive residual waste disposal impoundments.**

(a) An operator shall implement the action plan approved under § 289.138 (relating to radiation protection action plan).

(b) An operator shall monitor incoming waste in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, the facility staff and the public health and safety. Monitoring shall meet the requirements of this section and the facility's approved radiation protection action plan.

(c) Radiation detector elements shall be as close as practical to the waste load and in an appropriate geometry to monitor the waste. The radiation monitoring system shall be set to alarm at a level no higher than 10 microrentgen per hour (uR/hr) above the average background at the facility when any of the radiation detector elements is exposed to a Cesium-137 gamma radiation field. Radiation detector elements shall be shielded to maintain the average background below 10 uR/hr. If capable of energy discrimination, the radiation monitoring system shall be set to detect gamma rays of a 50 kiloelectron volt (keV) energy and higher.

(d) An operator shall have portable radiation monitors capable of determining the radiation dose rate and presence of contamination on a vehicle that has caused an alarm. Upon a confirmed exceedance of the alarm level in subsection (c), a radiological survey of the vehicle shall be performed.

(e) An operator shall notify the Department immediately and isolate the vehicle when radiation dose rates of 20 µSv/hr (2 mrem/hr) or greater are detected in the cab of a vehicle, 500 µSv/hr (50 mrem/hr) or greater are detected from any other surface, or contamination is detected on the outside of the vehicle.

(f) Monitoring equipment shall be calibrated at a frequency specified by the manufacturer, but not less than once a year.

(g) If radioactive material is detected, the vehicle containing the radioactive material may not leave the facility without written Department approval and an authorized Federal Department of Transportation Exemption Form.

**COVER AND REVEGETATION**

**§ 289.241. (Reserved).**

**§ 289.242. Cover.**

(a) The operator shall place final cover within 1 year after closure. The Department may require placement and revegetation of an intermediate cover that meets the requirements of § 288.233 (relating to intermediate cover and slopes), during the period between closure and construction of the final cover system.

(b) Except as provided in subsection (c), the operator shall provide final cover in the following manner:

(1) A cap shall be placed and graded over the entire surface of each final lift. The cap may be no more permeable than  $1.0 \times 10^{-7}$  cm/sec. The following performance standards for the cap shall be met:

(i) The cap shall minimize the migration of precipitation into the landfill.

(ii) The cap shall be resistant to physical and chemical failure.

(iii) The cap shall cover all areas where waste is disposed.

(2) A drainage layer capable of transmitting flow and preventing erosion of the soil layer shall be placed over the cap.

(3) A uniform layer of material shall be placed over the drainage layer. The layer of material shall support vegetation and protect the cap.

(c) The Department may waive the cap and drainage layer requirements of subsection (b)(1) and (2) based on a demonstration that it is not necessary to limit infiltration into the waste.



(d) Unless alternative design requirements to meet the performance standards in subsection (b)(1) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the cap shall meet the design requirements for caps in Appendix A, Table II (relating to liner design standards).

(e) The layer of material described in subsection (b)(3) and intermediate cover, if required, shall meet the following performance standards. Cover material shall:

- (1) Prevent vectors, odors and other nuisances.
- (2) Cover residual waste after it is placed without change in its properties and without regard to weather.
- (3) Be capable of controlling fires.
- (4) Be capable of supporting the germination and propagation of vegetative cover as required by §§ 289.244 and 289.245 (relating to revegetation; and standards for successful revegetation).
- (5) Not crack excessively when dry.
- (6) Be capable of preventing frost damage to the cap.
- (7) For intermediate cover, compact well.
- (8) Be consistent with the waste acceptance plan.

(f) Unless alternative design requirements to meet the performance standards in subsection (e) are approved as part of the permit under § 287.231, the layer of material described in subsection (b)(3) shall meet the following design requirements:

- (1) The cover soil shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam.
- (2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.
- (3) The cover may not include rocks that are greater than 6 inches in diameter.
- (4) The layer of cover soil shall be at least 2 feet thick.

**WATER QUALITY PROTECTION**

**§ 289.255. Water supply replacement.**

(a) A person or municipality operating a residual waste disposal impoundment which adversely affects a water supply by degradation, pollution or other means shall restore the affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

- (1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.
- (2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

- (1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

**WATER QUALITY MONITORING**

**§ 289.262. Number, location and depth of monitoring points.**

(a) The water quality monitoring system shall accurately characterize groundwater flow, groundwater chemistry and flow systems on the site and adjacent area. The system shall consist, at a minimum, of the following:

(1) At least one monitoring well at a point hydraulically upgradient from the disposal area in the direction of increasing static head that is capable of providing representative data of groundwater not affected by the facility, except when the facility occupies the most upgradient position in the flow system. In that case, sufficient downgradient monitoring wells shall be placed to determine the extent of adverse effects on groundwater from the facility.

(2) At least three monitoring wells at points hydraulically downgradient in the direction of decreasing static head from the area in which solid waste has been or will be disposed. In addition to the downgradient wells, the Department may allow one or more springs for monitoring points if the springs are hydraulically downgradient from the area in which solid waste has been or will be disposed, if the springs are developed and protected in a manner approved by the Department and if the springs otherwise meet the requirements of this subchapter.

(3) A leachate detection system for the disposal area, when required for the facility.

(4) A leachate collection system for the disposal areas, when required for the facility.

(5) Surface water monitoring points approved by the Department.

(b) The upgradient and downgradient monitoring wells shall be:

- (1) Sufficient in number, location and depth to be representative of water quality.
- (2) Located so that they do not interfere with routine facility operations.

(3) Located within 200 feet of the permitted disposal area, except as necessary to comply with subsection (c), and located at the points of compliance.

(c) In addition to the requirements of subsection (b), upgradient monitoring wells shall be located so that they will not be affected by adverse effects on groundwater from the disposal area.

(d) In addition to the requirements of subsection (b), downgradient monitoring wells shall be located so that they will provide early detection of adverse effects on groundwater from the disposal area.

(e) Wells drilled under this section shall be drilled by drillers licensed under the Water Well Drillers License Act (32 P. S. §§ 645.1—645.13).

(f) The well materials shall be decontaminated prior to installation.

**§ 289.263. Standards for wells and casing of wells.**

(a) Monitoring wells shall be cased as follows:

(1) The casing shall maintain the integrity of the monitoring well borehole and shall be constructed of material that will not react with the groundwater being monitored.

(2) The minimum casing diameter shall be 4 inches unless otherwise approved by the Department in writing.

(3) The well shall be constructed with a screen that meets the following requirements:

(i) The screen shall be factory-made.

(ii) The screen may not react with the groundwater being monitored.

(iii) The screen shall maximize open area to minimize entrance velocities and allow rapid sample recovery.

(4) The well shall be filter-packed with chemically inert clean quartz sand, silica or glass beads. The material shall be well rounded and dimensionally stable.

(5) The casing shall be clearly visible and protrude at least 1 foot above the ground, unless the Department has approved flush mount wells.

(6) The annular space above the sampling depth shall be sealed to prevent contamination of samples and the groundwater.

(7) The casing shall be designed and constructed in a manner that prevents cross contamination between surface water and groundwater.

(8) Alternative casing designs for wells in stable formations may be approved by the Department.

(b) Monitoring well casings shall be enclosed in a protective casing that shall:

(1) Be of sufficient strength to protect the well from damage by heavy equipment and vandalism.

(2) Be installed for at least the upper 10 feet of the monitoring well, as measured from the well cap, with a maximum stick up of 3 feet, unless otherwise approved by the Department in writing.

(3) Be grouted and placed with a concrete collar at least 3 feet deep to hold it firmly in position.

(4) Be numbered for identification with a label capable of withstanding field conditions and painted in a highly visible color.

(5) Protrude above the monitoring well casing.

(6) Have a locked cap.

(7) Be made of steel or another material of equivalent strength.

**§ 289.264. Sampling and analysis.**

(a) A person or municipality operating a residual waste disposal impoundment shall conduct sampling and analysis from each monitoring point for the following parameters at the following frequencies:

(1) Quarterly, for ammonia-nitrogen, bicarbonate, calcium, chloride, fluoride, chemical oxygen demand, nitrate-nitrogen, pH, specific conductance, sulfate, total alkalinity, total dissolved solids, total organic carbon, turbidity, iron, manganese, magnesium, potassium and sodium.

(2) Quarterly, for groundwater elevations in monitoring wells recorded as a distance from the elevation at the well head referenced to mean sea level based on United States Geological Survey datum.

(3) Annually, for total and dissolved concentrations for each of the following: barium, cadmium, chromium, copper, lead, mercury, selenium, silver and zinc.

(4) Annually, for the following volatile organic compounds: Tetrachloroethene, trichloroethene, 1,1,1-trichloroethane, 1,2-dibromoethane, 1,1-dichloroethene, 1,2-dichloroethene (cis and trans isomers), vinyl chloride, 1,1-dichloroethane, 1,2-dichloroethane, methylene chloride, toluene, ethylbenzene, benzene and xylene.

(5) Other constituents contained in the waste that may leach into the environment, as determined under § 287.132 (relating to chemical analysis of waste). The quarterly analysis shall be adjusted to reflect parameters detected from leachate analysis under § 289.456 or § 289.556 (relating to leachate analysis; and sludge handling).

(b) The Department may modify the requirements of this section, based on the waste analysis conducted under § 287.132 for captive residual waste disposal impoundments that receive only one type of waste, for parameters and monitoring frequencies that are not necessary to determine the actual or potential effect of the facility on surface or groundwater. This subsection does not apply to subsection (a)(1).

(c) For facilities permitted before July 4, 1992, the parameters described in this section shall be sampled and analyzed beginning October 4, 1992.

**§ 289.266. Groundwater assessment plan.**

(a) *Requirement.* A person or municipality operating a residual waste disposal impoundment shall prepare and submit to the Department a groundwater assessment plan within 60 days after one of the following occurs:

(1) Data obtained from monitoring by the Department or the operator indicates groundwater degradation at any monitoring point.

(2) Laboratory analysis of one or more public or private water supplies indicates groundwater degradation that could reasonably be attributed to the facility.

(b) *Exception.* The operator is not required to conduct an assessment under this section if one of the following applies:

(1) Within 10 working days after receipt of sample results indicating groundwater degradation, the operator resamples the affected wells and analysis from resampling shows to the Department's satisfaction that groundwater degradation has not occurred.

(2) Within 20 working days after receipt of sample results indicating groundwater degradation, the operator demonstrates that the degradation was caused entirely by earthmoving and other activities related to facility construction, or by seasonal variations.

(c) *Assessment plan.* The groundwater assessment plan shall specify the manner in which the operator will determine the existence, quality, quantity, areal extent and depth of groundwater degradation and the rate and direction of migration of contaminants in the groundwater. A groundwater assessment plan shall be prepared by an expert in the field of hydrogeology. The plan shall contain, at a minimum, the following information:

(1) The number, location, size, casing type and depth of wells, lysimeters, borings, pits, piezometers and other assessment structures or devices to be used. If the operator establishes compliance points as part of the assessment, the points shall be wells constructed in accordance with §§ 289.262 and 289.263 (relating to

number, location and depth of monitoring points; and standards for wells and casing of wells).

(2) Sampling and analytical methods for the parameters to be evaluated.

(3) Evaluation procedures, including the use of previously gathered groundwater quality information, to determine the concentration, rate and extent of groundwater degradation from the facility.

(4) An implementation schedule.

(5) Identification of the abatement standard that will be met.

(d) The groundwater assessment plan shall be implemented upon approval by the Department in accordance with the approved implementation schedule, and shall be completed in a reasonable time not to exceed 6 months unless otherwise approved by the Department. If the Department determines that the proposed plan is inadequate, it may modify the plan and approve the plan as modified. The operator shall notify, in writing, each owner of a private or public water supply that is located within 1/2 mile downgradient of the disposal area that an assessment has been initiated.

(e) Within 45 days after the completion of the groundwater assessment plan, the operator shall submit a report containing the new data collected, analysis of the data and recommendations on the necessity for abatement.

(f) If the Department determines after review of the groundwater assessment report that implementation of an abatement plan is not required by § 289.267 (relating to abatement plan), the operator shall submit a permit modification application under § 287.222 (relating to permit modification) for necessary changes to the groundwater monitoring plan. The operator shall implement the modifications within 30 days of the Department's approval.

(g) This section does not prevent the Department from requiring, or the operator from conducting, groundwater abatement or water supply replacement concurrently with or prior to implementation of the assessment.

**§ 289.267. Abatement plan.**

(a) The operator of a residual waste disposal impoundment shall prepare and submit to the Department an abatement plan when one of the following occurs:

(1) The groundwater assessment plan prepared and implemented under § 289.266 (relating to groundwater assessment plan) shows the presence of groundwater degradation for one or more contaminants at one or more monitoring points and the analysis under § 289.266(c) indicates that an abatement standard under subsection (c) will not be met.

(2) Monitoring by the Department or operator shows the presence of an abatement standard exceedance for one or more contaminants from one or more compliance points as indicated in subsection (c) even if a groundwater assessment plan has not been completed. The operator is not required to implement an abatement plan under this paragraph if the following apply:

(i) Within 10 days after receipt of sample results showing an exceedance of an abatement standard at a point of compliance described in subsection (c), the operator resamples the affected wells.

(ii) Analysis from resampling shows to the Department's satisfaction that an exceedance of an abatement standard has not occurred.

(b) An abatement plan shall be prepared by an expert hydrogeologist and submitted to the Department. The plan shall contain, at a minimum, the following information:

(1) The specific methods or techniques to be used to abate groundwater degradation from the facility.

(2) The specific methods or techniques to be used to prevent further groundwater degradation from the facility.

(3) A schedule for implementation.

(c) If abatement is required in accordance with subsection (a), the operator shall demonstrate compliance with one or more of the following standards at the identified compliance points:

(1) For constituents for which a Statewide health standards exists, the Statewide health standard for that constituent at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer.

(2) The background standard for constituents at and beyond 150 meters of the perimeter of the permitted disposal area or at and beyond the property boundary, whichever is closer.

(3) For constituents for which no primary MCL under the Federal and State Safe Drinking Water Acts (42 U.S.C.A. §§ 300f—300j-18 and 35 P. S. §§ 721.1—721.17) exist, the risk-based standard at and beyond the property boundary, whichever is closer, if the following conditions are met:

(i) The risk assessment used to establish the standard assumes that human receptors exist at the property boundary.

(ii) The level is derived in a manner consistent with Department guidelines for assessment the health risks of environmental pollutants.

(iii) The level is based on scientifically valid studies conducted in accordance with good laboratory practice standards (40 CFR Part 792 (relating to good laboratory practice standards)) promulgated under the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2692), or other scientifically valid studies approved by the Department.

(iv) For carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level of  $1 \times 10^{-5}$  at the property boundary.

(d) For measuring compliance with secondary contaminants under subsection (c)(1) or (3), the Department may approve a compliance point beyond 150 meters on land owned by the owner or the disposal area.

(e) The abatement plan shall be completed and submitted to the Department for approval within 90 days of the time the obligation arises under this section unless the date is otherwise modified, in writing, by the Department.

(f) If the Department determines that the proposed plan is inadequate, the Department may modify the plan and approve the plan as modified or require the submission of an approval modification.

(g) The abatement plan shall be implemented within 60 days of approval by the Department in accordance with the approved implementation schedule.

(h) If, after plan approval or implementation, the Department finds that the plan is incapable of achieving the groundwater protection contemplated in the approval, the Department may do one or more of the following:

(1) Issue an order requiring the operator to submit proposed modifications to the abatement plan.

(2) Issue an order requiring the operator to implement the abatement plan as modified by the Department.

(3) Issue any order as the Department deems necessary to aid in the enforcement of the act.

#### **MINERAL AND GAS**

##### **§ 289.281. Mineral resources.**

(a) The operator shall isolate coal seams, coal outcrops and coal refuse from combustible waste deposits in a manner that prevents the combustion of the waste and that prevents damage to the liner system.

(b) Mine openings within the site shall be sealed in a manner approved by the Department.

(c) The operator shall implement a plan for controlling potential for damage from subsidence that was submitted and approved under § 289.127 (relating to mineral deposits information).

##### **§ 289.282. Gas control and monitoring.**

(a) If the waste disposed at the facility generates, or is likely to generate gas, the operator shall establish and implement a gas control and monitoring program plan under § 289.162 (relating to gas monitoring and control plan).

(b) The operator shall control decomposition gases generated within the site to prevent danger to workers, structures and to occupants of adjacent property.

(c) Gas venting and monitoring systems shall be installed during construction at facilities.

(d) Gas monitoring shall be conducted in accordance with the approved plan. Gas monitoring shall be conducted quarterly by the operator during active operations and after closure until the Department determines in writing that gas monitoring is not necessary to ensure compliance with the act, the environmental protection acts, regulations thereunder and the terms and conditions of the permit.

(e) Combustible gas levels may not equal or exceed:

(1) Twenty-five percent of the lower explosive limit in a structure within the site.

(2) The lower explosive limit at the boundaries of the site.

(f) The operator shall conduct active forced ventilation of the facility, using vents located at least 3 feet above the disposal impoundment surface, if:

(1) Passive venting has caused or may cause violations of subsection (e).

(2) Induced positive gas flows will prevent or control offsite odors.

#### **EMERGENCY PROCEDURES**

##### **§ 289.291. Hazard prevention.**

Residual waste disposal impoundments shall be designed, constructed, maintained and operated to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth that could threaten public health or safety, public welfare or the environment.

##### **§ 289.292. Emergency equipment.**

(a) Except as provided in subsection (b), the operator shall have available in proper working condition the following equipment at the immediate operating area of the facility:

(1) An internal communications or alarm system capable of providing immediate emergency instruction by voice or signal to facility personnel.

(2) A communications system capable of summoning emergency assistance from local police, fire departments, emergency medical services and from State and local emergency response agencies.

(3) Portable fire extinguishers, fire control equipment, spill control equipment, self-contained breathing apparatus and decontamination equipment. For fire control equipment requiring water, the facility shall have a water supply of adequate quantity and pressure to supply the equipment.

(4) Portable gas explosimeters and gas monitoring equipment.

(b) The Department may waive or modify one or more of the requirements of subsection (a) in the permit if the operator demonstrates to the Department's satisfaction that the requirements are not necessary to protect public health and safety, public welfare and the environment.

(c) Equipment and material required by this section shall be tested and maintained in a manner that is operable in time of emergency.

(d) Adequate space shall be maintained to allow the unobstructed movement of emergency personnel and equipment to any operating area of the facility.

#### **RECORDKEEPING AND REPORTING**

##### **§ 289.301. Daily operational records.**

(a) The operator of a facility shall make and maintain an operational record for each day that residual waste is received, processed or disposed, and each day that construction, monitoring or postclosure activity occurs. The operator of a captive residual waste facility may maintain a monthly operational record instead of a daily operational record for each month in which residual waste is received, processed or disposed, and each month that construction, monitoring or postclosure activity occurs. The monthly operational record shall contain the information required in subsection (b)(1)—(6).

(b) The operational record shall include the following:

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

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

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

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

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

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

(7) For noncaptive facilities, the following:

(i) The transporters of the waste.

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

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

(iv) A record of each incident in which radioactive material is detected in waste loads. The record shall include:

- (A) The date, time and location of the occurrence.
- (B) A brief narrative description of the occurrence.
- (C) Specific information on the origin of the material, if known.
- (D) A description of the radioactive material involved, if known.
- (E) The name, address and telephone numbers of the supplier or handler of the radioactive material and the name of the driver.
- (F) The final disposition of the material.

(v) A record of each vehicle, other than a combination that exceeds 73,280 pounds gross weight and of each combination that exceeds 80,000 pounds gross weight.

- (A) The record shall include:
  - (I) The gross weight of the vehicle when weighed at the facility.
  - (II) The registration plate number and home, or base state registration of the vehicle.
  - (III) The name, business address and telephone number of the owner of the vehicle.
  - (IV) The date that the weight scale was last tested in accordance with 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act).
  - (V) The date and time when the vehicle was weighed at the facility.

(B) For purposes of this subparagraph, the following terms shall have the following meanings:

- (I) *Combination*—Two or more vehicles physically interconnected in tandem. An example of a combination is a truck trailer attached to a semitrailer.
- (II) *Gross weight*—The combined weight of a vehicle or combination of vehicles and its load excluding the driver's weight.
- (III) *Registration*—The authority for a vehicle to operate on a highway as evidenced by the issuance of an identifying card and plate or plates.

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

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

**§ 289.302. (Reserved).**

**§ 289.303. Annual operation report.**

(a) An operator shall submit to the Department an annual operation report on or before June 30 of each year.

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following information:

- (1) The weight or volume of each type of solid waste received. For noncaptive facilities, the report shall include the average daily volume totals computed in accordance with § 289.229 (relating to daily volume).

(2) A volumetric calculation of capacity used in the previous year and remaining permitted capacity.

(3) A description of the acreage used for disposal, the acreage seeded, the acreage that has been vegetated, the acreage where vegetation is permanently established and a narrative of the operator's progress in implementing its closure plan.

(4) A current certificate of insurance as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for comprehensive general liability insurance as required by § 287.371 (relating to insurance requirement).

(5) Changes in the previous year concerning the information required by §§ 287.124 and 287.125 (relating to identification of interests; and compliance information). The report shall state if no changes have occurred.

(6) A change in the ownership of the land upon which the facility is located or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the land.

(7) A written update of the total bond liability for the facility under § 287.331 (relating to bond amount determination). If additional bond is determined to be necessary, it shall be submitted to the Department within 90 days after the annual report is due.

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

(9) For noncaptive facilities, the type and weight or volume of solid waste received from each generator, including the name, mailing address, county and state of each generator.

(10) A record of detected radioactive materials.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$4,600 in the form of a check payable to the "Commonwealth of Pennsylvania."

(d) The report shall include an evaluation of whether the monitoring plan implemented under this subchapter needs to be revised to comply with § 289.262 (relating to number, location and depth of monitoring points) because of changes in groundwater elevation or other reasons. If this evaluation determines that changes in the approved groundwater monitoring plan are necessary, the operator shall immediately notify the Department and submit an application for permit modification under § 287.222 (relating to permit modification) for necessary changes in the monitoring plan.

**§ 289.312. Closure.**

(a) The operator shall implement the closure plan approved by the Department under § 289.172 (relating to closure plan).

(b) At least 180 days before implementation of a closure plan, the operator shall review its approved closure plan to determine whether the plan requires modification, and shall submit proposed changes to the Department for approval under § 287.222 (relating to permit modification).

(c) If groundwater degradation exists at closure or occurs after closure, a person shall meet one of the following:

(1) Continue to implement an approved abatement plan.

(2) Submit an application for a closure plan modification in accordance with the procedures for a major permit modification. The operator shall select one or more remediation standards that will be met in accordance with the final closure certification requirements in § 287.342 (relating to final closure certification).

(d) An application for a closure plan modification shall include the following:

(1) Technical information and supporting documentation identifying the remediation activities that will be conducted to meet and maintain the remediation standards.

(2) If a remedy relies on access to or use of properties owned by third parties, for remediation or monitoring, documentation of cooperation or agreement.

**Subchapter D. ADDITIONAL REQUIREMENTS FOR CLASS I RESIDUAL WASTE DISPOSAL IMPOUNDMENTS**

**ADDITIONAL APPLICATION REQUIREMENTS**

**§ 289.412. Liner system and leachate control plan.**

(a) The application shall contain plans, drawings, cross sections and specifications for a liner system to demonstrate compliance with §§ 289.431—289.439 (relating to additional operating requirements—liner system), including the following:

(1) The design of the liner system, including thickness and characteristics of the subbase, the thickness and characteristics of the leachate detection zone, the design for the leachate monitoring system in the leachate detection zone, the nature and thickness of the liner material, the thickness and characteristics of the protective cover and leachate collection zone, and the design for the leachate collection system in the collection zone.

(2) A plan for installing the liner system.

(b) The application shall include a quality assurance and quality control plan for the construction and installation of the liner system. The plan shall include, at a minimum, the following:

(1) A description of the testing procedures and construction methods proposed to be implemented during construction of the liner system.

(2) A description of the manner in which the protective cover and liner system will be maintained and protected in unfilled portions of the disposal area prior to and during initial disposal of solid waste.

(3) A description of the manner in which the protective cover and liner system will be protected from weather prior to and during initial disposal of solid waste.

(4) A description of the qualifications of the quality assurance and quality control personnel, presented in terms of experience and training necessary to implement the plan.

(5) A sampling plan for every component of the liner system, including sample size, methods for determining sample locations, sampling frequency, acceptance and rejection criteria and methods for ensuring that corrective measures are implemented as soon as possible.

(6) A plan for documenting compliance with the quality assurance and quality control plan.

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteristics of the proposed liner system, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate, based on EPA or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed primary and secondary liners, based on ASTM methods when appropriate. Except to the extent that the Department waives, in writing, one or more of the following for nonsynthetic secondary liners, these properties shall include, at a minimum:

- (1) Thickness.
- (2) Tensile strength at yield.
- (3) Elongation at yield.
- (4) Elongation at break.
- (5) Density.
- (6) Tear resistance.
- (7) Carbon black content.
- (8) Puncture resistance.
- (9) Seam strength—% of liner strength.
- (10) Ultraviolet light resistance.
- (11) Carbon black dispersion.
- (12) Permeability.
- (13) Liner friction.
- (14) Stress crack resistance.
- (15) Oxidative induction time.
- (16) Chemical compatibility.
- (17) Percent recycled materials.

**ADDITIONAL OPERATING REQUIREMENTS—GENERAL PROVISIONS**

**§ 289.422. Areas where Class I residual waste disposal impoundments are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, Class I residual waste disposal impoundments may not be operated:

\* \* \* \* \*

(4) In coal bearing areas underlain by recoverable or mineable coals unless the permittee owns the underlying coal.

\* \* \* \* \*

(7) If occupied dwellings are nearby, the following apply:

(i) Except as provided in subparagraphs (ii) and (iii), a residual waste disposal impoundment may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. Except as provided in subparagraphs (ii) and (iii), the disposal area of a residual waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(ii) For a permitted noncaptive residual waste disposal impoundment that was operating and not closed as of

January 13, 2001, an expansion permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:

(A) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(B) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before January 13, 2001, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

(iii) A new, noncaptive residual waste disposal impoundment, permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed, noncaptive disposal impoundment that submits an application to reopen and expand shall also be subject to this paragraph.

(iv) Notwithstanding the prohibitions in subparagraphs (ii) and (iii), an access road to a residual waste disposal impoundment may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

\* \* \* \* \*

(10) For disposal, processing and storage areas, within 1/4 mile upgradient, and within 300 feet downgradient, of a private or public water source, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(11) If the facility receives or proposes to receive putrescible waste:

(i) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(ii) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

(iii) For areas permitted on or after January 13, 2001, in a manner in which any portion of the impoundment would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

(12) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a noncaptive residual waste disposal impoundment permit issued prior to January 13, 2001, for a noncaptive residual waste disposal impoundment permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) The Department may waive or modify one or more of the isolation distances in subsection (a)(1), (5), (7), (8) and (10) for expansions of captive facilities if the operator of the captive facility demonstrates all of the following to the Department's satisfaction:

\* \* \* \* \*

**§ 289.423. Minimum requirements for acceptable waste.**

(a) A person or municipality may not dispose of residual waste at a Class I residual waste disposal impoundment unless the waste meets the following criteria:

(1) Neither the residual waste nor leachate from the waste will adversely affect the ability of the liner system to prevent groundwater degradation.

(2) Leachate generated from the residual waste will be treated by the facility's leachate treatment system in accordance with the applicable laws and in a manner that will protect public health, safety and the environment.

(3) The residual waste will not react, combine or otherwise interact with other waste that is or will be disposed at the facility in a manner that will adversely affect the ability of the liner system to prevent groundwater pollution.

(4) The residual waste may not be allowed to react, combine or otherwise interact with other waste or materials to endanger public health, safety and welfare or the environment by generating extreme heat or pressure, fire or explosion, or toxic mists, fumes, dusts or vapors. The potential for this interaction shall be determined using the procedure set forth in the EPA's "A Method for Determining the Compatibility of Hazardous Wastes" (EPA-600/2-80-076)—available through the Department or the National Technical Information Service (NTIS) United States Department of Commerce, Springfield, VA 22161—or another equivalent method approved by the Department in the permit.

(5) The physical characteristics of the waste will not cause or contribute to structural instability or other operating problems at the site.

(b) A person or municipality may not store or dispose of municipal waste or special handling waste at a Class I residual waste disposal impoundment.

(c) A person or municipality may not dispose of hazardous waste at a Class I residual waste disposal impoundment unless the following are met:

(1) Disposal of the waste at a residual waste disposal impoundment is authorized by Article VII (relating to hazardous waste management).

(2) The Department approves of the disposal of the waste at the residual waste disposal impoundment in the permit.

(d) A person or municipality may not dispose of solid waste at a Class I residual waste disposal impoundment if the Toxic Substances Control Act (15 U.S.C.A. §§ 2601—2629) prohibits the disposal of the solid waste at the residual waste disposal impoundment.

#### ADDITIONAL OPERATING REQUIREMENTS— LINER SYSTEM

##### § 289.432. General limitations.

(a) The bottom of the subbase of the liner system cannot be in contact with the seasonal high water table or perched water table without the use of groundwater pumping systems.

(1) Soil mottling may indicate the presence of a seasonal high water table.

(2) Drainage systems may be utilized to prevent contact between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is likely to adversely affect the quality or quantity of water provided by a public or private water supply, even if a replacement supply is available under § 289.255 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping, french drains or equivalent methods.

(b) For unconfined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table. The regional groundwater table may not be artificially lowered.

(c) For confined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The integrity of the confining layer may not be compromised by excavation.

(d) If the approved design plans provide for the placement of additional adjacent liner:

(1) Waste may not be placed within 25 feet of an edge of the liner.

(2) The edge of the liner shall be protected by approved soil cover, or another material approved in the permit, until additional liner is added.

(e) If the approved design plans do not provide for the placement of additional adjacent liner, waste may not be placed within 4 feet of an edge of the liner.

(f) The edge of the liner shall be clearly marked.

##### § 289.433. Subbase.

(a) The subbase shall meet the following performance standards. The subbase shall:

(1) Bear the weight of the liner system, waste, waste cover material and equipment operating on the facility without causing or allowing a failure of the liner system.

(2) Accommodate potential settlement without damage to the liner system.

(3) Be a barrier to the transmission of liquids.

(4) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the subbase shall meet the following design requirements. The subbase shall:

(1) Consist of an upper 6 inches that is:

(i) Compacted to a standard proctor density of at least 95%.

(ii) No more permeable than  $1.0 \times 10^{-5}$  cm/sec., based on laboratory and field testing, unless the clay component of a composite liner is located directly above the subbase.

(iii) Hard, uniform, smooth and free of debris, rock fragments, plant materials and other foreign material.

(2) Have a postsettlement slope of at least 2% and no more than 33%.

##### § 289.434. Secondary liner.

(a) *Requirements.* The secondary liner shall meet the following requirements:

(1) The secondary liner shall prevent the migration of leachate through the liner to the greatest degree that is technologically possible.

(2) The effectiveness of the secondary liner in preventing the migration of leachate may not be adversely affected by the physical or chemical characteristics of solid waste, solid waste constituents or leachate from the facility.

(3) The secondary liner shall be resistant to physical failure, chemical failure and other failure from the sources identified under § 289.412(d) (relating to liner system and leachate control plan).

(4) The secondary liner shall cover the bottom and sidewalls of the facility.

(b) *Design requirements.* Unless alternative design requirements to meet the performance standards in subsection (a) as part of the permit under § 287.231 (relating to equivalency review procedure) are approved, the secondary liner shall meet, at the minimum, the requirements of Appendix A, Table I (relating to minimum liner design standards).

(c) *Construction requirements.* A secondary liner shall:

(1) Be no more permeable than  $1.0 \times 10^{-7}$  cm/sec., based on laboratory testing. For nonsynthetic liners, field testing shall also be conducted.

(2) Be installed, if the liner is synthetic, according to manufacturer's specifications under the supervision of an authorized representative of the manufacturer. An approved quality assurance and quality control plan shall be implemented in the field during the installation of the liner.

(3) Be designed, installed and maintained, if the liner is remolded clay, according to a quality assurance and quality control plan approved by the Department.

(4) Be inspected for uniformity, damage and imperfections during construction and installation.



(d) *Compacted lifts.* Secondary liners made of clay, bentonite and bentonite-like materials shall be constructed in compacted lifts not exceeding 6 inches in depth. A lift shall be scarified before placement of the next lift.

(e) *Composite secondary liners.*

(1) If the operator does not design, construct, operate and maintain a composite primary liner, the operator shall design, construct, operate and maintain a composite secondary liner which has the following:

(i) An upper component made of a manufactured geosynthetic liner that meets the requirements of this section independently of the composite component.

(ii) A composite component made of earthen material that meets the requirements of this section independently of the upper component, except that the composite component may not be more permeable than  $1.0 \times 10^{-6}$  cm/sec., based on laboratory and field testing.

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact, between them.

(3) Use of a composite secondary liner does not relieve the operator of responsibility for a separate primary liner under § 289.436 (relating to primary liner).

(f) *Natural attenuation prohibited.* A facility or a component thereof that is subject to this section may not have a secondary liner based upon natural attenuation of leachate.

**§ 289.435. Leachate detection zone.**

(a) The leachate detection zone shall meet the following performance standards. The leachate detection zone shall:

(1) Rapidly detect and collect liquid entering the leachate detection zone, and rapidly transmit the liquid to the leachate treatment system.

(2) Withstand chemical attack from waste or leachate.

(3) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(4) Function without clogging.

(5) Prevent the liner from puncturing, cracking, tearing, stretching or otherwise losing its physical integrity.

(6) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements. The leachate detection zone shall:

(1) Be at least 12 inches thick.

(2) Contain no material exceeding 0.5 inches in particle size.

(3) Create a flow zone between the secondary liner and the primary liner equal to, or more permeable, than  $1.0 \times 10^{-2}$  cm/sec., based on a laboratory testing and, when required by the Department, field testing.

(4) Contain a perforated piping system capable of detecting and intercepting liquid within the leachate detection zone and conveying the liquid to a collection sump for storage, processing or disposal. The sump shall

be separate from the leachate collection sump, and shall be of a sufficient size to transmit leachate that is generated.

(5) The piping system shall also meet the following requirements:

(i) The slope, size and spacing of the piping system shall assure that liquids drain from the leachate detection zone.

(ii) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(iii) The minimum diameter of the perforated pipe shall be 4 inches with a wall thickness of Schedule-80 or greater, as specified by ASTM, or equivalent.

(iv) The pipes shall be cleaned and maintained as necessary.

(6) The leachate detection zone shall have a minimum bottom slope of 2%.

(7) Contain noncarbonate stones or aggregate with no sharp edges.

(c) The operator shall monitor the leachate detection zone weekly to determine whether liquid is flowing from the zone.

(d) If liquid is flowing from the leachate detection zone, the operator shall immediately do the following:

(1) Notify the Department in writing.

(2) Estimate on a weekly basis, the volume of liquid flowing from the zone.

(3) Sample and analyze the liquid quarterly, unless a more frequent basis is required by the Department, for pH, specific conductivity, total organic carbon, chlorides and other parameters specified in the permit. The Department may also require sampling and analysis for other constituents expected to be found in the waste.

(4) Provide written copies of flow and analysis data to the Department.

(e) If leachate flow is greater than 100 gallons per acre of lined collection area per day, or more than 10% of leachate generation, the operator shall:

(1) Submit to the Department within 30 days a plan for locating the source of leachate in the leachate detection zone, and for determining the severity and cause of leachate penetration.

(2) Implement the plan upon Department approval, and complete the plan in a reasonable time not to exceed 6 months.

(3) Submit to the Department within 45 days after completion of the plan a report containing the new data collected, analysis of the data and recommendations concerning a remedial plan.

(4) Conduct quarterly sampling and analysis for the parameters in § 289.264(a)(1) (relating to sampling and analysis), and submit copies of the results of the analysis to the Department.

(f) If sampling results indicate the presence of constituents at concentrations that could result in groundwater degradation at a monitoring well, the operator shall:

(1) Submit a remedial plan for controlling the source of leachate in the leachate detection zone and correcting a malfunction or defect in the liner system, and implement the plan upon Department approval.

(2) Submit a permit modification application under § 287.222 (relating to permit modification) for increased groundwater monitoring, giving consideration to monitoring frequency, number of wells and other factors, and conduct increased groundwater monitoring upon Department approval of the application.

**§ 289.436. Primary liner.**

(a) *Requirements.* The primary liner shall meet the following requirements:

(1) The primary liner shall prevent the migration of leachate through the liner to the greatest degree that is technologically possible.

(2) The effectiveness of the primary liner in preventing the migration of leachate may not be adversely affected by the physical or chemical characteristics of solid waste, solid waste constituents or leachate from the facility.

(3) The primary liner shall be resistant to physical failure, chemical failure and other failure from the properties identified under § 289.161 (relating to impoundment plan).

(4) The primary liner shall cover the bottom and sidewalls of the facility.

(b) *Design requirements.* Unless alternative design standards to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the primary liner shall meet, at the minimum, the requirements of Appendix A, Table I (relating to minimum liner design standards).

(c) *Specifications.* A primary liner shall be:

(1) No more permeable than  $1.0 \times 10^{-7}$  cm/sec., based on laboratory testing.

(2) Installed, if the liners are synthetic, according to the manufacturer's specifications under the supervision of an authorized representative of the manufacturer. The approved quality control program shall be implemented in the field during the installation of the liner.

(3) Inspected for uniformity, damage and imperfections during construction or installation.

(d) *Composite primary liner.*

(1) If the operator does not design, construct, operate and maintain a composite secondary liner, the operator shall design, construct, operate and maintain a composite primary liner which has the following characteristics:

(i) An upper component made of a manufactured geosynthetic liner that meets the requirements of this section independently of the composite component.

(ii) A composite component made of earthen material that meets the requirement of § 289.434 (relating to secondary liner) independently of the upper component, except that the composite component may not be more permeable than  $1.0 \times 10^{-6}$  cm/sec., based on laboratory and field testing.

(2) The two components of the composite liner shall be designed, constructed and maintained to provide a compression connection, or direct continuous contact between them.

(3) The use of a composite primary liner does not relieve the operator of responsibility for a separate secondary liner under § 289.434.

(e) *Clay or earthen material prohibited.* Except as provided in subsection (d), a facility or component thereof

that is subject to this section may not have a primary liner made of clay or earthen material or a primary liner based upon natural attenuation of leachate.

**§ 289.438. Leachate collection system within protective cover.**

(a) The leachate collection system within the protective cover shall meet the following performance standards. The leachate collection system shall:

(1) Ensure that free flowing liquids and leachate will drain continuously from the protective cover to the leachate treatment system.

(2) Withstand chemical attack from leachate.

(3) Withstand anticipated loads, stresses and disturbances from overlying waste, waste cover materials and equipment operation.

(4) Function without clogging.

(5) Cover the bottom and sidewalls of the facility.

(b) Unless alternative design requirements to the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate collection system with the protective cover shall comply with the following design requirements.

(1) The leachate collection system shall include a perforated piping system which is capable of intercepting free flowing liquids and leachate within the protective cover and conveying them to a collection sump for storage, processing or disposal. The collection sump shall be of a sufficient size to transmit leachate that is generated and shall be capable of automatic and continuous functioning.

(2) The perforated piping system shall be sloped, sized and spaced to assure that free flowing liquids and leachate will drain continuously from the protective cover to the collection sump or point.

(3) The minimum diameter of the perforated pipes shall be 6 inches with a wall thickness of Schedule-80 or greater as specified by ASTM, or equivalent.

(4) The leachate collection system shall contain stones or aggregates.

(5) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(6) The leachate collection system shall be cleaned and maintained as necessary.

(7) The leachate collection system shall have a minimum bottom slope of 2%.

(c) The Department may, in the permit, authorize the operator to delay activation of the leachate collection system until closure if the following are met:

(1) The impoundment is designed so that liquid covers waste during the active life of the facility.

(2) Wastes disposed at the impoundment are free draining.

(3) Solidification is solely dependent on gravity drainage.

(4) Test data or historical information, or both, from impoundments that received similar wastes show that the requirements of § 289.212(b) (relating to waste solidification) will be met 2 years after waste disposal ceases.

**ADDITIONAL OPERATING REQUIREMENTS—  
LEACHATE TREATMENT**

**§ 289.454. Leachate recirculation.**

(a) In conjunction with the treatment methods in §§ 289.452 and 289.453 (relating to basic treatment methods; and leachate transportation), recirculation of leachate generated at the facility may be utilized if the following exist:

- (1) The area subject to leachate recirculation previously has been filled with solid waste.
  - (2) There is sufficient residual waste capacity to absorb the leachate.
  - (3) The area subject to leachate recirculation is underlain by a leachate collection system.
  - (4) Leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.
  - (5) The leachate is not a hazardous waste.
  - (6) The leachate will not interfere with the solidification of waste at the impoundment.
- (b) An alternate leachate recirculation method may be used if approved by the Department.

**§ 289.455. Leachate collection and storage.**

(a) Impoundments or tanks for storing leachate before or during treatment shall be constructed in accordance with §§ 299.122, 299.142 and 299.145 (relating to storage tanks; general requirements; and failure).

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain impoundments or tanks for storage of leachate. For noncaptive facilities, the tanks or impoundments shall have a storage capacity at least equal to the maximum expected production of leachate for a 30-day period for the life of the facility estimated under § 289.413 (relating to leachate treatment plan). For captive facilities, the tank or impoundment shall have sufficient storage capacity to ensure proper operation of the treatment facility in accordance with the approved leachate treatment plan and shall meet the performance standard in § 289.438(a)(1) (relating to leachate collection system within protective cover). No more than 25% of the total leachate storage capacity may be used for flow equalization on a regular basis.

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, unless otherwise approved by the Department.

(d) The storage capacity of impoundments and tanks at a site shall be increased, if additional storage is required, prior to each major phase of construction and as otherwise necessary.

(e) Leachate storage capacity may not be considered to include leachate that may have collected in or on the liner system.

(f) Necessary collection and containment systems shall be installed prior to the deposition of solid waste at the site. The leachate treatment or handling system approved by the Department under § 289.413 shall be installed or ready for use prior to the storage or disposal of solid waste at the site.

(g) For areas permitted after January 13, 2001, all underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or

tanks shall be equipped with secondary containment or comply with the requirements in § 245.445 (relating to methods for release detection for piping). Secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.

**§ 289.456. Leachate analysis and sludge handling.**

(a) Upon commencement of leachate flow from the facility, the operator shall sample, analyze and maintain a record of the following:

(1) On a daily basis, the average flow rate and volume of leachate flowing from the disposal impoundment into the leachate storage and treatment system.

(2) On a quarterly basis unless otherwise provided in the permit, the chemical composition of leachate flowing into the leachate treatment system. The analysis shall be sufficient to determine the impact of leachate on the liner system, the effectiveness of the leachate treatment system, the need for modification of the groundwater monitoring system or the effluent limitations in an NPDES permit and the actual characteristics of leachate from the waste disposed at the facility. For the purpose of this analysis, the leachate sample shall be collected from the influent storage tank or impoundment and shall be representative of the average mixed influent leachate quality.

(b) Sludges resulting from the treatment of leachate may be disposed at the facility if the sludges are not hazardous under Article VII (relating to hazardous waste management).

**Subchapter E. ADDITIONAL REQUIREMENTS FOR  
CLASS II RESIDUAL WASTE DISPOSAL  
IMPOUNDMENTS**

**ADDITIONAL APPLICATION REQUIREMENTS**

**§ 289.512. Liner system and leachate control plan.**

\* \* \* \* \*

(c) The application shall demonstrate that leachate will not adversely affect the physical or chemical characteristics of the proposed liner system, or inhibit the liner's ability to restrict the flow of solid waste, solid waste constituents or leachate based on EPA or ASTM guidelines approved by the Department.

(d) The application shall include a complete description of the physical, chemical, mechanical and thermal properties for the proposed liner, based on ASTM methods when appropriate. These properties shall include, at a minimum:

- (1) Thickness.
- (2) Tensile strength at yield.
- (3) Elongation at yield.
- (4) Elongation at break.
- (5) Density.
- (6) Tear resistance.
- (7) Carbon black content.
- (8) Puncture resistance.
- (9) Seam strength—% of liner strength.
- (10) Ultraviolet light resistance.
- (11) Carbon black dispersion.
- (12) Permeability.
- (13) Liner friction.

- (14) Stress crack resistance.
- (15) Oxidative induction time.
- (16) Chemical compatibility.
- (17) Percent recycled materials.

**ADDITIONAL OPERATING REQUIREMENTS—GENERAL**

**§ 289.522. Areas where Class II residual waste disposal impoundments are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, Class II residual waste disposal impoundments may not be operated as follows:

\* \* \* \* \*

(4) In coal bearing areas underlain by recoverable or mineable coals, unless the permittee owns the underlying coal.

\* \* \* \* \*

(7) If occupied dwellings are nearby, the following apply:

(i) Except as provided in subparagraphs (ii) and (iii), a residual waste disposal impoundment may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. Except as provided in subsections (ii) and (iii), the disposal area of a residual waste landfill may not be within 500 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the disposal area being closer than 500 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(ii) For a permitted noncaptive residual waste disposal impoundment that was operating and not closed as of January 13, 2001, an expansion permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless one or both of the following conditions are met:

(A) The owner of the dwelling has provided a written waiver consenting to the facility or disposal area being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(B) The applicant owned or entered into an enforceable option contract to purchase the land on which the expansion would operate on or before January 13, 2001, and still holds the option rights, still owns the land or owns the land pursuant to the option rights contract when the permit expansion is issued. Even if the requirement of this subparagraph is met, the expansion may not be operated within 300 feet measured horizontally from an occupied dwelling and the disposal area may not be within 500 feet measured horizontally from an occupied dwelling.

(iii) A new, noncaptive residual waste disposal impoundment, permitted on or after January 13, 2001, may not be operated within 900 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the facility being closer than 900 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed, noncaptive disposal impoundment that submits an application to reopen and expand shall also be subject to this paragraph.

(iv) Notwithstanding the prohibitions in subparagraphs (ii) and (iii), an access road to a residual waste disposal impoundment may not be operated within 300 feet measured horizontally from an occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to the access road being closer than 300 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

\* \* \* \* \*

(10) For disposal, processing and storage areas, within 1/4 mile upgradient, and within 300 feet downgradient, of a private or public water source, except that the Department may waive or modify these isolation distances if the operator demonstrates and the Department finds, in writing, that the following conditions have been met:

(i) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(ii) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source is adversely affected by the facility.

(iii) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for every public or private water source in the isolation area.

(11) If the facility receives or proposes to receive putrescible waste:

(i) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(ii) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

\* \* \* \* \*

(iii) For areas permitted on or after January 13, 2001, in a manner in which any portion of the impoundment would be an obstruction to air navigation under 14 CFR 77.23(a)(5) (relating to standards for determining obstructions).

(12) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a noncaptive residual waste disposal impoundment permit issued prior to January 13, 2001, for a noncaptive residual waste disposal impoundment permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) The Department may waive or modify one or more of the isolation distances in subsection (a)(1), (5), (7), (8)

and (10) for expansions of captive facilities if the operator of the captive facility demonstrates the following to the Department's satisfaction:

(1) The captive facility was permitted prior to July 4, 1992, or was permitted after July 4, 1992, if the Department determined the permit application for the facility to be administratively complete prior to July 4, 1992.

(2) The captive facility routinely and regularly disposed of residual waste on and after the effective date of these regulations.

(3) The expansion of the captive facility solely includes land which is contiguous to the captive facility.

(4) The expansion of the captive facility solely includes land which is owned by the applicant on July 4, 1992.

(5) No other site is available on contiguous land for the expansion of the captive facility.

(6) The expansion of the captive facility will be designed and operated to ensure that the facility does not harm public health, safety, welfare or the environment.

\* \* \* \* \*

**§ 289.523. Minimum requirements for acceptable waste.**

(a) A person or municipality may not dispose of residual waste at a Class II residual waste disposal impoundment unless the waste meets the following criteria:

(1) The residual waste may not be of a type from which the maximum concentration obtained for a contaminant, based on a chemical analysis of its leachate submitted under § 287.132 (relating to chemical analysis of waste), and approved by the Department, exceeds 50 times the waste classification standard for that contaminant. If analytical quantification limits prevent determination of the acceptability of a residual waste under this paragraph, the Department may consider the total analysis of the waste as well as the physical and chemical characteristics of the contaminant in making a determination of acceptability of the waste at the facility.

(2) Notwithstanding the limitation in paragraph (1), the Department may authorize the disposal of residual waste at a monofill if the waste is of a type from which the maximum concentration obtained for a contaminant, based on a chemical analysis of its leachate submitted under § 287.132, exceeds 50 times the SMCL for that contaminant if the SMCL is the waste classification standard for the contaminant. The Department may authorize the disposal of the waste only upon a demonstration that disposal of the waste at the facility will not cause groundwater degradation that exceeds the SMCL for a contaminant at a monitoring point or groundwater degradation that exceeds background levels at the property boundary for the contaminant.

\* \* \* \* \*

(4) The Department may authorize a facility which disposes of a waste in accordance with a permit under this article to continue to dispose of the waste at the facility although a waste classification standard for a contaminant has been changed so that the waste would no longer meet the criteria for disposal of the waste at the facility under paragraph (1), if the operator of the facility demonstrates to the Department's satisfaction that disposal of the waste will not cause groundwater degradation that exceeds the waste classification standard for a contaminant at a monitoring point or groundwater degradation that exceeds background levels at the property boundary for a contaminant.

\* \* \* \* \*

(11) The physical characteristics of the waste will not cause or contribute to structural instability or other operating problems at the site.

\* \* \* \* \*

**ADDITIONAL OPERATING REQUIREMENTS—LINER SYSTEM**

**§ 289.532. General limitations.**

(a) The bottom of the subbase of the liner system cannot be in contact with the seasonal high table or perched water table without the use of groundwater pumping systems.

(1) Soil mottling may indicate the presence of a seasonal high water table.

(2) Drainage systems may be utilized to prevent contact between the bottom of the subbase of the liner system and the seasonal high water table or perched water table. The operator may not use a drainage system if the system is likely to adversely affect the quality or quantity of water provided by a public or private water supply, even if a replacement supply is available under § 289.255 (relating to water supply replacement). The drainage system shall be limited to drain tile, piping, french drains or equivalent methods.

(b) For unconfined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the regional groundwater table. The regional groundwater table may not be artificially lowered.

(c) For confined aquifers, at least 8 feet shall be maintained between the bottom of the subbase of the liner system and the top of the confining layer or the shallowest level below the bottom of the subbase where groundwater occurs as a result of upward leakage from natural or other preexisting causes. The integrity of the confining layer may not be compromised by excavation.

(d) If the approved design plans provide for the placement of an additional adjacent liner, the following apply:

(1) Waste may not be placed within 25 feet of an edge of the liner.

(2) The edge of the liner shall be protected by approved soil cover, or another material approved in the permit, until additional liner is added.

(e) If the approved design plans do not provide for the placement of additional adjacent liner, waste may not be placed within 4 feet of an edge of the liner.

(f) The edge of the liner shall be clearly marked.

**§ 289.534. Leachate detection zone.**

\* \* \* \* \*

(b) Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate detection zone of a liner system shall meet the following design requirements. The leachate detection zone shall:

\* \* \* \* \*

(4) Contain a perforated piping system capable of detecting and intercepting liquid within the leachate detection zone and conveying the liquid to a collection sump for storage, processing or disposal. The sump shall be separate from the leachate collection sump and shall

be of a sufficient size to transmit leachate that is generated. The piping system shall also meet the following requirements:

(i) The slope, size and spacing of the piping system shall assure that liquids drain from the leachate detection zone.

(ii) The pipes shall be installed primarily perpendicular to the flow and shall have a minimum postsettlement grade of at least 2%.

(iii) The minimum diameter of the perforated pipe shall be 4 inches with a wall thickness of Schedule-80 or greater as specified by ASTM or equivalent.

(iv) The pipes shall be cleaned and maintained as necessary.

\* \* \* \* \*

(e) If leachate flow is greater than 100 gallons per acre of lined collection area per day, or more than 10% of leachate generation the operator shall do the following:

\* \* \* \* \*

(f) If sampling results indicate the presence of constituents at concentrations that could result in groundwater degradation, the operator shall submit the following to the Department:

(1) A remedial plan for controlling the source of leachate in the leachate detection zone and correcting a malfunction or defect in that liner system, and implement the plan upon Department approval.

\* \* \* \* \*

**§ 289.535. Liner.**

\* \* \* \* \*

(b) *Alternative design requirements.* Unless alternative design requirements to meet the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the liner shall meet, at the minimum, the requirements of Appendix A, Table II (relating to minimum liner design standards).

(c) *Requirements.* A liner shall meet the following standards. A liner shall include:

(1) An upper component made of a manufactured geosynthetic liner that meets the following requirements independently of the composite component:

\* \* \* \* \*

(2) A composite component made of earthen material that meets the following requirements independent of the upper component:

(i) The composite component is no more permeable than  $1.0 \times 10^{-6}$  cm/sec., based on laboratory testing and field testing.

(ii) The composite component is designed, installed and maintained according to a quality assurance and quality control plan approved by the Department.

(iii) The composite component is inspected for uniformity, damage and imperfections during construction and installation.

(iv) The composite component shall be constructed in compacted lifts not exceeding 6 inches in depth. A lift shall be scarified before placement of the next lift.

\* \* \* \* \*

**§ 289.537. Leachate collection system within protective cover.**

\* \* \* \* \*

(b) Unless alternative design requirements to the performance standards in subsection (a) are approved as part of the permit under § 287.231 (relating to equivalency review procedure), the leachate collection system with the protective cover shall comply with the following design requirements.

\* \* \* \* \*

(4) The leachate collection system shall contain stones or aggregates.

\* \* \* \* \*

**ADDITIONAL OPERATING REQUIREMENTS—LEACHATE TREATMENT**

**§ 289.554. Leachate recirculation.**

(a) In conjunction with the treatment methods in §§ 289.552 and 289.553 (relating to basic treatment methods; and leachate transportation), recirculation of leachate generated at the facility may be utilized if the following conditions exist:

(1) The area subject to leachate recirculation previously has been filled with solid waste.

(2) There is sufficient residual waste capacity to absorb the leachate.

(3) The area subject to leachate recirculation is underlain by a leachate collection system.

(4) Leachate recirculation is conducted with an approved piping system located under the intermediate cover, and causes no odors, runoff or ponding.

(5) The leachate is not a hazardous waste.

(6) The leachate will not interfere with the solidification of waste at the impoundment.

(b) An alternate leachate recirculation method may be used if approved by the Department.

**§ 289.555. Leachate collection and storage.**

(a) Impoundments or tanks for storing leachate before or during treatment shall be constructed in accordance with §§ 299.122, 299.142 and 299.145 (relating to storage tanks; general requirements; and failure).

(b) An onsite leachate storage system shall be part of each leachate treatment method used by the operator. The storage system shall contain impoundments or tanks for storage of leachate. For noncaptive facilities, the tanks or impoundments shall have a storage capacity at least equal to the maximum expected production of leachate for a 30-day period for the life of the facility estimated under § 289.513 (relating to leachate treatment plan). For captive facilities, the tank or impoundment shall have sufficient storage capacity to ensure proper operation of the treatment facility in accordance with the approved leachate treatment plan and shall meet the performance standards in § 289.537(a)(1) (relating to leachate collection system within protective cover). No more than 25% of the total leachate storage capacity may be used for flow equalization on a regular basis.

(c) The impoundments or tanks shall be aerated as necessary to prevent and control odors. Impoundments or tanks shall each have a capacity of at least 250,000 gallons, unless otherwise approved by the Department.

(d) The storage capacity of impoundments and tanks at a site shall be increased, if additional storage is required, prior to each major phase of construction and as otherwise necessary.

(e) Leachate storage capacity may not be considered to include leachate that may have collected in or on the liner system.

(f) Necessary collection and containment systems shall be installed prior to the deposition of solid waste at the site. A leachate treatment or handling system approved by the Department under § 289.513 shall be installed or

ready for use prior to the storage or disposal of solid waste at the site.

(g) For areas permitted after January 13, 2001, all underground pipes used for the transport of leachate from the liner system to the leachate storage impoundments or tanks shall be equipped with secondary containment or comply with § 245.445 (relating to methods for release detection for piping). Secondary containment shall be designed, constructed and installed to direct any release to an area that can be inspected for leaks.

APPENDIX A

TABLE I

MINIMUM LINER DESIGN STANDARDS

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Geosynthetics	Primary or Secondary Liner	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer. HDPE liners shall be at least 60 mil.
Geosynthetics	Cap	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer.
Natural & Remolded Clay	Secondary Liner, Cap, Composite Component	2 feet 2 feet 1 foot	>=90%* >=90%* >=90%*	1. Minimum of 30% fines by weight less than 0.074 mm particle size (#200 sieve). 2. Plasticity Index greater than or equal to 10. 3. No coarse fragments greater than 3/4 inch in diameter.
Sodium bentonite & Bentonite-like materials/soil mixtures	Secondary Liner, Cap, Composite Component	2 feet 2 feet 1 foot	>=90%* >=90%* >=90%*	1. Minimum of 8% powdered sodium bentonite or manufacturer's recommendations, whichever is greater. 2. No coarse fragments greater than 3/4 inch in diameter. 3. No organic matter. 4. Coarse fragment content (those materials greater than 4.76 mm. in diameter) shall not exceed 10% by weight.
Geosynthetic clay liner (GCL)	Composite Component	N/A	N/A	1. Minimum of 3/4 pound of powdered or granular sodium bentonite per square foot.

\* Percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

TABLE II

MINIMUM LINER DESIGN STANDARDS

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Geosynthetics	Liner Cap	30 mil	N/A	1. A greater thickness may be required depending upon the recommendations of the manufacturer. HDPE liners shall be at least 60 mil.

<i>Liner Material</i>	<i>Function</i>	<i>Minimum Field Thickness (Units as Specified)</i>	<i>Liner Density (Tests as Specified)</i>	<i>Remarks</i>
Natural & Remolded Clay	Cap, Composite Component	2 feet 1 foot	>=90%* >=90%*	1. Minimum of 30% fines by weight less than 0.074 mm particle size (#200 sieve). 2. Plasticity Index greater than or equal to 10. 3. No coarse fragments greater than 3/4 inch in diameter.
Sodium bentonite & Bentonite-like materials/soil mixtures	Cap, Composite Component	2 feet 1 foot	>=90%* >=90%*	1. Minimum of 8% powdered sodium bentonite or manufacturer's recommendations, whichever is greater. 2. No coarse fragments greater than 3/4 inch in diameter. 3. No organic matter. 4. Coarse fragment content (those materials greater than 4.76 mm. in diameter), shall not exceed 10% by weight.
Geosynthetic Clay Liner (GCL)	Composite Component	N/A	N/A	1. Minimum of 3/4 pound of powdered or granular sodium bentonite per square foot.

\* Percentage of maximum when using Standard Proctor method of design (Pa. PTM No. 106, Method B).

## CHAPTER 291. LAND APPLICATION OF RESIDUAL WASTE

### Subchapter B. GENERAL APPLICATION REQUIREMENTS FOR THE LAND APPLICATION OF RESIDUAL WASTE

#### § 291.101. General.

(a) An application for the land application of residual waste shall:

- (1) Comply with this subchapter.
- (2) Comply with the additional application requirements that are specifically applicable to the particular type of operation that is proposed.
- (3) Comply with the applicable requirements of Chapter 287 (relating to residual waste management—general provisions).

(4) Be considered an application for agricultural utilization or land reclamation.

(b) An application shall demonstrate how the applicant plans to comply with Subchapter C (relating to general operating requirements for the land application of residual waste), as well as additional operating requirements in this chapter that are specifically applicable to the particular type of operation that is proposed.

#### § 291.102. Operating plan.

An application shall contain a narrative description explaining the following:

(1) Whether the proposed operation is for agricultural utilization or land reclamation of residual waste.

(2) The general operating plan for the proposed operation, including the proposed life of the operation, and the origin and weight or volume of residual waste that is proposed to be applied during the operation.

(3) The proposed application rate per acre, which shall be consistent with the applicable Departmental guidelines for the proposed operation, and the dates when the applicant proposes to apply residual waste.

(4) An analysis of the effect of the proposed operation and loading rates over the lifetime of the facility on air, water, vegetation and other natural resources.

(5) The method by which residual waste will be applied and incorporated into soil.

(6) The equipment to be used for site preparation, land application of residual waste, residual waste incorporation into the soil when incorporation is required, and seeding.

(7) The use that will be made of the proposed permit area after residual waste application has permanently ceased.

(8) The nuisance control plan to prevent health hazards or nuisances.

#### § 291.103. Maps and related information.

(a) An application shall contain a topographic map on a scale in which 1 inch equals no more than 400 feet, including necessary narrative descriptions, which show the following:

(1) The boundaries and the names of the present owners of record of the land, including easements, rights-of-way and other property interests, for the proposed permit area and adjacent areas; and a description of all title, deed or usage restrictions affecting the proposed permit area.

(2) The boundaries and the names of the present owners for the proposed permit area and adjacent area.

(3) The boundaries of the land where residual waste will be applied over the estimated total life of the proposed operation, including the boundaries of land that will be affected in each sequence of land application activity.

(4) The boundaries of land where residual waste will be stored at various times over the estimated total life of the proposed operation.

(5) The location and name of public and private water sources and wells within the isolation distances in



§ 291.202 (relating to areas where the land application of residual waste is prohibited).

(6) Municipalities in which the permit area is proposed to be located.

(7) The location and type of existing or proposed erosion control devices.

(8) Surface waters in the proposed permit area and adjacent area, as required by § 291.106 (relating to surface water information).

(b) An application shall contain a United States Department of Agriculture Soil Conservation Service soils map, or aerial photographs if current soils maps are unavailable, which shows the location and types of soils within the proposed permit area and adjacent area.

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

**GENERAL**

**§ 291.201. General provisions.**

(a) A person or municipality may not own or operate a land application facility for residual waste unless the Department has issued a permit to that person or municipality under this chapter.

(b) A person or municipality that owns or operates a land application facility for residual waste shall comply with the following:

(1) The act, this subchapter and the additional operating requirements for the specific type of operation that are in Subchapter D or E (relating to additional requirements for the agricultural utilization of residual waste; and additional requirements for land reclamation).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(3) The Department guidelines for land application.

(4) If a component of the residual waste contains human waste, the pathogen and vector attraction reduction requirements in Chapter 271, Subchapter J (relating to beneficial use) shall be met in addition to the operating requirements of this chapter.

(c) Municipal waste and hazardous waste may not be stored, processed or disposed at the facility.

(d) Residual waste may not be applied to the land if it is likely to adversely affect a Federal or Pennsylvania threatened or endangered species, or its designated critical habitat, identified pursuant to the Endangered Species Act (16 U.S.C.A. §§ 1531—1544), 30 Pa.C.S. § 2305 (relating to threatened and endangered species) or 34 Pa.C.S. § 2167 (relating to endangered or threatened species).

(e) Residual waste may not be applied to a site that is flooded, frozen, or snow-covered, except as expressly provided in the permit.

**§ 291.202. Areas where the land application of residual waste is prohibited.**

(a) Except for areas permitted by the Department prior to the effective date of these regulations, the land application of residual waste may not be conducted as follows:

(1) Within 100 feet of an intermittent or perennial stream.

(2) Within 300 feet of a water source unless the current owner of this water source has provided a written waiver consenting to the activities closer than 300 feet. This paragraph does not apply to features that may come into existence after the dates upon which adjacent landowner notification is given under § 287.151(b) (relating to public notice by applicant).

(3) Within 100 feet of a sinkhole.

(4) In or within 100 feet of an exceptional value wetland.

(5) Within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the activities closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(b) The Department may waive the isolation distances in this section for areas that were included in the permit area of a permit application that was determined by the Department to be administratively complete before July 4, 1992.

**§ 291.203. Limitations on land application of residual waste.**

(a) Residual waste may not be applied to land where the regional groundwater table is less than 3.3 feet from the surface.

(b) Residual waste may not be disposed or applied so as to adversely affect the soil or food chain, cause odors or allow vectors.

(c) Prior to land application, residual waste shall be treated or stabilized if it has potential to cause odors or other adverse environmental effects.

(d) Unless otherwise approved by the Department in writing, residual waste may not be applied to land where root vegetables or vegetables which are eaten raw are grown or will be grown.

(e) Residual waste shall be applied to the soil surface or incorporated in a manner that prevents ponding or standing accumulations of liquid or residual waste.

(f) A person or municipality may not use spray irrigation equipment to apply residual waste unless the person has demonstrated to the Department in the permit application that the equipment will not cause aerosol transport offsite, and the Department has approved the equipment as part of the permit.

(g) Livestock may not be allowed to graze on areas where the residual waste is visible on the vegetation or the surface of the ground, unless otherwise approved by the Department in writing.

**§ 291.205. Erosion control.**

(a) The operator shall manage surface water and control erosion and sedimentation to meet the applicable requirements of Chapter 102 (relating to erosion and sediment control).

(b) For land reclamation, rills and gullies shall be filled, graded or otherwise stabilized and the area reseeded or replanted when rills or gullies deeper than 9 inches form in areas where residual waste has been applied or stored.

(c) For agricultural utilization, rills and gullies shall be filled, graded or otherwise stabilized and, when necessary,

the area reseeded or replanted, when rills or gullies deeper than 3 inches form in areas where residual waste has been applied or stored.

(d) Rills or gullies of lesser size shall be stabilized and the area reseeded or replanted if the rills or gullies may result in additional erosion, sedimentation or pollution.

**§ 291.207. Water supply replacement.**

(a) An operator which adversely affects a water supply by degradation, pollution or other means shall restore the affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

**§ 291.209. (Reserved).**

**§ 291.210. Nuisance minimization and control.**

(a) The operator shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator shall also control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

**RECORDKEEPING AND REPORTING**

**§ 291.221. Daily operational records.**

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

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

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

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

(3) The transporters of the residual waste.

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

(5) A record of deviations from the permit.

(6) General weather conditions during disposal.

(7) The application rate for residual waste.

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

(9) A description of waste handling problems or emergency disposal facilities.

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

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

**§ 291.222. Annual operation report.**

(a) A person or municipality that applies residual waste to land under this chapter shall submit to the Department an annual operation report for each permitted facility on or before March 1 of each year.

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

(1) The weight or volume of each type of residual waste received, and the weight or volume applied to each field or other application area.

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

(3) A current certificate of insurance, as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for comprehensive general liability insurance as required by § 287.371 (relating to insurance requirement).

(4) Changes in ownership of the land where the operation is conducted or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the lands.

(5) The annual groundwater monitoring evaluation if groundwater monitoring is required by the Department.

(6) For agricultural utilization facilities which have received residual waste in the calendar year, a chemical analysis of soil for each field or soil series at the facility for pH, phosphorus, cadmium, zinc, copper, nickel, lead, chromium, mercury and any other constituents contained in the waste that may be leached into the environment, as determined under § 287.132 (relating to chemical analysis of waste), unless otherwise specified by the Department in the permit. The procedure for soil sampling and analysis shall be consistent with the Department guidelines.

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

(c) The annual operation report shall also contain a topographic map of the same scale and contour interval as the map required under § 291.103 (relating to maps

and related information), showing the field boundaries where residual waste has been applied, and the volume applied to each field or other designated application area.

(d) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amounts:

(1) Six hundred dollars for the agricultural utilization of residual waste.

(2) Nineteen hundred dollars for land reclamation of residual waste.

(e) The Department may waive any of the requirements of this section if no residual waste was disposed of by land application in the previous year.

**Subchapter D. ADDITIONAL REQUIREMENTS FOR THE AGRICULTURAL UTILIZATION OF RESIDUAL WASTE**

**ADDITIONAL APPLICATION REQUIREMENTS**

**§ 291.301. Additional application requirements.**

In addition to the requirements of Subchapter B (relating to general application requirements for the land application of residual waste), an application for a permit for agricultural utilization of residual waste shall include the following:

(1) A projected 3-year crop rotation plan, including the type of farming operation, type of crop, planting sequence, crop management and use of the crops.

(2) An operations map showing the location of groundwater monitoring devices that exist or are proposed for the facility.

(3) A nutrient management plan for the site, including:

(i) A description of the kind and amount of fertilizers or soil conditioners that will be placed on the site in addition to residual waste.

(ii) The number and kind of animals on the farm or property, as well as the total nutrient value of manure produced by those animals, and the location where the manure is placed.

(iii) An explanation and analysis of the effect on the soil from the additional nutrients that would be supplied by the residual waste.

(iv) The benefit to the soil or farming operation that the waste would provide.

**ADDITIONAL OPERATING REQUIREMENTS**

**§ 291.311. General requirements.**

(a) In addition to the requirements of Subchapter C (relating to general operating requirements for the land application of residual waste), a person or municipality that applies residual waste for agricultural utilization shall comply with this section and §§ 291.312—291.316, unless the person or municipality has obtained a permit from the Department for land reclamation. In that case, the person or municipality shall comply with the applicable provisions of Subchapter E (relating to additional requirements for land reclamation).

(b) A person or municipality may not apply residual waste for agricultural utilization that contains a constituent in such high concentrations that it requires a loading rate which would give the residual waste little or no nutrient or soil conditioning value in the soil.

**§ 291.312. Site characteristics.**

A person or municipality may not apply residual waste to a site unless the site complies with the following:

(1) The site shall have soils that fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam or silt loam, unless otherwise approved by the Department in the permit.

(2) The site shall have a minimum depth from surface to seasonal high water table of 11 inches.

(3) Slopes to be utilized for agricultural utilization may not exceed 25%, unless otherwise approved in writing by the Department.

(4) Soil pH shall be 6.5 or greater prior to land application, unless the Department allows the operator to increase pH by application of residual waste or other material.

(5) Except as provided in paragraph (6), soil pH shall be maintained at 6.5 or greater for the life of land application operations.

(6) If the site is planted with nursery crops that require a pH of less than 6.5, the Department may approve a soil pH of 5.8 or greater in the permit.

**§ 291.314. (Reserved).**

**§ 291.315. Water quality monitoring.**

(a) If required by the Department as part of the permit, the operator shall conduct groundwater monitoring. The groundwater monitoring shall be in accordance with §§ 288.252—288.258, as required by the Department, and the terms and conditions of the permit, and shall continue for the period specified in § 293.262 (relating to cessation of operations).

(b) For purposes of interfacing with §§ 288.252—288.258, the following terms apply:

(1) The term "disposal area" is substituted with "area where land application occurs."

(2) The term "residual waste landfill" is substituted with "land application facility."

(3) The term "disposed" is substituted with "land applied."

**§ 291.316. Soil-pore water monitoring.**

If required by the Department, based upon the waste and site characteristics, the operator shall conduct soil-pore water monitoring and accurately characterize soil-pore water at the facility.

**Subchapter E. ADDITIONAL REQUIREMENTS FOR LAND RECLAMATION**

**ADDITIONAL OPERATING REQUIREMENTS**

**§ 291.412. Site characteristics.**

A person or municipality may not apply residual waste under a land reclamation permit unless the site complies with the following:

(1) Slopes to be utilized for residual waste application may not exceed 35%, unless otherwise approved in writing by the Department.

(2) Soil pH shall be 6.5 or greater prior to residual waste application unless the Department in the permit allows the operator to increase pH by application of residual waste or other material. In that case, soil pH shall be 6.0 or greater at the end of the first year following the initial application of residual waste and 6.5

or greater at the end of the second year following the initial application of residual waste.

(3) Except as provided in paragraph (2), soil pH shall be maintained at 6.5 or greater during the life of application operations.

**§ 291.414. Weather.**

(a) The operator may not apply residual waste between October 15 and April 15.

(b) The Department may approve the storage of residual waste between October 15 and May 30 in the permit if the operator makes a satisfactory demonstration under Chapter 299, Subchapter A (relating to standards for storage of residual waste). The storage may not exceed in amount the residual waste necessary to reclaim the permitted area that was prepared for residual waste application prior to October 15.

**§ 291.416. Water quality monitoring.**

(a) If required by the Department as part of the permit, the operator shall conduct groundwater monitoring. The groundwater monitoring shall be in accordance with §§ 288.252—288.258, as required by the Department, and the terms and conditions of the permit, and shall continue for the period specified in § 293.262 (relating to cessation of operations).

(b) For purposes of interfacing with §§ 288.252—288.258, the following terms apply:

(1) The term “disposal area” is substituted with “area where land application occurs.”

(2) The term “residual waste landfill” is substituted with “land application facility.”

(3) The term “disposed” is substituted with “land applied.”

**§ 291.417. Soil-pore water monitoring.**

If required by the Department, based upon waste and site characteristics, the operator shall conduct soil-pore water monitoring and accurately characterize soil-pore water at the facility.

**Subchapter F. (Reserved)**

**§§ 291.501—291.503. (Reserved).**

**§§ 291.511—291.517. (Reserved).**

**§§ 291.521—291.528. (Reserved).**

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

**Subchapter A. GENERAL**

**§ 293.1. Scope.**

(a) This chapter sets forth application and operating requirements for transfer facilities. The requirements in this chapter are in addition to the applicable requirements in Chapter 287 (relating to residual waste management—general provisions).

(b) The Department may waive or modify a requirement of this chapter for permitted transfer facilities at which no actual loading, unloading or transferring of residual waste occurs, if the absence of the loading, unloading or transferring activity renders the requirement unnecessary.

**Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES**

**§ 293.102. Operating plan.**

(a) An application to operate a transfer facility shall contain a narrative description of the general operating

plan for the proposed facility, including the origin, composition and weight or volume of solid waste that is proposed to be received at the facility, the process to be used at the facility, the daily operational methodology of the proposed process, the loading rate, the proposed capacity of the facility and the expected life of the facility.

(b) An application shall contain a plan for an alternative waste handling or disposal system during periods when the proposed facility is not in operation, including procedures to be followed in case of equipment breakdown. Procedures may include the use of standby equipment, extension of operating hours and contractual agreements for diversion of residual waste to other facilities.

(c) An application shall contain a plan for training equipment operators and other personnel concerning the operation and approved design of the facility, including safety measures to prevent injuries.

(d) An application shall contain a plan for assuring that solid waste received at the facility is consistent with § 293.201 (relating to basic limitations).

(e) An application shall contain the proposed operating hours of the proposed facility.

(f) An application shall contain a narrative describing the procedures for inspection and monitoring of incoming waste.

**§ 293.103. Maps and related information.**

(a) An application shall contain a topographic map of the proposed permit area and adjacent area, including necessary narrative descriptions, which shows the following:

(1) The boundaries and names of present owners of record of land, both surface and subsurface, and including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

(2) The boundaries of the land to be affected over the estimated total life of the proposed facility.

(3) The location and name of surface water bodies such as springs, streams, lakes, ponds, wetlands, constructed or natural drains, and irrigation ditches that are located on or within 1/4 mile of the proposed facility.

(4) The location and name of public and private water sources that are located on or within 1/4 mile of the proposed facility. If more than 50 wells are located within the 1/4-mile radius, the applicant may identify only the closest wells in each direction and generally describe the location and number of wells within the 1/4-mile radius.

(5) The location of rights-of-way for high-tension power lines, pipelines, railroads and public and private roads within 300 feet of the proposed facility.

(6) The location of buildings in use by a person within 300 feet of the proposed facility.

(7) The anticipated location of water quality monitoring points if monitoring is required by the Department.

(8) The boundaries of land within the proposed permit area or adjacent area identified in § 293.202 (relating to areas where transfer facilities are prohibited).

(9) The municipalities in which the permit area is proposed to be located.

(10) The location of the 100-year floodplain boundaries.

(11) The location of access roads to and within the proposed permit area, including slopes, grades and lengths of the roads.

(12) The location of barriers, fences and similar facilities required by § 293.212 (relating to access control).

(13) The water diversion, collection, conveyance, erosion and sedimentation control, treatment, storage and discharge facilities to be used.

(14) The solid waste storage or loading/unloading areas.

(15) The areas of land for which a bond will be posted under Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(16) The location and use of buildings and related facilities which will be used in the operation.

(17) The location of scales and weigh stations to be used in the operation.

(18) For noncaptive residual waste transfer facilities, a designated area for vehicles for use in the event of the detection of waste containing radioactive material. The designated area shall, by location or shielding, protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

(b) The applicant shall also show the location of a permanent benchmark for horizontal and vertical control.

**§ 293.106. Soil and groundwater monitoring plan.**

(a) If required by the Department, the applicant shall submit a groundwater monitoring plan to detect groundwater degradation from the facility.

(b) If required by the Department, the applicant shall submit a soil monitoring plan capable of detecting soil contamination from the facility.

**§ 293.109. Contingency plan.**

An application shall contain a contingency plan consistent with §§ 293.241—293.243 (relating to emergency procedures). The plan shall include a Preparedness, Prevention and Contingency (PPC) Plan that is consistent with the Department's most recent guidelines for the development and implementation of PPC Plans.

**§ 293.110. Daily volume.**

The application shall contain a proposed maximum daily volume for the facility, and a detailed justification for the volume, based on §§ 287.126 and 287.127 (relating to requirement for environmental assessment; and environmental assessment).

**§ 293.111. Radiation protection action plan.**

(a) An application for a noncaptive residual waste transfer facility shall contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting.

(b) The action plan shall be prepared in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility

staff and public health and safety and which meets all statutory and regulatory requirements.

(c) The action plan shall be incorporated into the transfer facility's approved waste analysis plan under § 287.134 (relating to waste analysis plan).

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

**§ 293.201. Basic limitations.**

(a) A person or municipality may not own or operate a transfer facility unless the Department has first issued a permit to that person or municipality for the facility under this chapter.

(b) A person or municipality that operates a transfer facility shall comply with the following:

(1) The operating requirements of the act, this subchapter and the applicable requirements of Chapter 287 (relating to residual waste management—general provisions).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(c) A person or municipality that operates a transfer facility may not allow residual waste or special handling waste to be received or handled at the facility unless the Department has specifically approved handling the waste in the permit.

(d) A person or municipality that operates a transfer facility may not:

(1) Mix solid waste with, or store solid waste in proximity to other solid waste to create a risk of fire or explosion, or a risk of the accumulation of poisonous or otherwise harmful vapors or gases.

(2) Allow explosive waste to be stored, processed or disposed at the facility.

(3) Allow hazardous waste to be stored, processed or disposed at the facility.

(e) A person or municipality may not store, process or dispose of municipal waste, other than special handling waste, at the facility. Special handling municipal waste may be handled at the facility only if the Department has specifically approved handling the waste at the facility.

(f) All approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.

(g) The following radioactive material controlled under specific or general license or order authorized by any Federal, state or other government agency may not be processed at the facility, unless specifically exempted from disposal restriction by an applicable Pennsylvania or Federal statute or regulation:

(1) Naturally occurring and accelerator produced radioactive material.

(2) Byproduct material.

(3) Source material.

(4) Special nuclear material.

(5) Transuranic radioactive material.

(6) Low-level radioactive waste.

(h) The following radioactive material may not be processed at the facility, unless approved in writing by the Department and the processing does not endanger the environment, facility staff or public health and safety.

(1) Short-lived radioactive material from a patient having undergone a medical procedure.

(2) TENORM.

(3) Consumer products containing radioactive material.

(i) The limitations in subsections (g) and (h) do not apply to radioactive material as found in the undisturbed natural environment of this Commonwealth.

**§ 293.202. Areas where transfer facilities are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, a transfer facility may not be operated:

(1) In the 100-year floodplain of a water in this Commonwealth, unless the Department approves in the permit a method of protecting the facility from a 100-year flood consistent with the Flood Plain Management Act (32 P.S. §§ 679.101—679.601) and the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27).

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland, unless the storage and processing take place in an enclosed facility and no adverse impacts to the wetland will occur or storage and processing will not occur within that distance and one of the following applies:

(i) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the owner has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(5) Within 100 feet of a perennial stream, unless one of the following applies:

(i) The storage and processing take place in an enclosed facility and no adverse hydrologic or water quality impacts will result.

(ii) The facility transfers waste to barges at the transfer facility location.

(iii) Storage and processing that is not enclosed will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(6) Within 50 feet of a property line, unless one of the following applies:

(i) The storage and processing take place in an enclosed facility.

(ii) The owner of the adjacent property has provided a written waiver consenting to the facility being closer than 50 feet. The waiver shall be knowingly made and separate from a lease or a deed unless the lease or deed contains an explicit waiver from the owner.

(iii) Actual storage and processing of waste is not occurring within that distance.

(7) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a residual waste transfer station permit issued prior to January 13, 2001, for a residual waste transfer station permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) Except as provided in subsection (c), this section does not apply to features that may come into existence after the date of the first newspaper notice under § 287.151 (relating to public notice by applicant).

(c) This section does not apply to features that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a transfer facility permit. The notice, which is separate from the newspaper notice required by § 287.151, shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

(2) The person or municipality files an administratively complete application under § 287.202 (relating to completeness review) with the Department within 1 year from the date of the first newspaper notice under this subsection.

(d) The Department may waive the isolation distances in this section for areas that were included in the permit area of a permit application that was determined by the Department to be administratively complete before July 4, 1992.

## DAILY OPERATIONS

### § 293.211. Signs and markers.

(a) A person or municipality that operates a noncaptive transfer facility shall identify the facility for the duration of operations by posting and maintaining a sign which will be clearly visible and can be easily seen and read at the junction of each access road and public road unless otherwise approved by the Department. The sign shall be constructed of a durable, weather-resistant material. The sign shall show the name, business address and telephone number of the person or municipality that operates the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility.

(b) Permit area markers and the benchmark for horizontal and vertical control shall be:

(1) Posted and maintained for the duration of the operation to which they pertain.

(2) Clearly visible, readable and uniform throughout the operation.

(3) Permanently fixed and made of a durable material.

**§ 293.212. Access control.**

(a) A gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(b) The operator shall maintain a fence or other suitable barrier around the site sufficient to prevent unauthorized access.

(c) Access to the site shall be limited to times when an attendant is on duty.

**§ 293.213. Access roads.**

(a) Access roads shall be designed, constructed and maintained to prevent erosion to the maximum extent possible and to prevent contributions of sediment to streams or runoff outside the site.

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable, and which will safely conduct the peak flow from a 25-year, 24-hour precipitation event. The drainage system shall comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 293.104 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

(e) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the area to unloading areas, treatment facilities or impoundments.

(f) Roads shall be constructed on a base that is capable of withstanding anticipated loads.

(g) Disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(h) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off site.

**§ 293.214. Measuring waste.**

(a) An operator of a residual waste transfer facility that has received, is receiving or will receive 30,000 or more cubic yards of solid waste in a calendar year shall weigh solid waste when it is received. The scale used to weigh solid waste shall conform to 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act) and 70 Pa. Code Part I (relating to weighmasters). The operator of the scale shall be a licensed public weighmaster under 3 Pa.C.S. Chapter 41 and 70 Pa. Code Part I.

(b) The operator of a facility that is not required by subsection (a) to weigh waste when it is received shall accurately measure waste by volume or weight prior to unloading.

**§ 293.215. Operations and equipment.**

(a) Loading, unloading, storage, compaction and related activities shall be conducted in an enclosed building, unless otherwise approved by the Department in the permit.

(b) The operator shall maintain on the site equipment necessary for operation of the facility in accordance with the permit. The equipment shall be maintained in an operable condition.

(c) If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

(d) Equipment shall be operated and maintained to prevent solid waste from being unintentionally removed from the storage area.

(e) Equipment shall be cleaned at frequencies specified in the permit based on scheduled or emergency maintenance periods.

(f) The operator of a transfer facility shall inspect and monitor incoming waste to ensure that the receipt of waste is consistent with this article.

**§ 293.216. Unloading area.**

(a) The approach and unloading area shall be adequate in size and design to facilitate the rapid unloading of solid waste from the collection vehicles and the unobstructed maneuvering of the vehicles and other equipment.

(b) The loading areas and unloading areas shall be constructed of impervious material which is capable of being cleaned by high pressure water spray and shall be equipped with drains or sumps connected to a sanitary sewer system or treatment facility to facilitate the removal of water. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage treatment plant operator, and the operator finds that the treatment plant can fully treat the waste stream. Leachate may also be collected in holding tanks prior to its transport to the sewage treatment plant.

(c) If the facility has an unloading pit, the facility shall have in place truck wheel curbs and tie downs that are sufficient to prevent trucks from backing into the pit or falling into the pit while unloading.

(d) An attendant or clearly marked signs shall direct vehicles to the unloading area.

(e) The operator shall ensure that collection vehicles unload waste promptly in unloading areas.

(f) Residual waste shall be confined to the unloading area and the approved storage areas.

**§ 293.217. Cleaning and maintenance.**

(a) Areas within the building shall be kept clean.

(b) The operator may not allow putrescible waste to remain at the transfer facility at the end of the working day or for more than 24 hours, except that putrescible waste may remain at a transfer facility for any period of time up to 72 hours over a weekend or 3-day weekend if the transfer facility permit so provides.

(c) Plumbing shall be properly maintained, and the floors shall be well drained.

(d) Macerators, hammermills and grinders shall be cleanable and shall be equipped with drains that connect to a treatment facility. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage treatment plant operator, and the operator finds that the treatment plant can fully treat the waste stream.

(e) Provision shall be made for the routine operational maintenance of the facility.

**§ 293.218. Air resources protection.**

(a) The operator shall implement fugitive air contaminant control measures, and shall otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015), Article III (relating to air resources) and § 293.219 (relating to nuisance minimization control).

(b) A person or municipality may not cause or allow open burning at the facility.

**§ 293.219. Nuisance minimization and control.**

(a) The operator shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator also shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness or other public nuisances.

**§ 293.221. Litter.**

(a) The operator may not allow litter to be blown or otherwise deposited offsite.

(b) Blown off and intercepted litter shall be collected at least weekly from fences, roadways, tree line barriers and other barriers and disposed or stored in accordance with the act and this article, unless a greater frequency is set forth in the permit.

**§ 293.222. Daily volume.**

A person or municipality operating a transfer facility may not receive solid waste at the facility in excess of the maximum daily volume approved in the permit.

**§ 293.223. Radiation monitoring and response for noncaptive residual waste transfer facilities.**

(a) An operator shall implement the action plan approved under § 293.111 (relating to radiation protection action plan).

(b) An operator shall monitor incoming waste in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document number 250-3100-001, or in a manner at least as protective of the environment, the facility staff and the public health and safety. Monitoring shall meet the requirements of this section and the facility's approved radiation protection action plan.

(c) Radiation detector elements shall be as close as practical to the waste load and in an appropriate geometry to monitor the waste. The radiation monitoring system shall be set to alarm at a level no higher than 10 microroentgen per hour (uR/hr) above the average background at the facility when any of the radiation detector elements is exposed to a Cesium-137 gamma radiation field. Radiation detector elements shall be shielded to maintain the average background below 10 uR/hr. If capable of energy discrimination, the radiation monitoring system shall be set to detect gamma rays of a 50 kiloelectron volt (keV) energy and higher.

(d) An operator shall have portable radiation monitors capable of determining the radiation dose rate and presence of contamination on a vehicle that has caused an alarm. Upon a confirmed exceedance of the alarm level in subsection (c), a radiological survey of the vehicle shall be performed.

(e) An operator shall notify the Department immediately and isolate the vehicle when radiation dose rates of 20  $\mu$ Sv/hr (2 mrem/hr) or greater are detected in the cab of a vehicle, 500  $\mu$ Sv/hr (50 mrem/hr) or greater are detected from any other surface, or contamination is detected on the outside of the vehicle.

(f) Monitoring equipment shall be calibrated at a frequency specified by the manufacturer, but not less than once a year.

(g) If radioactive material is detected, the vehicle containing the radioactive material may not leave the facility without written Department approval and an authorized United States Department of Transportation exemption form.

**SOIL AND WATER PROTECTION**

**§ 293.231. General requirements.**

(a) The operator may not cause or allow a point or nonpoint source discharge in violation of The Clean Streams Law from or on the facility to surface waters of this Commonwealth.

(b) A transfer facility shall be operated to prevent and control water pollution. An operator shall operate and maintain necessary water pollution treatment facilities until water pollution from or on the facility has been permanently abated.

(c) The operator may not cause water pollution on or off the site.

(d) The operator may not cause contamination of soil on or off the site.

**§ 293.232. Soil erosion and sedimentation control.**

The operator shall manage surface water and control erosion and sedimentation to:

(1) Divert surface water away from the storage area with measures and structures necessary to handle surface water flows based on a 25-year, 24-hour precipitation event, and supported by written calculations and also comply with Chapter 102 (relating to erosion control).

(2) Meet the requirements of Chapters 102 and 105 (relating to erosion and sediment control; and dam safety and waterway management).

(3) Prevent erosion to the maximum extent possible, including where possible, using revegetation.

**§ 293.233. Soil and groundwater monitoring.**

(a) If required by the Department as part of the permit, the operator shall conduct soil or groundwater monitoring, or both. The groundwater monitoring shall be in accordance with §§ 288.252—288.258, as required by the Department, and the terms and conditions of the permit, and shall continue for the period specified in § 293.262 (relating to cessation of operations).

(b) For purposes of interfacing with §§ 288.252—288.258, the following terms apply:

(1) The term "disposal area" is substituted with "area where storage and processing occur."

(2) The term "residual waste landfill" is substituted with "transfer facility."

(3) The term "disposed" is substituted with "stored or processed."

**§ 293.234. Water supply replacement.**

(a) An operator that adversely affects a water supply by degradation, pollution or other means shall restore the



affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but no later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but no later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

**EMERGENCY PROCEDURES**

**§ 293.241. Hazard prevention.**

A transfer facility shall be designed, constructed, maintained and operated to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth that could threaten public health or safety, public welfare or the environment.

**RECORDKEEPING AND REPORTING**

**§ 293.251. Daily operational records.**

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

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

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

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

(3) The transporters of the solid waste.

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

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

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

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

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

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

(10) A record of rejected waste loads, and the reasons for rejecting the loads.

(11) For noncaptive facilities, a record of each incident in which radioactive material is detected in waste loads. The record shall include:

(i) The date, time and location of the occurrence.

(ii) A brief narrative description of the occurrence.

(iii) Specific information on the origin of the material, if known.

(iv) A description of the radioactive material involved, if known.

(v) The name, address and telephone numbers of the supplier or handler of the radioactive material and the name of the driver.

(vi) The final disposition of the material.

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

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

**§ 293.252. Annual operation report.**

(a) A person or municipality that operates a transfer facility shall submit to the Department an annual operation report on or before June 30 of each year.

(b) The annual operating report, which shall be submitted on a form supplied by the Department, shall include the following:

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

(2) The weight or volume of each material used, reclaimed or marketed.

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

(4) A current certificate of insurance as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for comprehensive general liability insurance as required by § 287.371 (relating to insurance requirement).

(5) Changes in the previous year concerning the information required by §§ 287.124 and 287.125 (relating to identification of interests; and compliance information). The report shall also state if no changes have occurred.

(6) A change in the ownership of the land upon which the facility is located or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the lands.

(7) A written update of the total bond liability for the facility under § 287.331 (relating to bond amount determination). If additional bond is determined to be necessary, it shall be submitted to the Department within 90 days after the annual report is due.

(8) Certification that the operator has received the analysis or certification required by § 287.54 (relating to chemical analysis of waste) for each type of residual

waste or special handling waste received at the facility, and that the residual waste or special handling waste that is received at the facility meets the conditions in the facility's permit.

(9) A record of detected radioactive materials.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$900 in the form of a check payable to "Commonwealth of Pennsylvania."

#### **CESSATION AND CLOSURE**

##### **§ 293.262. Cessation of operations.**

(a) Upon cessation of transfer operations at the facility, the operator shall remove solid waste and structures or other materials which contain or are contaminated with solid waste, and shall provide for the processing or disposal of the waste or material in accordance with the act, the environmental protection acts and this title.

(b) An operator required under § 293.233 (relating to soil and groundwater monitoring) to conduct soil monitoring may discontinue soil monitoring upon, cessation of processing operations with the Department's approval. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that soil contamination will manifest itself in the future and other factors.

(c) An operator required under § 293.233 to conduct groundwater monitoring may discontinue groundwater monitoring after cessation of processing operations and cleanup only upon written approval by the Department. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that groundwater contamination will manifest itself in the future, whether the remediation standards in § 287.342(c) (relating to final closure certification) are met and maintained and other relevant factors.

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

##### **Subchapter B. APPLICATION REQUIREMENTS FOR COMPOSTING FACILITIES**

#### **OPERATIONS**

##### **§ 295.111. Operating plan.**

An application to operate a composting facility shall contain the following:

(1) A narrative description of the general operating plan for the proposed facility, including the origin, composition and weight or volume of solid waste that is proposed to be composted at the facility, the suitability of the waste for composting, the composting process to be used at the facility, the daily operational methodology of the proposed process, the proposed processing and storage capacity of the facility and the expected life of the facility.

(2) A plan for an alternative waste handling or disposal system during periods when the proposed facility is not in operation, including procedures to be followed in case of equipment breakdown. Procedures may include the use of standby equipment, extension of operating hours or contractual agreements for diversion of residual waste to other facilities.

(3) A plan for sampling and analyzing the compost.

(4) A description of the anticipated quality of the compost.

(5) A plan for the anticipated recovery rate of compost from the process, and plans for the reuse, sale or marketing of the compost.

(6) A plan for managing compost if markets for the sale or reuse of compost become unavailable.

(7) A plan for the proposed location and method for disposal or processing of residue produced by operation of the facility.

(8) A plan for assuring that solid waste received at the facility is consistent with § 295.201 (relating to basic limitations).

(9) A plan for training equipment operators and other personnel concerning the operation and approved design of the facility.

(10) The proposed operating hours of the proposed facility.

(11) A narrative describing the procedures for inspection and monitoring of incoming waste.

##### **§ 295.112. Maps and related information.**

(a) An application shall contain a topographic map of the proposed permit area and adjacent area, including necessary narrative descriptions, which shows the following:

(1) The boundaries and the names of the present owners of record of land, both surface and subsurface, including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

(2) The boundaries of land to be affected over the estimated total life of the proposed operation.

(3) The location and name of surface water bodies, such as springs, streams, lakes, ponds, wetlands, constructed or natural drains and irrigation ditches that are located on the proposed permit area and adjacent area.

(4) The location and name of public and private water sources that are located on the proposed permit area and adjacent area.

(5) The location of rights-of-way for high-tension power lines, pipelines, railroads and public and private roads within 300 feet of the proposed facility.

(6) The location of buildings in use within 300 feet of the proposed facility.

(7) The anticipated location of water quality monitoring points.

(8) The boundaries of land within the proposed permit area or adjacent area identified in § 295.202 (relating to areas where composting facilities are prohibited).

(9) The location of underground mine shafts on the proposed permit area and on adjacent areas.

(10) The municipalities in which the permit area is proposed to be located.

(11) The location of the 100-year floodplain boundaries in the permit area and adjacent area.

(12) The location of barriers, fences and similar structures required by § 295.213 (relating to access control).

(13) Water diversion, collection, conveyance, sedimentation and erosion control, treatment, storage and discharge facilities to be used.

(14) Composting pads, tipping areas, storage areas, windrow, and loading/unloading areas.

(15) Areas of land for which a bond will be posted under Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(16) The location, size and use of buildings and related facilities which will be used in the operation, including the horizontal and vertical dimensions.

(17) The location of scales and weigh stations to be used in the operation.

(18) Utilities to be installed at the facility.

(19) The location of access roads to the site, including slopes, grades and lengths of the roads.

(20) For noncaptive residual waste composting facilities, a designated area for vehicles for use in the event of the detection of waste containing radioactive material. The designated area shall, by location or shielding, protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

(b) The applicant shall also submit a grid coordinate system for the entire proposed permit area. The horizontal control system shall consist of a grid not to exceed 200-foot-square sections. A permanent benchmark for horizontal and vertical control shall be shown. The grid system shall be tied to the benchmark and the baseline.

**§ 295.119. Daily Volume.**

The application shall contain a proposed maximum daily volume for the facility, and a detailed justification for the volume, based on §§ 287.126 and 287.127 (relating to requirement for environmental assessment; and environmental assessment).

**§ 295.120. Radiation protection action plan.**

(a) An application for a noncaptive residual waste composting facility shall contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting.

(b) The action plan shall be prepared in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

(c) The action plan shall be incorporated into the facility's approved waste analysis plan under § 287.134 (relating to waste analysis plan).

**COMPOSTING**

**§ 295.121. Composting pad design.**

(a) An application shall contain plans and specifications for the design, construction and maintenance of composting pads that will be required for the proposed facility.

(b) The application shall also contain a plan for inspection of composting pads or vessels to ensure its integrity.

(c) Composting pad or vessel plans and designs shall be consistent with § 295.231 (relating to composting pad or vessel).

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

**GENERAL PROVISIONS**

**§ 295.201. Basic limitations.**

(a) A person or municipality may not own or operate a composting facility unless the Department has first issued a permit to the person or municipality for the facility under this chapter.

(b) A person or municipality that operates a composting facility shall comply with the following:

(1) The operating requirements of the act, this subchapter and Chapter 287 (relating to residual waste management—general provisions).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(c) A person or municipality that operates a composting facility may not allow residual waste to be handled at the facility unless the Department has specifically approved special measures for managing the waste as part of the permit.

(d) A person or municipality that operates a composting facility may not:

(1) Mix solid waste with, or store solid waste in close proximity to, other solid waste to create a risk of fire or explosion, or a risk of the accumulation of poisonous or otherwise harmful vapors or gases.

(2) Allow explosive waste to be stored, processed or disposed at the facility.

(3) Allow hazardous waste to be stored, processed or disposed at the facility.

(e) Municipal waste, other than sewage sludge, may be stored, processed or disposed at the facility only if specifically approved by the Department in the permit. Sewage sludge may not be stored, processed or disposed at the facility.

(f) All approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.

(g) The following radioactive material controlled under specific or general license or order authorized by any Federal, state or other government agency may not be processed at the facility, unless specifically exempted from disposal restriction by an applicable Pennsylvania or Federal statute or regulation:

(1) Naturally occurring and accelerator produced radioactive material.

(2) Byproduct material.

(3) Source material.

(4) Special nuclear material.

(5) Transuranic radioactive material.

(6) Low-level radioactive waste.

(h) The following radioactive material may not be processed at the facility unless approved in writing by the Department and the processing does not endanger the environment, facility staff or public health and safety.

- (1) TENORM.
- (2) Consumer products containing radioactive material.
- (3) Short-lived radioactive material from a patient having undergone a medical procedure.

(i) The limitations in subsections (g)—(h) do not apply to radioactive material as found in the undisturbed natural environment of this Commonwealth.

**§ 295.202. Areas where composting facilities are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, a composting facility may not be operated:

(1) In the 100-year floodplain of a water of this Commonwealth unless demonstrated that the composting facility can be protected during flooding.

(2) In, or within 300 feet of, an exceptional value wetland.

(3) In, or within 100 feet of, a wetland other than an exceptional value wetland, unless storage and processing will not occur within that distance or storage and processing take place in an enclosed facility, and one of the following applies:

(i) If the operation is in or along the wetland, the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) If the operation is not in or along the wetland, no adverse hydrologic or water quality impacts will result.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(5) Within 100 feet of a perennial stream, unless one of the following applies:

(i) The storage and processing take place in an enclosed facility and no adverse hydrologic or water quality impact will result.

(ii) Storage and processing that is not enclosed will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(6) Within 50 feet of a property line unless one of the following applies:

(i) The storage and processing take place in an enclosed facility.

(ii) The owner of the adjacent property has provided a written waiver consenting to the facility being closer than 50 feet. The waiver shall be knowingly made and separate from a lease or a deed unless the lease or deed contains an explicit waiver from the owner.

(iii) Actual storage and processing of waste is not occurring within that distance.

(7) For processing, disposal and waste or compost storage areas, within 1/4 mile upgradient and within 300 feet downgradient of a private or public water source.

(8) In an area where the pad or vessel will be in contact with the seasonal high water table or perched water table.

(9) If a school, park or playground is nearby, the following apply:

(i) Except for an expansion of a residual waste composting permit issued prior to January 13, 2001, for a residual waste composting permit issued on or after January 13, 2001, within 300 yards of the following:

(A) A building which is owned by a school district or school and used for instructional purposes.

(B) A park.

(C) A playground.

(ii) The current property owner of a school building, park or playground may waive the 300-yard prohibition by signing a written waiver. Upon receipt of the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(b) Except as provided in subsection (c), this section does not apply to a feature that may come into existence after the date of the first newspaper notice under § 287.151 (relating to public notice by applicant).

(c) This section does not apply to features that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a composting facility permit. The notice, which is separate from the newspaper notice required by § 287.151, shall be published once a week for 3-consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

(2) The person or municipality files an administratively complete application with the Department within 1 year from the date of the first newspaper notice under this subsection.

(d) The Department may waive the isolation distances in this section for areas that were included in the permit area of a permit application that was determined by the Department to be administratively complete before July 4, 1992.

**DAILY OPERATIONS**

**§ 295.211. Signs and markers.**

(a) A person or municipality that operates a composting facility shall identify the facility for the duration of operations by posting and maintaining a sign which will be clearly visible and can be easily seen and read at the junction of each access road and public road unless otherwise approved by the Department. The sign shall be constructed of a durable, weather resistant material. The sign shall show the name, business address and telephone number of the person or municipality operating the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility.

(b) Permanent physical markers for the grid coordinate system and permit area markers shall be:

(1) Posted and maintained during the duration of the operations to which they pertain.

(2) Clearly visible, readable and uniform throughout the operation.

(3) Permanently fixed and made of a durable material.

(c) The perimeter of the site shall be clearly marked before the beginning of operations.

(d) The permanent physical markers for the grid coordinate system shall be installed at the locations in the permit, prior to the beginning of operations. The base line of the grid system shall be marked with two permanent monuments that show elevation.

**§ 295.212. Access roads.**

(a) Access roads shall be designed, constructed and maintained to prevent erosion to the maximum extent possible and to prevent contributions of sediment to streams or runoff outside the permit area.

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 25-year, 24-hour precipitation event. The drainage system shall comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 295.115 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

(e) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the area to each unloading area, treatment facility or impoundment. An access road shall also be provided to surface water and groundwater monitoring points approved by the Department under § 295.254 (relating to soil and groundwater monitoring).

(f) Roads shall be constructed on a base that is capable of withstanding anticipated loads.

(g) Prior to the construction of a road, topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the road.

(h) The disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(i) Access roads shall be designed, constructed and maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

(j) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off site.

**§ 295.213. Access control.**

(a) A gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(b) The operator shall maintain a fence or other suitable barrier around the area sufficient to prevent unauthorized access.

(c) Access to the site shall be limited to times when an attendant is on duty.

**§ 295.214. Measuring and inspection of waste.**

(a) An operator of a composting facility that has received, is receiving or will receive 30,000 or more cubic yards of residual waste in a calendar year shall weigh

residual waste when it is received. The scale used to weigh residual waste shall conform to 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act) and 70 Pa. Code Part I (relating to weighmasters). The operator of the scale shall be a licensed public weighmaster under 3 Pa.C.S. Chapter 41 and 70 Pa. Code Part I.

(b) The operator of a facility that is not required by subsection (a) to weigh waste when it is received shall accurately measure waste by volume or weight prior to unloading.

(c) The operator shall inspect and monitor incoming waste to ensure that the receipt of waste is consistent with this article.

**§ 295.215. Equipment.**

(a) The operator shall maintain on the site equipment necessary for operation of the facility in accordance with the permit. The equipment shall be maintained in an operable condition.

(b) If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

(c) Equipment shall be operated and maintained to prevent solid waste from being unintentionally removed from the site.

(d) Equipment shall be cleaned at frequencies specified in the permit based on scheduled or emergency maintenance periods.

(e) Provision shall be made for the routine operational maintenance of the facility.

**§ 295.217. Air resources protection.**

(a) The operator shall control fugitive air contaminants and otherwise prevent and control air pollution in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015), Article III (relating to air resources) and § 295.218 (relating to nuisance control).

(b) A person or municipality may not cause or allow open burning at the facility.

**§ 295.218. Nuisance minimization and control.**

(a) The operator shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator shall also control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

**§ 295.220. Litter.**

(a) The operator may not allow solid waste, compost or other materials to be blown or otherwise deposited offsite.

(b) Fences or other barriers sufficient to control blowing litter shall be located in the area immediately downwind from the composting and storage areas unless operations are conducted within an enclosed building or the solid waste or compost being stored cannot create blowing litter.

(c) At least weekly, blown off and intercepted litter shall be collected from fences, roadways, tree-lined barriers and other barriers, and disposed or stored in accordance with the act and the regulations thereunder, unless a greater frequency is set forth in the permit.

**§ 295.221. Daily volume.**

A person or municipality operating a composting facility may not receive solid waste at the facility in excess of the maximum daily volume approved in the permit.

**§ 295.222. Radiation monitoring and response for noncaptive residual waste composting facilities.**

(a) An operator shall implement the action plan approved under § 295.120 (relating to radiation protection action plan).

(b) An operator shall monitor incoming waste in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility staff and public health and safety. Monitoring shall meet the requirements of this section and the facility's approved radiation protection action plan.

(c) Radiation detector elements shall be as close as practical to the waste load and in an appropriate geometry to monitor the waste. The radiation monitoring system shall be set to alarm at a level no higher than 10 microroentgen per hour (uR/hr) above the average background at the facility when any of the radiation detector elements is exposed to a Cesium-137 gamma radiation field. Radiation detector elements shall be shielded to maintain the average background below 10 uR/hr. If capable of energy discrimination, the radiation monitoring system shall be set to detect gamma rays of a 50 kiloelectron volt (keV) energy and higher.

(d) An operator shall have portable radiation monitors capable of determining the radiation dose rate and presence of contamination on a vehicle that has caused an alarm. Upon a confirmed exceedance of the alarm level, a radiological survey of the vehicle shall be performed.

(e) An operator shall notify the Department immediately and isolate the vehicle when radiation dose rates of 20 µSv/hr (2 mrem/hr) or greater are detected in the cab of a vehicle, 500 µSv/hr (50 mrem/hr) or greater are detected from any other surface, or contamination is detected on the outside of the vehicle.

(f) Monitoring equipment shall be calibrated at a frequency specified by the manufacturer, but not less than once a year.

(g) If radioactive material is detected, the vehicle containing the radioactive material may not leave the facility without written Department approval and an authorized Federal Department of Transportation Exemption Form.

**COMPOSTING PROVISIONS****§ 295.231. Composting pad or vessel.**

(a) Solid waste may not be composted, loaded, unloaded or stored, except on a composting pad or vessel that meets the requirements of this section.

(b) The composting pad or vessel shall be adequate in size and capacity to manage the projected solid waste, compost and residue volumes.

(c) A composting pad or vessel shall be:

(1) Capable of preventing the migration of waste, or leachate generated from the composting process.

(2) Designed, constructed and maintained to protect the integrity of the pad or vessel during the projected life of the facility.

(3) Designed to collect leachate.

(4) Constructed of nonearthen material.

(5) Inspected for uniformity, damage and imperfections during construction and installation.

(6) Designed and operated so that the physical and chemical characteristics of the composting pad or vessel and its ability to restrict the flow of solid waste, solid waste constituents or leachate is not adversely affected by the leachate.

(d) The operator shall inspect the composting pad in a manner and frequency approved by the Department in the permit.

(e) Upon completion of the construction of a composting pad or vessel, the operator shall:

(1) Submit a certification by a registered professional engineer on forms provided by the Department. The certification shall describe the composting pad or vessel being certified, using drawings and plans, if appropriate, and shall state that the actual construction was observed by the engineer or persons under his direct supervision, and that the construction was carried out in a manner that is consistent with the permit.

(2) Notify the Department that the facility is ready for inspection. A solid waste may not be composted, and solid waste or compost may not be stored, loaded or unloaded on the composting pad or in the composting vessel, until the Department has conducted an inspection and has transmitted its written approval to the permittee indicating that the construction was done according to the permit.

**SOIL AND WATER PROTECTION****§ 295.253. Sedimentation ponds.**

(a) Surface drainage from the disturbed area shall be passed through a sedimentation pond or a series of sedimentation ponds before leaving the site. The Department may waive the required use of sedimentation ponds when a person demonstrates to the Department that sedimentation ponds are not necessary to meet the requirements of § 295.251 (relating to general requirements).

(b) Sedimentation ponds shall be constructed, operated and maintained under this section, Chapters 102 and 105 (relating to erosion control; and dam safety and waterway management) and the minimum design criteria contained in the United States Soil Conservation Service's Engineering Standard 378, 'Pond' Pa., as amended.

(c) Sedimentation ponds and other treatment facilities shall be maintained until removal of the ponds and facilities is approved by the Department.

(d) A pond shall include a nonclogging dewatering device approved by the Department that will allow the draining of the water from the pond. The dewatering device may not be located at a lower elevation than the maximum elevation of the sedimentation storage volume.

(e) The ponds shall be designed, constructed and maintained to prevent short circuiting to the maximum extent possible.

(f) The design, construction and maintenance of a sediment pond under this section does not relieve the operator of the responsibility for complying with the applicable treatment requirements and effluent limitations established under § 295.251.

(g) At a minimum, sedimentation ponds shall be capable of treating the runoff resulting from a 25-year, 24-hour precipitation event.

(h) A sedimentation pond shall be designed and inspected during construction under the supervision of a registered professional engineer, who shall certify to the Department upon completion of construction that the pond was constructed as approved in the permit.

**§ 295.254. Soil and groundwater monitoring.**

(a) If required by the Department as part of the permit, the operator shall conduct soil or groundwater monitoring, or both. The groundwater monitoring shall be in accordance with §§ 288.252—288.258 as required by the Department, and the terms and conditions of the permit, and shall continue for the period specified in § 295.282 (relating to cessation of operations).

(b) For purposes of interfacing with §§ 288.252—288.258, the following terms apply:

(1) The term “disposal area” is substituted with “area where storage and processing occur.”

(2) The term “residual waste landfill” is substituted with “composting facility.”

(3) The term “disposed” is substituted with “stored or processed.”

**§ 295.255. Water supply replacement.**

(a) An operator which adversely affects a water supply by degradation, pollution or other means shall restore the affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

**EMERGENCY PROCEDURES**

**§ 295.261. Hazard prevention.**

A composting facility shall be designed, constructed, maintained and operated to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth that could threaten public health or safety, public welfare or the environment.

**RECORDKEEPING AND REPORTING**

**§ 295.271. Daily operational records.**

(a) A person or municipality that operates a composting facility shall make and maintain an operational record for

each day that residual waste is received, processed or transported offsite. Daily operational records shall be retained for the life of the facility bond, or longer if determined by the Department to be necessary to meet the standards of the environmental protection acts. These records shall be made available to the Department upon request.

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

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

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

(3) The transporters of the solid waste.

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

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

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

(7) For noncaptive facilities, a record of each incident in which radioactive material is detected in waste loads. The record shall include:

(i) The date, time and location of the occurrence.

(ii) A brief narrative description of the occurrence.

(iii) Specific information on the origin of the material, if known.

(iv) A description of the radioactive material involved, if known.

(v) The name, address and telephone numbers of the supplier or handler of the radioactive material and the name of the driver.

(vi) The final disposition of the material.

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

**§ 295.272. Annual operation report.**

(a) A person or municipality that operates a composting facility shall submit to the Department an annual operation report on or before June 30 of each year.

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

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

(2) The transporters of the waste.

(3) The weight or volume of each type of waste received.

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

(5) A current certificate of insurance, as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for comprehensive general liability insurance as required by § 287.371 (relating to insurance requirement).

(6) Changes in the previous year concerning the information required by §§ 287.124 and 287.125 (relating to identification of interests; and compliance information) report shall state if no changes have occurred.

(7) A change in the ownership of the land upon which the facility is located or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the lands.

(8) A written update of the total bond liability for the facility under § 287.331 (relating to bond amount determination). If additional bonding is determined to be necessary, it shall be submitted to the Department within 90 days after the annual report is due.

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

(10) A record of detected radioactive materials.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee of \$900 in the form of a check payable to the "Commonwealth of Pennsylvania."

#### CESSATION AND CLOSURE

##### § 295.282. Cessation of operations.

(a) Upon cessation of composting operations at the facility, the operator shall remove solid waste and structures or other materials which contain or are contaminated with solid waste, and shall provide for the processing or disposal of the waste or material in accordance with the act, the environmental protection acts and this title.

(b) Areas requiring vegetation shall be revegetated under §§ 295.241 and 295.242 (relating to general requirements; and standards for successful revegetation).

(c) An operator required under § 295.254 (relating to soil and groundwater monitoring) to conduct soil monitoring may discontinue soil monitoring upon cessation of composting operations with the Department's approval. In deciding whether to allow the discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that soil contamination will manifest itself in the future and other factors.

(d) An operator required under § 295.254 to conduct groundwater monitoring may discontinue groundwater monitoring after cessation of composting operations and cleanup only upon written approval by the Department. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that groundwater contamination will manifest itself in the future, whether the remediation standards in § 287.342 (c) (relating to final closure certification) are met, maintained and other relevant factors.

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

##### Subchapter B. APPLICATION REQUIREMENTS FOR PROCESSING FACILITIES

##### § 297.102. Operating plan.

An application shall contain:

(1) A narrative description of the general operating plan for the proposed facility, including the origin, composition and weight or volume of solid waste that is

proposed to be processed at the facility, the process to be used at the facility, the daily operational methodology of the proposed process, the loading rate, the proposed capacity of the facility and the expected life of the facility.

(2) A plan for an alternative waste handling or disposal system during periods when the proposed facility is not in operation, including procedures to be followed in case of equipment breakdown. Procedures may include the use of standby equipment, extension of operating hours and contractual agreements for diversion of residual waste to other facilities.

(3) An operational safety, fire prevention and emergency response plan that will adequately protect workers and patrons of the facility, prepared by an expert in the field of industrial hygiene and safety.

(4) A plan for assuring that solid waste received at the facility is consistent with § 297.201 (relating to basic limitations).

(5) A plan for training equipment operators and other personnel concerning the operation and approved design of the facility.

(6) The proposed operating hours of the proposed facility.

(7) A narrative describing the procedures for inspection and monitoring of incoming waste.

##### § 297.103. Maps and related information.

An application shall contain a topographic map of the proposed permit area and adjacent area, including necessary narrative descriptions, which show the following:

(1) The boundaries and names of present owners of record of land, both surface and subsurface, including easements, rights-of-way and other property interests, for the proposed permit area and adjacent area; the boundaries of the land within the proposed permit area; and a description of title, deed or usage restrictions affecting the proposed permit area.

(2) The boundaries of the land to be affected over the estimated total life of the proposed operation.

(3) The location and name of surface water bodies such as springs, streams, lakes, ponds, wetlands, constructed or natural drains and irrigation ditches that are located on or within 1/4 mile of the proposed facility.

(4) The location and name of public and private water sources that are located on or within 1/4 mile of the proposed facility. If more than 50 wells are located within the 1/4 mile radius, the applicant may identify only the closest wells in each direction and generally describe the location and number of wells within 1/4 mile of the proposed facility.

(5) The location of rights-of-way for high-tension power lines, pipelines, railroads and public and private roads within 300 feet of the proposed facility.

(6) The location of buildings in use within 300 feet of the proposed facility.

(7) The anticipated location of water quality monitoring points, if monitoring is required by the Department.

(8) The boundaries of land within the proposed permit area or adjacent area identified in § 297.202 (relating to areas where incinerators and other processing facilities are prohibited).

(9) The location of underground mine shafts on the permit area and adjacent area.



(10) The municipalities in which the permit area is proposed to be located.

(11) The location of the 100-year floodplain boundaries.

(12) The location of access roads to and within the proposed permit area, including slopes, grades and lengths of the roads.

(13) The location of barriers, fences and similar structures required by § 297.212 (relating to access control).

(14) The water diversion, collection, conveyance, erosion and sedimentation control, treatment, storage and discharge facilities to be used.

(15) The solid waste storage or loading/unloading areas.

(16) The areas of land for which a bond will be posted under Chapter 287, Subchapter E (relating to bonding and insurance requirements).

(17) The location, size and use of buildings and related facilities which will be used in the operation, including their horizontal and vertical dimensions.

(18) The location of scales and weigh stations to be used in the operation.

(19) Utilities to be installed at the facility.

(20) For noncaptive residual waste processing facilities, a designated area for vehicles for use in the event of the detection of waste containing radioactive material. The designated area shall, by location or shielding, protect the environment, facility staff and public from radiation originating in the vehicle. The Department's "*Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*," Document Number 250-3100-001, describes various factors to consider in determining an appropriate designated area.

**§ 297.112. Daily volume.**

The application shall contain a proposed maximum daily volume for the facility, and a detailed justification for the volume, based on §§ 287.126 and 287.127 (relating to requirement for environmental assessment; and environmental assessment).

**§ 297.113. Radiation protection action plan.**

(a) An application for a noncaptive residual waste processing facility shall contain an action plan specifying procedures for monitoring for and responding to radioactive material entering the facility, as well as related procedures for training, notification, recordkeeping and reporting:

(b) The action plan shall be prepared in accordance with the Department's "*Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities*," Document Number 250-3100-001, or in a manner at least as protective of the environment, facility staff and public health and safety and which meets all statutory and regulatory requirements.

(c) The action plan shall be incorporated into the facility's approved waste analysis plan under § 287.134 (relating to waste analysis plan).

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

**§ 297.201. Basic limitations.**

(a) A person or municipality may not own or operate a residual waste processing facility, unless the Department

has first issued a permit to that person or municipality for the facility under this article.

(b) A person or municipality that operates a residual waste processing facility shall comply with the following:

(1) The operating requirements of the act, this subchapter and the applicable requirements of Chapter 287 (relating to residual waste management—general provisions).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(c) A person or municipality that operates a residual waste processing facility may not allow residual waste to be handled at the facility unless the Department has specifically approved the processing of the waste as part of the permit.

(d) A person or municipality that operates a residual waste processing facility may not:

(1) Mix solid waste with, or store solid waste in close proximity to other solid waste as to create a risk of fire or explosion, or a risk of the accumulation of poisonous or otherwise harmful vapors of gases.

(2) Allow explosive waste to be stored, processed or disposed at the facility.

(3) Allow hazardous waste to be stored, processed or disposed at the facility.

(e) Municipal waste, including sewage sludge, may not be stored, processed or disposed at the facility. Other special handling municipal waste may not be stored, processed or disposed at the facility unless the Department has specifically approved the storage, processing or disposal of the waste as part of the permit.

(f) The approved mitigation measures identified in the permit application shall be completed before a facility may accept waste unless a later date is authorized in writing by the Department for technical reasons.

(g) The following radioactive material controlled under specific or general license or order authorized by any Federal, state or other government agency may not be processed at the facility, unless specifically exempted from disposal restriction by an applicable Pennsylvania or Federal statute or regulation:

(1) Naturally occurring and accelerator produced radioactive material.

(2) Byproduct material.

(3) Source material.

(4) Special nuclear material.

(5) Transuranic radioactive material.

(6) Low-level radioactive waste.

(h) The following radioactive material may not be processed at the facility unless approved in writing by the Department and the processing does not endanger the environment, facility staff or public health and safety:

(1) TENORM.

(2) Consumer products containing radioactive material.

(3) Short-lived radioactive material from a patient having undergone a medical procedure.

(i) The limitations in subsections (g)—(h) do not apply to radioactive material as found in the undisturbed natural environment of this Commonwealth.

**§ 297.202. Areas where incinerators and other processing facilities are prohibited.**

(a) Except for areas that were permitted prior to July 4, 1992, residual waste processing facilities subject to this chapter may not be operated:

(1) In the 100-year floodplain of waters of this Commonwealth, unless the Department approves in the permit a method of protecting the facility from a 100-year flood consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland, unless storage and processing will not occur within that distance or the storage and processing take place in an enclosed facility and one of the following applies:

(i) The operation is in or along the wetland, and the operator has received a permit from the Department under Chapter 105 (relating to dam safety and waterway management).

(ii) The operation is not in or along the wetland, and no adverse hydrologic or water quality impacts will result.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(5) Within 100 feet of a perennial stream, unless one of the following applies:

(i) The storage and processing take place in an enclosed facility and no adverse hydrologic or water quality impacts will result.

(ii) Storage and processing that is not enclosed will not occur within that distance and no adverse hydrologic or water quality impacts will result.

(6) Within 50 feet of a property line unless the operator demonstrates that actual processing of waste is not occurring within that distance, storage and processing take place in an enclosed facility, or that the owners of occupied dwellings within that distance have provided written waivers consenting to the facility being closer than 50 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner.

(b) Except for areas that were permitted prior to September 26, 1988, processing facilities that commercially treat residual waste may not be operated within 300 yards of the following:

(1) A building which is owned by a school district or parochial school and used for instructional purposes.

(2) A park.

(3) A playground.

(c) Except as provided in subsection (d), this section does not apply to a feature that may come into existence after the date of the first newspaper notice under § 287.151 (relating to public notice by applicant).

(d) This section does not apply to a feature that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a residual waste processing permit. The notice, which is separate from the newspaper notice required by § 287.151, shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

(2) The person or municipality files an administratively complete application under § 287.202 (relating to completeness review) with the Department within 1 year from the date of the first newspaper notice under this subsection.

(e) The Department may waive the isolation distances in this section for areas that were included in the permit area of a permit application that was determined by the Department to be administratively complete before July 4, 1992.

**DAILY OPERATIONS**

**§ 297.211. Signs and markers.**

(a) A person or municipality that operates a facility subject to this subchapter shall identify the operation for the duration of residual waste processing operations by posting and maintaining a sign which is clearly visible and can be easily seen and read at the junction of each access road and public road unless otherwise approved by the Department. The sign shall be constructed of a durable, weather-resistant material. The sign shall show the name, business address and telephone number of the person or municipality operating the facility, the operating hours of the facility and the number of the current permit authorizing operations at the facility.

(b) Permit area markers and the permanent physical markers for the grid coordinate system shall be:

(1) Posted and maintained for the duration of the operation.

(2) Clearly visible, readable and uniform throughout the operation.

(3) Permanently fixed and made of a durable material.

(c) The perimeter of the site shall be clearly marked before the beginning of operations.

**§ 297.212. Access control.**

(a) A gate or other barrier shall be maintained at potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(b) The operator shall maintain a fence or other suitable barrier around the site sufficient to prevent unauthorized access.

(c) Access to the site shall be limited to when an attendant is on duty.

**§ 297.213. Access roads.**

(a) Access roads shall be designed, constructed and maintained to prevent erosion to the maximum extent possible and to prevent contributions of sediment to streams or runoff outside the site.

(b) A crossing of a perennial or intermittent stream or a wetland shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) An access road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 24-hour, 25-year precipitation event. The drainage system shall comply with Chapter 102 (relating to erosion control).

(d) An access road shall be paved or surfaced with asphalt, gravel, cinders or other equivalent material approved by the Department in the permit. An access road shall be capable of withstanding the load limits projected by the applicant under § 297.105 (relating to plan for access roads). The maximum sustained grade of an access road may not exceed 12%.

(e) An access road negotiable by loaded collection vehicles shall be provided from the entrance gate of the area to each unloading area, treatment facility or impoundment.

(f) Roads shall be constructed on a base that is capable of withstanding anticipated loads.

(g) Disturbed areas adjacent to a road shall be vegetated or otherwise stabilized to prevent erosion.

(h) Access roads shall be designed, constructed and maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.

(i) An access road shall be maintained to control dust and to prevent or control the tracking of mud on and off site.

**§ 297.214. Measuring and inspection of waste.**

(a) An operator of a solid waste processing facility that has received, is receiving or will receive 30,000 or more cubic yards of residual waste in a calendar year shall weigh residual waste when it is received. The scale used to weigh residual waste shall conform to 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act) and 70 Pa. Code Part I (relating to weighmasters). The operator of the scale shall be a licensed public weighmaster under 3 Pa.C.S. Chapter 41 and 70 Pa. Code Part I.

(b) The operator of a facility that is not required by subsection (a) to weigh waste when it is received shall accurately measure waste by volume or weight prior to unloading.

(c) The operator of a facility shall inspect and monitor incoming waste to ensure that the receipt of waste is consistent with this article.

**§ 297.215. Equipment.**

(a) The operator shall maintain on the site equipment necessary for operation of the facility in accordance with the permit. The equipment shall be maintained in an operable condition.

(b) If a breakdown of the operator's equipment occurs, the operator shall utilize standby equipment as necessary to comply with the act, the environmental protection acts, this subchapter and its permit conditions.

(c) Equipment shall be operated and maintained to prevent solid waste from being unintentionally removed from the facility.

(d) Equipment shall be cleaned at frequencies specified in the permit based on scheduled or emergency maintenance periods.

**§ 297.216. Unloading area.**

(a) The approach and unloading area shall be adequate in size and design to facilitate the rapid unloading of

residual waste from collection vehicles and the unobstructed maneuvering of the vehicles and other equipment.

(b) The loading areas and unloading areas shall be constructed of impervious material which is capable of being cleaned by high pressure water spray and shall be equipped with drains or sumps connected to a sanitary sewer system or treatment facility to facilitate the removal of water. Drains or treatment systems may be connected to a sanitary sewer system if a waste characterization is submitted to the sewage treatment plant operator, and the operator finds that the treatment plant can fully treat the waste stream. Leachate may also be collected in holding tanks prior to its transport to the sewage treatment plant.

(c) If the facility has an unloading pit, the facility shall have in place truck wheel curbs or tie downs that are sufficient to prevent trucks from backing into the pit or falling into the pit while unloading.

(d) An attendant or clearly marked signs shall direct vehicles to the unloading area.

(e) The operator shall ensure that collection vehicles unload waste promptly in unloading areas.

(f) Residual waste shall be confined to the unloading area or a storage area approved as part of the operator's permit.

(g) If bulky waste is handled or processed at the facility, the operator shall remove the waste daily or take other action sufficient to prevent nuisances or unsightliness.

(h) The facility shall have a storage capacity for the scheduled or emergency shutdown of processing operations that is equivalent to the waste that can be processed at the facility in 3 days, unless otherwise specified by the Department in the permit.

**§ 297.217. Cleaning and maintenance.**

(a) Areas within the building shall be kept clean.

(b) The operator may not allow putrescible waste to remain at the facility at the end of the day or for more than 24 hours except that putrescible waste may remain at the facility for any time period up to 72 hours over a weekend or 3-day weekend if provided for in the permit.

(c) Plumbing shall be properly maintained, and the floors shall be well drained.

(d) Processing equipment and areas that have contact with solid waste shall be capable of being cleaned by high-pressure water spray or other methods, and shall be located near drains that connect to a sanitary sewer system or treatment facility.

(e) Provision shall be made for the routine operational maintenance of the facility.

(f) The operator shall inspect the facility daily to detect hot spots in the storage areas, dust accumulation, vectors, litter and other problems, and promptly take necessary corrective actions.

**§ 297.218. Air resources protection.**

(a) Emissions from a residual waste processing facility shall be consistent with the Air Pollution Control Act (35 P. S. §§ 4001—4015), Article III (relating to air resources), the terms or conditions of its permit and, if applicable, the most recent edition of the Department's criteria for best available technology, and other applicable Departmental guidelines.

(b) The operator may not cause or contribute to an exceedance of any ambient air quality standard under § 131.3 (relating to ambient air quality standards).

(c) A person or municipality may not cause or allow open burning at the facility.

**§ 297.219. Nuisance minimization and control.**

(a) The operator shall control and minimize the attraction, harborage or breeding of vectors.

(b) The operator shall control and minimize conditions not otherwise prohibited by this subchapter that are harmful to the environment or public health, or which create safety hazards, odors, dust, noise, unsightliness and other public nuisances.

**§ 297.221. Litter.**

(a) The operator may not allow litter to be blown or otherwise deposited offsite.

(b) Fences or other barriers sufficient to control blowing litter shall be located in the area immediately downwind from the storage or processing area, unless operations are conducted within an enclosed building or the solid waste being processed cannot create blowing litter.

(c) Blown off or intercepted litter shall be collected at least weekly from fences, roadways, tree line barriers and other barriers and disposed or stored in accordance with the act and the regulations thereunder, unless a greater frequency is set forth in the permit.

**§ 297.222. Daily volume.**

A person or municipality operating a processing facility may not receive solid waste at the facility in excess of the maximum daily volume approved in the permit.

**§ 297.223. Radiation monitoring and response for noncaptive residual waste processing facilities.**

(a) An operator shall implement the action plan approved under § 297.113 (relating to radiation protection action plan).

(b) An operator shall monitor incoming waste in accordance with the Department's "Guidance Document on Radioactivity Monitoring at Solid Waste Processing and Disposal Facilities," Document Number 250-3100-001, or in a manner at least as protective of the environment, the facility staff and the public health and safety. Monitoring shall meet the requirements of this section and the facility's approved radiation protection action plan.

(c) Radiation detector elements shall be as close as practical to the waste load and in an appropriate geometry to monitor the waste. The radiation monitoring system shall be set to alarm at a level no higher than 10 microrentgen per hour (uR/hr) above the average background at the facility when any of the radiation detector elements is exposed to a Cesium-137 gamma radiation field. Radiation detector elements shall be shielded to maintain the average background below 10 uR/hr. If capable of energy discrimination, the radiation monitoring system shall be set to detect gamma rays of a 50 kiloelectron volt (keV) energy and higher.

(d) An operator shall have portable radiation monitors capable of determining the radiation dose rate and presence of contamination on a vehicle that has caused an alarm. Upon a confirmed exceedance of the alarm level in subsection (c), a radiological survey of the vehicle shall be performed.

(e) An operator shall notify the Department immediately and isolate the vehicle when radiation dose rates of

20  $\mu$ Sv/hr (2 mrem/hr) or greater are detected in the cab of a vehicle, 500  $\mu$ Sv/hr (50 mrem/hr) or greater are detected from any other surface, or contamination is detected on the outside of the vehicle.

(f) Monitoring equipment shall be calibrated at a frequency specified by the manufacturer, but not less than once a year.

(g) If radioactive material is detected, the vehicle containing the radioactive material may not leave the facility without written Department approval and an authorized Federal Department of Transportation Exemption Form.

**SOIL AND WATER PROTECTION**

**§ 297.232. Soil erosion and sedimentation control.**

The operator shall manage surface water and control erosion and sedimentation to:

(1) Divert surface water away from the storage area with measures and structures necessary to handle surface water flows, based on a 25-year, 24-hour precipitation event, and supported by written calculations and also in compliance with Chapter 102 (relating to erosion control).

(2) Meet the requirements of Chapter 102 and Chapter 105 (relating to dam safety and waterway management).

(3) Prevent erosion to the maximum extent possible, including if possible, using revegetation.

**§ 297.233. Soil and groundwater monitoring.**

(a) If required by the Department as part of the permit, the operator shall conduct soil or groundwater monitoring, or both. The groundwater monitoring shall be in accordance with §§ 288.252—288.258, as required by the Department, and the terms and conditions of the permit, and shall continue for the period specified in § 297.272 (relating to cessation of operations).

(b) For purposes of the interfacing with §§ 288.252—288.258, the following terms apply:

(1) The term "disposal area" is substituted with "area where storage and processing occur."

(2) The term "residual waste landfill" is substituted with "incinerator or other processing facility."

(3) The term "disposed" is substituted with "stored or processed."

**§ 297.234. Water supply replacement.**

(a) An operator which adversely affects a water supply by degradation, pollution or other means shall restore the affected supply at no additional cost to the owner or replace the affected water supply with an alternate source that is of like quantity and quality to the original supply at no additional cost to the owner.

(b) A temporary water supply shall be provided as soon as practicable but not later than 48 hours after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(c) A permanent water supply shall be provided as soon as practicable but not later than 90 days after one of the following:

(1) Receipt of information showing that the operator is responsible for adversely affecting the water supply.

(2) Receipt of notice from the Department that the operator is responsible for adversely affecting the water supply.

(d) Permanent water supplies include development of a new well with a distribution system, interconnection with a public water supply, or extension of a private water supply, but do not include provision of bottled water or a water tank supplied by a bulk water hauling system, which are temporary water supplies.

**EMERGENCY PROCEDURES**

**§ 297.253. Implementation of contingency plan.**

(a) The operator of the facility shall immediately implement the applicable provisions of the approved contingency plan whenever there is an emergency. For purposes of this section, the term "emergency" includes a fire, spill or other hazard that threatens public health and safety, public welfare or the environment, and personal injury.

(b) During an emergency, the operator shall:

(1) Assess actual or potential hazards to public health and safety, public welfare and the environment that are occurring or may occur.

(2) Ensure that fires, spills or other hazards do not occur, reoccur or spread to other solid waste at the facility.

(3) Immediately telephone the Department and county emergency management agency, and report the following information:

(i) The name of the person reporting the incident and telephone number where that person can be reached.

(ii) The name, address and permit number of the facility.

(iii) The date, time and location of the emergency.

(iv) A brief description of the nature of the emergency, the type and quantity of the solid waste involved, and what dangers to public health and safety, public welfare and the environment exist or may occur.

(v) The nature of injuries.

(vi) The parts of the contingency plan being implemented to alleviate the emergency.

(c) After an emergency, the operator of the facility shall:

(1) Clean up the area affected by the emergency and treat, store or dispose of recovered solid waste, contaminated soil, contaminated water or other material in a manner approved by the Department.

(2) Prevent processing, storage or disposal of solid waste in the area affected by the emergency until the operator has cleaned up the area, and the Department has approved the resumption of operation after the cleanup.

**RECORDKEEPING AND REPORTING**

**§ 297.261. Daily operational records.**

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

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

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

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

(3) The transporters of the solid waste.

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

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

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

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

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

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

(10) A record of rejected waste loads and the reasons for rejecting the loads.

(11) For noncaptive facilities, a record of each incident in which radioactive material is detected in waste loads. The record shall include:

(i) The date, time and location of the occurrence.

(ii) A brief narrative description of the occurrence.

(iii) Specific information on the origin of the material, if known.

(iv) A description of the radioactive material involved, if known.

(v) The name, address and telephone numbers of the supplier or handler of the radioactive material and the name of the driver.

(vi) The final disposition of the material.

(12) For noncaptive incinerators, a record of each vehicle, other than a combination, that exceeds 73,280 pounds gross weight and of each combination that exceeds 80,000 pounds gross weight.

(i) The record shall include:

(A) The gross weight of the vehicle when weighed at the facility.

(B) The registration plate number and home, or base state registration of the vehicle.

(C) The name, address and telephone number of the owner of the vehicle.

(D) The date and time when the vehicle was weighed at the facility.

(E) The date that the weight scale was last tested in accordance with 3 Pa.C.S. Chapter 41 (relating to the Consolidated Weights and Measures Act).

(ii) For purposes of this paragraph, the following terms have the following meanings:

(A) *Combination*—Two or more vehicles physically interconnected in tandem. An example of a combination is a truck tractor attached to a semitrailer.

(B) *Gross weight*—The combined weight of a vehicle or combination of vehicles and its load excluding the driver's weight.

(C) *Registration*—The authority for a vehicle to operate on a highway as evidenced by the issuance of an identifying card and plate or plates.

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

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

**§ 297.262. Annual operation report.**

(a) An operator of a residual waste processing facility shall submit to the Department an annual operation report on or before June 30 of each year.

(b) The annual operation report, which shall be submitted on a form supplied by the Department, shall include the following:

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

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

(3) The weight or volume of each material marketed or disposed as a result of the process.

(4) A current certificate of insurance, as specified in § 287.373(a) (relating to proof of insurance coverage), evidencing continuous coverage for public liability insurance as required by § 287.371 (relating to insurance requirement).

(5) Changes in the previous year concerning the information required by §§ 287.124 and 287.125 (relating to identification of interests; and compliance information). The report shall also indicate if no changes have occurred.

(6) A change in the ownership of the land upon which the facility is located or a change in a lease agreement for the use of the land that may affect or alter the operator's rights upon the land.

(7) A written update of the total bond liability for the facility under § 287.331 (relating to bond amount determination). If additional bond is determined to be necessary, it shall be submitted to the Department within 90 days after the annual report is due.

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

(9) A record of detected radioactive materials.

(c) The annual operation report shall be accompanied by a nonrefundable annual permit administration fee in the form of a check payable to the "Commonwealth of Pennsylvania" for the following amounts:

(1) Six hundred fifty dollars for facilities that incinerate residual waste.

(2) Nine hundred dollars for other residual waste processing facilities subject to this subchapter.

**CESSATION AND CLOSURE**

**§ 297.272. Cessation of operations.**

(a) Upon cessation of processing operations at the facility, the operator shall remove solid waste and structures or other materials which contain or are contaminated with solid waste, and shall provide for the processing or disposal of the waste or material in accordance with the act, the environmental protection acts and this title.

(b) An operator required under § 297.233 (relating to soil and groundwater monitoring) to conduct soil monitoring may discontinue soil monitoring upon cessation of processing operations only upon written approval of the Department. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that soil contamination will manifest itself in the future and other factors.

(c) An operator required under § 297.233 to conduct groundwater monitoring may discontinue groundwater monitoring after cessation of operations and cleanup only upon written approval by the Department. In deciding whether to allow discontinuance of monitoring, the Department will consider the operational history of the facility, the likelihood that groundwater contamination will manifest itself in the future, whether the remediation standards in § 287.342(c) (relating to final closure certification) are met and maintained and other relevant factors.

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

**Subchapter A. STANDARDS FOR STORAGE OF RESIDUAL WASTE**

**SCOPE**

**§ 299.101. Scope.**

(a) A person or municipality that stores residual waste shall comply with §§ 299.111—299.117 (relating to general).

(b) In addition to the requirements of subsection (a), the following requirements shall be met:

(1) A person or municipality that stores residual waste in the manner identified in §§ 299.121, 299.122, 299.131—299.133 and 299.141—299.145 shall store the waste under the applicable provisions of those sections.

(2) A person or municipality that stores the types of waste identified in §§ 299.151—299.163 (relating to types of waste) shall store the waste under the applicable provisions of those sections.

(c) This subchapter applies to residual waste storage at impoundments that are permitted for industrial waste water, pretreatment or storage and discharge under The Clean Streams Law.

**GENERAL**

**§ 299.115. Nuisance minimization and control.**

(a) A person or municipality that stores residual waste shall:

(1) Control and minimize the harborage, breeding or attraction of vectors.

(2) Take other measures necessary to control and minimize the presence of vectors.

(3) Immediately take measures necessary to exterminate vectors.

(b) A person or municipality storing residual waste shall also minimize and control conditions not otherwise prohibited by this subchapter that are harmful to the public health, public safety or the environment, or which create safety hazards, odors, dust, unsightliness or other public nuisances.

**TYPES OF STORAGE CONTAINERS AND TANKS**

**§ 299.121. Containers.**

(a) A person or municipality storing residual waste in containers shall provide a sufficient number of containers to contain solid waste generated during periods between regularly scheduled collections.

(b) An individual container or bulk container used for the storage of residual waste shall have the following characteristics:

(1) The container shall be constructed to be easily handled for collection.

(2) The container shall be constructed of rust resistant and corrosion resistant materials.

(3) The container shall be designed to prevent leaks.

(c) Putrescible waste shall be stored in an individual container or bulk container that has the following characteristics:

(1) The container shall be equipped with a tight fitting lid or cover, or otherwise sealed.

(2) The container shall be watertight, leak-proof, insect-proof and rodent-proof.

(d) All containers shall be clearly labeled as "residual waste" or as the specific type of residual waste.

(e) The total container height of a group of containers may not exceed 9 feet. The maximum width and depth of a group of containers shall provide a configuration and aisle space which ensures access for purposes of inspection, containment and remedial action with emergency vehicles and equipment.

**§ 299.122. Storage tanks.**

(a) Residual waste storage tanks shall meet the design and performance standards established by this section. A storage tank shall be clearly labeled as "residual waste" and the type of residual waste shall be identified.

(b) Aboveground residual waste storage tanks shall be designed and operated as follows, unless an alternative design is demonstrated to perform at a level equivalent to the requirements of this section and is otherwise approved by the Department:

(1) Tanks shall be designed and constructed in accordance with an appropriate current code of practice developed by Nationally recognized associations such as UL, ACI, API, ASME, ASTM or NACE.

(2) Tanks shall have a stable foundation, capable of supporting the total weight of the tank when full of waste without movement, rolling or unacceptable settling. The foundation shall minimize corrosion of the tank bottom and meet or exceed the specifications of the tank manufacturer. The foundation design and construction shall be based on sound engineering practices.

(3) Newly installed or repaired tanks shall be tested for tightness in accordance with current codes of practice developed by Nationally recognized associations and manufacturer's specifications. If a pneumatic test is used for manufactured (shop built) tanks, the fittings, welds, joints and connections shall be coated with a soap

solution and checked for leaks. Deficiencies shall be remedied prior to tanks being placed into service. Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(4) Tank connections through which waste can flow shall be equipped with an operating valve adjacent to the tank to control flow of waste. Appropriate valves shall be installed to meet or exceed current codes of practice and jurisdictional requirements. Valves shall be designed, installed and maintained according to current codes of practice.

(5) The exterior surfaces of aboveground tanks and piping shall be protected by a suitable coating, which prevents corrosion and deterioration. The coating system shall be maintained throughout the entire operational life of the tank.

(6) Owners and operators shall ensure that releases from overfills do not occur. Transfer of stored waste may not exceed the volume available in receiving tank and the transfer shall be adequately monitored. Immediate action shall be taken to stop the flow of waste prior to exceeding tank capacity or in the event that an equipment failure occurs.

(7) Tanks shall be installed with the following:

(i) A gauge or monitoring device which accurately indicates the level or volume in the tank and is visible to the individual responsible for the transfer of waste. The monitoring device shall be installed, calibrated and maintained in accordance with manufacturer's specifications.

(ii) A high-level alarm and an automatic high-level cut-off device or a high-level alarm and a manned operator shutdown procedure in operation.

(8) Containment structures shall be compatible with the wastes stored and minimize deterioration to the storage tank system.

(9) Containment areas shall be designed, maintained and constructed in accordance with sound engineering practices adhering to Nationally recognized codes of practice, such as NFPS, NACE, ACI or API and in compliance with State and Federal requirements.

(10) Secondary containment under the tank bottom and around underground piping shall be designed to direct any release to a monitoring point.

(11) Permeability of the secondary containment shall be less than  $1 \times 10^{-7}$  cm/sec at anticipated hydrostatic head.

(12) Aboveground tanks shall have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks and spills.

(13) Permeability of emergency containment structures shall be less than  $1 \times 10^{-6}$  cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released waste from penetrating the containment structure for a minimum of 72 hours and until the release can be detected and recovered.

(14) Emergency containment areas, such as dike fields, shall be able to contain 110% of the capacity of the largest tank in the containment area.

(15) Stormwater shall be removed from the emergency containment area as soon as possible or when the water is in contact with the tank or piping and prior to the capacity of containment being reduced by 10% or more. Manually operated pumps or siphons and manually oper-

ated gravity drains may be used to empty the containment. If drain valves are used, they shall be secured in the closed position when not in use. Discharge or disposal of wastes from the containment structure shall comply with applicable State and Federal requirements.

(16) Aboveground tank systems shall provide method of leak detection capable of detecting a release. The leak detection method shall be monitored at least monthly and shall be installed, calibrated, operated and maintained in accordance with industry practices and manufacturer's specifications.

(i) The area beneath the tank bottom shall be monitored for leakage by visual, mechanical or electronic leak detection methods.

(ii) Observation wells outside of the secondary containment structure do not satisfy the leak detection requirements.

(c) Underground residual waste storage tanks shall be designed and operated as follows, unless an alternative design is demonstrated to perform at a level equivalent to the requirements of this section and is otherwise approved by the Department:

(1) *Corrosion protection.*

(i) Parts of the system that routinely contain waste shall be protected from deterioration. Parts that are in contact with the ground shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a Nationally recognized association or independent testing laboratory.

(ii) System components constructed of metal do not need additional corrosion protection measures if:

(A) The site is determined by a corrosion expert to not be corrosive enough to cause a release due to corrosion during the systems operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the tank system including removal and closure.

(2) *Spill and overflow prevention equipment.*

(i) Except as provided in subparagraph (ii), to prevent spilling and overflowing associated with waste transfer to the underground storage tank system, owners and operators shall ensure that their systems have the following spill and overflow prevention equipment:

(A) Spill prevention equipment that will prevent release of waste to the environment when the transfer hose is detached from the fill pipe.

(B) Overflow prevention equipment that will do one or more of the following:

(I) Automatically shut off flow into the tank before the fittings on the top of the tank are touched by waste.

(II) Restrict the flow into the tank before it is 90% full or 30 minutes before it would be full.

(III) Activate an audible and visible high level alarm before the tank is 90% full or 30 minutes before it would be full.

(ii) Owners and operators are not required to use overflow prevention equipment if the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

(3) *Installation.* Tanks and piping shall be properly installed and system integrity tested in accordance with a code of practice developed by a Nationally recognized

association or independent testing laboratory such as API 1615 and PEI RP 100, and in accordance with the manufacturer's instructions.

(4) *Releases due to corrosion.* To ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store waste, the owner and operator shall comply with the following requirements:

(i) Corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain wastes and is in contact with the ground.

(ii) Underground storage tank systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(A) *Frequency.* Cathodic protection systems shall be tested within 6 months of installation and at least every 3 years thereafter.

(B) *Inspection criteria.* The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with a code of practice developed by a Nationally recognized association.

(iii) Underground storage tank systems with impressed current cathodic protection systems shall be checked every 60 days to ensure the equipment is operating properly.

(iv) For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection shall be maintained. These records shall provide the following:

(A) The results of the last three system checks required in paragraph (4)(iii).

(B) The results of testing from the last two inspections required in paragraph (4)(ii).

(5) *Unauthorized or accidental access.* Monitoring and observation wells shall be clearly identified using industry codes and standards and caps shall be secured to prevent unauthorized or accidental access.

(6) *Maintenance.* Sumps, release detection equipment, corrosion protection, spill prevention, overflow prevention and other appurtenances whose failure could contribute to a release of waste, shall be maintained in a good state of repair and shall function as designed.

(7) *Tightness testing.* Systems shall be precision tightness tested after installation and major repairs.

(8) *Monitoring for releases.* Portions of the tank and underground piping that routinely contain waste shall be monitored at least monthly for releases.

(9) *Method evaluation.* The method or combination of methods used shall have been evaluated by an independent third party and shown to be effective in detecting releases.

(10) *Records.* Records documenting the operation of the release detection method shall be made each month and kept for at least 1 year.

## STORAGE PILES

### § 299.131. General requirements.

(a) A person or municipality storing residual waste in piles shall prevent the dispersal of residual waste by wind or water erosion.



(b) A person or municipality may not store liquid waste in a residual waste pile.

(c) Unless the storage pile requires a liner system or storage pad under § 299.132 (relating to storage pad or liner system), the residual waste being stored shall be separated from the seasonal high water table by at least 4 feet without the use of a groundwater pumping system. The Department may, in writing, waive this requirement.

(d) A person or municipality storing residual waste in a pile shall design, install and maintain berms around the storage area and other structures or facilities to collect and, when necessary, treat runoff or leachate, or both, from the storage area. The Department may, in writing, waive the berm requirement when other collection methods are in place.

(e) For storage piles without a liner system or storage pad, the Department may require the person or municipality to install a water quality monitoring system in accordance with §§ 288.251—288.255 (relating to water quality monitoring).

**IMPOUNDMENTS**

**§ 299.144. Operating requirements.**

(a) A person or municipality that stores residual waste in a surface impoundment shall design, operate and maintain the impoundment in accordance, at a minimum, with the following:

- (1) Section 289.202 (relating to certification).
- (2) Section 289.223 (relating to access roads).
- (3) Sections 289.227 and 289.228 (relating to air resources protection; and nuisance minimization and control).
- (4) Section 289.255 (relating to water supply replacement).
- (5) Sections 289.261—289.268 (relating to water quality monitoring).
- (6) Sections 289.271(a) and 289.272—289.274 (relating to impoundments).
- (7) Section 289.312 (relating to closure).
- (8) Section 289.522(a)(2), (6) and (7) (relating to areas where Class II residual waste disposal impoundments are prohibited).
- (9) Notwithstanding the references to “disposal,” § 289.423(a)(1)—(3), (5) and (6) (relating to minimum requirements for acceptable waste) or § 289.523(a)(1)—(8) and (11) (relating to minimum requirements for acceptable waste).

(10) Notwithstanding the references to “disposal,” if the residual waste to be stored meets the requirements of § 289.523(a), the following shall be met:

- (i) Section 289.532(a)—(c) (relating to general limitations).
- (ii) Section 289.533 (relating to subbase).
- (iii) Section 289.534 (relating to leachate detection zone).
- (iv) Section 289.535 (relating to liner).
- (v) Section 289.536 (a)(1) and (b)(1), (2) and (4) (relating to protective cover), except that the protective cover material may be up to 1 inch in diameter.

(11) Notwithstanding the references to “disposal,” if the residual waste to be stored does not meet the requirements of § 289.523(a), the following shall be met:

- (i) Section 289.432(a)—(c) (relating to general limitations).
- (ii) Section 289.433 (relating to subbase).
- (iii) Section 289.434 (relating to secondary liner).
- (iv) Section 289.435 (relating to leachate detection zone).
- (v) Section 289.436 (relating to primary liner).
- (vi) Section 289.437(a)(1) and (b)(1), (2) and (4) (relating to protective cover), except that the protective cover material may be up to 1 inch in diameter.

(b) A person or municipality that stores residual waste in a surface impoundment shall remove waste from the impoundment as follows:

- (1) Waste removal may not damage the impoundment.
- (2) The liner shall be inspected to ensure its integrity, and necessary repairs shall be made prior to returning the impoundment to service.
- (3) The person or municipality shall provide for the disposal or processing of the removed waste in accordance with this article.
- (4) Waste shall be removed in accordance with the permit.
- (5) If the removal frequency is greater than once per year, the removal frequency shall be stated in the permit.
- (6) If the removal frequency is less than or equal to once per year, or if no removal frequency is stated in the permit, waste shall be removed from the impoundment annually.

**TYPES OF WASTE**

**§ 299.155. Storage of whole and processed waste tires.**

(a) This section and §§ 299.156—299.163 do not apply to persons or municipalities who store less than 500 waste tires in open storage or who store less than 1,500 waste tires in enclosed storage unless the open or enclosed storage threatens or causes harm to the public health, safety, welfare or the environment.

(b) The requirements of this section and §§ 299.156—299.163 may be waived or modified for small piles at the location of waste tire generators.

(c) A person or municipality may not accumulate whole and processed waste tires speculatively or store for longer than 1 year. The actual tons of waste tires removed from a facility shall be verified through weight receipts.

(d) No person or municipality storing whole and processed waste tires shall maintain operational records that provide detailed information in accordance with § 299.112 (relating to design and operation).

**§ 299.156. Notice by waste tire storage sites operators.**

(a) By January 13, 2001, each operator of a waste tire storage site shall file a notice on a form prepared by the Department which includes the following:

- (1) A brief description of the type and number of whole waste tires and the type and weight or volume of processed waste tires being stored at the waste tire storage site.
- (2) A brief description of the physical design and layout of the waste tire storage site, including a description of structures used for storing whole and processed waste tires and their locations at the storage site, a diagram of

the locations and approximate sizes of any piles of whole and processed waste tires at the storage site and a description of the location of emergency equipment at the storage site.

(3) The approximate date upon which the operator began to store 500 or more waste tires in open storage or 1,500 or more waste tires in enclosed storage.

(4) Information showing how the operator will comply with § 299.155(c) (relating to storage of whole and processed waste tires).

(5) The address of the storage site and the individual responsible for operating the storage site.

(6) Verification of landowner consent to operate a waste tire storage site.

(b) An operator of a waste tire storage site that is not subject to the requirements of this section, §§ 299.155 and 299.157—299.163 on January 13, 2001, based on § 299.155(a), shall file the notice required by subsection (a) if the waste tire storage site becomes subject to the requirements of this section, §§ 299.155 and 299.157—299.163 after that date.

(c) As of January 13, 2001, no person or municipality operating a waste tire storage site may store whole and processed waste tires at the storage site unless the person or municipality has filed with the Department a notice that is consistent with this section.

**§ 299.157. General limitations on storage of whole and processed waste tires.**

(a) Indoor storage of whole and processed waste tires shall be consistent with “*The Standard for the Storage of Rubber Tires*,” National Fire Protection Association Standard 231D, (NFPA 231D), as amended.

(b) When whole and processed waste tires are stored outdoors, each whole and processed waste tire pile shall:

(1) Cover a surface area not greater than 2,500 square feet.

(2) Have a vertical height not greater than 15 feet.

(3) Maintain corridors as firebreaks on all sides of a tire pile of at least 50 feet. Corridors shall be maintained free from obstructions that could limit access in the event of an emergency.

(4) For shredded or chipped tires stored in piles, cover a surface area of no more than 2,500 square feet, and be no more than 15 feet high. Thirty-five foot wide corridors shall be maintained for firebreaks on all sides of a pile with no point in a pile being more than 25 feet from a firebreak. Corridors shall be kept free from obstructions that could limit access in the event of an emergency.

(5) For baled tires stored in stockpiles, cover a surface area of no more than 5,000 square feet, and may be no more than 15 feet high. Thirty-five foot wide corridors shall be maintained for firebreaks on all sides of a pile with no point in a pile being more than 25 feet from a firebreak. Corridors shall be kept free from obstructions that could limit access in the event of an emergency.

(6) The firebreaks shall be free of waste, equipment and structures, and vegetation shall be maintained below 6 inches in length at all times.

(7) Outdoor storage of whole and processed waste tires shall be conducted to prevent the discharge of fire-generated oils and liquids into the surface water and groundwater of this Commonwealth.

(8) Outdoor storage of whole and processed waste tires shall be conducted to control mosquito propagation during warm weather. Controls may include use of tarps, indoor storage screens or spraying.

(9) A copy of a Preparedness, Prevention and Contingency (PPC) plan, that is consistent with the Department’s most recent guidelines, shall be prepared and maintained at the waste tire storage facility and be updated annually. The applicable provisions of the Department approved PPC plan shall be immediately implemented for any emergency that affects or threatens public health, safety, welfare or the environment.

(c) Storage of whole and processed waste tires which occurs at a permitted processing or disposal facility shall be covered under the permit, and is limited to the total number or amount of whole and processed waste tires which can be processed or disposed by the permitted facility during a year. The processing or disposal permit shall incorporate the requirements of this subchapter.

(d) A waste tire storage site may not be greater than 5 acres in total area.

(e) Owners or operators of waste tire storage sites may not maintain additional storage areas on contiguous property.

**§ 299.158. Areas where storage of whole and processed waste tires prohibited.**

A person or municipality may not store whole and processed waste tires:

(1) In the 100 year floodplain of any waters of this Commonwealth, unless the Department approves a method of protecting the facility from a 100 year flood consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601), the Stormwater Management Act (32 P. S. §§ 680.1—680.17) and the Dam Safety and Encroachment Act (32 P. S. §§ 693.1—693.27).

(2) In or within 300 feet of an exceptional value wetland.

(3) In or within 100 feet of a wetland other than an exceptional value wetland.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the owner thereof has provided a written waiver consenting to the activities being closer than 300 feet.

(5) Within 100 feet of a sinkhole or area draining into a sinkhole.

(6) Within 100 feet of a perennial stream.

(7) Within 300 feet of a water source.

(8) Within 50 feet of a property line unless the owner has provided a written waiver consenting to the facility being closer than 50 feet.

**§ 299.159. Access control.**

(a) A gate or other barrier shall be maintained at all potential vehicular access points to block unauthorized access to the site when an attendant is not on duty.

(b) The operator shall construct and maintain a fence or other suitable barrier around the area sufficient to prevent unauthorized access.

(c) Access to the site shall be limited to those times when an attendant is on duty.

**§ 299.160. Hazard prevention.**

(a) Persons or municipalities storing whole and processed waste tires shall design, construct, maintain and

operate the storage site to prevent and minimize the potential for fire, explosion or release of solid waste constituents to the air, water or soil of this Commonwealth or threaten public health or safety, public welfare or the environment.

(b) A person or municipality may not cause or allow the open burning of whole and processed waste tires.

(c) Each person or municipality storing whole and processed waste tires shall have available in proper working condition equipment that will control, contain and suppress fires or other hazards. The equipment shall include the following at the storage site unless otherwise approved by the Department in writing:

(1) An internal communications or alarm system capable of providing immediate emergency instructions by voice or signal to facility personnel.

(2) A communications system capable of summoning emergency assistance from local police, fire Departments, emergency medical services, and from State and local emergency response agencies.

(3) Portable fire extinguishers and suitable fire control equipment.

(4) Available water, at sufficient volume and pressure and suitable foam agent (3%—6% mixture) and application equipment at the storage site (or an agreement with the local fire Department to provide the equipment) to temporarily contain a fire at the facility until emergency personnel arrive.

(5) Equipment sufficient in size and design to provide timely movement of tires and tire derived materials in case of an emergency.

(6) For indoor tire storage, an active fire suppression system in the building.

(d) The operator of a waste tire storage site shall immediately implement the applicable provisions of the Preparedness, Prevention and Contingency (PPC) plan if there is a fire or other event that threatens public health, safety, welfare or the environment or threatens personal injury. In addition, the operator shall immediately:

(1) Assess actual or potential hazards to public health, safety, welfare or the environment that are occurring or may occur.

(2) Ensure that fires or other hazards do not occur, reoccur or spread to other solid waste at the storage site.

(3) Telephone the Department and county emergency management agency and report the following information:

(i) The name of the person reporting the incident and telephone number where that person can be reached.

(ii) The name and address of the storage site.

(iii) The date, time and location of the fire or other event that threatens the public health, safety, welfare or the environment.

(iv) A brief description of the event being reported, the type of solid waste involved and what dangers to public health, safety, welfare or the environment exist or may occur.

(v) The nature of any injuries.

(vi) Parts of the PPC plan being implemented to alleviate the situation.

(3) After a fire or other emergency, the operator of a waste tire storage site shall:

(i) Remediate the area affected by the emergency and treat, store or dispose of recovered solid waste, contaminated soil, contaminated water or other material in a manner approved by the Department.

(ii) Prevent disposal, processing, storage or treatment of solid waste in the area affected by the emergency until the operator has remediated the area, and the Department has inspected and approved the remediation.

**§ 299.161. Soil and water protection.**

(a) Surface water runoff from storage areas shall be minimized. Collection of surface water runoff shall be managed in accordance with The Clean Streams Law and the regulations thereunder.

(b) Surface water run-on to storage areas shall be minimized.

(c) Whole and processed waste tires may not be stored so as to cause adverse affects on groundwater.

(d) The Department may require a person or municipality that stores whole and processed waste tires to conduct soil or groundwater monitoring, or both.

**§ 299.162. Annual report for waste tire storage sites.**

(a) Each person or municipality that stores whole and processed waste tires shall submit to the Department an annual operation report on or before June 30 of each year. The report shall include:

(1) The weight and approximate number of whole and processed waste tires that were being stored at the storage site on January 1 of the preceding calendar year, and the approximate number of whole and processed waste tires that were being stored at the storage site on December 31 of the preceding calendar year.

(2) The weight and approximate number of whole and processed waste tires that were received at the storage site in the preceding calendar year, the person and location from which they were shipped and the name of the transporter.

(3) The weight and approximate number of whole and processed waste tires that were shipped from the site in the preceding calendar year, the person and location to which they were shipped and the end use for which they were shipped.

(b) The annual report shall be based on a daily operational record, which shall be maintained by the person or municipality storing waste tires for each day that waste tires are received or transported off the storage site.

(c) All numbers and weights shall be reported in Passenger Tire Equivalents (PTE), with 1 PTE equal to 20 pounds.

**§ 299.163. Cessation of operations.**

Upon cessation of whole and processed waste tire storage activities, the operator shall immediately remove all whole and processed waste tires from the storage site, and provide for the processing or disposal of the waste in accordance with the act, the environmental protection acts and this title.

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

**§ 299.201. Scope.**

(a) A person or municipality that transports residual waste that is not mixed with waste that is regulated

under Article VIII (relating to municipal waste) shall comply with §§ 299.11—299.221 (relating to general provisions). In addition, a person or municipality that transports waste referred to in §§ 299.231 and 299.232 (relating to types of waste) shall transport the waste in accordance with the applicable provisions of these sections, and may not mix the waste with other types of waste.

(b) A person or municipality that transports residual waste that is mixed with waste that is regulated under Article VIII shall comply with §§ 285.211—285.219 (relating to general provisions).

#### GENERAL PROVISIONS

##### § 299.219. Recordkeeping and reporting.

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

- (1) The types or classifications of residual waste transported.
  - (2) The weight or volume of the types of wastes transported.
  - (3) The name, mailing address, telephone number, county and state of each generator of transported waste.
  - (4) The name and location of a transfer facility that has received, or will receive, the waste.
  - (5) The name and location of the solid waste processing or disposal facility where the waste will be ultimately disposed or processed.
  - (6) A description of handling problems or emergency disposal activities.
  - (7) The name and address of the person or municipality collecting or transporting the waste.
  - (8) The license plate number of the trailer transporting the waste.
- (b) The records required in subsection (a) shall be made available to the Department upon request and shall be retained for at least 5 years.

##### § 299.220. Signs on vehicles.

A vehicle or conveyance that is ordinarily or primarily used for the transportation of solid waste shall bear a sign that meets the following:

- (1) The sign shall include the name and business address of the person or municipality that owns the vehicle or conveyance.
  - (i) The name shall be the actually and commonly recognized name of the person or municipality. Abbreviations or acronyms are permissible if they do not obscure the meaning.
  - (ii) The address shall include the city, state and five digit zip code for the principal place of business for the person or municipality.
- (2) The sign shall include the specific type of solid waste transported by the vehicle or conveyance.

(i) Infectious or chemotherapeutic waste shall be designated: Infectious/Chemotherapeutic waste.

(ii) Other municipal waste shall be designated: Municipal Waste.

(iii) Residual waste shall be designated: Residual Waste.

(iv) Mixed municipal and residual waste shall be designated: Municipal/Residual Waste.

(3) The sign shall have lettering that is 6 inches in height. The lettering shall be placed on the roll-off box or trailer. If available space for lettering on the trailer or roll-off box is so limited that all letters cannot be 6 inches in height, the lettering shall be as close to 6 inches as possible. The required information shall be clearly visible and easily readable.

(4) The sign may be permanent or detachable.

##### § 299.221. Transporting foodstuffs and feedstuffs in vehicles used to transport waste.

(a) A person or municipality may not transport, or knowingly provide a vehicle for the transportation of, a food product or produce intended for human or livestock consumption, in a vehicle which has been used to transport municipal, residual or hazardous waste, or, chemical or liquid, in bulk, which is not a food product or produce.

(b) A person or municipality may not knowingly accept a food product or produce from, or provide a food product or produce to, a vehicle used to transport municipal, residual or hazardous waste, or, chemical or liquid, in bulk, which is not a food product or produce.

(c) As used in this section, the following words and phrases have the following meanings:

(1) *Food product or produce*—A raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

(2) *In bulk*—Not divided into parts or packaged in separate units.

(3) *Chemical or liquid*—The term includes any chemical or liquid, including any pesticide or herbicide regardless of its use or intended use. The term does not include the following:

- (i) A chemical or liquid food product or produce.
- (ii) A chemical or liquid being transported for use directly in the production and preparation for market of poultry, livestock and their products or in the production, harvesting or preparation for market of agricultural agronomic, horticultural, silvicultural or aquacultural crops and commodities.
- (iii) A chemical or liquid being transported for use as an ingredient in a product used in the production and preparation for market of poultry, livestock and their products or in the production, harvesting or preparation for market of agricultural, agronomic, horticultural, silvicultural or aquacultural crops and commodities.

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