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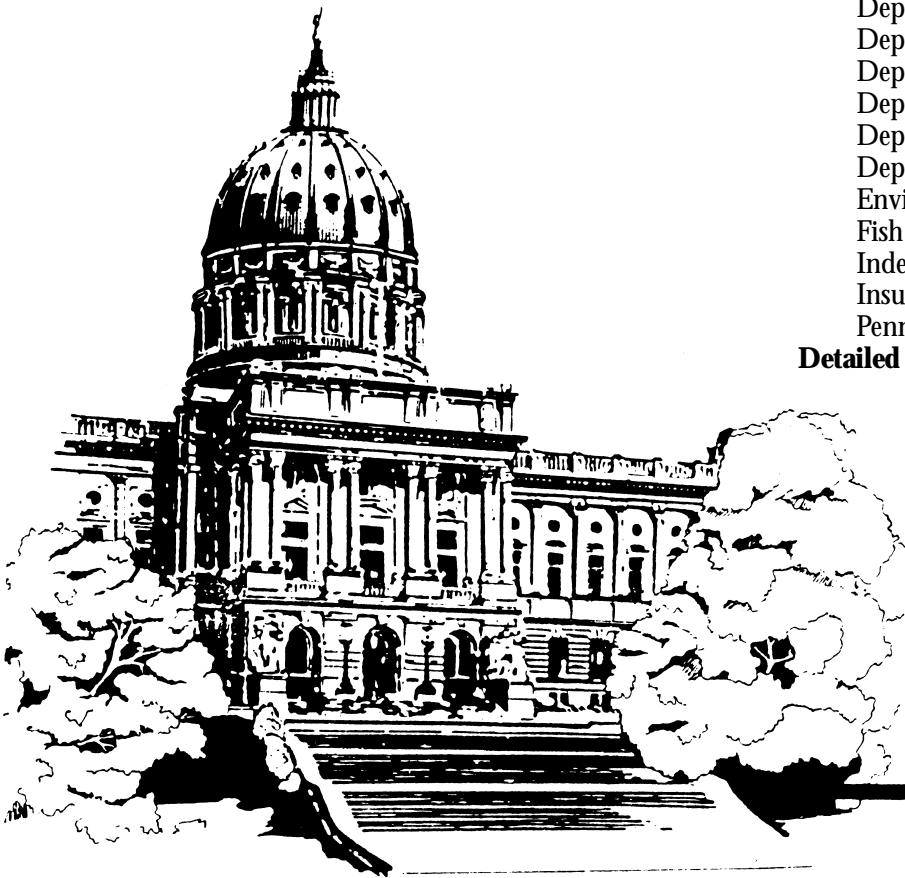
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Pennsylvania Public Utility Commission

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**Latest Pennsylvania Code Reporter
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No. 320, July 2001

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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 GOVERNOR

GOVERNOR'S OFFICE

Amendment to Proclamation of Disaster Emergency

July 2, 2001

Whereas, on June 20, 2001, I declared a State of Disaster Emergency in Bucks and Montgomery Counties due to the effects of Tropical Storm Allison and the resulting on-going threat to public safety. The localized and unusually heavy rains associated with the storm system caused extensive damage to streets, private homes and businesses within the counties; and

Whereas, the same storm system and the associated heavy rainfall resulted in the failure of a dam in Berks County on June 22, 2001; and

Whereas, the failure of the Angelica Creek Dam and the localized flooding subjected the residents of Berks County to an on-going threat to public health and safety by damaging a stream channel, destroying a bridge and causing extensive damage to the local highway system. The reservoir destroyed by the storm was the primary water source for the City of Reading and the reserve for firefighting response; and

Whereas, investigations by the Pennsylvania Emergency Management Agency indicate that additional resources of the Commonwealth may be needed to assist county and municipal efforts to mitigate and contend with the magnitude and severity of this continuing and expanding disaster emergency;

Now Therefore, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 et seq.), I do hereby amend my Proclamation of June 20, 2001, as follows:

1. Berks County is now declared to be in a State of Disaster Emergency and is added to the previously designated disaster emergency area.
2. This Proclamation Amendment shall take effect immediately.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this second day of July in the year of our Lord, two thousand and one and of the Commonwealth, the two hundred and twenty-sixth.



Governor

[Pa.B. Doc. No. 01-1264. Filed for public inspection July 13, 2001, 9:00 a.m.]

THE GENERAL ASSEMBLY

Recent Actions During the 2001 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2001 Regular Session.

2001 General Acts Enacted—Act 019 through 077

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
019	Jun 19	SB0235	PN0078	immediately	John J. Shumaker Memorial Highway—designation
020	Jun 19	SB0508	PN0850	immediately	John H. Ware III Memorial Highway—designation
021	Jun 19	HB0153	PN2088	immediately	Vehicle Code (75 Pa.C.S.)—omnibus amendments
022	Jun 19	SB0780	PN1186	immediately	General Local Government Code (53 Pa.C.S.)—omnibus amendments
023	Jun 22	HB0334	PN2375	immediately*	Tax Reform Code of 1971—omnibus amendments
024	Jun 22	HB0550	PN2339	immediately	Optional Occupation Tax Elimination Act—enactment
025	Jun 22	HB0168	PN0435	immediately	Local Tax Collection Law—tax collector's basic education program
026	Jun 22	SB0035	PN0033	immediately	Pennsylvania Adult and Family Literacy Education Act—omnibus amendments
027	Jun 22	HB1492	PN2366	immediately	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—omnibus amendments
028	Jun 22	HB1697	PN2094	immediately	Judicial Code (42 Pa.C.S.)—courts of common pleas judges
029	Jun 22	HB0975	PN2294	immediately	Conservation and Preservation Easements Act—enactment
030	Jun 22	HB1048	PN1993	60 days	Pennsylvania Commission on Crime and Delinquency Law—omnibus amendments
031	Jun 22	SB0877	PN1237	July 1, 2001	Industrial Resources Center Partnership Act—enactment
032	Jun 22	SB0549	PN0569	60 days	Anaerobic Manure Digesters Act—omnibus amendments
033	Jun 22	SB0236	PN1172	immediately*	Vehicle Code (75 Pa.C.S.)—omnibus amendments
034	Jun 22	SB0215	PN1243	immediately*	Associations Code (15 Pa.C.S.) and Names (54 Pa.C.S.)—omnibus amendments
035	Jun 22	SB0485	PN1236	immediately*	Public School Code of 1949—omnibus amendments
036	Jun 22	SB0926	PN1087	July 1, 2001	Library Code, The—State library, library trainees and library resource centers
037	Jun 22	SB0237	PN1222	immediately*	Vehicle Code (75 Pa.C.S.)—omnibus amendments
038	Jun 22	SB0876	PN1247	July 1, 2001	Ben Franklin Technology Development Authority Act, The—enactment
039	Jun 22	SB0130	PN1098	60 days	Domestic Relations Code (23 Pa.C.S.)—protection from abuse orders
040	Jun 22	SB0363	PN0376	60 days	Livestock control—expanding definition to include goats
041	Jun 22	SB0626	PN0944	60 days	Navigation Commission for the Delaware River—composition
042	Jun 22	SB0810	PN1030	7/01/01	Transportation (74 Pa.C.S.)—local transportation organization definition

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
043	Jun 22	HB1235	PN1779	90 days*	Pennsylvania Construction Code Act—exemptions
044	Jun 22	HB1118	PN1294	immediately	Goods and Services Installment Sales Act—late fees
045	Jun 22	HB0672	PN2099	60 days	Solicitation of Funds for Charitable Purposes Act—omnibus amendments
046	Jun 22	HB0343	PN2102	immediately	Pennsylvania Commission on Crime and Delinquency Law—powers and duties
047	Jun 22	HB0200	PN2293	immediately	Taxpayers' Bill of Rights—omnibus amendments
048	Jun 22	HB0041	PN2106	60 days	Crimes Code (18 Pa.C.S.)—simple assault
049	Jun 22	HB1181	PN2229	July 1, 2001	Workers' Compensation Act—omnibus amendments
050	Jun 22	SB0243	PN0250	July 1, 2001	Spiritous and Vinous Liquor Tax Law—repeal
051	Jun 22	SB0793	PN1245	immediately	Drought, Orchard and Nursery Indemnity and Flood Relief Act—appropriations
052	Jun 25	SB0811	PN0911	immediately	Conveyance—Commonwealth property in Cameron County
053	Jun 25	SB0634	PN1238	immediately	Capital Budget Act of 2001-2002—enactment
054	Jun 25	SB0816	PN1232	immediately	Crimes Code (18 Pa.C.S.)—assaults on animals with biological agents
055	Jun 25	SB0377	PN1240	immediately*	Mortgage Bankers and Brokers Act—omnibus amendments
056	Jun 25	SB0379	PN1244	60 days	Borough Code, The—omnibus amendments
057	Jun 25	SB0597	PN1099	60 days	County Code, The—election of controllers in counties of sixth, seventh and eighth classes and authority to sell or lease real property
058	Jun 25	SB0927	PN1076	immediately	Conveyance—Commonwealth property in Mercer County
059	Jun 25	SB0971	PN1140	immediately	Conveyance—Commonwealth property in Allegheny, Huntingdon and Union counties
060	Jun 25	SB0916	PN1075	immediately	Conveyance—Commonwealth property in Dauphin County
061	Jun 25	SB0004	PN1230	immediately*	Pennsylvania Voter Registration Act—omnibus amendments
062	Jun 25	HB1720	PN2283	immediately	Conveyance—Commonwealth property in Crawford County
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065	Jun 25	HB0043	PN2374	immediately*	Frank J. Pasquerilla, Nicholson Borough Veterans Memorial, Gene Hartzell Memorial and Thaddeus Stevens bridges—designations
066	Jun 25	HB0059	PN1877	60 days	Judicial Code (42 Pa.C.S.)—antidrug and town-watch volunteers civil immunity
067	Jun 25	HB0061	PN0434	60 days	Borough Code, The—care and erection of memorials and municipal music, borough powers
068	Jun 25	HB0154	PN2194	immediately*	Vehicle Code (75 Pa.C.S.)—omnibus amendments
069	Jun 25	HB0413	PN2023	60 days	Vital Statistics Law of 1953—Department of Health functions involving birth registration
070	Jun 25	HB0679	PN2100	immediately	Conveyance—Commonwealth property in York County

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
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072	Jun 25	HB0203	PN0183	immediately	Conveyance—Commonwealth property in Mercer County
073	Jun 25	HB0186	PN2164	immediately	Public School Code of 1949—school district authorization to establish programs awarding high school diplomas to military veterans
074	Jun 25	SB0976	PN1143	immediately	Tax Stabilization Reserve Fund Act—revenue surplus transfer and funding
075	Jun 26	HB0155	PN2379	60 days	Vehicle Code (75 Pa.C.S.)—omnibus amendments
076	Jun 26	HB0673	PN2368	immediately	Conveyance—Commonwealth property in Lackawanna and Huntingdon counties
077	Jun 26	HB0002	PN2378	July 1, 2001	Tobacco Settlement Act—enactment
2001 APPROPRIATION ACTS ENACTED—ACT 006A through 039A					
006A	Jun 22	SB0001	PN1234	July 1, 2001	General Appropriation Act of 2001—enactment
007A	Jun 22	HB1187	PN1374	July 1, 2001	St. Francis Hospital—cardiovascular studies
008A	Jun 22	HB1186	PN1373	July 1, 2001	Fox Chase Institute for Cancer Research—operation and maintenance
009A	Jun 22	HB1185	PN1372	July 1, 2001	Burn Foundation—treatment
010A	Jun 22	HB1184	PN1371	July 1, 2001	Pittsburgh Cleft Palate—treatment
011A	Jun 22	HB1191	PN1378	July 1, 2001	Lancaster Cleft Palate—treatment
012A	Jun 22	HB1190	PN1377	July 1, 2001	Children's Hospital of Philadelphia, The—comprehensive patient care for children, hospital maintenance and operation
013A	Jun 22	HB1189	PN1376	July 1, 2001	Central Penn Oncology Group—operation
014A	Jun 22	HB1188	PN2142	July 1, 2001	Children's Institute, The—treatment and rehabilitation of young persons with disabling diseases
015A	Jun 22	HB1195	PN2144	July 1, 2001	Carnegie Museums of Pittsburgh—planetarium and institute operation, maintenance and purchases
016A	Jun 22	HB1194	PN2143	July 1, 2001	Everhart Museum—operation, maintenance and purchases
017A	Jun 22	HB1193	PN1380	July 1, 2001	Arsenal Family and Children's Center—operation
018A	Jun 22	HB1192	PN1379	July 1, 2001	Wistar Institute—operation and maintenance expenses and AIDS research
019A	Jun 22	HB1199	PN2148	July 1, 2001	Academy of Natural Sciences—maintenance
020A	Jun 22	HB1198	PN2147	July 1, 2001	Franklin Institute Science Museum—maintenance
021A	Jun 22	HB1197	PN2146	July 1, 2001	Mercer Museum—operation, maintenance and purchases
022A	Jun 22	HB1196	PN2145	July 1, 2001	African-American Museum—operation, maintenance and purchases
023A	Jun 22	HB1203	PN2152	July 1, 2001	Philadelphia College of Osteopathic Medicine—instruction
024A	Jun 22	HB1202	PN2151	July 1, 2001	Philadelphia Health and Education Corporation, MCP Hahnemann University—instruction, maintenance, student aid, minority education and recruitment programs and pediatric services, etc.
025A	Jun 22	HB1201	PN2150	July 1, 2001	University of Pennsylvania—dental clinic operation, doctor of medicine instruction, veterinary activities and cardiovascular studies

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
026A	Jun 22	HB1200	PN2149	July 1, 2001	Whitaker Center for Science and the Arts—operation, maintenance and purchases
027A	Jun 22	HB1207	PN1394	July 1, 2001	Johnson Technical Institute—operation and maintenance
028A	Jun 22	HB1206	PN1393	July 1, 2001	Drexel University—instruction and student aid
029A	Jun 22	HB1205	PN1392	July 1, 2001	University of the Arts—instruction and student aid
030A	Jun 22	HB1204	PN1391	July 1, 2001	Thomas Jefferson University—instruction, maintenance, student aid, College of Allied Health Sciences, Children's Heart Hospital and Tay-Sachs disease program
031A	Jun 22	HB1210	PN2154	July 1, 2001	Pennsylvania College of Optometry—instruction
032A	Jun 22	HB1209	PN1396	July 1, 2001	Williamson Free School of Mechanical Trades—operation and maintenance
033A	Jun 22	HB1208	PN2153	July 1, 2001	Berean Training and Industrial School—operation and maintenance
034A	Jun 22	HB1179	PN1366	July 1, 2001	Beacon Lodge Camp—services to the blind
035A	Jun 22	HB1214	PN2158	July 1, 2001	Pennsylvania State University—operation, instruction and research, etc.
036A	Jun 22	HB1213	PN2157	July 1, 2001	Lincoln University—operation and instruction, etc.
037A	Jun 22	HB1212	PN2156	July 1, 2001	Temple University—operation, instruction and research, etc.
038A	Jun 22	HB1211	PN2155	July 1, 2001	University of Pittsburgh—operation, instruction and research,
039A	Jun 25	HB1176	PN1363	July 1, 2001	Pennsylvania Public Utility Commission—operation

* 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).

Advance Copies of Statutes

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

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

CARL L. MEASE,
Director,
Legislative Reference Bureau

[Pa.B. Doc. No. 01-1265. Filed for public inspection July 13, 2001, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

Amendments to the Rules of Disciplinary Enforcement and the Rules of Professional Conduct; No. 13; Disciplinary Rules Doc. No. 1

Order

Per Curiam:

And Now, this 28th day of June, 2001, it is ordered, pursuant to Article V, Section 10, of the Constitution of Pennsylvania, that:

1. Rules 218 and 219 of the Pennsylvania Rules of Disciplinary Enforcement are hereby amended to read as set forth in Annex A.

2. The Pennsylvania Rules of Professional Conduct are amended by adding a new Rule 1.17 and Rules 1.6, 5.4, 5.6 and 7.2 are amended to read as set forth in Annex B.

3. This Order shall be processed in accordance with Pa.R.J.A. 103(c). New Rule 1.17 and these amendments shall take effect upon publication of this Order in the *Pennsylvania Bulletin* and shall govern matters thereafter commenced and, in so far as just and practicable, matters then pending.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 218. Reinstatement.

(a) No attorney suspended for a period exceeding one year, transferred to inactive status more than three years prior to resumption of practice **or transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct**, or disbarred may resume practice until reinstated by order of the Supreme Court after petition therefor pursuant to these rules.

* * * * *

(g) Attorneys who have been on inactive status for three years or less may be reinstated pursuant to Enforcement Rule 219(h) or (j) (relating to periodic assessment of attorneys) as appropriate. **This subdivision (g) does not apply to any attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.**

* * * * *

Rule 219. Periodic assessment of attorneys; voluntary inactive status.

* * * * *

(i) An attorney who has retired [or], is not engaged in practice **or who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct** shall file with the Administrative Office a notice in writing that the attorney desires voluntarily to assume inactive status and discontinue the practice of law. Upon the transmission of such notice from the Administrative Office to the Supreme Court, the Court shall enter an order transferring the attorney to inactive status, and the attorney shall no longer be eligible to practice law but shall continue to file the statement required by this rule for six years thereafter in order that the formerly admitted attorney can be located in the event complaints are made about the conduct of such person while such person was engaged in practice. The formerly admitted attorney, however, will be relieved from the payment of the fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules.

* * * * *

Annex B

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

CLIENT-LAWYER RELATIONSHIP

* * * * *

Rule 1.6. Confidentiality of Information.

* * * * *

(c) A lawyer may reveal such information to the extent that the lawyer reasonably believes necessary:

* * * * *

(2) to prevent or to rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services are being or had been used; **[or]**

(3) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim or disciplinary proceeding against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client [.]; **or**

(4) to effectuate the sale of a law practice consistent with Rule 1.17.

* * * * *

Comment:

* * * * *

Disclosures Otherwise Required or Authorized

* * * * *

It is recognized that the due diligence associated with the sale of a law practice authorized under Rule 1.17 may necessitate the limited disclosure of certain otherwise confidential information. However, as stated above, the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having a need to know it, and to obtain appropriate arrangements minimizing the risk of disclosure.

Former Client

* * * * *

(Editor's Note: The following rule is new and is printed in regular type to enhance readability.)

Rule 1.17. Sale of Law Practice.

The personal representative or estate of a deceased lawyer or a lawyer disabled from the practice of law may, for consideration, transfer the client representations of the deceased or disabled lawyer and sell the good will of the deceased or disabled lawyer's practice if the following conditions are satisfied:

(a) The seller sells the practice as an entirety to a single lawyer. For purposes of this Rule, a practice is sold as an entirety if the purchasing lawyer assumes responsibility for all of the active files except those specified in paragraph (f) of this Rule.

(b) Actual written notice is given to each of the seller's clients, which notice must include at a minimum:

(1) notice of the proposed transfer of the client's representation, including the identity and address of the purchasing lawyer;

(2) a statement that the client has the right to representation by the purchasing lawyer under the preexisting fee arrangements;

(3) a statement that the client has the right to retain other counsel or to take possession of the file; and

(4) a statement that the client's consent to the transfer of the representation will be presumed if the client does not take any action or does not otherwise object within 60 days of receipt of the notice.

(c) The fees charged clients shall not be increased by reason of the sale. Existing agreements between the seller and the client concerning fees and the scope of work must be honored by the purchaser, unless the client consents in writing after consultation.

(d) The agreement of sale shall include a clear statement of the respective responsibilities of the parties to maintain and preserve the records and files of the seller's practice, including client files.

(e) In the case of a sale by reason of disability, if a proceeding under Enforcement Rule 301 has not been commenced against the selling lawyer, the selling lawyer shall file the notice and request for transfer to voluntary inactive status, as of the date of the sale, pursuant to Enforcement Rule 219(i).

(f) The sale shall not be effective as to any client for whom the proposed sale would create a conflict of interest for the purchaser or who cannot be represented by the purchaser because of other requirements of the Pennsylvania Rules of Professional Conduct or rules of the Pennsylvania Supreme Court governing the practice of law in Pennsylvania, unless such conflict, requirement or rule can be waived by the client and is in fact waived by the client in writing.

(g) For purposes of this Rule:

(1) the term "single lawyer" means an individual lawyer or a law firm that buys a law practice, and

(2) the term "seller" means both the personal representative or estate of the deceased or disabled lawyer and the deceased or disabled lawyer, as appropriate.

(h) Admission to or withdrawal from a partnership or professional corporation, retirement plans and similar arrangements or a sale limited to the tangible assets of a law practice is not a sale or purchase for purposes of this Rule 1.17.

Comment:

The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this Rule, when a lawyer dies or is disabled and another lawyer or firm takes over the representation of the clients of the deceased or disabled lawyer, the heirs of the seller or the seller may obtain compensation for the reasonable value of the practice similar to withdrawing partners of law firms. See Rules 5.4 and 5.6.

Sale of Entire Practice

The requirement that all of the private practice be sold is satisfied if the seller in good faith makes the entire practice available for sale to the purchaser. The fact that a number of the seller's clients decide not to be represented by the purchaser but take their matters elsewhere, therefore, does not result in a violation of this Rule.

Single Purchaser

This Rule requires a single purchaser. The prohibition against piecemeal sale of a practice protects those clients whose matters are less lucrative and who might find it difficult to secure other counsel if a sale could be limited to substantial fee generating matters. The purchaser is required to undertake all client matters in the practice, subject to client consent. If, however, the purchaser is unable to undertake all client matters because of nonwaivable conflicts of interest, other requirements of these Rules or rules of the Supreme Court governing the practice of law in Pennsylvania, the requirement that there be a single purchaser is nevertheless satisfied.

Client Confidences, Consent and Notice

Negotiations between seller and prospective purchaser prior to disclosure of information relating to a specific representation of an identifiable client no more violate the confidentiality provisions of Rule 1.6 than do preliminary discussions concerning the possible association of another lawyer or mergers between firms with respect to which client consent is not required. Providing the purchaser access to the client-specific information relating to the representation and to the file, however, requires client consent. The Rule provides that before such information can be disclosed by the seller to the purchaser the client must be given actual written notice of the contemplated sale and file transfer including the identity of the purchaser and any proposed change in the terms of future

representation, and must be told that the decision to consent or make other arrangements must be made within 60 days. If actual notice is given, and the client makes no response within the 60 day period, client consent to the sale will be presumed.

The Rule provides the minimum notice to the seller's clients necessary to make the sale effective under the Rules of Professional Conduct. The person responsible for notice is encouraged to give sufficient information concerning the purchasing law firm or lawyer who will handle the matter so as to provide the client adequate information to make an informed decision concerning ongoing representation by the purchaser. Such information may include without limitation the buyer's background, education, experience with similar matters, length of practice, and whether the lawyer(s) are currently licensed in Pennsylvania.

No single method is provided for the giving of actual written notice to the client under paragraph (b). It is up to the person undertaking to give notice to determine the most effective and efficient means for doing so. For many clients, certified mail with return receipt requested will be adequate. However, with regard to other clients, this method may not be the best method. It is up to the person responsible for giving notice to make this decision.

The party responsible for giving notice is likewise not identified in the Rule. In many cases the seller will undertake to give notice. However, the Rule permits the purchasing lawyer or law firm to fulfill the notice requirement.

All of the elements of client autonomy, including the client's absolute right to discharge a lawyer and transfer the representation to another, survive the sale of the practice.

Fee Arrangements Between Client and Purchaser

The sale may not be financed by increases in fees charged to the clients of the practice. This protection is underscored by both paragraph (b)(2) and paragraph (c). Existing agreements between the seller and the client as to the fees and the scope of the work must be honored by the purchaser, unless the client consents after consultation.

Other Applicable Ethical Standards

Lawyers participating in the sale of a law practice are subject to ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the obligation to avoid disqualifying conflicts, and to secure client consultation for those conflicts which can be waived by the client (see Rule 1.7); and the obligation to protect information relating to the representation (See Rules 1.6 and 1.9).

If approval of the substitution of the purchasing attorney for the selling attorney is required by the Rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale. (See Rule 1.16.)

Applicability of the Rule

The seller may be represented by a non-lawyer representative not subject to these Rules. In such circumstances, the purchasing lawyer shall be responsible for compliance with these Rules.

This Rule does not apply to transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice.

LAW FIRMS AND ASSOCIATIONS

* * * * *

Rule 5.4. Professional Independence of a Lawyer.

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

* * * * *

(2) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; [and]

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement[.]; and

(4) a lawyer or law firm may purchase the practice of another lawyer or law firm from an estate or other eligible entity consistent with Rule 1.17.

* * * * *

Rule 5.6. Restrictions on Right to Practice.

A lawyer shall not participate in offering or making:

(a) a partnership, shareholders, operating, employment or other similar type of agreement that restricts the rights of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement **or an agreement for the sale of a law practice consistent with Rule 1.17;** or

* * * * *

INFORMATION ABOUT LEGAL SERVICES

* * * * *

Rule 7.2. Advertising.

* * * * *

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay:

(1) the reasonable cost of advertising or written communication permitted by this rule [and may pay];

(2) the usual charges of a not-for-profit lawyer referral service or other legal service organization; and

(3) for a law practice in accordance with Rule 1.17.

* * * * *

Comment

* * * * *

Paying Others to Recommend a Lawyer

Subject to the limitations set forth under paragraph (j), a lawyer is allowed to pay for advertising permitted by this Rule **and for the purchase of a law practice in accordance with the provisions of Rule 1.17**, but otherwise is not permitted to pay another person for channeling professional work. This restriction does not prevent an organization or person other than the lawyer from advertising or recommending the lawyer's services. Thus, a legal aid agency or prepaid legal services plan may pay to advertise legal services provided under its auspices. Likewise, a lawyer may participate in not-for-profit lawyer referral programs and pay the usual fees charged by such programs. Paragraph (c) does not pro-

hibit paying regular compensation to an assistant, such as a secretary, to prepare communications permitted by this Rule.

* * * * *

[Pa.B. Doc. No. 01-1266. Filed for public inspection July 13, 2001, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CHS. 85, 89, 91 AND 93]**

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 55; Doc. Nos. R-118 and R-126

The Rules of Organization and Procedure of the Board have been drafted to restate in full the substance of the Pennsylvania Rules of Disciplinary Enforcement. By an Order dated December 7, 2000, the Supreme Court of Pennsylvania amended Pa.R.D.E. 217 to add provisions relating to law-related activities that may be conducted by formerly admitted attorneys. By this Order, the Board is making conforming changes to its Rules to reflect the adopted of those provisions.

On February 26, 2000, the Board published a Notice of Proposed Rulemaking relating to proposed amendments to its Rules to require the verification of pleadings and certain other documents filed with the Board. 30 Pa.B. 1127. No comments were received in response and the Board is taking this opportunity to promulgate those amendments in final form.

Finally, the Board is also taking this opportunity to make certain minor technical changes to its Rules.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, such proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(10), orders:

(1) Title 204 of the Pennsylvania Code is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 85. GENERAL PROVISIONS

(Editor's Note: The following section is new and is printed in regular type to enhance readability.)

§ 85.13. Verification by respondent-attorneys.

Every pleading or response to a letter requesting statement of position under § 87.7(b) of these rules submitted by or on behalf of a respondent-attorney in any proceeding under these rules that contains an averment of fact not appearing of record or a denial of fact shall include or be accompanied by a verified statement signed by the respondent-attorney that the averment or denial is true based upon the respondent-attorney's personal knowledge or information and belief. The respondent-attorney need not aver the source of the information or expectation of ability to prove the averment or denial. The verified statement may be based upon personal knowledge as to a part and upon information and belief as to the remainder.

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter A. PRELIMINARY PROVISIONS

GENERAL MATTERS

§ 89.6. Execution.

* * * * *

(d) Cross reference. See § 85.13 (relating to verification by respondent-attorneys).

Subchapter C. HEARING PROCEDURES

ORAL ARGUMENT AND BRIEFS

§ 89.164. Filing and service of briefs.

Briefs not filed and served on or before the dates fixed therefor shall not be accepted for filing, except by special permission of the hearing committee or special master. In the case of a formal proceeding that is in the hands of a hearing committee, **[five copies of each brief shall be furnished for the use] one copy of each brief shall be served on each member of the committee and one copy shall be filed with the Office of the Secretary.** In the case of a formal proceeding that is in the hands of a special master, two copies of each brief shall be **[furnished for the use of] served on** the special master and one copy shall be filed with the Office of the Secretary. A hearing committee or special master may permit or direct the **[filing] service** of a different number of copies of a brief **[with] on the members of** the hearing committee or special master.

Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE

REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS

§ 89.273. Procedures for reinstatement.

(a) *General rule.* Enforcement Rule 218(c) and (d) provide that:

(1) Petitions for reinstatement by formerly admitted attorneys shall be filed with the Board.

Official Note: The Board will not treat a petition for reinstatement as properly filed for purposes of commencing the procedures set forth in this section unless and until the petition is accompanied by a completed reinstatement questionnaire as required by § 89.275 (relating to completion of questionnaire by respondent-attorney).

* * * * *

§ 89.274. Notice of reinstatement proceedings.

* * * * *

(b) *Publication of notice.* The Office of the Secretary shall cause a notice to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced and in each county in Pennsylvania in which the formerly admitted attorney has resided since being disbarred, suspended or transferred to inactive status. The notice shall state and be confined to:

* * * * *

(3) The address of the [Office of the Secretary] district office of the Office of Disciplinary Counsel that is handling the reinstatement proceeding.

§ 89.275. Completion of questionnaire by respondent-attorney.

(a) *General rule.* If the petition for reinstatement does not have attached thereto a fully completed Form DB-36 (Reinstatement Questionnaire), the Office of the Secretary shall forward to the formerly admitted attorney four copies of Form DB-36 which shall require such attorney to set forth fully and accurately the following information and such other information as the Office of Disciplinary Counsel may require:

* * * * *

(15) If the respondent-attorney has been disbarred or suspended for more than one year or has been on inactive status for more than three years, a statement of the dates, locations and names of the courses or lectures taken in satisfaction of the requirements of § 89.279 (relating to evidence of competency and learning in law).

Official Note: For purposes of allowing the Office of Disciplinary Counsel to begin its investigation of the petition for reinstatement, the Office of the Secretary will accept a preliminary questionnaire that lists courses or lectures that the respondent-attorney is registered to take in the future if proof of that registration, such as receipted bills or canceled checks, is attached to the questionnaire. The questionnaire, however, will not be considered completed and properly filed for purposes of commencing the running of the time periods in § 89.273 (relating to procedures for reinstatement) until the respondent-attorney has actually attended those courses or lectures.

* * * * *

CHAPTER 91. MISCELLANEOUS MATTERS

Subchapter E. FORMERLY ADMITTED ATTORNEYS

(Editor's Note: The following section is new and is printed in regular type to enhance readability.)

§ 91.100. Law-related activities of formerly admitted attorneys.

(a) *General rule.* A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the requirements of this section.

(b) *Supervision.* Enforcement Rule 217(j)(1) provides that all law-related activities of the formerly admitted attorney shall be conducted under the direct supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this section. If the formerly admitted attorney is employed by a law firm, an attorney of the firm shall be designated by the firm as the supervising attorney for purposes of this subsection.

(c) *Permissible activities.* Enforcement Rule 217(j)(2) provides that, for purposes of this section, the only law-related activities that may be conducted by a formerly admitted attorney are the following:

(1) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

(2) direct communication with the client or third parties to the extent permitted by subsection (d); and

(3) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

(d) *Communications with clients.* Enforcement Rule 217(j)(3) provides that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

(e) *Prohibited activities.* Enforcement Rule 217(j)(4) provides that, without limiting the other restrictions in this section, a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(1) performing any law-related activity for a law firm or lawyer if the formerly admitted attorney was associated with that law firm or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(2) performing any law-related services from an office that is not staffed, on a full time basis, by a supervising attorney;

(3) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(4) representing himself or herself as a lawyer or person of similar status;

(5) having any contact with clients either in person, by telephone, or in writing, except as provided in subsection (d);

- (6) rendering legal consultation or advice to a client;
- (7) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;
- (8) appearing as a representative of the client at a deposition or other discovery matter;
- (9) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;
- (10) receiving, disbursing or otherwise handling client funds.

(f) *Notice to Board.* Enforcement Rule 217(j)(5) provides that the supervising attorney and the formerly admitted attorney shall file with the Board a notice of employment, identifying the supervising attorney, certifying that the formerly admitted attorney has been employed and that the formerly admitted attorney's activities will be monitored for compliance with this section. The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the employment of the formerly admitted attorney.

(g) *Jurisdiction over supervising attorney.* Enforcement Rule 217(j)(6) provides that the supervising attorney shall be subject to disciplinary action for any failure by either the formerly admitted attorney or the supervising attorney to comply with the provisions of this section.

Official Note: This section is addressed only to the special circumstance of formerly admitted attorneys engaging in law-related activities and should not be read more broadly to define the permissible activities that may be conducted by a paralegal, law clerk, investigator, etc. who is not a formerly admitted attorney. This section is also not intended to establish a standard for what constitutes the unauthorized practice of law. Finally, this section is not intended to prohibit a formerly admitted attorney from performing services that are not unique to law offices, such as physical plant or equipment maintenance, courier or delivery services, catering, typing or transcription or other similar general office support activities.

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter C. OFFICE OF THE SECRETARY

§ 93.53. Dockets.

* * * * *

(b) *Numbering.* Except as otherwise ordered by the Board, matters submitted to the Board for action shall be assigned a docket number consisting of the letters "DB" and the [last two digits of the] calendar year in which the matter is docketed, which shall be preceded by the serial number of the matter in such calendar year, e.g.: 1 DB [73 et seq.] 2001.

* * * * *

[Pa.B. Doc. No. 01-1267. Filed for public inspection July 13, 2001, 9:00 a.m.]

**Title 249—
PHILADELPHIA RULES**

PHILADELPHIA COUNTY

**Jury Trial Demands in Drug Forfeiture Cases;
Administrative Doc. 07 of 2001**

And Now, this 25th day of June, 2001, it is hereby *Ordered and Decreed* that effective immediately jury trial demands in drug forfeiture cases will be handled by the Civil Trial Division in accordance with previous practices except as otherwise set forth in this Order.

Upon receiving a demand for a jury trial, the sitting judge in the Criminal Division shall enter an Order transferring the case from the Criminal Division to the Civil Division of the Trial Division. (The sitting judge in the Criminal Division shall give the moving party a copy of the "Notice to Litigants" appended as Attachment "A".) Leonard Armstrong of the Criminal Motions Unit will send a memorandum to the Supervising Judge of the Civil Division (Judge Sheppard) advising of the jury trial demand.

The moving party shall obtain a certified copy of the pertinent transfer Order and file it with the First Filing Unit of the Prothonotary's office, at which time the jury demand fee shall be paid. The First Filing Unit shall assign a court term and number to the case and place the case in a "waiting to list status conference." For docketing purposes, the court type shall be "DF"—Drug Forfeiture.

The First Filing Unit of the Prothonotary shall E-mail a notice that the jury trial has been perfected to Leonard Armstrong of the Criminal Motions Unit and provide the Civil Division court term and number. Upon receipt of this notice, the Criminal Motions Unit will forward copies of the Forfeiture Petition (and any response) and the Order of Transfer to the Prothonotary's Second Filing Unit.

Notwithstanding the jury demand, the case shall remain within the jurisdiction of the judge of the Criminal Division until such time as notice is received from the Prothonotary that the demand has been perfected. At the time that the jury demand is made, the sitting judge in the Criminal Division shall list the matter for a status hearing in thirty (30) days. At that status hearing, the moving party shall present proof of the jury trial perfection in the Civil Division. If the moving party fails to perfect the jury trial within thirty (30) days, the sitting judge in the Criminal Division will enter an Order holding that the moving party has waived the right to a jury trial and schedule a hearing on the Forfeiture Petition before a judge sitting without a jury.

In the Civil Division, the case shall be assigned to the Supervising Judge of the Complex Litigation Center and shall be placed on a case management track that provides for a trial in the eighth month after filing. A Case Management Order will be issued and the case shall proceed to trial under the Pennsylvania Rules of Civil Procedure.

By the Court

JOHN W. HERRON,
*Administrative Judge
Trial Division*

This Administrative Docket is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Admin-

istration, Docket No. 1, Phila. Civ. ★51 and Pa. R.C.P. 239, and shall become effective immediately. As required by Pa. R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. The Administrative Docket is also available on the Court's website at <http://courts.phila.gov>.

Notice to Litigants

Drug Forfeiture Jury Trials

The moving party is directed to do the following to perfect the request for a jury trial in drug forfeiture matters:

1. Counsel must obtain a certified copy of the Order of the sitting Criminal Division judge transferring the case to the Civil Division for trial.
2. Counsel must present the certified copy of the Order to the Office of the Prothonotary, First Filing Unit, Room 280, City Hall.
3. Counsel must be prepared to pay the jury demand fee of \$180.00.
4. The case will be given a Civil Division court term and number and will be placed in "waiting to list status conference." Counsel will receive notice of a status conference which will be scheduled approximately one month after the month of transfer. That conference will take place at the Complex Litigation Center, 12th Floor, Wanamaker Building.
5. Failure to perfect the jury trial request in the Civil Division within thirty (30) days will result in the entry of an Order holding that the moving party has waived the right to a jury trial and a hearing on the Forfeiture Petition will be scheduled before a judge sitting without a jury. At the hearing when the jury trial demand is made, the sitting Criminal Division judge shall list the case for a thirty (30) day status hearing, at which time the moving party shall present proof of the jury trial perfection in the Civil Division.

[Pa.B. Doc. No. 01-1268. Filed for public inspection July 13, 2001, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Amendment of Local Rule 430; No. 90-18200

Order

And Now, this 22nd day of June, 2001, it is hereby *Ordered* and *Decreed* that Local Rule 430 is *Amended* as follows:

Rule 430(b)(1)—Service Pursuant to Special Order of Court. Publication—Approved Newspapers of General Circulation—Legal Newspaper.

(i) All legal advertisements required to be published in a newspaper of general circulation, except as otherwise provided by act of assembly, specific procedural rule or order of Court, shall appear only in such newspapers which shall be kept on file at all times in the Office of Judicial Support, arranged in alphabetical Order according to the communities covered thereby. The Director of the Office of Judicial Support, the Court Administrator and a duly appointed representative, selected by the presiding President Judge on an annual basis, are hereby appointed as a newspaper examining board, hereinafter in this rule called "board." Before any newspaper is placed upon such approved list, there shall be presented to the board the information required by a directive on file in the Office of Judicial Support.

(ii) After a newspaper has been approved by the board, it shall remain upon the approved list of newspapers, unless there should be a failure of compliance with any of the conditions set forth in the Newspaper Advertising Act, its supplements and amendments; the board requests that a renewal application be filed; or an amended directive signed by the President Judge establishes other procedures.

(iii) The "*Delaware County Legal Journal*" shall be the legal newspaper for the publication of legal advertisements and notices required by law, rule, order or Decree of Court.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 01-1269. Filed for public inspection July 13, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 88 AND 90]

Coal Refuse Disposal

The Environmental Quality Board (Board) by this order amends Chapters 88 and 90 (relating to anthracite coal; and coal refuse disposal). The amendments address permitting and performance standards for coal refuse disposal operations.

This order was adopted by the Board at its meeting of April 17, 2001.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact J. Scott Roberts, P.G., Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103, or Joseph Pizarchik, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, 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 rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The amendments are adopted under the authority of section 4.2 of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b(a)); section 3.2 of the Coal Refuse Disposal Control Act (CRDCA) (52 P. S. § 30.53b); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

D. *Background and Summary*

This rulemaking is necessary to update Chapters 88 and 90 to bring them into conformance with the CRDCA as amended by the act of December 7, 1994 (P. L. 808, No. 114) (Act 114). Act 114 was signed into law on December 7, 1994, and became effective on February 5, 1995.

Subsequent to Act 114 becoming law, the Department developed a supporting technical guidance document, titled "Coal Refuse Disposal—Site Selection." The technical guidance document clarified the Act 114 site selection process and outlined information needed to apply for, and receive, a stream barrier variance under section 6.1 of the CRDCA (52 P. S. § 30.56a). The technical guidance document was circulated for comment to the regulated community, Fish and Boat Commission, Game Commission, the Federal Office of Surface Mining, Reclamation and Enforcement (OSM), the United States Environmental Protection Agency (EPA), the United States Fish and Wildlife Service and the United States Army Corps of Engineers.

Prior to the development of the proposed rulemaking, the Department submitted the Act 114 amendments to OSM for approval as a program amendment. On April 22,

1998, OSM published a conditional approval of the Act 114 amendments in 63 F.R. 77 (April 22, 1998). In the conditional approval, OSM found that the word "significant" in section 6.1(h)(5) of the CRDCA, as it pertains to granting variances to the 100-foot stream buffer zone, was inconsistent with Federal law. The Department took action to address this matter by suspending implementation of the term "significant" in section 6.1(h)(5) of the CRDCA. This matter was announced at 28 Pa.B.2544 (May 30, 1998). Consequently, the proposed rulemaking regarding stream buffer zone variances was based on language communicated to the Department by OSM in its conditional approval of the Act 114 amendments. The proposed language included a requirement that each stream variance must be accompanied by a demonstration that "the activities will not cause or contribute to the violation of state or federal water quality standards, and will not adversely affect water quality and quantity, or other environmental resources of the stream." That requirement differed from the precise language of section 6.1(h)(5) of the CRDCA, which requires a demonstration that "there will be no adverse hydrologic or water quality impacts as a result of the variance." In the final-form version, § 90.49(c)(1) (relating to stream buffer zone variance) has been revised to more closely follow the statutory language by including the "as a result of the variance" phrase.

The OSM's published approval also recognized that the Department's technical guidance document had satisfied the concerns of the United States Fish and Wildlife Service regarding compliance with section 7 of the Endangered Species Act of 1973 (16 U.S.C.A. § 1536). On May 2, 1998, the Department submitted a letter to OSM outlining its approach to addressing the required conditions through rulemaking. This rulemaking includes those clarifications.

These regulatory changes were reviewed and discussed with the Mining and Reclamation Advisory Board (MRAB). The MRAB is the Department's advisory body for regulations pertaining to surface coal mining, including coal refuse disposal. A draft of the proposed rulemaking was reviewed and discussed with the MRAB's Regulation, Legislation and Technical Committee on November 17, 1999. The MRAB concurred with the proposed rulemaking at its meeting on January 6, 2000. The proposed rulemaking was adopted by the Board at its April 18, 2000, meeting and published at 30 Pa.B. 3053 (June 17, 2000). The MRAB reviewed and discussed the draft final rulemaking at meetings on January 4 and February 21, 2001. The MRAB concurred with the final rulemaking at its meeting on February 21, 2001.

The rulemaking adds § 90.5 and amends § 88.281. These sections reflect the requirements of section 4.1 of CRDCA (52 P. S. § 30.54a), which outlines a comparative analysis process for evaluating potential sites for coal refuse disposal. The CRDCA and the proposed regulations establish a two-step process for the permitting of coal refuse disposal sites. The first step is a preapplication site selection process intended to steer applicants to areas previously disturbed by mining. In the absence of previously disturbed sites, the site selection process requires an evaluation of nearby candidate sites with the goal of choosing the site that results in minimal adverse impacts. Following the Department's approval of the applicant's site selection, the applicant proceeds to the second step which involves preparing and submitting a permit appli-

cation for the selected site. Section 90.5 outlines the need to conduct the mandatory site selection step prior to applying for a permit for coal refuse disposal activities.

The rulemaking amends § 90.12 (relating to geology) to request geologic information that is needed to review a permit application for coal refuse disposal activities. The existing language in § 90.12 is borrowed from Chapter 87 (relating to surface mining of coal) and was written to gather information relating to sites where coal will be mined. The new language solicits information on surficial geology, soils and characteristics of joints and fractures. This information is more useful in evaluating sites that will be used for coal refuse disposal activities. Based on comments received from the MRAB, subsection (b) was added to the final-form regulations to address certification requirements regarding submission of geologic information.

The rulemaking adds language to § 90.13 (relating to groundwater information) regarding groundwater flow as it relates to groundwater and surface water protection, and language describing requirements relating to preventing precipitation from contacting the coal refuse during temporary cessation. Section 90.13 sets forth the requirements of section 6.1(i) of the CRDCA. Under the Act 114 amendments, all new coal refuse disposal areas must include systems to prevent adverse impacts to surface and groundwater. Section 90.13 is intended to solicit collection of the information needed to allow a complete technical evaluation of the proposed groundwater and surface water protection system.

The rulemaking adds a new § 90.49. This new section reflects section 6.1(h)(5) of the CRDCA, which gives the Department authority to grant a variance to dispose of coal refuse within 100 feet (30.48 meters) of the bank of a stream and to relocate or divert streams for the purpose of coal refuse disposal. Language is included to ensure that coal refuse disposal operations, which fall outside the scope of § 90.49, comply with the stream buffer zone provisions of § 86.102(12). Section 90.49 requires the Department to issue the variance as a written order and operators to give public notice of the application for the variance. It also requires the Department to conduct a public hearing when any person files an exception to the proposed variance.

The rulemaking adds § 90.50 and amends § 90.122. The new language outlines design and performance standards for systems to prevent adverse impacts to surface and groundwater and to prevent precipitation from contacting the coal refuse. This language reflects the requirements of section 6.1(i) of the CRDCA. The phrase "... prevent precipitation from coming into contact with the coal refuse" in § 90.50(b) is based on section 6.1(i) of the CRDCA. This statutory requirement was intended to ensure that precipitation contacting the coal refuse is kept to a minimum, thereby reducing the volume of water needing treatment after the site is closed. The system must be designed and installed in a manner that minimizes the amount of time coal refuse is exposed to precipitation. The objective is to have the system installed incrementally as refuse disposal progresses. The final system, in conjunction with the groundwater and surface water diversion systems, will result in greatly reduced postdisposal outflows.

Section 90.116a (relating to hydrologic balance: water rights and replacement) is added to provide a cross-reference to the water supply replacement provisions of the current surface mining regulations in Chapter 87. The requirement in § 87.119 (relating to hydrologic bal-

ance: water rights and replacement) applies to all surface mining activities, one of which is coal refuse disposal. These requirements have been historically used to address water supply impacts at coal refuse sites. The new regulation clarifies that coal refuse disposal site operators are required to replace water supplies that are impacted by their operations.

The rulemaking adds a new Subchapter F (relating to coal refuse disposal activities on areas with preexisting pollutional discharges) to implement section 6.2 of the CRDCA for coal refuse disposal activities on areas previously affected by mining. The CRDCA postponed implementation of the section 6.2 provisions pending the promulgation of regulations governing the use of sites with preexisting pollutional discharges. The new Subchapter F is designed to provide incentives for operators to enter, conduct coal refuse disposal activities and reclaim areas that were previously affected by coal mining activities that have pollutional discharges. The language is modeled on the existing remaining incentive provisions of Chapters 87 and 88. These provisions have been in effect since 1985 and have been successful in encouraging operators to enter sites with preexisting pollutional discharges. The result has been new and innovative technology for the control and treatment of mine drainage, improvement to water quality, recovery of coal reserves that would otherwise remain unmined and reclamation of abandoned sites at operator cost instead of state cost.

At the present time, coal refuse disposal site operators who reaccept areas with existing pollutional discharges are not eligible for bond release unless they eliminate those discharges. As a result, operators typically develop coal refuse disposal operations on virgin sites. Section 6.2 of the CRDCA was intended to provide incentives to encourage operators to reclaim previously disturbed land by creating a limited exception to the existing regulations. These exceptions provide for special permits and release of bonds at areas with preexisting pollutional discharges. The new Subchapter F regulations are expected to encourage reclamation of abandoned mine lands.

Finally, the rulemaking adds Chapter 90, Subchapter G (relating to experimental practices). The Subchapter G reflects the requirements of section 6.3 of the CRDCA (52 P. S. § 30.56c). Section 90.401 (relating to general) is designed to encourage advances in coal refuse disposal practices and advances in technology that will enhance environmental protection. Federal regulations require substantial coordination during review of experimental practice applications between the State regulatory agency and OSM. Therefore, Federal counterpart language relating to experimental practices is fully incorporated by cross reference in § 90.401(b) to ensure that the language is consistent with the Federal requirements.

E. Summary of Comments and Responses on the Proposed Rulemaking and Changes Made in the Final Rulemaking

At its meeting on April 18, 2000, the Board approved publication of the proposed amendments. The proposed amendments were published at 30 Pa.B. 3053 (June 17, 2000).

Comments were accepted from June 17 to August 16, 2000. Two public hearings were held on July 19 and July 26, 2000, to accept comments regarding the proposed rulemaking. Comments were received from five parties during the course of the public comment period. Commentators included the United States Fish and Wildlife

Service, the United States Office of Surface Mining (OSM), the Game Commission, the Pennsylvania Coal Association (PCA) and the Independent Regulatory Review Commission (IRRC).

The following is a discussion of comments received on the proposed rulemaking and changes made in the final-form rulemaking.

§ 88.310 Coal refuse disposal: general requirements.

The term "test results" was inadvertently left out of § 88.310(k) of the proposed rulemaking, and has been inserted in the final version.

§ 90.1. Definitions.

One comment was received regarding the term "business necessity," which is used in §§ 88.310 and 90.167 (relating to coal refuse disposal: general requirements; and cessation of operations: temporary). Sections 88.310 and 90.167 address extensions to time limits for temporary cessation at coal refuse facilities for reasons of labor strike or business necessity. The commentator recommended that the term "business necessity" be defined in the regulations.

The Board realizes that the term "business necessity" is broad. However, there is benefit to the regulated community and to the Department in using a broad term. The term, left undefined, gives a degree of flexibility to the industry and the Commonwealth. It allows for unforeseen factors to be considered when entertaining requests for extensions based on business necessity. Therefore, the term has not been defined.

One comment was received regarding the definition of "public recreational impoundment." The commentator indicated that since the definition is taken directly from the statute, the Board should simply reference the statute.

The Board believes that repeating statutory definitions in the regulations increases the readability and clarity of the regulations. The practice serves to make the regulation more user-friendly by making definitions of important terms readily available to the reader. The definition remains in the final-form regulations.

A comment was received concerning the term "operator." The commentator pointed out that the term is used throughout the regulations, but is not defined. The commentator suggested referencing the definition of "operator" contained in the CRDCA.

The Board concurred that the term should be defined in the regulations. The suggested statutory definition has therefore been inserted in § 90.1 (relating to definitions).

Two comments were received requesting definitions of the terms "coal refuse disposal operations" and "coal refuse disposal activities."

The Board agrees that there was need for clarification. A definition of "coal refuse disposal" was added to § 90.1. The term "coal refuse disposal operations" has been deleted from § 90.49. New language has been added at § 90.49(b) to better define the subset of activities that is subject to § 86.102(12). The term "coal refuse disposal activities" is defined in § 90.301.

§ 90.5. Site selection and permitting.

One commentator suggested that § 90.5 be revised to clarify when a site selection decision is appealable. The commentator indicated that the regulation should reflect that disapproval of a selected site is a final appealable action while approval of a selected site is not.

The Board agrees with the spirit of the comment. However, clarifying language was not necessary. The site selection process outlined in § 90.5 is the prerequisite to the permitting process. Since the process continues following approval of a selected site, the approval of a site is not an appealable action. Appeals may be appropriately filed at the time of permit issuance. However, when the Department disapproves a site, the operator is precluded from moving to the next step in the process. Disapproval is therefore a final appealable action of the Department.

Additionally, the final-form regulation includes a cross reference to an existing technical guidance document that will be relied upon during the site selection process.

§ 90.12. Geology.

A commentator suggested two changes to § 90.12. One suggestion was to add the phrase "as appropriate" after requirements for test borings, geologic information and groundwater information. The second suggested change was to exclude nonuse aquifers from the description requirements.

The Board disagrees with the suggested changes. The term "as appropriate" obfuscates the regulation, where currently it is quite clear. The nonuse aquifer concept flows from Act 2 provisions of the Land Recycling and Remediation Program. However, Act 2 specifically excludes mining. Inclusion of the nonuse aquifer concept in the mining program would run counter to the current mining statutes and regulations. These statutes and regulations require that mining activities be conducted to ensure protection of the hydrologic balance, including measures to protect the quality and quantity of surface water and groundwater within the permit and adjacent areas.

The final wording of § 90.12 has been revised to include subsection (b). This revision addresses the need for certification of geologic information and was added based on comments from the MRAB.

§ 90.13. Groundwater information.

One comment was received regarding language of proposed § 90.13(2). The commentator suggested that the phrase "specific attention" was vague and that the Board consider revising this subsection to require a description of the groundwater flow system.

The Board agrees. The final-form regulation has been modified as suggested.

§ 90.49. Stream buffer zone variance.

One comment was received regarding specific wording proposed in § 90.49(c)(1). The commentator indicated that the term "coal refuse disposal activities" should be used rather than the term "coal refuse disposal."

The Board disagrees. Section 90.49 reflects provisions of section 6.1(h)(5) of the CRDCA as amended by Act 114. Section 6.1(h)(5) of the CRDCA clearly enumerates the operations that are subject to that section's variance provision. These specific operations are the disposal of coal refuse and the related stream diversions or relocations. Requests for variances for other mining operations fall under the variance provisions of § 86.102(12). Section 86.102(12) covers activities listed under the term "surface mining operations" as defined in § 86.101. A reference to § 86.102(12) was included in the proposed rulemaking in § 90.49(b). In the final-form regulation, § 90.49(c)(1) has been modified to include the phrase "as a result of the variance." This new language was added for clarification and to ensure consistency with the statute.

Two comments were received regarding the variance criteria under § 90.49(c). The commentators recommended that language regarding stream relocations and diversions be inserted. The language would then more closely track the statutory language.

The Board agrees with this recommendation, and the language has been revised as suggested.

One commentator requested that § 90.49(a) and (c) be modified to only apply to “perennial or intermittent streams.” The commentator argued that the language would then be consistent with stream buffer zone provisions in §§ 86.101, 86.102 and the SMCRA.

The Board disagrees. Section 90.49 follows the statutory language of the CRDCA and will remain unchanged. Furthermore, the CRDCA buffer zone provision was amended after §§ 86.101 and 86.102 were promulgated and after the buffer zone provision of SMRCA, was enacted. Under the rules of statutory construction, the language of the CRDCA will control because it is later in time and more specific, applying only to coal refuse disposal.

One commentator argued that language should be included in § 90.49(c)(1) to explicitly state that adverse water quality impacts must be prevented downstream of the fill area, not within the reach of the stream contained within or diverted through the fill.

The Board recognizes that, as a practical matter, adverse impacts will be assessed downstream of the site’s discharge. However, the regulatory language is consistent with the statutory language and will remain unchanged.

One comment addressed the need to include a reference to the Game Commission in § 90.49(c)(2)(ii). The commentator suggested that the regulation explicitly reference the Game Commission due to its obligations under the 34 Pa.C.S. (relating to the Game and Wildlife Code) to protect riparian and wetland areas.

The Board believes it is unnecessary to include the suggested reference. Section 90.49(c)(2)(ii) includes a reference to the Fish and Boat Commission because the Commission is explicitly mentioned in the statute. The Game Commission will be given an opportunity to review and comment on stream barrier variances. The existing technical guidance document covering stream barrier variances at coal refuse sites specifically directs the Department to provide the Game Commission with a copy of the variance application and to consider its comments.

One commentator suggested that § 90.49(c)(2)(ii) be revised to require the Department to consider “timely” information submitted by the Fish and Boat Commission.

The Board believes the revision is unnecessary. The Department’s existing technical guidance document regarding stream buffer variances already limits the comment period to 30 days. Inclusion of the word “timely,” which is not a precise term, would not improve the regulation.

One commentator noted that the phrase “coal refuse disposal operations other than coal refuse disposal,” as used in § 90.49(b), was unclear.

The Board agrees. The phrase has been deleted and the subsection has been modified to clarify the subset of activities that are subject to the stream buffer zone provisions in § 86.102(12). Additionally, the term “coal refuse disposal,” which is part of the new language inserted in the final-form version of § 90.49(b), has been defined in § 90.1.

One commentator noted that it is unclear how an operator can make the demonstration, required by § 90.49(c)(1), that “coal refuse disposal will not adversely affect water quality and quantity. . . .” The commentator suggested that the final-form regulation include the criteria the Department will use to judge if an operator has made an adequate demonstration.

The Board believes the broad statutory language used in § 90.49(c)(1) is sufficient. The broad language allows Department technical staff the flexibility to consider site-specific factors when assessing stream buffer zone proposals and mitigation plans. Permits issued under the CRDCA are conditioned to maintain downstream uses.

Minor modifications were also made to § 90.40(a) and (c)(3) at final rulemaking for clarity.

§ 90.50. Groundwater and surface water protection systems.

One comment was received regarding § 90.50(c). The commentator questioned the meaning of the phrase “other physical or chemical process.” Additionally, the comment focused on the vagueness of the phrase “particular attention.”

The Board agrees that the subsection needed to be improved. The final-form version of § 90.50(c) has been revised. The term “particular attention” has been deleted, and examples of processes that could potentially deteriorate groundwater and surface water protection systems have been included.

§ 90.116a. Hydrologic balance: water rights and replacement.

Language in § 90.116a was modified at final rulemaking to incorporate the newly defined terms in § 90.1, including “operator” and “coal refuse disposal.”

§ 90.122. Coal refuse disposal.

Language was added at final rulemaking to address the MRAB’s comments that the proposed language could be misinterpreted to require that all coal refuse be sheltered from precipitation during the operational life of the disposal area.

Subchapter E. Site Selection.

§ 90.201. Definitions.

One commentator recommended that the definition of “search area” under § 90.201 be modified to require that the delineated area be entirely within Commonwealth boundaries. The argument was made that an operator could intentionally exclude preferred sites in this Commonwealth by locating large portions of the search area in adjacent states.

The Board believes this change is unnecessary. The CRDCA does not limit the search area to this Commonwealth. The Department will have the final say on the configuration of the 25-mile search area. In circumstances where an applicant has designed the search area to deliberately exclude preferred sites, the Department will require the search area to be reconfigured.

One comment addressed the fact that the proposed definition of “search area” contained a substantive provision better suited for inclusion in § 90.202, relating to general requirements.

The Board decided to move the last sentence of the definition, which contains the substantive provision, to § 90.202(b).

One comment was received regarding the definition of "preferred site" under § 90.201. The commentator pointed out that the definition does not include specific criteria for determinations regarding preferred sites.

The Board finds that additional criteria are not needed in the regulation. The Department's existing technical guidance, titled "Coal Refuse Disposal—Site Selection," contains criteria for identifying preferred sites. Considerations such as in-stream water quality, length of polluted stream segment and the percent of disturbed land in relation to the size of the watershed are addressed. While not absolutes, these criteria serve as a guide to operators and Department staff conducting "preferred site" assessments.

§ 90.202. General requirements.

Two comments were received regarding the proposed language in § 90.202(c)(2) limiting coal refuse disposal at sites "likely to contain" Federally listed threatened or endangered plants or animals. One commentator argued that restricting sites which are "known to contain" listed species is consistent with the CRDCA and fully complies with the Federal statutes and regulations, because consultation and concurrence are required where those species are known to exist, and where their continued existence may therefore be jeopardized. In contrast to the clear language of the CRDCA, the proposed language contains no standard for determining whether a site is "likely to contain" an endangered or threatened species. The second commentator pointed out that the "likely to contain" language is inconsistent with the enabling statute. Both commentators recommended that the "likely to contain" phrase be deleted.

The Board has determined there is no need to reference sites that are "likely to contain" threatened or endangered species in § 90.202(c)(2). The language regarding sites that are "likely to contain" threatened or endangered species was originally included to address a concern raised by OSM in regard to the Department's technical guidance on coal refuse disposal site selection. In response to a recent Department inquiry, OSM found that the requirement to consider sites that are likely to contain threatened or endangered species is not needed in § 90.202(c)(2) because the requirement currently exists in § 90.18. Accordingly, the "likely to contain" phrase has been deleted from § 90.202(c)(2).

One commentator suggested revising § 90.202(a) to restrict information gathered to make the required preferred site demonstration to "reasonably available data."

The Board did not adopt this recommendation. The proposed regulatory language follows the statutory language. The considerations regarding "reasonably available data" only come into play after the preferred site issue had been resolved under section 4.1(a) of the CRDCA.

One comment was received regarding the evaluation criteria concerning review of an alternate site versus an existing preferred site. The commentator points to the different criteria spelled out in §§ 90.202 and 90.204 as proof of an inconsistent approach to assessing alternate and preferred sites.

The Board disagrees with the underlying premise of the comment. The criteria reflected in the regulations is consistent with the statutory intent. Section 4.1 of the CRDCA requires certain criteria to be considered when evaluating preferred versus alternate sites. The criteria under § 90.202(a) reflects section 4.1(a) of the CRDCA and is to be used to evaluate an applicant's demonstration that an alternate site is more suitable than a

preferred site. Section 90.204 is designed to reflect section 4.1(c) and (d) of the CRDCA, which addresses circumstances where an applicant is comparing various alternate sites. Section 90.204 comes into play when a preferred site does not exist within the search area or when the applicant has already made the demonstration, required under § 90.202(a), that an alternate site is more suitable. In the final-form rulemaking, the phrase "using criteria in § 90.202(a)" has been added for clarity in § 90.204(a)(1).

One commentator suggested deleting the phrase "unless it is a preferred site" from § 90.202(d). The commentator argues that the language allows the Department to minimize important environmental factors, such as exceptional value wetlands, wetlands and State listed threatened or endangered species for sites that meet the preferred site definition.

The Board did not accept this recommendation. Section 4.1(a) and (b) of the CRDCA explicitly address criteria for preferred sites. Section 4.1(b) of the CRDCA exempts preferred sites from the absolute exclusions listed under § 90.202(d). Regardless of the site's status as alternate or preferred, the regulations and CRDCA require that a site can only be approved when the adverse environmental impacts will not clearly outweigh the public benefits. Additionally, the wetland encroachment issues will be addressed during the permitting process, which requires a detailed site assessment following the site selection process.

A commentator noted that language in § 90.202(e) unnecessarily deviates from its statutory counterpart language.

To more closely track the statute, the Board has revised language in § 90.202(e).

One commentator pointed out that § 90.202(c)(2) appears to be inconsistent with section 4.1(b) of the CRDCA in that it allows the approval of coal refuse disposal on nonpreferred sites known to contain the Federally listed species when the Department concludes and the USFWS concurs that the proposed use of the site would be unlikely to adversely affect these species. The commentator noted that section 4.1(b) of the CRDCA provides an absolute prohibition for using nonpreferred sites for refuse disposal on sites known to contain Federal threatened or endangered plants or animals or State threatened or endangered animals. Additionally, the commentator observed that § 90.202(c)(2) does not contain the complete text of the Department's technical guidance, titled "Coal Refuse Disposal—Site Selection," regarding restrictions at sites containing Federally listed threatened or endangered species.

The Board concurs with the comments. Section 90.202(c)(2) was inadvertently misplaced and has been moved to § 90.202(e)(7). The missing portion of the text in the technical guidance language, "... or result in the take of Federally listed threatened or endangered species in violation of section 9 of the Endangered Species Act of 1973," has been added to the new § 90.202(e)(7).

One commentator pointed out that § 90.202(d)(3) is inconsistent with section 4.1(b) of the CRDCA. The paragraph refers to State threatened or endangered plants; the statute does not.

The Board concurs with the comment. The reference to State threatened or endangered plants has been deleted from § 90.202(e)(3) in the final rulemaking.

Section 90.202(b) has been expanded due to the inclusion of language moved from the definition of the term "search area" in § 90.201.

§ 90.203. Proposing a preferred site.

One comment was received indicating that § 90.203 should be deleted since it reiterates the requirements in § 90.202.

The Board disagrees that § 90.203 simply reiterates the requirements of § 90.202. Section 90.203 implements section 4.1(a)(5) of the CRDCA. Section 90.202 implements section 4.1(c) and (d) of the CRDCA.

§ 90.205. Alternatives analysis.

One commentator argued that § 90.205, as written, circumvents the alternatives analysis required by Chapter 105 (relating to dam safety and waterway management).

The commentator did not make a recommendation for changing the wording of § 90.205. Regardless, the Board sees little room for change. Section 90.205 tracks the exact language of section 4.1(e) of the statute. The Act 114 revisions to the CRDCA do address Chapter 105 requirements. Section 4.1(e) of the CRDCA explicitly states that the alternatives analysis outlined under section 4.1 of the CRDCA satisfies the requirement for an alternatives analysis under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

Subchapter F. Coal Refuse Disposal Activities on Areas with Preexisting Pollutational Discharges

§ 90.302. Definitions.

One commentator recommended simply cross referencing the definitions of "actual improvement," "coal refuse disposal activities" and "pollution abatement area" since they are taken directly from the statute.

As stated previously, the Board believes that repeating statutory definitions in the regulations increases the readability and clarity of the regulations. The practice serves to make the regulation more user-friendly by making definitions of important terms readily available to the reader.

§ 90.303. Applicability.

Two commentators pointed out that § 90.303(a) differs from the statutory language for no clear reason. They recommended revising the subsection to include the statutory language.

The Board agrees that the language should mirror the statute where possible. Section 90.303(a) has been revised as suggested.

§ 90.304. Application for authorization.

One commentator questioned the criteria the Department will use to determine the "other water quality parameters. . ." outlined under § 90.304(a)(2)(ii).

The Board does not feel any revision is needed. Additional water quality parameters may need to be assessed if warranted based on site-specific knowledge regarding historical uses or problems at a given mine site. The operator will be made aware of additional monitoring requirements during the review of the permit application.

§ 90.306. Operational requirements.

One comment was received indicating that § 90.306(a)(4) should be revised to delete the requirement that the operator provide a notarized statement regarding the progress of the abatement plan.

The Board concurs. The requirement to submit a notarized statement has been deleted.

§ 90.309. Criteria and schedule for release of bonds on pollution abatement areas.

One comment was received regarding the inclusion of the term "planting" in both § 90.309(a)(2) and (b)(1).

The Board has determined that the term should be limited to § 90.309(b)(1). The term was inadvertently included in § 90.309(a)(2) and has been deleted in the final-form version.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulations. The final-form regulations should result in substantial benefits to the Commonwealth. Although costs and benefits cannot be calculated with precision, the Department has developed some estimates that provide a means of gauging the significance of these regulations. The benefits and costs are as follows:

Benefits

This rulemaking benefits the regulated community, Department staff and the public by providing a more detailed outline of the requirements under Act 114. This clarification of the statute directly benefits approximately 26 coal refuse disposal site operators who are potential applicants for coal refuse disposal permits.

The site selection provisions of the regulations are designed to steer operators who are evaluating prospective coal refuse disposal sites to areas previously disturbed by mining. The regulations are also designed to minimize the total number of disposal sites. The limited number of sites serves to minimize the likelihood of citizens being exposed to the effects of coal refuse disposal. To make the use of sites with preexisting discharges more palatable to operators, Act 114 included provisions for modified discharge limits and alternative reclamation standards. Unlike the other sections of Act 114, these provisions were not self-implementing. They are contingent on this rulemaking. This final-form rulemaking will therefore fulfill the intent of Act 114.

Sites reclaimed by operators as a result of Subchapter F incentives will reduce the Commonwealth's abandoned mine reclamation obligation. Prior to the Act 114 amendment to the CRDCA, operators were exposed to potentially unlimited liability for treatment of preexisting discharges that would remain after coal refuse disposal was complete. This potential liability has discouraged operators from reentering sites and thus limited the amount of operator reclamation. The regulations will result in a reduction of water pollution from areas that have been previously mined, will lead to additional reclamation of areas that have been previously mined, and will benefit the Commonwealth and landowners by promoting the reuse of previously disturbed areas as opposed to virgin sites.

The site-selection provisions of Subchapter E in conjunction with surface and groundwater protection systems, will result in improved water quality and disposal of coal refuse at the most environmentally suitable site available.

The experimental practice provisions outlined in Subchapter G will enable operators to develop more cost effective coal refuse disposal methods.

Compliance Costs

Subchapter F will impose additional site characterization costs. If operators choose to use sites with preexist-

ing discharges, they will bear slightly higher costs in preparing permit applications than they would incur for other permit applications. Costs will be related to the development of abatement plans, as well as implementation of the abatement plans and certification of completion of those plans. Costs will vary based on the number of discharges and the degree of pollution at the site as well as the technology needed to achieve a predicted improvement. Costs for characterization of discharge quality and quantity are estimated to be approximately \$500 per discharge. These additional costs will only come into play in cases where operators perceive that the economic benefits for disposing of coal refuse in an area previously affected by mining outweigh the additional costs required to characterize the preexisting discharges.

Subchapter E provisions mirror the self-implementing provisions of Act 114. The regulated industry has been complying with the requirements since Act 114 became effective in 1995. The additional up-front site characterization and alternatives analysis required by Act 114 and proposed Subchapter E can result in significant costs to the operator (\$50,000—\$70,000 per site).

Act 114 and the final-form regulations require coal refuse disposal sites to incorporate systems to prevent adverse impacts to surface and groundwater and to prevent precipitation from contacting the coal refuse. The regulated community has been following these self-implementing Act 114 provisions since 1995. The final-form regulations do not add new requirements beyond those in the statute. The final-form regulations covering the types of systems to be installed is not prescriptive; therefore, the costs related to design and construction can vary considerably depending on the systems proposed. However, the costs of designing and installing systems at large coal refuse disposal sites may be substantial. The economic impact is partly mitigated due to the limited number of anticipated sites. Additionally, since the required systems will reduce groundwater and surface water recharge to the coal refuse pile, the costs will be offset by the long-term savings realized due to reduced water treatment costs.

Compliance Assistance Plan

There is no compliance assistance plan specifically designed to assist coal refuse disposal applicants. The limited number of expected applications allows the Department the opportunity to provide customized technical assistance on each application.

Paperwork Requirements

Act 114 was largely self-implementing; therefore, the reporting and recordkeeping have been absorbed into the regulatory program over the past 5 years. Subchapter F imposes no additional paperwork because it merely creates an option for operators to disturb areas that contain preexisting pollutional discharges. If an operator exercises this option, Subchapter F does require increased background water quality information that is not ordinarily required in permit applications. This information is necessary to ensure accurate information about the quantity and quality of preexisting pollutional discharges from the site, so that any changes in background data caused by the proposed activities may be more completely and accurately understood. Subchapter G will require an applicant to submit a substantial amount of additional paperwork. The additional paperwork will only apply to sites where an operator chooses to propose experimental practices.

G. Sunset Review

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 31, 2000, the Department submitted a copy of the proposed rulemaking to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of comments as well as other documentation. In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. The Committee did not submit comments.

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 and by the Senate Environmental Resources and Energy Committee on May 29, 2001. IRRC met on June 7, 2001, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act.

I. Findings

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 there under in 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 final-form regulations do not enlarge the proposal published at 30 Pa.B. 3053.

(4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this Preamble.

J. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 88 and 90, are amended by amending §§ 88.281, 88.310, 88.332, 90.1, 90.12, 90.13, 90.34, 90.45, 90.101, 90.122 and 90.167; and by adding §§ 90.5, 90.49, 90.50, 90.116a, 90.201—90.207, 90.301—90.309 and 90.401 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 of the Board 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*.

Fiscal Note: Fiscal Note 7-352 remains valid for the final adoption of the subject regulations.

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 3370 (June 23, 2001).)

DAVID E. HESS,
Chairperson

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 88. ANTHRACITE COAL

§ 88.281. Requirements.

A person who conducts coal refuse disposal activities shall comply with the performance standards and design requirements of this subchapter, §§ 90.5, 90.49, 90.50 and Chapter 90, Subchapters E—G.

(1) Disposal of coal refuse in an active surface mine shall comply with the performance standards in Subchapter B (relating to surface anthracite coal mines: minimum environmental protection performance standards) and § 88.315 (relating to coal refuse disposal: active surface mines).

(2) Disposal of coal refuse in an active bank removal operation shall comply with the performance standards of Subchapter C (relating to anthracite bank removal and reclamation: minimum environmental protection performance standards).

(3) Disposal of coal refuse in an abandoned or active underground coal mine shall comply with the performance standards in Subchapter F (relating to anthracite underground mines).

§ 88.310. Coal refuse disposal: general requirements.

(a) Coal refuse shall be hauled or conveyed to and placed in designated disposal areas authorized for that purpose. The refuse shall be placed in a controlled manner to ensure the following:

(1) The land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings.

(2) Stability of the disposal area.

(3) Leachate and surface runoff from the disposal area will not degrade surface waters or groundwaters or exceed the established effluent limitations.

(b) The disposal area shall be designed using recognized professional standards and approved by the Department. The design shall be certified by a registered professional engineer.

(c) Trees, grasses, shrubs and other organic materials shall be removed for a distance of 50 feet from the current disposal area concurrent with the placement of refuse.

(d) Slope protection shall be provided to minimize surface erosion at the site. The disturbed areas, including

diversion ditches that are not riprapped, shall be vegetated upon completion of construction.

(e) The coal refuse to be placed in the fill shall be hauled or conveyed and placed in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered and graded to allow surface and subsurface drainage to be compatible with the natural surroundings, and ensure a long-term static safety factor of 1.5 and seismic safety factor of 1.2.

(f) The final configuration of the disposal shall be suitable for the approved postmining land uses.

(g) Terraces may be utilized to control erosion and enhance stability if approved by the Department.

(h) If the disposal area contains springs, natural or manmade water-courses or wet-weather seeps, an underdrain system consisting of durable rock shall be constructed from the wet areas in a manner that prevents infiltration of the water into the spoil material. The underdrain system shall be designed and constructed using standard geotechnical engineering methods.

(i) Coal refuse may be returned to underground mine workings, but only in accordance with a disposal program approved by the Department and the Mine Safety and Health Administration.

(j) The system to prevent adverse impacts to the surface water and groundwater shall be constructed in accordance with design schematics, test results, descriptions, plans, maps, profiles or cross-sections approved in the permit and shall function to prevent adverse impacts to surface water and groundwater.

(k) The system to prevent precipitation from coming in contact with the coal refuse shall be constructed in accordance with design schematics, test results, descriptions, plans, maps, profiles and cross-sections approved in the permit and shall function to prevent precipitation from contacting the coal refuse.

(1) The system shall be installed as phases of the disposal area reach capacity, as specified in the permit, when the operation temporarily ceases for a period in excess of 90 days (unless the Department approves a longer period, not to exceed 1 year) or when the operation permanently ceases.

(2) The system shall be designed to allow for revegetation of the site in accordance with the standard of success under § 88.330 (relating to revegetation: standards for successful revegetation) and for prevention of erosion.

§ 88.332. Cessation of operations: temporary.

(a) As soon as it is known that the operation will temporarily cease for more than 30 days, the operator shall submit a notice of intention, in writing, to temporarily cease the operation. The notice shall include a statement of the exact number of acres which will have been affected in the permit area, the extent and kind of reclamation of those areas, and identification of the backfilling, regrading, revegetation, monitoring and water treatment activities that will continue during the temporary cessation. The system for preventing precipitation from contacting the coal refuse shall be installed when the temporary cessation exceeds 90 days. The Department may approve a longer period, not to exceed 1 year, under subsection (b).

(b) Temporary cessation of an operation may not exceed 90 days unless the Department approves a longer period for reasons of seasonal shutdown or labor strike.

(c) Temporary cessation does not relieve the operator of the obligation to comply with any provisions of the permit.

CHAPTER 90. COAL REFUSE DISPOSAL
Subchapter A. GENERAL PERMIT AND
APPLICATION REQUIREMENTS FOR COAL
REFUSE DISPOSAL

§ 90.1. Definitions.

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

* * * * *

Coal refuse disposal—The storage, placement or disposal of coal refuse. The term includes engineered features integral to the placement of the coal refuse including relocations or diversions of stream segments contained within the proposed fill area and the construction of required systems to prevent adverse impacts to surface water and groundwater and to prevent precipitation from contacting the coal refuse.

* * * * *

Operator—A person operating a coal refuse disposal area, or part thereof.

* * * * *

Public recreational impoundment—A closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water and which is owned, rented or leased by the Federal government, the Commonwealth or a political subdivision of this Commonwealth and which is used for swimming, boating, water skiing, hunting, fishing, skating or other similar activities.

* * * * *

§ 90.5. Site selection and permitting.

(a) Prior to applying for a permit to conduct coal refuse disposal activities, the applicant shall comply with Subchapter E (relating to site selection). The Department's technical guidance document Number 563-2113-660, titled *Coal Refuse Disposal—Site Selection*, shall be used as guidance for selecting a coal refuse disposal site.

(b) After the Department has approved a site in accordance with Subchapter E, the applicant may apply for a permit for coal refuse disposal activities in accordance with Chapters 86 and 88 (relating to surface and underground coal mining: general; and anthracite coal) and this chapter.

§ 90.12. Geology.

(a) The application shall include a description of the area and structural geology within the proposed permit and adjacent area, including the lithology of the strata that influence the occurrence, availability, movement and quality of groundwater that may be affected by the coal refuse disposal. For lands within the proposed permit and adjacent areas, the applicant shall provide a description of the geology with complementing maps and cross sections and the results of test borings. The description shall include the strata down to and including any aquifer that may be affected. At a minimum, the description shall include:

- (1) The location and quality of subsurface water.
- (2) The depth, lithology and structure of near-surface bedrock.

(3) The location, identification and status of mining and coal refuse disposal operations within or adjacent to the proposed permit area.

(4) A description of any glacial, alluvial or colluvial deposits or other unconsolidated deposits that are present within or beneath the proposed permit area, including their thickness and location.

(5) A description of any mine workings that are present beneath the proposed permit area.

(6) The attitude and characteristics of joints, cleats, fracture zones and faults within the permit and adjacent areas.

(7) The location and identification of all coal seam croplines within the permit area.

(8) A description of the physical characteristics of soils within the permit area.

(9) A description of aquifers that are present beneath the proposed permit area.

(b) Maps, cross-sections and geologic descriptions required by this section shall be prepared and certified by a qualified registered professional geologist.

§ 90.13. Groundwater information.

The application shall contain a description of the premining or baseline groundwater hydrology of the proposed permit and adjacent area, including the following:

(1) The results of a groundwater inventory of existing wells, springs and other valuable groundwater resources, providing information on location, quality, quantity, depth to water and usage of the groundwater for the proposed permit and potentially impacted offsite areas. Information on water availability and occurrence, and alternate water supplies shall be emphasized and water quality information relating to suitability for existing predisposal use shall be provided. At a minimum, water quality descriptions shall include total dissolved solids or specific conductance corrected to 25°C, pH, total iron, total manganese, alkalinity, acidity and sulfates.

(2) Other information on the baseline hydrogeologic properties of the groundwater system shall be included with the application. The Department may require information on indicator parameters such as pumping test, lithologic and piezometer data or that other appropriate information be provided. The application shall include a description of the groundwater flow system as it relates to the design and operation of the proposed groundwater and surface water protection system as described in § 90.50 (relating to design criteria: groundwater and surface water protection system).

§ 90.34. Reclamation: postdisposal land use.

(a) An application shall contain a description of the proposed land use, following reclamation, of the lands to be affected within the proposed permit area by coal refuse disposal activities, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain the following:

- (1) How the proposed postdisposal land use is to be achieved, and the necessary support activities which may be needed to achieve the proposed land use.
- (2) The detailed management plan to be implemented when pastureland is the postdisposal land use.

(3) Materials needed for approval of the alternative use under § 90.166 (relating to postdisposal land use).

(4) The consideration given to making all of the proposed coal refuse disposal activities consistent with surface owner plans and applicable Commonwealth and local land use plans and programs.

(b) If an alternate land use is proposed, the description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface areas to be affected by coal refuse disposal activities within the proposed permit area, and from the Commonwealth and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

§ 90.45. Prime farmland.

A person who conducts, or intends to conduct, coal refuse disposal activities on prime farmlands historically used for cropland, in accordance with Subchapter E (relating to site selection), shall submit a plan, as part of the permit application, for the disposal and restoration of the land. The plan shall contain, at a minimum:

(1) The proposed method and type of equipment to be used for removal, storage and replacement of the soil in accordance with §§ 90.161—90.165.

(2) The proposed measures to be taken during soil reconstruction to prevent excessive compaction and achieve soil bulk densities which will result in the restored area being returned to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management.

(3) The location of areas to be used for the separate stockpiling of soil and plans for soil stabilization before redistribution.

(4) Documentation, if applicable, such as agricultural school studies or other scientific data from comparable areas, that supports the use of other suitable material, instead of the B or C soil horizon, to obtain on the restored area equivalent or higher levels of yield as nondisposal prime farmlands in the surrounding area under equivalent levels of management.

(5) Plans for seeding or cropping the final graded disturbed land and the conservation practices to be used to adequately control erosion and sedimentation and restoration of an adequate soil moisture regime, during the period from completion of regrading until release of the performance bond or equivalent guarantee under Chapter 86, Subchapter E (relating to coal exploration). Proper adjustments for seasons shall be proposed so that final graded land is not exposed to erosion during seasons when vegetation or conservation practices cannot be established due to weather conditions.

(6) Available agricultural school studies or other scientific data for areas with comparable soils, climate and management—including water management—that demonstrate that the proposed method of reclamation will achieve, within a reasonable time, equivalent or higher levels of yield after mining as existed before mining.

(7) A soil survey with description of soil mapping units and representative soil profile under § 90.22 (relating to prime farmland investigation). The soil profile description shall include, but not be limited to, soil horizon depths, pH and range of soil densities for each prime farmland soil unit within the proposed permit area. The Department may require the applicant to provide information on

other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil reconstruction standards of §§ 90.161—90.165.

§ 90.49. Stream buffer zone variance.

(a) *Stream buffer zone restriction.* Coal refuse disposal may not occur within 100 feet (30.48 meters) of the bank of a stream. The Department may grant a variance for disposal of coal refuse under subsection (c) if consistent with Subchapter E (relating to site selection).

(b) *Compliance required.* Surface mining operations supporting coal refuse disposal shall comply with § 86.102(12) (relating to areas where mining is prohibited or limited).

(c) *Variance.* The Department may grant a variance from the 100-foot (30.48-meter) stream buffer zone to dispose of coal refuse and to relocate or divert streams in the 100-foot (30.48-meter) stream buffer zone. The stream buffer zone is the area within 100 feet (30.48 meters) measured horizontally from the bank of any stream.

(1) Stream buffer zone variances will only be granted if the operator demonstrates to the satisfaction of the Department that, as a result of the variance, coal refuse disposal will not adversely affect water quality and quantity, or other environmental resources of the stream and will not cause or contribute to the violation of applicable State or Federal water quality standards.

(2) Prior to granting a variance, the operator shall be required to give public notice of the application in two newspapers of general circulation in the area once a week for 2 successive weeks.

(i) If a person files an exception to the proposed variance within 20 days of the last publication of the notice, the Department will conduct a public hearing with respect to the application within 30 days of receipt of the exception.

(ii) The Department will also consider information or comments submitted by the Fish and Boat Commission prior to taking action on a variance request.

(3) The variance will be issued as a written order specifying the methods and techniques that shall be employed to prevent or mitigate adverse impacts. Mitigation can include, but is not limited to, compensatory restoration and enhancements of nearby streams or stream segments.

§ 90.50. Design criteria: groundwater and surface water protection system.

(a) The application shall include a description of the system that will be installed to prevent adverse impacts to groundwater and surface water. The description shall include maps, plans and other information necessary to evaluate the design of the system.

(b) The application shall include a description of the system that will be installed to prevent precipitation from coming into contact with the coal refuse. The description shall include maps, plans and other information necessary to evaluate the design of the system. The coal refuse disposal operation shall be designed in phases to minimize the amount of time the entire coal refuse area is exposed to precipitation prior to the installation of the system to prevent precipitation from contacting the coal refuse. The application shall describe the design of the

system for preventing precipitation from contacting coal refuse and how the system will be installed in accordance with the following:

(1) During routine coal refuse disposal as phases of the coal refuse disposal area reach capacity.

(2) During periods of temporary cessation as directed under § 90.167(d) (relating to cessation of operations: temporary).

(3) When the operation permanently ceases.

(c) The Department's technical guidance Document Number 563-2112-656, titled *Liners—Impoundments, Stockpiles, and Coal Refuse Disposal Areas*, shall be used as guidance for designing coal refuse disposal sites incorporating earthen, admixed or synthetic liners or caps for preventing adverse impacts to groundwater and surface water and for preventing precipitation from contacting coal refuse.

(d) The application shall include a description of the measures to be taken to ensure the long-term functionality of the systems described in subsections (a) and (b). The description shall address the site's susceptibility to mine subsidence and the potential impacts of mine subsidence on the systems described in subsections (a) and (b). The description shall also address the potential for deterioration of components of the systems described in subsections (a) and (b) due to other physical or chemical processes including but not limited to attack from sulfate-laden or acidic groundwater and/or leachate.

§ 90.101. Hydrologic balance: general requirements.

(a) Coal refuse disposal activities shall be planned and conducted to minimize disturbances to the prevailing hydrologic balance in the permit and adjacent areas and to prevent material damage to the hydrologic balance outside the permit area. The Department may require additional preventive, remedial or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented.

(b) Coal refuse disposal activities shall be planned and conducted to prevent pollution of groundwater and surface water and prevent, to the maximum extent possible, changes to the water quantity, depth to groundwater and location of surface water drainage channels so that the approved postdisposal land use of the permit is not adversely affected.

(c) The treatment requirements and effluent limitations established under § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices) may not be violated.

(d) Operations shall be conducted to prevent water pollution and, when necessary, treatment methods shall be used.

(e) A person who conducts coal refuse disposal activities shall conduct the disposal and reclamation operation to prevent water pollution and, when necessary, operate and maintain the necessary water treatment facilities until applicable treatment requirements and effluent limitations established under § 90.102 are achieved and maintained.

§ 90.116a. Hydrologic balance: water rights and replacement.

An operator who conducts coal refuse disposal and adversely affects a water supply by contamination, pollu-

tion, diminution or interruption shall comply with § 87.119 (relating to water rights and replacement).

§ 90.122. Coal refuse disposal.

(a) Coal refuse shall be transported and placed in designated disposal areas approved by the Department for this purpose. These areas shall be within the permit area. The coal refuse disposal area shall be designed, constructed and maintained to ensure:

(1) The leachate and surface runoff from the permit area will not degrade surface water or groundwater or exceed the effluent limitations of § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(2) Prevention of combustion.

(3) Prevention of public health hazards.

(4) Stability of the fill.

(5) The land mass designated as the coal refuse disposal area is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The fill shall be designed using recognized professional standards, certified by a qualified registered professional engineer, and approved by the Department.

(c) The foundation and abutment of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigations and laboratory testing of foundation materials and coal refuse shall be performed to determine the design requirements for stability of the facility. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(d) The coal refuse disposal fill shall be designed to attain a minimum long-term static factor of safety of 1.5 and a minimum seismic factor of safety of 1.2, based upon data obtained from subsurface exploration, geotechnical testing, foundation design, fill design and accepted engineering analyses.

(e) When the average slope of coal refuse disposal area exceeds 1v:2.8h-36%, or lesser slopes as may be designated by the Department based on local conditions, key way cuts, or excavation into stable bedrock or bedrock toe buttresses shall be constructed to stabilize the fill. When the toe of the fill rests on a downslope, stability analysis shall be performed in accordance with § 90.39 (relating to ponds, impoundments, banks, dams, embankments, piles and fills) to determine the size of rock toe buttresses and key way cuts.

(f) If the disposal area contains springs, natural or manmade watercourses, or wet-weather seeps, the Department may approve an underdrain/subdrainage system, consisting of durable rock or other materials, designed and placed in a manner that prevents infiltration of the water into the fill material and ensures continued free drainage from the wet areas.

(g) The disposal area shall be provided with a system to prevent adverse impacts to the surface water and groundwater. The system shall be constructed in accordance with design schematics, test results, descriptions, plans, maps, profiles or cross-sections approved in the permit and shall function to prevent adverse impacts to surface water and groundwater.

(h) When a phase of the coal refuse disposal area reaches capacity, the operator shall install a system to prevent precipitation from coming in contact with the coal refuse in the completed phase.

(1) The system shall be constructed in accordance with design schematics, test results, descriptions, plans, maps, profiles or cross-sections approved in the permit.

(2) During normal coal refuse disposal, the system is not required to prevent precipitation from coming in contact with the coal refuse being placed in phases of the operation that have not reached capacity.

(3) The system shall be designed to allow for revegetation of the site in accordance with the standard of success under § 90.159 (relating to revegetation: standards for successful revegetation) and for the prevention of erosion.

(4) If the operator temporarily ceases operation of the coal refuse disposal area for a period in excess of 90 days (unless the Department, for reasons of labor strike or business necessity, approves a longer period not to exceed 1 year) or when the operation permanently ceases, the operator shall install the system for preventing precipitation from contacting the coal refuse.

* * * * *

§ 90.167. Cessation of operations: temporary.

(a) As soon as it is known that the operation will temporarily cease for more than 30 days, the operator shall submit a notice of intention, in writing, to temporarily cease the operation. The notice shall include a statement of the exact number of acres that will have been affected in the permit area, the extent and kind of reclamation of those areas, and identification of the disposal, regrading, revegetation, monitoring and water treatment activities which will continue during the temporary cessation.

(b) Temporary cessation of an operation may not exceed 90 days unless the Department approves a longer period for reasons of seasonal shutdown or labor strike.

(c) Temporary cessation does not relieve the operator of the obligation to comply with any provisions of the permit.

(d) The operator shall install the system for preventing precipitation from contacting the coal refuse when the temporary cessation exceeds 90 days. The Department may approve a longer period, not to exceed 1 year, for reasons of a labor strike or business necessity.

Subchapter E. SITE SELECTION

Sec.	
90.201.	Definitions.
90.202.	General requirements.
90.203.	Proposing a preferred site.
90.204.	Proposing an alternate site.
90.205.	Alternatives analysis.
90.206.	Disapproval of a proposed site.
90.207.	Approval of a selected site.

§ 90.201. Definitions.

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

Preferred site—A watershed polluted by acid mine drainage; a watershed containing an unreclaimed surface mine but which has no mining discharge; a watershed containing an unreclaimed surface mine with discharges that could be improved by the proposed coal refuse disposal operation; unreclaimed coal refuse disposal piles that could be improved by the proposed coal refuse disposal operation; or other unreclaimed areas previously affected by mining activities.

Search area—The geographic area within a 1-mile radius of an existing coal preparation facility or the 25-square mile geographic area encompassing a proposed coal preparation facility.

Selected site—A location selected by the applicant and approved by the Department under this subchapter for which the applicant can then apply for a permit to conduct coal refuse disposal activities.

§ 90.202. General requirements.

(a) A preferred site shall be used for coal refuse disposal unless the applicant demonstrates to the Department that an alternate site is more suitable based upon engineering, geology, economics, transportation systems, and social factors and is not adverse to the public interest.

(b) The applicant is required to determine whether the search area contains a preferred site.

(1) For a new coal refuse disposal area that will support an existing coal preparation facility, the applicant shall examine the geographic area within a 1-mile radius of the existing coal preparation facility.

(2) For a proposed coal refuse disposal area that will support a proposed coal preparation facility, the applicant shall examine a 25-square mile geographic area encompassing the proposed coal preparation facility. In defining the 25-square mile area, consideration shall be given to environmental, technical, transportation, economic and social factors where applicable.

(c) If there are no preferred sites located within the search area, the applicant shall conduct a comparative analysis of the potential coal refuse disposal sites in accordance with § 90.204(b) (relating to proposing an alternate site).

(d) The Department will not approve a site proposed by the applicant for coal refuse disposal activities when the Department finds that the adverse environmental impacts of using the site for coal refuse disposal activities would clearly outweigh the public benefits.

(e) Except on preferred sites, the Department will not approve coal refuse disposal on or within any of the following areas:

(1) Prime farmlands.

(2) An exceptional value watershed as defined under Chapter 93 (relating to water quality standards).

(3) Sites known to contain threatened or endangered animals listed exclusively under the Commonwealth's protection programs.

(4) An area that is hydrologically connected to and contributes at least 5% of the drainage to wetlands designated as exceptional value under Chapter 105 (relating to dam safety and waterway management) unless a larger percentage contribution is authorized by the Department after consultation with the Fish and Boat Commission.

(5) A watershed less than 4 square miles in area upstream of the intake of a public water supply.

(6) A watershed less than 4 square miles in area upstream of the upstream limit of a public recreational impoundment.

(7) Sites known to contain Federally listed threatened or endangered plants or animals. At preferred sites known to contain Federally listed threatened or endangered species, approval will be granted only when the

Department concludes and the United States Fish and Wildlife Service concurs that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the take of Federally listed threatened or endangered species in violation of section 9 of the Endangered Species Act of 1973 (16 U.S.C.A. § 1538).

(f) As part of the site selection process, an applicant may request approval for more than one site. The Department will evaluate each site proposed for coal refuse disposal and, if the Department finds that a proposed site meets the requirements of this subchapter, it will designate it as an approved site. The applicant will then have the option of choosing a selected site from among the approved sites and submitting an application for coal refuse disposal for that site.

§ 90.203. Proposing a preferred site.

If the applicant proposes to use a preferred site, the Department will approve the proposed site subject to § 90.202(c) (relating to general requirements) provided the applicant demonstrates that the attendant adverse environmental impacts will not clearly outweigh the public benefits.

§ 90.204. Proposing an alternate site.

(a) Where a preferred site exists within the search area, but the applicant proposes an alternate site, the applicant shall:

- (1) Demonstrate that the alternate site is more suitable, using criteria in § 90.202(a) (relating to general requirements), than all preferred sites within the search area.
 - (2) Identify other alternate sites considered and provide the basis for the rejection of these sites.
 - (3) Based on reasonably available data, demonstrate that it is the most suitable site based on environmental, economic, technical, transportation and social factors.
- (b) If a preferred site does not exist within the search area, the applicant shall:
- (1) Identify all the sites considered within the search area and provide the basis for their consideration.
 - (2) Provide the basis for the rejection of considered sites.
 - (3) Based on reasonably available data, demonstrate to the Department that the proposed site is the most suitable based on environmental, economic, technical, transportation and social factors.

§ 90.205. Alternatives analysis.

The alternatives analysis required by §§ 90.202(b) and 90.204 (relating to general requirements; and proposing an alternate site) satisfies the requirement for an alternatives analysis under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and regulations promulgated thereunder. See Chapter 105 (relating to dam safety and waterway management).

§ 90.206. Disapproval of a proposed site.

If the Department disapproves the applicant's proposed site, the applicant may submit a new proposal supporting the selection of another site located either within or outside of the search area.

§ 90.207. Approval of a selected site.

Department approval of a selected site does not indicate the Department will approve an application for coal refuse disposal activities for the selected site.

**Subchapter F. COAL REFUSE DISPOSAL
ACTIVITIES ON AREAS WITH PREEXISTING
POLLUTIONAL DISCHARGES**

Sec.	Scope.
90.301.	Definitions.
90.302.	Applicability.
90.303.	Application for authorization.
90.304.	Application approval or denial.
90.305.	Operational requirements.
90.306.	Treatment of discharges.
90.307.	Request for bond release.
90.308.	Criteria and schedule for release of bonds on pollution abatement areas.

§ 90.301. Scope.

(a) This subchapter specifies procedures and rules applicable to those who seek authorization to engage in coal refuse disposal activities on an area on which there are preexisting pollutional discharges resulting from previous mining and describes the terms and conditions under which the Department may release bonds to operators who have received authorization.

(b) Chapter 86 (relating to surface and underground coal mining: general) and Subchapters A—D apply to authorizations to mine areas with preexisting pollutional discharges except as specifically modified by this subchapter.

§ 90.302. Definitions.

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

Abatement plan—Any individual technique or combination of techniques, the implementation of which will result in reduction of the base line pollution load. Abatement techniques include, but are not limited to: Addition of alkaline material, special plans for managing toxic and acid-forming material, regrading, revegetation and relocating coal refuse to a coal refuse disposal area that includes systems to prevent adverse impacts to surface and groundwater and to prevent precipitation from contacting the coal refuse.

Actual improvement—The reduction of the baseline pollution load resulting from the implementation of the approved abatement plan; except that any reduction of the baseline pollution load achieved by water treatment may not be considered as actual improvement provided that treatment approved by the Department of the coal refuse before, during or after placement in the coal refuse disposal area will not be considered to be water treatment.

Baseline pollution load—The characterization of the pollutional material being discharged from or on the pollution abatement area, described in terms of mass discharge for each parameter deemed relevant by the Department, including seasonal variations and variations in response to precipitation events. The Department will establish in each authorization the specific parameters it deems relevant for the baseline pollution load, including, at a minimum, iron and acid loadings.

Best professional judgment—The highest quality technical opinion forming the basis for the terms and conditions of the treatment level required after consideration of all reasonably available and pertinent data. The treatment levels shall be established by the Department under sections 301 and 402 of the Federal Water Pollution Control Act (33 U.S.C.A. §§ 1311 and 1342).

Best technology—Measures and practices which will abate or ameliorate, to the maximum extent possible,

discharges from or on the pollution abatement area. These measures include engineering, geochemical or other applicable practices.

Coal refuse disposal activities—The storage, dumping or disposal of any waste coal, rock, shale, slurry, culm, gob, boney, slate, clay, underground development wastes, coal processing wastes, excess soil and related materials, associated with or near a coal seam, that are either brought above ground or otherwise removed from a coal mine in the process of mining coal or are separated from coal during the cleaning or preparation operations. The term does not include the removal or storage of overburden from surface mining activities.

Excess soil and related material—Rock, clay or other material located immediately above or below a coal seam and which are extracted from a coal mine during the process of mining coal. The term does not include topsoil or subsoil.

Pollution abatement area—The part of the permit area that is causing or contributing to the baseline pollution load. The term includes adjacent and nearby areas that must be affected to bring about significant improvements of the baseline pollution load and may include the immediate locations of the discharges.

§ 90.303. Applicability.

(a) Authorization may be granted under this subchapter when the authorization is part of the following:

(1) A permit issued after February 6, 1995, but only if the authorization request is made during one of the following periods:

(i) At the time of the submittal of the permit application for the coal refuse disposal activities, including the proposed pollution abatement area.

(ii) Prior to a Department decision to issue or deny that permit.

(2) A permit revision under § 86.52 (relating to permit revisions), but only if the operator affirmatively demonstrates to the satisfaction of the Department that:

(i) The operator has discovered pollutional discharges within the permit area that came into existence after its permit application was approved.

(ii) The operator has not caused or contributed to the pollutional discharges.

(iii) The proposed pollution abatement area is not hydrologically connected to an area where coal refuse disposal activities have been conducted under the permit.

(iv) The operator has not affected the proposed pollution abatement area by coal refuse disposal activities.

(v) The Department has not granted a bonding authorization and mining approval for the area under § 86.37(b) (relating to criteria for permit approval or denial).

(b) Notwithstanding subsection (a), authorization will not be granted under this subchapter for repermitting under §§ 86.12 and 86.14 (relating to continued operation under interim permits; and permit application filing deadlines), permit renewals under § 86.55 (relating to permit renewals: general requirements) or permit transfers under § 86.56 (relating to transfer of permit).

§ 90.304. Application for authorization.

(a) An operator who requests authorization under this subchapter shall comply with the permit application requirements of Chapter 86 (relating to surface and

underground coal mining: general) and Subchapters A—D, except as specifically modified by this subchapter. The operator shall also:

(1) Delineate on a map the proposed pollution abatement area, including the location of the preexisting discharges.

(2) Provide a description of the hydrologic balance for the proposed pollution abatement area that includes:

(i) Results of a detailed water quality and quantity monitoring program, including seasonal variations, variations in response to precipitation events and modeled baseline pollution loads using this monitoring program.

(ii) Monitoring for pH, alkalinity, acidity, total iron, total manganese, aluminum, sulfates, total suspended solids and other water quality parameters the Department deems relevant.

(3) Provide a description of the abatement plan that represents best technology and includes the following:

(i) Plans, cross-sections and schematic drawings describing the abatement plan proposed to be implemented.

(ii) A description and explanation of the range of abatement level that is anticipated to be achieved, costs and each step in the proposed abatement plan.

(iii) A description of the standard of success for revegetation necessary to ensure success of the abatement plan.

(b) The operator seeking this authorization shall continue the water quality and quantity monitoring program required by subsection (a)(2) after making the authorization request. The operator shall submit the results of this continuing monitoring program to the Department on a monthly basis until a decision on the authorization request is made.

§ 90.305. Application approval or denial.

(a) Authorization may not be granted under this subchapter unless the operator seeking the authorization affirmatively demonstrates the following to the satisfaction of the Department on the basis of information in the application:

(1) Neither the operator, nor an officer, principal shareholder, agent, partner, associate, parent corporation, subsidiary or affiliate, sister corporation, contractor or subcontractor, or a related party as defined in § 86.1 (relating to definitions) has either of the following:

(i) Legal responsibility or liability as an operator for treating the water pollution discharges from or on the proposed pollution abatement area.

(ii) Statutory responsibility or liability for reclaiming the proposed pollution abatement area.

(2) The proposed abatement plan will result in significant reduction of the baseline pollution load and represents best technology.

(3) The land within the proposed pollution abatement area can be reclaimed.

(4) The coal refuse disposal activities on the proposed pollution abatement area will not cause additional surface water pollution or groundwater degradation.

(5) The standard of success for revegetation will be achieved. The standard of success for revegetation for sites previously reclaimed to the standards of Chapters 87, 88 and 90 shall be the standards set forth in § 90.159 (relating to revegetation: standards for successful

revegetation). The standard of success for revegetation for sites not previously reclaimed to the standards of Chapters 87, 88 and 90 shall be, at a minimum, the following, provided the site is not a bond forfeiture site where the forfeited money paid into the fund is sufficient to reclaim the forfeited site to the applicable standards:

(i) A ground cover of living plants not less than can be supported by the best available topsoil or other suitable material in the reaffected area.

(ii) A ground cover no less than that existing before disturbance of the area by coal refuse disposal activities.

(iii) Adequate vegetation to control erosion. Vegetation may be no less than that necessary to ensure the success of the abatement plan.

(6) The coal refuse disposal activities on permitted areas other than the proposed pollution abatement area will not cause surface water pollution or groundwater degradation.

(7) Requirements of § 86.37(a) (relating to criteria for permit approval or denial) that are consistent with this section have been met.

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect a legal responsibility or liability under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), Chapter 86 (relating to surface and underground coal mining; general) or Subchapters A—D, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

(c) Authorization may not be granted under this subchapter unless there are one or more preexisting discharges from or on the pollution abatement area.

(d) The authorization allowed under this subchapter is only for the pollution abatement area and does not apply to other areas of the permit.

§ 90.306. Operational requirements.

(a) An operator who receives an authorization under this subchapter shall comply with Chapter 86 (relating to surface and underground coal mining; general) and Subchapters A—D except as specifically modified by this subchapter. The operator shall also:

(1) Implement the approved water quality and quantity monitoring program for the pollution abatement area until the requirements of § 90.309 (relating to criteria and schedule for release of bonds on pollution abatement areas) are met.

(2) Implement the approved abatement plan.

(3) Notify the Department immediately prior to the completion of each step of the abatement plan.

(4) Provide a progress report to the Department within 30 days after the completion of each step of the abatement program that includes a statement signed by the operator, and if required by the Department, a statement signed by the supervising engineer, that all work has been performed in accordance with the terms and conditions of the pollution abatement authorization, the approved maps, plans, profiles and specifications.

§ 90.307. Treatment of discharges.

(a) Except for preexisting discharges that are not encountered during coal refuse disposal activities or the implementation of the abatement plan, the operator shall

comply with § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(b) The operator shall treat the preexisting discharges that are not encountered during coal refuse disposal activities or implementation of the abatement plan to comply with the effluent limitations established by best professional judgment. The effluent limitations established by best professional judgment may not be less than the baseline pollution load. If the baseline pollution load, when expressed as a concentration for a specific parameter, satisfies the effluent limitation in § 90.102 for that parameter, the operator shall treat the preexisting discharge for that parameter to comply with either effluent limitations established by best professional judgment or the effluent limitations in § 90.102.

(c) For purposes of subsections (a) and (b), the term encountered may not be construed to mean diversions of surface water and shallow groundwater flow from areas undisturbed by the implementation of the abatement plan that would otherwise drain into the affected area, as long as the diversions are designed, operated and maintained under § 90.104 (b)—(h) (relating to hydrologic balance: diversions).

(d) An operator required to treat preexisting discharges will be allowed to discontinue treating the discharges under subsection (b) when the operator affirmatively demonstrates the following to the Department's satisfaction:

(1) The preexisting discharges are meeting the effluent limitations established by subsection (b) as shown by groundwater and surface water monitoring conducted by the operator or the Department.

(2) Coal refuse disposal activities under the permit—including the pollution abatement area—are being or were conducted under the requirements of the permit and the authorization, and Chapter 86 (relating to surface and underground mining; general) and this chapter except as specifically modified by this subchapter.

(3) The operator has implemented each step of the abatement plan as approved in the authorization.

(4) The operator did not cause or allow additional surface water pollution or groundwater degradation by reaffected the pollution abatement area.

(e) If after discontinuance of treatment of discharges under subsection (d) the discharges fail to meet the effluent limitations established by subsection (b), the operator shall reinstitute treatment of the discharges under subsection (b). An operator who reinstates treatment under this subsection will be allowed to discontinue treatment if the requirements of subsection (d) are met.

(f) Discontinuance of treatment under subsection (d) may not be deemed or construed to be or to authorize a release of bond under § 90.309 (relating to criteria and schedule for release of bonds on pollution abatement areas).

§ 90.308. Request for bond release.

Sections 86.172(c) and 90.309 (relating to criteria for release of bond; and criteria and schedule for release of bonds on pollution abatement areas) apply to the release of bonds for pollution abatement areas authorized by this subchapter. Section 86.172(a), (b) and (d) is not applicable to the release of bonds.

§ 90.309. Criteria and schedule for release of bonds on pollution abatement areas.

(a) The Department will release up to 50% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds the following:

(1) The coal refuse disposal activities were conducted on the permit area, including the pollution abatement area, under the requirements of the permit and the authorization, Chapter 86 (relating to surface and underground mining; general) and this chapter except as specifically modified by this subchapter.

(2) The operator has satisfactorily completed backfilling, grading, installing the water impermeable cover and drainage control in accordance with the approved reclamation plan.

(3) The operator has properly implemented each step of the pollution abatement plan approved and authorized under this subchapter.

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all groundwater and surface water monitoring conducted by the permittee under § 90.306(a)(1) (relating to operational requirements) or conducted by the Department.

(5) The operator has not caused or contributed to surface water pollution or groundwater degradation by re-affecting the pollution abatement area.

(b) The Department will release up to an additional 35% of the amount of bond for the authorized pollution abatement area but retain an amount sufficient to cover the cost to the Department of reestablishing vegetation if completed by a third party if the operator demonstrates and the Department finds the following:

(1) The operator has replaced the topsoil or material conserved under § 90.97 (relating to topsoil: removal), completed final grading, planting and established revegetation under the approved reclamation plan and achieved the standards of success for revegetation in § 90.305(a)(5) (relating to application approval or denial).

(2) The operator has not caused or contributed to groundwater or surface water pollution by re-affecting the pollution abatement area.

(3) The operator has achieved the following standards:

(i) Achieved the actual improvement of the baseline pollution load described in the approved abatement plan as shown by groundwater and surface water monitoring conducted by the permittee for the time provided in the abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard for success in § 90.305(a)(5).

(ii) Achieved the following:

(A) At a minimum has not caused degradation of the baseline pollution load as shown by groundwater and surface water monitoring conducted by the operator or the Department for one of the following:

(I) For 12 months from the date of initial bond release under subsection (a), if backfilling, final grading, drainage control, placement of impermeable cover, topsoiling and

establishment of revegetation to achieve the standard of success for revegetation in § 90.305(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and § 90.307(e) (relating to treatment of discharges), for 12 months from the date of discontinuance of treatment under § 90.307(d), if backfilling, final grading, drainage control, placement of impermeable cover, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 90.305(a)(5) have been completed.

(B) Conducted all the measures provided in the approved abatement plan and additional measures specified by the Department in writing at the time of initial bond release under subsection (a) for the area requested for bond release.

(C) Caused aesthetic or other environmental improvements and the elimination of public health and safety problems by engaging in coal refuse disposal activities and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

(c) The Department will release the remaining portion of the amount of bond on the authorized pollution abatement area if the operator demonstrates and the Department finds the following:

(1) The operator has successfully completed the approved abatement and reclamation plans, and the pollution abatement area is capable of supporting the postdisposal land use approved under § 90.166 (relating to postdisposal land use).

(2) The operator has complied with the permit and the authorization, Chapter 86 and this chapter, except as specifically modified by this subchapter.

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 90.307(e) for 5 years from the discontinuance of treatment under § 90.307(d).

(4) The applicable liability period has expired under § 86.151 (relating to period of liability).

Subchapter G. EXPERIMENTAL PRACTICES

Sec.
90.401. General.

§ 90.401. General.

(a) To encourage advances in coal refuse disposal practices, coal refuse site reclamation and advances in technology or practices that will enhance environmental protection with respect to coal refuse disposal activities, the Department may grant permits approving experimental practices and demonstration projects. The Department may grant these permits under the following circumstances:

(1) The environmental protection provided will be potentially more protective or at least as protective as required by this chapter, the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51-30.66) and Chapter 86 (relating to surface and underground coal mining; general).

(2) The coal refuse disposal activities approved under the permits are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices or demonstration projects.

(3) The experimental practices or demonstration projects do not reduce the protection afforded public health and safety below that provided by this chapter, the Coal Refuse Disposal Control Act and Chapter 86.

(b) Experimental practice permits issued under this subchapter shall meet the provisions, standards and information requirements of the 30 CFR 785.13 (relating to experimental practices mining).

[Pa.B. Doc. No. 01-1270. Filed for public inspection July 13, 2001, 9:00 a.m.]

[25 PA. CODE CHS. 210 AND 211]

Licensing of Blasters and Storage, Handling and Use of Explosives

The Environmental Quality Board (Board) by this order amends Chapters 210—211 (relating to blasters' licenses; and storage, handling and use of explosives). These amendments modernize and clarify the Department of Environmental Protection's (Department) blasting regulations. As more fully explained in this Preamble, the amendments to Chapter 210 significantly improve the process and criteria for obtaining and retaining a blaster's license. The amendments to Chapter 211 are a comprehensive modernization of the standards and procedures for handling, storing and using explosives.

These amendments were adopted by order of the Board at its meeting of April 17, 2001.

A. Effective Date

These amendments are effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information contact J. Scott Roberts, P.G., Director, Bureau of Mining and Reclamation, Rachel Carson State Office Building, 5th floor, 400 Market Street, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103, or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9th floor, 400 Market Street, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These amendments are 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:

(1) Sections 3 and 7 of the act of July 1, 1937 (P. L. 2681, No. 537) (73 P. S. §§ 157 and 161); section 3 of the act of July 10, 1957 (P. L. 685, No. 362) (73 P. S. §§ 157, 161 and 166); and Reorganization Plan No.8 of 1981 (71 P. S. § 751-35), which authorize the Department to promulgate implementing regulations for the licensing of blasters and the storage, handling and use of explosives in most contexts other than mining.

(2) Section 2(f) of the act of May 18, 1937 (43 P. S. § 25-2(f)) and Reorganization Plan No.2 of 1975 (71 P. S. § 751-22), which authorize the promulgation of regulations addressing, inter alia, the storage, handling and use of explosives in underground noncoal mining.

(3) Section 4(b) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.4(b)) and section

11(e) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3311(e)), which direct the Department to promulgate regulations concerning the handling and use of explosives at coal and noncoal surface mine sites, as well as the licensing of blasters.

(4) Sections 1917-A and 1920-A(b) of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20(b)), which authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to formulate, adopt and promulgate regulations that are necessary for the Department to perform its work.

D. Background and Summary

This regulatory package revises the current explosives regulatory program. The regulation of explosives presents a unique blend of health, safety and environmental concerns. Chapter 210 ensures that only qualified individuals are authorized to use explosives. The chapter name has been changed from "use of explosives" to "blasters' licenses." Chapter 211 contains provisions for the safe storage of explosives, including standards for storage containers and structures, and distances from railways, buildings and highways. Public and private buildings and structures are protected from the adverse effects of blasting by limits placed on ground vibration and air-overpressure. Finally, safety procedures are established for the benefit of the general public, those working in the vicinity of a blast and the blasters themselves.

This rulemaking establishes minimal standards for explosives used in all aboveground operations including coal and noncoal mining, construction and demolition. The rulemaking does not apply to the storage, handling and use of explosives in underground mines.

Currently, separate blasting regulations exist for anthracite surface coal mining, bituminous surface coal mining and noncoal surface mining. To the extent that these separate regulations contain requirements that are comparable to, but less stringent than, provisions in Chapter 211, they will be superseded by the more stringent provisions in Chapter 211. In addition to complying with Chapters 210 and 211, persons using explosives shall comply with other applicable provisions of the Commonwealth law or implementing regulations. For example, persons planning to use explosives in the waters of this Commonwealth for engineering purposes shall obtain a permit from the Fish and Boat Commission. See 30 Pa.C.S. § 2906 (relating to permits for use of explosives).

The Federal government regulates some aspects of explosives. The Federal Bureau of Alcohol, Tobacco and Firearms (ATF) regulates the storage and interstate sale and purchase of explosives. The Office of Surface Mining has the authority to regulate the use of explosives at surface coal mines. The Department has received general primacy authority to regulate surface coal mining in this Commonwealth, including the use of explosives. Finally, the Federal Highway Administration regulates the transportation of explosives on public roads.

The Mining and Reclamation Advisory Board (MRAB) was involved in the development of the proposed rulemaking. The regulatory changes were reviewed and discussed with the MRAB's Regulation, Legislation and Technical Committee on August 10, 1999. The MRAB recommended that the Board approve the amendments as proposed rulemaking at its meeting on October 21, 1999. During the meeting, the MRAB asked the Department to clarify two issues. The Department discussed these issues with the MRAB at its meeting on January 6, 2000. The

MRAB first asked if seismic monitoring could occur between the blast location and the closest dwelling instead of at the closest dwelling. The Department explained that it normally requires monitoring at the structure to be protected, which is typically the closest dwelling, but in unusual cases the Department will allow monitoring at other locations. The other issue concerned a possible conflict with the requirements for analyzing seismic records in the mining regulations. The Department explained that it intends to make appropriate revisions to the mining regulations once the Board has taken final action on this rulemaking. Following this discussion, the MRAB unanimously approved the proposed rulemaking. The Board adopted the proposed regulations at its March 21, 2000, meeting.

Chapters 210 and 211 were published as proposed rulemaking at 30 Pa.B. 2768 (June 3, 2000). There was a 60-day comment period, and four public hearings were held. The Department has considered all comments received and has prepared a comment and response document. The comment and response document is available on the Department's website and from the contact persons listed in Section B of this Preamble. The MRAB reviewed and unanimously approved the draft final rulemaking at its January 4, 2001, meeting.

E. Summary of Comments and Responses on the Proposed Rulemaking and Changes Made in the Final Rulemaking

General

A commentator noted that a reference to sections 1—6 of the act of December 19, 1996 (P. L. 1460, No. 187) (73 P. S. §§ 176—182.7) should be included to clearly establish that blasters are also required to comply with this State law and to notify the Pennsylvania One Call System. The Board has determined that sections 2 and 3 of the act of December 19, 1996 (P. L. 1460, No. 187) (73 P. S. §§ 179 and 180) apply to the contractor and designer. Blasting activities are subordinate to excavation activities. Furthermore, blasters are not considered primary contractors or designers. To avoid confusion over who contacts Pennsylvania One Call, the entity who is responsible for the excavation, normally the contractor, should contact Pennsylvania One Call and inform them of the anticipated blasting activities. No changes were made to the final-form regulations as a result of this comment.

Some commentators were concerned that information on where to obtain applications and other forms should be included in the regulations. Copies of all applications will be available on the effective date of these regulations through the Bureau of Mining and Reclamation, any of the District Mining Offices and electronically on the Department's web site. In addition, the Department will provide the necessary forms to all licensed blasters through direct mailing.

Chapter 210. Blasters' Licenses

§ 210.11. Definitions.

The definition "demolition activity" has been deleted from § 211.101 (relating to definitions) and added to § 210.11 as "demolition and demolition blasting" because these references appear only in Chapter 210.

§ 210.13. General.

A commentator noted that § 210.13(b) states that certain individuals may be exempted from obtaining a blaster's license if they are detonating "extremely small amounts of explosives" and wanted clarification on what qualifies as "extremely small amounts of explosives." The

applicable statutes do not obligate the Department to license all persons conducting blasting activities. The Department has found that in most industrial and research applications, the quantities of explosives and blasting operations are such that limited risk is posed to the blaster or anyone in the vicinity of the blasting activity. Due to many variables, it is impossible to set an arbitrary limit on what constitutes "extremely small amounts of explosives." Exemptions from the licensing requirement will be based on the level of risk rather than an arbitrarily established amount of explosives. The Department will evaluate the blasting activity and determine the level of risk. No changes were made to the regulation as a result of this comment, although a minor grammatical change was made for readability.

§ 210.14. Eligibility requirements.

Several commentators suggested that the term "good moral character" found in § 210.14(b)(1) is vague. The Board agrees that the term is vague and difficult to determine, and has deleted the requirement that an applicant for a blaster's license or renewal of a blaster's license be of "good moral character" from the final rulemaking.

Two commentators suggested that the grammatical structure of § 210.14(b)(1) should be changed. The Board revised this paragraph and added the phrase "as indicated by past or continuing violations, has demonstrated a lack of ability or intention."

§ 210.15. License application.

In § 210.15(a), the Board added the word "provided" and deleted the word "prepared" for clarity.

A commentator suggested that the Board revise the language in § 210.15(b) to ensure the notarized statement confirming experience is from a person who has direct knowledge of the applicant's expertise. The Board agrees and has added the language "a person who has direct knowledge of the applicant's expertise" to § 210.15(b).

§ 210.17. Issuance and renewal of licenses.

One commentator stated that demolition has always been an activity that was authorized by holding a general blaster's license, and § 210.17(a) should not require that a blaster be licensed specifically to conduct demolition blasting. The Board disagrees. Demolition blasting is a specialty field that differs greatly from construction, mining or other categories of blasting. The demolition of structures requires analysis of the support members of the structure to determine where to place explosive charges. However, the Board recognizes that individuals have been conducting demolition blasting under the existing regulations. A new subsection (g) has been added to provide for reclassification to a demolition blaster's license without examination or application fee based on 3 years of experience in demolition blasting.

Chapter 211. Storage, Handling And Use Of Explosives

§ 211.101. Definitions.

"Blast site"

A commentator noted that use of the term "area" in the definition of "blast site" could cause confusion. The Board, for clarity, added the language "the specific location where the explosives charges are loaded into the blast holes" and deleted the language "the area where the explosive charges are located."

"Building"

A commentator asked what is meant by the term "regularly occupied" when referring to buildings. To avoid confusion on this point, the Board has changed the definition of building to "a structure that is designed for human habitation, employment or assembly."

"Flyrock"

Several commentators indicated that the definition of "flyrock" in the proposed regulations caused confusion by using the term "blast site." They noted that the term "blast site" is the area directly affected by the blast. The Board agrees and has changed the definition of "flyrock" by using the term "blast area."

"Person"

A commentator stated that the definition of "person" in the proposed Chapter 211 may imply liability that exceeds the boundaries of the law. The Board agrees and has changed the definition of "person" by deleting the reference to fines, penalties or imprisonment.

"Scaled distance"

The Board has revised this definition to clarify that "scaled distance" can apply to buildings or structures.

§ 211.102. Scope.

A commentator indicated that § 211.102 states that there are provisions of the proposed rulemaking more stringent than mining regulations. The commentator suggested that this will lead to confusion and may result in inconsistent regulation of explosives usage. The commentator noted that the language should be revised to specifically identify the regulatory provisions that are more stringent than those of the mining regulations. The Board does not believe that listing these provisions is necessary or practical. Chapter 211 deals exclusively with blasting. Since Chapter 211 contains a number of detailed provisions not found in the mining regulations, any attempt to list these provisions would be confusing.

The commentator suggested that implementation of the provisions that are more stringent than the current mining regulations should be deferred until the mining regulations are amended to be consistent with the requirements of this chapter. The primary purpose of these regulations is to provide uniform standards for all blasting in this Commonwealth. The Board feels that deferring the application of some provisions of the proposed rulemaking until the mining regulations are amended delays attaining that goal. There were no changes made to the final-form rulemaking as a result of this comment.

§ 211.113. Application contents.

The Board has modified the wording in several subsections for clarity.

§ 211.121. General requirements.

A commentator suggested that the proposed rulemaking should indicate that the Department will notify applicants for blasting activity permits of an incomplete application and identify the missing items necessary to complete the application. The Board agrees and has added the appropriate language to the final-form rulemaking.

§ 211.122. Permits to sell explosives.

The word "number" has been added so that § 211.121(a)(2) reads "... telephone number."

§ 211.133. Blast report.

The title of this section has been revised to read "blast reports."

A commentator suggested the Department should develop a standardized blast report form. The Board agrees. The Department has developed a standardized blast report which is available on the Department's website and from the district mining offices.

Another commentator noted that the first sentence in § 211.133(a) should correctly read "shall prepare a report of each blast..." The Board agrees and has revised subsection (a) accordingly.

Two commentators noted that § 211.133(a)(3) needs to specify which permit number is to be included in the blast report. The Board agrees and has reworded this paragraph to specify "blasting activity permit or appropriate mining permit."

Two commentators suggested that the requirement to describe the height or length of stemming and deck separation on the shot report needs to be more specific. They asked if these requirements are for each hole, collectively or average. For clarity the Board has added "for each hole" to § 211.133(a)(9).

The Board has added "not owned or leased by the blasting activity permittee or its customer" to § 211.133(a)(15) to further clarify the building of concern.

Two commentators suggested that it is not always reasonable to require the seismograph monitoring to be part of the blast record within 7 days and that the requirement should be extended to 14 days. The Board agrees that 14 days is acceptable under normal circumstances and has changed § 211.133(a)(23) accordingly. The Board also added additional flexibility by inserting two provisions. The first allows the Department to grant waivers to allow the seismograph report to be made a part of the blast record within 30 days. The second provision gives the Department the authority to require the blast report be made part of the record within 7 days.

A commentator suggested that § 211.133(a)(24) include a reference to § 211.157(e) which describes the appropriate actions to take when there is a misfire. The Board has inserted the suggested reference.

Three commentators noted that § 211.133(b) allows the Department to require monthly summaries. They asked the Department to explain the necessity for monthly summaries, the circumstances when monthly summaries would be required and how the blaster will be notified. In the Board's opinion, monthly summaries are appropriate when blasting is being conducted in an area where there is considerable public concern or potential for property damage. This information would be in addition to the blast reporting requirements. The Department's Blasting and Explosives Inspector will notify the blaster of the need to provide a monthly summary.

§ 211.141. General requirements.

Commentators noted that the proposed § 211.141(6) required the permittee to only load explosives into a closed body vehicle if the load is 2,000 pounds or more. They suggested language to improve clarity. The Board agrees and has made the appropriate changes.

Paragraph (11) of this section, which deals with fire extinguishers, has been revised to be consistent with the Department of Transportation's regulations based on the recommendations of three commentators.

§ 211.151. Prevention of damage.

One commentator noted that Chapter 87 (relating to surface mining of coal) appears to be effective in preventing damage from the use of explosives in connection with surface mining. The commentator asked for an explanation of why the mining regulations need to be superseded by more stringent regulations. The best science available, United States Bureau of Mines Report of Investigations R.I. 8507, "Structure Response and Damage Produced by Ground Vibration from Surface Mine Blasting," concludes that damage can occur to homes at ground vibration levels lower than the requirements in the present mining regulations. The adoption of more stringent ground vibration limits provides better protection of all structures. There have been situations when the limits in the proposed rulemaking have been applied to mining activities in order to be more protective of specific structures. Also, if necessary, these regulations allow the Department to establish alternative particle velocity or airblast limits. This change in limits would be based upon site-specific factors such as the population density, age and type of structures and geology of the area.

Two commentators felt that § 211.151(c) provides an unnecessary increase of 61% over the current standard (scaled distance of 55) by requiring that blasts be designed at a scaled distance of 90. They felt that the change would put an unnecessary burden on the blasting industry. They also suggested that the former United States Bureau of Mines Safe Blasting Criteria (Z-Curve) should not be the regulatory limit as current standards are adequate. The Board feels that the current regulations do not adequately protect all buildings. The best available science, the former United States Bureau of Mines Study, R.I. 8507, "Structure Response and Damage Produced by Ground Vibration From Surface Mine Blasting," concluded that damage could possibly occur to some structures at peak particle velocities as low as .5 inch per second. The United States Bureau of Mines Study, R.I. 8507, predicts the highest probable ground vibration from a blast designed at a scaled distance of 90 is .5 inch per second peak particle velocity. The practical application of this requirement is to prevent property damage.

A commentator noted that § 211.151(c) requires a blast to achieve either a scaled distance of 90 or the maximum peak particle velocity as indicated in Figure 1. The commentator believes that these standards may be too restrictive when applied to unconsolidated materials in the vicinity of a blast, and questioned if geologic variation should be considered in the determination of vibration limits. Geology influences the character of the ground vibration; it does not affect dynamics of a structure's response. Designing a blast at the scaled distance of 90 insures that ground vibration will not exceed .5 inches per second under any circumstances. The scaled distance limit of 90 was derived from a large number of blasts under a variety of geologic conditions. While the scaled distance of 90 may be conservative in some areas, the blaster may elect to use Figure 1 as the standard in those areas.

Figure 1, in § 211.151(c), was changed to add .50 in./sec. on the graph. This change was made for clarity.

In § 211.151(c), the language was changed by adding "at the closest building or other structure designated by the Department" and by replacing the word "based" with "leased" in § 211.151(d). These changes were made to maintain consistency with other provisions of this section and to correct a typographical error.

In response to comments on § 211.151, subsections (c) and (e) have been changed to allow the Department to establish an alternative peak particle velocity or airblast level instead of just reducing these levels. Commentators expressed concern that the limits may be too stringent. The Department recognizes that some structures may be adequately protected by applying less stringent limits.

§ 211.153. General requirements for handling explosives.

In § 211.153(b), relating to prohibiting matches, lighters and smoking within a specified distance of a blast site or area where explosives are stored or used, "30.48 meters" was added and "30.84" was deleted. The language change was made to correct a typographical error.

§ 211.154. Preparing the blast.

In response to a number of comments, the Board has revised § 211.154(c), (f)(2), (4) and (5) and (k) for clarity, readability and consistency.

§ 211.171. General provisions for monitoring.

A commentator noted that the proposed rulemaking should be revised to specify the circumstances under which the Department may require ground vibration and air blast monitoring at scaled distance above 90 or at a structure other than the building closest to the blast. The Board does not agree that the regulations should specify when the Department may require additional monitoring. Blasting is an ultra-hazardous activity and occasionally has unintentional impacts on the public. It is impossible to articulate in the regulations all the circumstances under which the Department should require additional monitoring.

In response to these comments, the language in § 211.171(d) has been changed by revising the minimum trigger to be .25 inch per second rather than 50% of the compliance limit.

Two commentators noted that the older model and brick seismographs do not record the date and time when the instrument was turned on or off. They felt that a 3-year phase-in period should be included in § 211.171(e) as was done in § 211.133(a)(23). They suggested that language can be added which would allow a blaster to supply the on/off times for the instrument on a signed statement. The Department has revised the regulation to allow the blaster to supply on/off times on a signed statement when using an instrument that doesn't provide a print out. This revision allows blasters to continue using existing seismographs, thereby eliminating the need for a phase-in period.

§ 211.173. Monitoring records.

Language changes in § 211.173(b) were made for clarification and accuracy.

A commentator suggested that § 211.173(c), which authorizes the Department to require a ground vibration or airblast recording to be analyzed or certified by an independent qualified consultant, should specify what circumstances would exist to require this type of analysis or certification. The Board agrees. The section has been revised by adding "If the Department questions the validity of a ground vibration or airblast record or the interpretation of the record" to § 211.173(c).

§ 211.182. General provisions.

Several commentators suggested that the Board consider adding language to the proposed rulemaking to allow the use of measures for protecting the lines other than those specified in the regulations upon approval of the Department as well as the owner of the utility. The

Board agrees and has changed the language of § 211.182(e) to include this provision.

F. *Benefits, Costs and Compliance*

Benefits

These final-form regulations are designed to modernize an outdated explosives regulatory program. The explosives industry will benefit because current products and technologies are addressed in a manner that is consistent with their current use. Citizens will benefit because the regulations establish new limits on ground vibration and airblast that are designed to prevent damage to structures. In addition, annoyance from unexpected blasts will be reduced because the public will be notified prior to the commencement of most blasting operations. Additionally, the public and blasting industry will benefit from the continuing education that is required for renewing a blaster's license.

Compliance Costs

The explosives industry will see an increase in the cost of compliance because of the requirement for continuing education for blasters. The new requirement for general liability insurance is not expected to create a significant increase in costs, since most blasting companies currently carry liability insurance. This final-form rulemaking requires more monitoring than previously required. However, because monitoring records are no longer required to be analyzed or verified by an independent third party, cost savings will be realized. There is no change to the current fee structure.

Compliance Assistance Plan

The Department will provide written notification of this rulemaking to all blasters in this Commonwealth. The Department will also hold outreach sessions with the Commonwealth chapters of the International Society of Explosive Engineers and various mining organizations.

Paperwork Requirements

This final-form rulemaking will result in a slight increase in paperwork. Licensed blasters will be required to document their continuing education. The new blasting activity permit will require a new application form that will be available on the effective date of these regulations. The form will be available from the Bureau of Mining and Reclamation, any of the District Mining Offices, and electronically on the Department's website. In addition, the form will be provided to all licensed blasters through direct mailing. Additional information will be required in the blast report.

G. *Sunset Review*

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 17, 2000, the Department submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 2768 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 and the public. The Committees did not submit comments on the proposed rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on May 29, 2001, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2001, and approved the final-form regulations.

I. *Findings of the Board*

The Board finds that:

(1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and regulations promulgated thereunder in 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 final-form regulations do not enlarge the purpose of the proposed amendments published at 30 Pa.B. 2768.

(4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

J. *Order of the Board*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 210 and 211, are amended by deleting §§ 210.1—210.6, 211.1, 211.2, 211.31—211.44, 211.51—211.56, 211.61, 211.62, 211.72—211.76 and 211.81—211.88; and by adding §§ 210.11—210.19, 211.101—211.103, 211.111—211.115, 211.121—211.125, 211.131—211.133, 211.141, 211.151—211.162, 211.171—211.173, 211.181 and 211.182 to read as set forth in Annex A.

(b) The Chairperson 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 of the Board 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*.

DAVID E. HESS,
Chairperson

Fiscal Note: (1) General Fund; (2) Implementing Year 2000-01 is \$74,000; (3) 1st Succeeding Year 2001-02 is \$88,000; 2nd Succeeding Year 2002-03 is \$88,000; 3rd Succeeding Year 2003-04 is \$88,000; 4th Succeeding Year 2004-05 is \$88,000; 5th Succeeding Year 2005-06 is \$88,000; (4) Fiscal Year 1999-00 \$40,200,000; Fiscal Year 1998-99 \$33,123,000; Fiscal Year 1997-98 \$31,139,000; (7) Environmental Program Management; (8) recommends adoption.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 31 Pa.B. 3370 (June 23, 2001).)

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 210. BLASTERS' LICENSES
GENERAL PROVISIONS

§§ 210.1—210.6. (Reserved).

§ 210.11. Definitions.

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

Blaster—A person who is licensed by the Department under this chapter to detonate explosives and supervise blasting activities.

Blaster learner—An individual who is learning to be a blaster and who participates in blasting activities under the direct supervision of a blaster.

Blaster's license—A license to detonate explosives and supervise blasting activities issued by the Department under this chapter.

Demolition and demolition blasting—The act of wrecking or demolishing a structure with explosives.

Person—A natural person.

§ 210.12. Scope.

This chapter applies to persons engaging in the detonation of explosives within this Commonwealth. This chapter does not apply to persons authorized to detonate explosives or to supervise blasting activities under:

(1) The Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70.101—70.1405).

(2) The Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-101—701-706).

§ 210.13. General.

(a) A person may not detonate explosives or supervise blasting activities unless the person has obtained a blaster's license.

(b) The Department may exempt certain individuals from needing a blaster's license if the person is detonating extremely small amounts of explosives for industrial or research purposes. The Department will consider a written request for an exemption from the person seeking the exemption.

(c) Upon request, a blaster shall exhibit a blaster's license to the following:

(1) An authorized representative of the Department.

(2) The blaster's employer or an authorized representative of the employer.

(3) A police officer acting in the line of duty.

(d) A blaster's license is not transferable.

§ 210.14. Eligibility requirements.

(a) To be eligible for a blaster's license, a person shall:

(1) Be 21 years of age or older.

(2) Have at least 1 year of experience as a blaster learner in preparing blasts in the classification for which a license is being sought.

(3) Have taken the Department's class on explosives. It is not necessary for a blaster to retake the class when adding an additional classification to a license.

(4) Have successfully passed the Department's examination for a blaster's license.

(b) The Department will not issue or renew a license if the applicant, as indicated by past or continuing violations, has demonstrated a lack of ability or intention to comply with the Department's regulations concerning blasting activities.

§ 210.15. License application.

(a) The license application shall be on forms provided by the Department and be accompanied by a check for \$50 payable to the Commonwealth of Pennsylvania. The complete application shall be submitted to the Department at least 2 weeks prior to the examination.

(b) The license application shall include a signed notarized statement from a person who has direct knowledge of the applicant's expertise, such as the blaster who supervised the applicant, or the applicant's employer. The statement shall:

(1) Describe the applicant's experience in blasting. In particular, the statement shall describe in detail how the applicant assisted in the preparation of the blasts and for how long.

(2) State whether the applicant is competent to prepare and detonate blasts in the classification for which the license is being sought.

§ 210.16. Examinations.

(a) The Department will conduct examinations for specific types of blasting, as specified in § 210.17(a) (relating to issuance and renewal of licenses).

(b) The Department will schedule and conduct examinations as needed.

(c) An applicant failing to appear for a scheduled examination forfeits the application fee unless the applicant provides written notice to the Department prior to the examination date or submits a valid medical excuse in writing.

(d) Refund of the fee or admittance to a subsequent examination without a reapplication fee will be at the discretion of the Department.

§ 210.17. Issuance and renewal of licenses.

(a) A blaster's license is issued for a specific classification of blasting activities. The classifications will be determined by the Department and may include general blasting (which includes all classifications except demolition and underground noncoal mining), trenching and construction, seismic and pole line work, well perforation, surface mining, underground noncoal mining, industrial, limited and demolition.

(b) A person may apply to amend the blaster's license for other classifications by meeting the requirements of § 210.14 (relating to eligibility requirements) and by submitting a complete application.

(c) A blaster's license will be issued for 3 years.

(d) A blaster's license is renewable if the blaster can demonstrate that he has had 8 hours of continuing

education in Department-approved courses related to blasting and safety within the 3 year period.

(e) The blaster's license may be renewed for a 3-year term by submitting a renewal application to the Department and a check for \$30, payable to the Commonwealth of Pennsylvania.

(f) A person who intends to be a blaster and whose blaster's license was not renewed within 1 year of its expiration date shall apply for a new license under §§ 210.14—210.16 (relating to eligibility requirements; license application; and examinations).

(g) A person who conducted demolition blasting under a general blaster's license may conduct demolition blasting after July 14, 2001, by applying for and receiving a demolition blaster's license. The Department may waive the examination required by § 210.14 (relating to eligibility requirements) and the application fee if the blaster demonstrates at least 3 years of experience in demolition blasting. The demonstration shall be in the form of a notarized statement from the blaster's employer that describes the blaster's experience.

§ 210.18. Recognition of out-of-State blaster's license.

(a) The Department may license a person who holds a blaster's license or its equivalent in another state. The Department may issue the license if, in the opinion of the Department, that state's licensing program provides training on the storage, handling and use of explosives and an examination that is equivalent to the requirements of this chapter.

(b) A request for a license under this section shall be made in writing. Copies of the other state's explosives training and examination material and proof that the applicant holds a license in the other state shall be provided to the Department in order to make a proper evaluation.

§ 210.19. Suspension, modification and revocation.

The Department may issue orders suspending, modifying or revoking a blaster's license. Before an order is issued, the Department will give the blaster an opportunity for an informal meeting to discuss the facts and issues that form the basis of the Department's determination to suspend, modify or revoke the license. The Department may suspend, modify or revoke a blaster's license for violations of this chapter and Chapter 211 (relating to storage, handling and use of explosives in surface applications).

CHAPTER 211. STORAGE, HANDLING AND USE OF EXPLOSIVES

§ 211.101. Definitions.

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

Airblast—An airborne shock wave resulting from an explosion, also known as air overpressure, which may or may not be audible.

Blast area—The area around the blast site that should be cleared to prevent injury to persons and damage to property.

Blast site—The specific location where the explosives charges are loaded into the blast holes.

Blaster—An individual who is licensed by the Department under Chapter 210 (relating to blasters' licenses) to detonate explosives and supervise blasting activities.

Blaster-in-charge—The blaster designated to have supervision and control over all blasting activities related to a blast.

Blasting activity—The actions associated with the use of explosives from the time of delivery of explosives to a worksite until all postblast measures are taken, including priming, loading, stemming, wiring or connecting, detonating, and all necessary safety, notification and monitoring measures.

Building—A structure that is designed for human habitation, employment or assembly.

Charge weight—The weight in pounds of an explosive charge.

Delay interval—The designed time interval, usually in milliseconds, between successive detonations.

Detonator—A device containing an initiating or primary explosive that is used for initiating detonation of explosives. The term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord, delay connectors and nonelectric instantaneous and delay blasting caps.

Explosive—A chemical compound, mixture or device that contains oxidizing and combustible materials or other ingredients in such proportions or quantities that an ignition by fire, friction, concussion, percussion or detonation may result in an explosion.

(i) The term includes safety fuse, squibs, detonating cord and igniters.

(ii) The term does not include the following:

(A) Commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, matches and friction primers, intended to be used solely for sporting, recreational or cultural purposes in antique firearms or antique devices, as defined in 18 U.S.C.A. § 921 (relating to definitions).

(B) Smokeless powder, primers used for reloading rifle or pistol cartridges, shot shells, percussion caps and smokeless propellants intended for personal use.

Flyrock—Overburden, stone, clay or other material ejected from the blast area by the force of a blast.

Magazine—A structure used for the storage of explosives.

Misfire—Incomplete detonation of explosives.

Particle velocity—A measure of the intensity of ground vibration, specifically the time rate of change of the amplitude of ground vibration.

Peak particle velocity—The maximum intensity of particle velocity.

Person—A natural person, partnership, association, or corporation or an agency, instrumentality or entity of state government.

Primer—A cartridge or package of high explosives into which a detonator has been inserted or attached.

Purchase—To obtain ownership of explosives from another person.

Sale or sell—To transfer ownership of explosives to another person.

Scaled distance (Ds)—A value calculated by using the actual distance (D) in feet, measured in a horizontal line from the blast site to the nearest building or structure, neither owned nor leased by the blasting activity permittee or its customer, divided by the square root of the

maximum weight of explosives (W) in pounds, that is detonated per delay period of less than 8 milliseconds.

$$Ds = D \div \sqrt{W}$$

Stemming—Inert material placed in a blast hole after an explosive charge for the purpose of confining the explosion gases to the blast hole, and inert material used to separate explosive charges in decked holes.

Structure—A combination of materials or piece of work built or composed of parts joined together in some definite manner for occupancy, use or ornamentation. The term includes everything that is built or constructed, including bridges, offices, water towers, silos and dwellings.

Utility lines—An electric cable, fiber optic line, pipeline or other type of conduit used to transport or transmit electricity, gases, liquids and other media including information.

§ 211.102. Scope.

(a) This chapter applies to persons using, storing, purchasing and selling explosives and engaging in blasting activities within this Commonwealth. Persons using and storing explosives at underground mines are exempt from this chapter. The storage of explosives in magazines on the surface at an underground noncoal mine is subject to the applicable requirements of this chapter. The provisions of this chapter that are more stringent than the blasting provisions in Chapters 77, 87 and 88 (relating to noncoal mining; surface mining of coal; and anthracite coal) apply to blasting activities at coal or noncoal surface mines.

(b) Compliance with this chapter does not relieve a person who is engaged in the purchase or sale of explosives, or blasting activities, from compliance with other applicable laws or regulations of the Commonwealth.

§ 211.103. Enforcement.

(a) The Department may issue orders necessary to implement this chapter including an order to suspend, modify or revoke a license or permit authorized by this chapter.

(b) Before issuing an order modifying peak particle velocity or airblast limits in a blasting activity permit, the Department will first provide the permittee with an opportunity to meet and discuss modifications.

Subchapter B. STORAGE AND CLASSIFICATION OF EXPLOSIVES

§ 211.111. Scope.

This subchapter applies to the classification and storage of explosives. It establishes the requirements, procedures and standards for licensing, constructing, siting and maintaining magazines.

§ 211.112. Magazine license and fees.

(a) A person storing explosives shall do so in a magazine licensed by the Department. A person may not construct, install or modify a magazine until the Department has issued or amended the license in writing. The licensee shall store explosives in accordance with the approved application, the license and this chapter.

(b) The license specifies the types and quantities of explosives to be stored in the magazine and any other condition necessary to ensure that the proposed activity complies with applicable statutes and this chapter.

(c) Licenses expire annually on December 31 of each year. If the Department receives a complete renewal application by December 31, the licensee may continue to

operate under the current license until the Department acts on the renewal application.

(d) License fees are as follows:

- (1) License:
 - (i) Application—\$50
 - (ii) Site inspection—\$50
- (2) License modifications—\$50
- (3) License renewals—\$50
- (4) License transfers—no fee

§ 211.113. Application contents.

(a) An application to obtain, renew, modify or transfer a magazine license shall be on forms approved by the Department. Before the Department issues, renews, transfers or modifies a license, the application must demonstrate that the applicant has complied with the applicable requirements of this chapter.

(b) A completed license application shall include:

- (1) The applicant's name, address and telephone number.
- (2) A contact person, including name, title and telephone number.
- (3) The types and quantities of explosives to be stored within the magazine.
- (4) A map, plan or a sketch of the site location showing the nearest buildings, nearest railways, nearest highways, and existing barricades, if any, and proposed barricades.

(5) A plan showing the design and specifications of the magazine to be licensed.

(c) A license renewal application shall include:

- (1) The applicant's name, address and telephone number.
- (2) A contact person, including name, title and telephone number.
- (3) The maximum amount and type of explosives for which the magazine is currently licensed.

§ 211.114. Displaying the license.

The magazine license, or a legible copy of the license, shall be conspicuously displayed. If possible, the license shall be displayed inside the magazine. In all other cases, the license shall be displayed at the site and adjacent to the magazine to which it applies.

§ 211.115. Standards for classifying and storing explosives and constructing, maintaining and siting magazines.

(a) The provisions of 27 CFR Part 55, Subpart K (relating to storage), are incorporated herein by reference. These provisions shall be used to:

- (1) Classify explosives.
- (2) Determine which class of explosives may be stored in each type of magazine.
- (3) Determine the quantity of explosives that may be stored.
- (4) Determine the applicable construction standards for each type of magazine.
- (5) Site the magazine.
- (6) Specify maintenance and housekeeping standards for a magazine.

(7) Grant variances.

(b) For purposes of incorporation by reference of 27 CFR Part 55 Subpart K, the term "Department" is substituted for the term "director," and the term "representatives of the Department" is substituted for the term "ATF Official."

Subchapter C. PERMITS

§ 211.121. General requirements.

(a) Except as otherwise provided in this subchapter, a person may not engage in blasting activities, or sell or purchase explosives in this Commonwealth without first obtaining the appropriate permit from the Department issued under this chapter.

(b) Permits under this chapter are not required for the sale, purchase or use of fireworks governed by the act of May 15, 1939 (35 P. S. §§ 1271—1277).

(c) A permit issued under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), or the Noncoal Surface Mining and Conservation and Reclamation Act (52 P. S. §§ 3301—3326), and the regulations promulgated thereunder, authorizing blasting activity shall act as a blasting activity permit issued under this chapter.

(d) An application for a permit for the sale or purchase of explosives or to conduct blasting activities shall be on a form provided by the Department. A permit will not be issued unless the application is complete and demonstrates that the proposed activities comply with the applicable requirements of this chapter. The Department will notify applicants of an incomplete application and identify the items necessary to complete the application. The permittee shall comply with the approved application, the permit and this chapter.

(e) The Department will not issue a permit to any person who has either:

(1) Failed and continues to fail to comply with this chapter or a condition of a permit issued under this chapter or an order issued to enforce this chapter.

(2) Demonstrated an inability or lack of intention to comply with this chapter as indicated by past or continuing violations.

§ 211.122. Permits to sell explosives.

(a) An application for a permit to sell explosives shall:

(1) Identify the applicant's name, address, telephone number and type of business.

(2) Identify a contact person, including name, title and telephone number.

(3) Specify the type of explosives to be sold.

(4) State whether the applicant will purchase or manufacture the explosives to be sold.

(5) For in-State sellers, include the applicant's magazine license number, if applicable.

(b) Permits to sell explosives are not transferable.

(c) Permits to sell explosives expire on April 30 of each year. If the Department receives a complete renewal application by April 30, the permittee may continue to operate under the current permit until the Department acts on the renewal application.

(d) A permit to sell explosives shall:

(1) Identify the permittee.

(2) Specify the type of explosives that the permittee may sell.

(3) Contain conditions, as necessary, to ensure that the proposed activity complies with applicable statutes and this chapter.

§ 211.123. Permits to purchase explosives.

(a) An application for a permit to purchase explosives shall:

(1) Identify the applicant's name, address, telephone number and type of business.

(2) Identify a contact person, including name, title and telephone number.

(3) Identify the location and license number of the magazine to be used for storing the explosives, if applicable.

(4) Specify the type of explosives that will be purchased.

(5) Specify whether the explosives are being purchased for sale or use by the permittee.

(b) Permits to purchase explosives are not transferable.

(c) Permits to purchase explosives expire on April 30 of each year. If the Department receives a complete renewal application by April 30, the permittee may continue to operate under the current permit until the Department acts on the renewal.

§ 211.124. Blasting activity permits.

(a) An application for a blasting activity permit shall be prepared by a blaster and shall include:

(1) The applicant's name, address, telephone number and type of business.

(2) A contact person's name, title and telephone number.

(3) The identity of independent subcontractors who will be performing the blasting activities.

(4) The type of explosives to be used.

(5) The maximum amount of explosives that will be detonated per delay interval of less than 8 milliseconds.

(6) The maximum amount of explosives that will be detonated in any one blast.

(7) A map indicating the location where the explosives will be used.

(8) The purpose for which the explosives will be used.

(9) The location and license number of the magazine that will be used to store the explosives, if applicable.

(10) A description of how the monitoring requirements of Subchapter G (relating to requirements for monitoring) will be satisfied.

(11) Proof of third party general liability insurance in the amount of \$300,000 or greater per occurrence. This requirement is not applicable if the permittee is a noncoal surface mine operator who produces no more than 2,000 tons (1,814 metric tons) of marketable minerals per year from all its noncoal surface mining operations.

(12) The anticipated duration of the blasting activity for which the permit is needed.

(13) The anticipated days of the week and times when blasting may occur.

(14) The distance and direction to the closest building not owned by the permittee or its customer.

(15) Other information needed by the Department to determine compliance with applicable laws and regulations.

(16) The printed name, signature and license number of the blaster who prepared the application.

(17) Proof that residents within 200 feet (65.61 meters) of the blast site were informed of the proposed blasting operation. This notification could be a personal notification, written material left at each residence, or first class mail. The notification will provide general information about the blasting operation including the duration of the operation.

(b) Blasting activity permits are not transferable.

(c) The blasting activity permit shall specify:

(1) The blasting activity permittee.

(2) Any independent subcontractors performing work under this permit.

(3) Limits on particle velocity and airblast.

(4) The types of explosives that may be used.

(5) The duration of the permit.

(6) Other conditions necessary to ensure that the proposed blasting activity complies with the applicable statutes and this chapter.

(d) The permittee may request extensions and modifications by submitting an amended application.

§ 211.125. Blasting activity permit-by-rule.

(a) A person shall be deemed to have a permit for a blasting activity if:

(1) The blasts are designed and performed for a scaled distance of 90 or greater.

(2) No more than 15 pounds (6.81 kilograms) of explosives are detonated per delay interval of less than 8 milliseconds.

(3) The total charge weight per blast does not exceed 150 pounds (68.18 kilograms).

(4) The person notifies the Department either verbally, in writing, or by other means approved by the Department prior to the initial blast. If the person gives verbal notification, a written notice shall be received by the Department within 5 working days. The notification shall indicate the following information for all blasts that will occur under this permit:

(i) The identity of the person.

(ii) The location where the blasting will occur.

(iii) The purpose of the blasting.

(iv) The distance to the nearest building not owned or leased by the person or its customer.

(v) The days of the week and times when blasting may occur.

(vi) The duration of blasting activities under this permit by rule.

(vii) The minimum scaled distance.

(viii) The maximum weight of explosives detonated per delay period of less than 8 milliseconds.

(ix) The maximum total weight of explosives per blast.

(x) A contact person and telephone number.

(5) Blast reports are completed in accordance with § 211.133 (relating to blast report).

(6) The other monitoring and performance standards of this chapter are met.

(b) The Department may revoke a blasting activity permit by rule under one of the following:

(1) The permittee has demonstrated an unwillingness or inability to comply with the applicable regulations.

(2) The blasting activity possesses a sufficient risk of harm to the public or the environment to warrant an individual blasting activity permit.

Subchapter D. RECORDS OF DISPOSITION OF EXPLOSIVES

§ 211.131. Sales records.

The seller shall keep an accurate record of every sale of explosives for 3 years. The record shall identify the purchaser's name and address, the Department purchase permit number, the date of the sale and the amount and types of explosives.

§ 211.132. Purchase records.

The purchaser shall keep a record of all purchases of explosives for 3 years. The record shall identify the date, types and amounts of explosives purchased and the name and address of the seller.

§ 211.133. Blast reports.

(a) The blaster-in-charge shall prepare a report of each blast to provide the Department with sufficient information to reconstruct the conditions and events surrounding a blast. The Department may develop and require a blast report form to be used. The blasting activity permittee shall retain the blast report for at least 3 years and shall make the blast report available to the Department upon request. Blast reports shall contain, at a minimum, the following:

(1) The locations of the blast and monitoring readings.

(2) The name of the blasting activity permittee.

(3) The blasting activity permit or appropriate mining permit number.

(4) The date and time of the blast.

(5) The printed name, signature and license number of the blaster-in-charge.

(6) The type of material blasted.

(7) A sketch showing the number of blast holes, burden, spacing, pattern dimensions and point of initiation.

(8) The diameter and depth of blast holes.

(9) The height or length of stemming and deck separation for each hole.

(10) The types of explosives used and arrangement in blast holes.

(11) The total weight in pounds of explosives and primer cartridges used.

(12) The maximum weight in pounds of explosives detonated per delay period of less than 8 milliseconds.

(13) The type of circuit, if electric detonation was used.

(14) The direction and distance in feet from the blast site to the nearest building not owned by the blasting activity permittee or its customer.

(15) A description of the nearest building location not owned or leased by the blasting activity permittee or its customer based upon local landmarks.

(16) The scaled distance.

(17) The weather conditions.

(18) The direction from which the wind was coming.

(19) The measures taken to control flyrock, including whether or not mats were used.

(20) The total quantity and type of detonators used and delays used.

(21) The number of individuals in the blasting crew.

(22) The maximum number of blast holes or portions of blast holes detonated per delay period less than 8 milliseconds.

(23) The monitoring records required by § 211.173 (relating to monitoring records). Monitoring records shall be made part of the blast report within 30 days of the blast. Beginning July 14, 2004, monitoring records shall be made part of the blast report within 14 days of the blast. The Department may grant a waiver to allow monitoring records to be made part of the blasting record within 30 days of the blast if all blasts, regardless of scaled distance, are monitored and monthly summaries of these reports, including the information required in subsection (b), are provided. Monitoring records shall be made part of the blast report within 7 days, if requested by the Department.

(24) If a misfire occurred, the actions taken to make the site safe as specified in § 211.157 (relating to postblast measures).

(b) The Department may require monthly summaries of these reports. The summaries shall include the date and time of the blasts, scaled distance, peak particle velocity, airblast, monitoring location, amount and types of explosives used and other information the Department deems necessary to ensure compliance with this chapter.

Subchapter E. TRANSPORTATION OF EXPLOSIVES

§ 211.141. General requirements.

The blasting activity, purchase or sale permittee shall:

(1) Immediately unload a vehicle carrying explosives upon reaching a magazine location. The unloaded vehicle shall be removed from the site. The only exception to this requirement is if the vehicle is a licensed magazine under Subchapter B (relating to the storage and classification of explosives).

(2) Load or unload explosives from a vehicle only after the engine is turned off, unless power is needed for the loading or unloading operation. The permittee shall take all precautions necessary, such as blocking the wheels, to prevent the movement of the vehicle while it is being loaded or unloaded.

(3) Load explosives only into a vehicle that is marked in accordance with the Department of Transportation standards for placarding vehicles transporting explosives.

(4) Prohibit smoking within 100 feet of a vehicle used for transporting explosives. "NO SMOKING" signs shall be posted when a vehicle containing explosives is parked at a blast site or magazine.

(5) Load no more than 2,000 pounds (908 kilograms) of explosives into an open body vehicle for transporting. The ends and sides shall be high enough to prevent explosives from falling off, and the load shall be covered with a fire-resistant tarpaulin, unless the explosives are transported in a magazine securely attached to the vehicle.

(6) Load explosives into a closed body vehicle if the load is more than 2,000 pounds (908 kilograms) of explosives.

(7) Only load explosives into a vehicle with a bed made of wood or other nonsparking material.

(8) Load explosives into a vehicle which is also transporting metal, metal tools, blasting machines or other articles or materials likely to damage the explosives, only if these items are separated from the explosives by substantial nonsparking bulkheads constructed to prevent damage to the explosives.

(9) Load detonators and other explosives into the same vehicle only if the detonators are in containers that conform to the current version of the *Institute of Makers of Explosives Safety Library Publication # 22* available from the Institute of Makers of Explosives, 1120 Nineteenth Street, N. W., Suite 310, Washington, DC 20036-3605.

(10) Not load explosives into the same vehicle with materials such as matches, firearms, electric storage batteries, corrosive compounds, flammable substances, acids, oxidizing agents and ammonium nitrate not in the original containers.

(11) Only load explosives into vehicles equipped with a fire extinguisher having a National Board of Underwriters Laboratories rating of 10 B:C or more. The fire extinguisher shall be easily accessible and ready for immediate use.

(12) Load explosives into a vehicle so that explosives containers are not exposed to sparks or hot gases from the exhaust tailpipe. Exhaust systems that discharge upwards are recommended to avoid possible exposure of sparks or hot gases to explosives.

(13) Only load explosives into vehicles that have passed the State safety inspection or certification.

Subchapter F. BLASTING ACTIVITIES

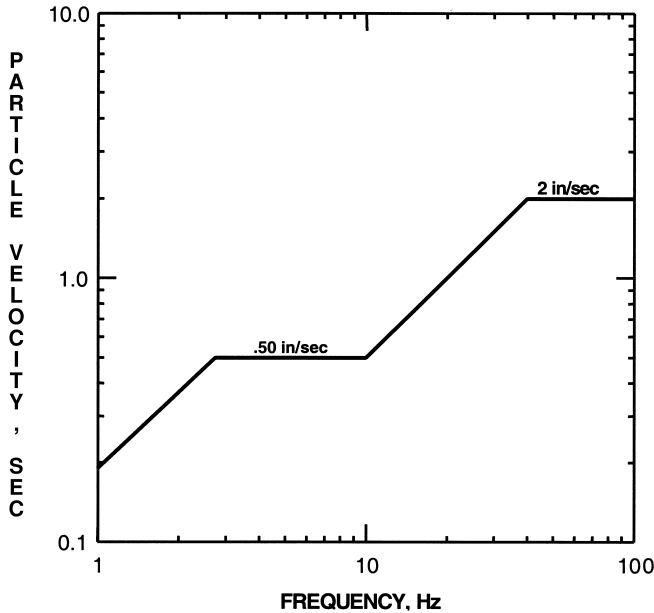
§ 211.151. Prevention of damage.

(a) Blasting may not damage real property except for real property under the control of the permittee. If damage occurs, the blaster-in-charge shall notify the Department within 4 hours of learning of the damage.

(b) Blasting may not cause flyrock. If flyrock occurs, the blaster-in-charge shall notify the Department within 4 hours of learning of the flyrock.

(c) Blasts shall be designed and conducted in a manner that achieves either a scaled distance of 90 or meets the maximum allowable peak particle velocity as indicated by Figure 1 at the closest building or other structure designated by the Department. However, blasting activities authorized prior to July 14, 2001, may continue as authorized unless the authorization is modified, suspended or revoked by the Department. The scaled distance and maximum allowable peak particle velocity does not apply at a building or other structure owned or leased by the permittee or its customer.

Figure 1.



(d) Blasts shall be designed and conducted to control airblast so that it does not exceed the noise levels specified in Table 1 at a building or other structure designated by the Department unless the building is owned or leased by the permittee or its customer.

Lower frequency limits of measuring System in Hz(+3dB)	Maximum allowable levels in dBL
0.1 Hz or lower — flat response*	134 peak
2.0 Hz or lower — flat response	133 peak
6.0 Hz or lower — flat response	129 peak
C - weighted — slow response*	105 peak

*only when approved by the Department

(e) The Department may establish an alternative peak particle velocity or airblast level if it determines that an alternative standard is appropriate because of density of population, land use, age or type of structure, geology or hydrology of the area, frequency of blasts or other factors.

§ 211.152. Control of noxious gases.

A blast shall be conducted so that the gases generated by the blast do not affect the health and safety of individuals. Effects from gases may be prevented by taking measures such as venting the gases to the atmosphere, interrupting the path along which gases may flow, and evacuating people from areas that may contain gases.

§ 211.153. General requirements for handling explosives.

(a) Only a nonferrous, nonsparking tool shall be used to open containers of explosives.

(b) Matches, lighters and smoking are prohibited within 100 feet (30.48 meters) of the blast site and areas where explosives are used or stored.

(c) If it becomes necessary to destroy damaged or deteriorated explosives, the permittee shall immediately contact the manufacturer for technical advice and assistance.

(d) Detonators may not be forced into cartridges of explosive or cast boosters. Detonators shall be completely inserted into a hole in an explosive cartridge made with an approved powder punch or into the detonator well of a cast booster.

(e) Explosives may not be left unattended. They are to be stored in a licensed magazine or kept under the permittee's supervision and control.

(f) A loaded blast shall always be under the continuous observation of the blaster-in-charge or a designee.

(g) Shooting or carrying ammunition or firearms on a blast site and in areas where explosives are used or stored is prohibited, except for material needed to initiate the blast.

(h) If blasting activities are conducted in the vicinity of electric lines such as transmission lines or electrified railways, a test shall be made for presence of stray electric currents. Electric blasting caps may not be used if stray electric currents in excess of 50 milliamperes are present.

(i) A package of explosives may not be thrown, slid along floors or over other packages of explosives, or handled roughly.

(j) If an electrical storm approaches an area where there is an activity involving explosives, the area shall be cleared by the permittee or licensee, who shall post guards at all approaches to prevent trespass of unauthorized persons.

(k) Explosives and equipment that are obviously damaged or deteriorated may not be used.

(l) Explosives may not be abandoned.

§ 211.154. Preparing the blast.

(a) The blasting activity permittee shall designate a blaster-in-charge for each blast. The blaster-in-charge shall control and supervise the blasting activity. The blaster-in-charge is responsible for all effects of the blast.

(b) Only equipment necessary for loading blast holes may be allowed to operate within 50 feet (15.24 meters) of the blast site. The Department may establish, in writing, a different distance limitation.

(c) A blaster-in-charge may not prepare or detonate a blast unless another person is present, able and ready to render assistance in the event of accident or injury.

(d) The blaster-in-charge shall make every effort to determine the condition of the material to be blasted from the individual who drilled the blast holes or from the drill log.

(e) Only the blaster-in-charge, other blasters, and up to six assistants per blaster may be at a blast site once loading of blast holes begins.

(f) While loading a blast hole, the following measures shall be followed:

(1) Ferrous material may not be used in the blast hole unless the use is approved by the Department in writing. This includes the use of steel casings, ferrous tools and retrieving equipment.

(2) Only nonferrous, nonsparking tamping sticks may be used in loading a blast hole. Sectional poles connected by brass fittings are permitted, if only the nonferrous, nonsparking end of the pole is used for tamping. Retrieving hooks shall be made from nonsparking metal such as brass or bronze.

(3) When using a pneumatic loading device, every precaution shall be taken to prevent an accumulation of static electricity. A loading operation shall be stopped immediately if static electricity or stray electrical currents are detected. The condition shall be remedied before loading may be resumed.

(4) The blast hole shall be carefully checked for obstructions with a nonferrous, nonsparking tamping pole, a tape, a light or a mirror before it is loaded. The use of magnifying mirrors is prohibited. Explosives may not be forced past an obstruction in a blast hole.

(5) Each blast hole shall be logged throughout the leading process to measure the amount and location of explosives placed in the blast hole. The information is to be recorded on the blast report required by § 211.133 (relating to blast report).

(6) A blast hole containing loose dynamite shall be stemmed but not tamped.

(7) The Department may specify the type and amount of stemming.

(g) Before connecting one loaded blast hole to another, all activity within the blast area shall cease, and all nonessential persons shall retreat to a safe place. The blaster-in-charge shall determine the blast area.

(h) Primers shall be prepared only at the hole to be loaded, immediately prior to loading. The components of the primer are to be kept separated at the collar of the blast hole. The primer may not be slit, dropped, deformed or carelessly handled and may not be tamped or forced into the blast hole.

(i) Immediately upon completing the loading of a blast hole, any wood, paper or other materials used to pack explosives shall be inspected for the presence of explosives and removed to an isolated area. These materials may be burned after the blast has been fired. Persons may not be within 100 feet (30.48 meters) of these burning materials.

(j) Measures shall be taken to reduce the chance of flyrock including:

(1) The use of blasting mats or other protective devices, if, in the opinion of the blaster-in-charge, the measures are necessary to prevent injuries to persons or damage to property.

(2) When blasting to an open, vertical face, checking the face for loose, hanging material or other faults prior to loading the blast holes.

(k) Explosives may not be brought to a blast site in greater quantities than are expected to be needed for that blast. Surplus explosives may not be stored in the blast area.

(l) Before a blast hole is loaded, it shall be checked to ensure that it is cool and does not contain any hot metal or smoldering material remaining from drilling the hole.

(m) The use of abrasive or sharp-edged constituents in stemming material shall be avoided if tamping is necessary and the tamping may sever blasting cap leg wires, shock tubes or detonating cords.

(n) Blasting activities may not be conducted within 800 feet (243.84 meters) of a public roadway unless precautionary measures are taken to safeguard the public. Precautionary measures include stopping or slowing of traffic and posting signs.

§ 211.155. Preblast measures.

Prior to detonating a blast, the blaster-in-charge shall:

(1) Ensure that all excess explosives have been removed from the blast area and are located in a safe area.

(2) Inspect the blast site to ensure that connections are proper and adequate.

(3) Ensure that the blast area is cleared and safeguarded.

(4) In addition to the warning signal, notify all persons who may be in danger.

(5) Ensure that the necessary precautions are in place to protect the public on public roads.

(6) At least 1 minute but no more than 2 minutes prior to detonation, sound a warning signal of three blasts, each lasting approximately 5 seconds. The warning signal shall be of sufficient power to be heard 1,000 feet (304.80 meters) from the blast site.

§ 211.156. Detonating the blast.

(a) A blast may be detonated only between sunrise and sunset unless the Department authorizes a blast at another time of day.

(b) Only the blaster-in-charge may detonate a blast.

§ 211.157. Postblast measures.

(a) After a blast has been detonated, no one may return to the blast area until all smoke and fumes have dissipated.

(b) After the smoke and fumes have cleared, the blaster-in-charge shall return to the blast site and closely inspect the blast site to ensure that it is safe with respect to the blasting activity.

(c) After the blaster-in-charge has determined the blast area is safe, the blaster-in-charge shall sound an all-clear signal, consisting of one long blast, lasting approximately 10 seconds. This all-clear signal shall be of sufficient power to be heard 1,000 feet (304.80 meters) from the blast site.

(d) The blaster-in-charge shall determine if a misfire occurred and shall take all actions necessary to render the blast site safe. The blast site shall be made safe before drilling or muck removal begins.

(e) If the blaster-in-charge suspects that undetonated ammonium nitrate/fuel mixture remains in the muck pile, the muck pile shall be thoroughly wetted down with water before any digging is attempted. Special attention shall be given to determine if primers, other explosives or detonators are present in the muck pile.

(f) The blaster-in-charge shall immediately complete the blast report as required by § 211.133 (relating to blast report).

(g) The blaster-in-charge shall notify the Department within 24 hours of the occurrence of a misfire. A copy of the blast report shall be forwarded to the Department.

§ 211.158. Mudcapping.

Mudcapping in blasting activities is allowed only if the blaster-in-charge determines that drilling the material to be blasted would endanger the safety of the workers. If

mudcapping is necessary, no more than 10 pounds (4.53 kilograms) of explosives shall be used for a blast.

§ 211.159. Electric detonation.

(a) Electric blasting caps shall be tested for continuity with a blaster's galvanometer or blaster's multimeter specifically designed for testing blasting circuits. Testing shall be done:

- (1) Before the primers are made up.
 - (2) After the blast hole has been loaded but prior to stemming.
 - (3) As the final connecting of the circuit progresses.
- (b) When a shunt is removed from electric blasting cap leg wires, the exposed wires shall be reshunted.
- (c) Electric blasting caps may not be employed in a blast if there is any possibility of wires from the circuit being thrown against overhead or nearby electric lines.
- (d) An effort may not be made to reclaim or reuse electric blasting caps if the leg wires have been broken off near the top of the cap.
- (e) Leg wires on electric blasting caps shall extend above the top of the blast hole. Wire connections and splices are not allowed in the blast hole.
- (f) Only solid wire shall be used in a blasting circuit. The use of stranded wire is prohibited.
- (g) When electric detonation is used near public roads, signs shall be erected at least 500 feet (152.40 meters) from the blast areas reading: "BLAST AREA - SHUT OFF ALL TWO-WAY RADIOS."
- (h) A blasting machine is the only permissible source of electrical power for a detonation.
- (i) The blasting circuit shall remain shunted until the time for detonation unless the circuit is being tested or connections are being made.
- (j) A sticker shall be displayed on blasting machines that shows they have been tested within the last 30 days by procedures recommended by the manufacturer or supplier to ensure performance at rated capacity. If blasting caps are used in the test, they shall be covered with earth or sand.
- (k) When electronic detonation is used, the blaster-in-charge shall determine that adequate current, as specified by the manufacturer of the detonators, is available to properly energize the detonators in the circuit.

§ 211.160. Nonelectric detonation.

Nonelectric initiation systems shall be checked and tested for secure connections in accordance with recommendations of the manufacturer of the system in use.

§ 211.161. Detonating cords.

- (a) Detonating cord shall be cut from the supply roll immediately after placement in the blast hole. A sufficient length of downlines shall be left at the top of the blast hole for connections to trunk lines. The supply roll shall be immediately removed from the site. Scrap pieces of detonating cord shall be destroyed after connections are made.
- (b) A trunk line shall be covered with at least 12 inches (0.30 meter) of earth or sand, unless otherwise authorized by the Department.
- (c) Detonating cord may not be spliced if the resulting splice will fall within a blast hole.

§ 211.162. Safety fuse.

- (a) When safety fuse is used in blasting, it shall be long enough to provide a burn time of 120 seconds or longer.
- (b) Prior to using safety fuse, the blaster-in-charge shall conduct a test burn. The test burn will utilize at least a 12-inch (0.30-meter) section of fuse which is lit, then timed to determine actual burn time.
- (c) A blasting cap shall only be crimped to a safety fuse with a proper crimping tool. A blasting cap may not be attached to a safety fuse in or within 10 feet (3.05 meters) of a magazine.

Subchapter G. REQUIREMENTS FOR MONITORING

§ 211.171. General provisions for monitoring.

- (a) If the scaled distance of a blast is 90 or numerically less at the closest building not owned or leased by the blasting activity permittee or its customer, ground vibration and airblast monitoring shall be conducted. The Department may require the permittee to conduct ground vibration and airblast monitoring at other buildings or structures even if the scaled distance is greater than 90.
- (b) Blasting activities without monitoring may be considered in compliance with this chapter if at a specified location, on at least five blasts, monitoring has demonstrated that the maximum peak particle velocity at the specified location represents more than a 50% reduction from the limit in the permit and this chapter. Future blasts shall maintain a scaled distance equal to or greater than the scaled distance for the monitored blasts.
- (c) If monitoring is required, a ground vibration and airblast record of each blast shall be made part of the blast report.
- (d) If monitoring is performed with instruments that have variable "trigger levels," the trigger for ground vibration shall be set at a particle velocity of no more than .25 inches per second unless otherwise directed by the Department.
- (e) If the peak particle velocity and airblast from a blast are below the set trigger level of the instrument, a printout from the instrument shall be attached to the blast report. This printout shall provide the date and time when the instrument was turned on and off, the set trigger levels and information concerning the status of the instrument during the activation period. When an instrument is used that does not provide this information, the Department will allow the permittee to supply on/off times on a signed statement.

§ 211.172. Monitoring instruments.

If monitoring is required, the monitoring instrument shall provide a permanent record of each blast.

- (1) A monitoring instrument for recording ground vibration, at a minimum, shall have:
- (i) A frequency range of 2 Hz to 100 Hz.
 - (ii) Particle velocity range of .02 to 4.0 inches (5.08 x 10⁻⁴ to 0.10 meters) per second or greater.
 - (iii) An internal dynamic calibration system.
- (2) A monitoring instrument used to record airblast shall have:
- (i) A lower frequency limit of 0.1, 2.0 or 6.0 Hz.
 - (ii) An upper end flat-frequency response of at least 200 Hz.

(iii) A dynamic range that, at a minimum, extends from 106 to 142 dBL.

(3) A monitoring instrument shall be calibrated annually and when an instrument is repaired and the repair may effect the response of the instrument. Calibration shall be done by the manufacturer of the equipment, or by an organization approved by the manufacturer, or by an organization having verifiable knowledge of the calibration procedures developed by the manufacturer. The calibration procedure shall include testing the response of the entire system to externally-generated dynamic inputs. These inputs shall test the entire monitoring system at a sufficient number of discrete frequency intervals to assure flat response throughout the frequency ranges specified by this chapter. Dynamic reference standards used for calibration shall be traceable to the National Institute of Standards and Technology (NIST). Calibration procedures and documentation of calibration shall be made available for review by the Department.

(4) A nonalterable sticker that is clearly visible shall be firmly affixed to the instrument. The sticker shall indicate the name of the calibration facility, the calibration technician, the date of calibration and frequency range of the airblast monitor.

§ 211.173. Monitoring records.

(a) Anyone using a monitoring instrument shall be trained on the proper use of that instrument by a representative of the manufacturer or distributor, or other competent individual. A record of that training is to be maintained and available for review by the Department.

(b) Monitoring records, at a minimum, shall contain:

(1) A calibration pulse on each of the mutually-perpendicular ground vibration traces. These pulses shall represent the dynamic response of the entire recording system to an internally-generated calibration signal, and shall allow the Department to verify that the seismograph is recording ground vibration to its specific accuracy.

(2) The time history of particle velocities for three mutually perpendicular ground vibration traces and one air-overpressure trace, including time base, amplitude scales and peak values for all traces.

(3) The results of a field calibration test for each channel.

(4) The frequency content of all vibration signals using either single degree of freedom (SDF) response spectrum or half-cycle zero-crossing analysis methods.

(5) Frequency versus particle velocity plots as indicated in § 211.151(c), Figure 1 (relating to prevention of damage).

(6) The name and signature of the individual taking the recording.

(7) The location of the monitoring instrument, date and time of the recording.

(8) The last calibration date of the monitoring instrument.

(c) If the Department questions the validity of a ground vibration or airblast record, or the interpretation of the record, the Department may require a ground vibration or airblast recording to be analyzed or certified by an independent, qualified consultant who is not related to the blasting activity permittee or its customer. When the

Department requires that a recording be analyzed or certified, it shall be performed and included with the blast report within 30 days.

Subchapter H. BLASTING ACTIVITIES NEAR UTILITY LINES

§ 211.181. Scope.

This subchapter applies to buried or underground utility lines and utility lines making contact with the surface of the ground.

§ 211.182. General provisions.

(a) Blasts shall be designed and conducted so that they provide the greatest relief possible in a direction away from the utility line and to keep the resulting vibration and actual ground movement to the lowest possible level.

(b) Blasting shall use a type of explosive specifically designed to minimize the likelihood of propagation between explosive charges.

(c) When blasting within 200 feet (60.96 meters) of a utility line, blast holes may not exceed 3 inches (7.62 x 10⁻² meters) in diameter.

(d) Blasting in the vicinity of a utility line shall be conducted as follows:

(1) Excavation from the ground surface to a depth corresponding to the elevation of the top of the buried utility line may proceed at the discretion of the blaster-in-charge, using safe, accepted techniques.

(2) Once the excavation has attained a depth equal to the elevation of the top of the buried utility line or if the line is exposed, or makes solid contact with the surface, the vertical depth of subsequent blast holes shall be restricted to one half the horizontal distance from the closest portion of the utility line.

(e) If one or more of the requirements listed in this section are not feasible or creates a potential safety problem, the permittee may apply to the Department for a waiver of the provision or provisions in question. This waiver will be granted if, in the judgment of the Department and the utility owning the lines, the alternate procedure does not endanger the utility line.

[Pa.B. Doc. No. 01-1271. Filed for public inspection July 13, 2001, 9:00 a.m.]

Title 34—LABOR AND INDUSTRY

**DEPARTMENT OF LABOR AND INDUSTRY
[34 PA. CODE CH. 231]**

Food-Service Employee Incentive Program

The Department of Labor and Industry (Department), by this order, amends Chapter 231 (relating to minimum wage) by adding §§ 231.91—231.99.

A. Statutory Authority

These final-form regulations implement section 3 of the act of December 21, 1998 (P. L. 1290, No. 168) (43 P. S. § 333.105a note) (Act 168), which requires the Department to adopt regulations to enforce and carry out the newly added provisions of section 5.1 of the Minimum Wage Act of 1968 (MWA) (43 P. S. § 333.105a).

B. Background and Purpose

Section 2 of Act 168 amended the MWA by establishing a Food-Service Employee Incentive Program (Program) for new employees hired by restaurant and food-service employers. Section 3 of Act 168, in turn, requires the Department to develop regulations to implement the Program, and postpones the effective date of section 2 of Act 168 until that time. The Program will be in effect for 3 years following the Department's promulgation of regulations. At that time, section 2 of Act 168 will expire under its own terms unless renewed by the General Assembly. The Department is required to prepare and submit a report to the Senate Labor and Industry Committee and the House Labor Relations Committee within 30 months after section 2 of Act 168 takes effect.

Under the Program, new employees in the restaurant and food-service industries and their employers may voluntarily agree to a training program during which the employees will receive a training wage. The training wage may not be less than the statutory minimum wage. The employees covered under these regulations are dishwashers, bus-persons, servers, sales staff, cooks, hostesses/hosts and cashiers.

While the employee is being trained, the difference between the employee's training wage and the entry-level wage that the employee is entitled to upon completion of the employer's training period, will be deposited by the employer into an escrow account referred to as the Employee Incentive Account (Account). Upon completion of the training program, or the employee's promotion, these escrow payments are to be remitted to the employee in equal installments over a period equal to the period of training. However, if the employee quits or is fired for willful misconduct before the end of the training period, the employee forfeits the moneys deposited for them in the Account.

C. Summary of Comments

The Department published a notice of proposed rulemaking at 30 Pa.B. 5152 (October 7, 2000), with an invitation for public comment. No public comments were received by the Department. However, the Independent Regulatory Review Commission (IRRC) recommended four changes to the proposed rulemaking in the interests of clarity and consistency with the statute.

1. *Enforcement.* IRRC recommended adding a section incorporating the Department's enforcement procedures under the Wage Payment and Collection Law (WPCL) (43 P. S. §§ 260.1—260.12), since Act 168 expressly adopts the WPCL for resolution of claims. See 43 P. S. § 333.105a(j).

2. *Accounts.* IRRC further suggested insertion of the phrase "no less than" between the phrases "consisting of" and "the difference" in § 231.95(b) (relating to employee incentive account) to ensure consistency with the statute.

3. *Records Access.* In § 231.95(f), employers are required to grant the Department access to records within 7 days following written or verbal notice. IRRC requested clarification as to who will give the notice.

4. *Distribution of Form.* In § 231.96(d) (relating to writing required), the Department proposed to make a recommended notification/acknowledgement form available on its Internet website and through other means. IRRC asked that the other means be set forth in the final-form regulations.

The Department accepted all of these comments and recommendations when adopting final-form regulations, as discussed.

D. Summary of Changes from Proposed Rulemaking

1. *Section 231.91(d).* This section was added to inform or remind wage employees of their rights under the WPCL, as incorporated in Act 168, to assign their claims to the Secretary of Labor and Industry (Secretary) for investigation and possible collection action. Information about wage-claim assignments can be accessed from the Department's Internet website <http://www.li.state.pa.us/PWAGE/summary.pdf>, or by contacting any of the district offices of the Department's Bureau of Labor Law Compliance. Employees, however, are not required to assign their claims to the Secretary. The WPCL authorizes recovery of plaintiff's attorney fees for employees that successfully sue to recover unpaid wages on their own. See 43 P. S. § 260.9a(f).

2. *Section 231.95(b).* The phrase "no less than" was inserted under IRRC's specific recommendation to achieve statutory consistency.

3. *Section 231.95(f).* Consistent with section 231.31(c) of the MWA's existing regulations, the Secretary and authorized representatives have been designated as the persons empowered to issue notices for records. This type of notice is usually issued by either a labor investigator or supervisor in the Department's Bureau of Labor Law Compliance. The Bureau's Director or legal counsel may also issue this notice.

4. *Section 231.96(d).* The Department defined the "other means" of making available the notification/acknowledgement form to be e-mail, fax or regular mail.

E. Fiscal Impact

These final-form regulations will have no impact on local government. Even if a unit of local government, such as a school district, has food-service employees, they are exempt from both the MWA and the WPCL. The Commonwealth and its political subdivisions are not included in either statute's definition of the term "employer." See 1976 Op. Atty. Gen. No. 29 (MWA); *Philipsburg-Osceola Educ. Ass'n. v. Philipsburg-Osceola Area School District*, 633 A.2d 220 (Pa. Cmwlth. 1993) (WPCL). Similarly, these final-form regulations do not affect employers or employees outside the restaurant and food-service industries, or employers or employees in those industries that choose not to participate.

Any costs to the Commonwealth will result from the increased enforcement duties assigned to the Department by Act 168, and not by these final-form regulations. These duties will be undertaken by existing Department staff, and are perceived to be minimal.

No precise estimate can be made as to increased costs, if any, to participating employers and employees, since their actual costs are dependent on several variables, including the number of participating employees and the agreed-upon training and entry-level wages. The objective of Act 168, however, is to create an incentive for new employees in the restaurant and food-service industries to remain at their jobs, and thereby produce mutual benefits that exceed any initial costs. If the costs exceed the benefits in the long run, employers and employees will refrain from participating.

The Department estimates the following average training costs and employer savings when employees leave prior to completing their training:

<i>Job Title</i>	<i>Estimated Training</i>	<i>Average Savings per Early Separation</i>
Hosts and Hostesses	\$328.80	\$219.30
Waiters and Waitresses	\$251.16	\$107.07
Food Servers, Outside	\$341.46	\$384.42
Counter Attendants	\$269.64	\$163.83
Cooks, fast food	\$290.88	\$117.39
Cooks, short order	\$352.32	\$282.51

F. Paperwork Requirements

These final-form regulations will require written notification and acknowledgement to and from participating employees. One record of this notification and acknowledgment will suffice for both purposes. Additionally, the Department recommends that the schedule for installment payments from the Account be revised if the employee is promoted before completing the employee's training period. These records must be maintained with other payroll records required to be kept by employers under the MWA, and are considered to be important to the protection of both employers and employees who participate in the Program. The Department will develop, and make available, a sample form for use by participating employers and employees to further reduce this already minimal burden.

G. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1, the Department, in developing these final-form regulations, sent preliminary drafts to the Majority and Minority Chairpersons of the Senate Labor and Industry and the House Labor Relations Committees, as well as employee and employer organizations. Additionally, Department personnel met with a representative of the Pennsylvania Restaurant Association and staff from the House Labor Relations Committee in the developmental phase.

H. Sunset Date

Act 168, by its own terms, provides that section 5.1 of the MWA will expire 3 years after the effective date of these final-form regulations (July 14, 2004). Accordingly, § 231.91(b) (relating to authority and effective date) provides that §§ 231.91—231.99 will expire within 3 years unless section 5.1 of the MWA is extended by the General Assembly. The Department is required to prepare and submit a report to the Senate Labor and Industry Committee and the House Labor Relations Committee within 30 months after section 2 of Act 168 takes effect.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted copies of the notice of proposed rulemaking, published at 30 Pa.B. 5152, to IRRC, the House Labor Relations Committee and the Senate Labor and Industry Committee for review and comment.

In adopting final-form regulations, the Department considered the comments received from IRRC. The Department did not receive comments from the public or the House or Senate Committees.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on May 16, 2001, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 17, 2001, and approved the final-form regulations.

J. Additional Information

Information about these final-form regulations can be obtained from Robert E. Moore, Director, Bureau of Labor Law Compliance, Department of Labor and Industry, Room 1301, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 787-4763; fax (717) 787-0517; e-mail robmoore@state.pa.us.

K. Findings

The Department finds that:

(1) Public notice of the Department's intention to adopt Chapter 231 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 final-form regulations adopted by this order are necessary and appropriate for the administration of Act 168.

L. Order

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

(a) The regulations of the Department, 34 Pa. Code Chapter 231, are amended by adding §§ 231.92—231.94 and 231.97—231.99 to read as set forth at 30 Pa.B. 5152; and by adding §§ 231.91, 231.95 and 321.96 to read as set forth in Annex A.

(b) The Department shall submit this order, 30 Pa.B. 5152 and Annex A to the Office of Attorney General and the Office of General Counsel for approval, as required by law.

(c) The Department shall certify this order, 30 Pa.B. 5152 and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

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

JOHNNY J. BUTLER,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 2855 (June 2, 2001).)

Fiscal Note: Fiscal Note 12-55 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY
PART XII. BUREAU OF LABOR STANDARDS
CHAPTER 231. MINIMUM WAGE
FOOD-SERVICE EMPLOYEE INCENTIVE PROGRAM

§ 231.91. Authority and effective date.

(a) This section and §§ 231.92—231.99 set forth the rules governing the Food-Service Incentive Employee Program for participating restaurant and food-service operations employers and their employees in this Commonwealth under section 5.1 of the Minimum Wage Act of 1968 (act) (43 P. S. § 333.105a).

(b) This section and §§ 231.92—231.99 will expire, along with section 5.1 of the act on July 14, 2004, unless section 5.1 is extended by the General Assembly.

(c) Under section 5.1(j) of the act (43 P. S. § 333.105a(j)), a claim arising under the Food-Service

Employee Incentive Program provisions shall be brought under the Wage Payment and Collection Law (43 P. S. §§ 260.1—260.12).

(d) Any employee, labor organization or party to whom wages are payable under the Food-Service Employee Incentive Program may request the Secretary, or an authorized representative, to take an assignment in trust and to bring legal action to collect the wages, as provided by section 9.1 of the Wage Payment and Collection Law (43 P. S. § 260.9a).

§ 231.95. Employee incentive account.

(a) The employer shall maintain at least one escrow or restricted account designated as an Employee Incentive Account (Account) in accordance with section 5.1 of the Minimum Wage Act of 1968 (43 P. S. § 333.105a).

(b) The employer shall deposit sums consisting of no less than the difference between the training wage and the entry-level wage into the Account on each regular payday during the training period. The employer shall credit the deposit in the name of each participating employee.

(c) Funds in the Account shall be the property of the employer until the employer is required to make payments to the employee. Funds in the Account are non-transferable and nonassignable.

(d) The employer shall maintain complete, detailed payroll records. The records shall include a listing of all deposits and withdrawals from the Account.

(e) The employer shall maintain the records at the place of employment or at a central recordkeeping office within or outside this Commonwealth. The employer shall maintain these records for 3 years in accordance with § 231.31 (relating to contents of record).

(f) Access to records maintained by the employer under this section shall be provided to the Department's repre-

sentatives within 7 days following written or verbal notice by the Secretary or an authorized representative.

§ 231.96. Writing required.

(a) The employer shall provide written notification to the employee prior to the commencement of the training program of the following:

(1) The training wage and the starting date of training.

(2) The length of the training period and the position for which the employee is being trained.

(3) The entry-level wage which the employee will receive upon completion of the training period.

(4) The financial institution where the employer maintains the Food-Service Employee Incentive Account.

(5) The installment-payment schedule to be following after the employee completes the training period, provided that the employer shall revise this schedule with the employee's written consent when the employee is promoted prior to completion of the training period.

(b) The employer shall obtain a signed acknowledgement that the employee has read and understands the written notification.

(c) The employer shall maintain a copy of the signed acknowledgement for 3 years, along with other records required to be kept under §§ 231.31—231.35.

(d) The Department will prepare a recommended notification and acknowledgement form that an employer may use. The Department will make these forms available on its Internet website and by electronic mail, facsimile transmission or regular mail, upon request.

[Pa.B. Doc. No. 01-1272. Filed for public inspection July 13, 2001, 9:00 a.m.]

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 July 3, 2001.

BANKING INSTITUTIONS

Holding Company Acquisition

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-29-01	PSB Bancorp, Inc., Philadelphia, to acquire 100% of the voting shares of Jade Financial Corp., Feasterville	Philadelphia	Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-22-01	Royal Bank of Pennsylvania Narberth Montgomery County Purchase of assets/assumption of liabilities of Crusader Holding Corporation, Philadelphia, Crusader Savings Bank, F.S.B., Philadelphia, and Asset Investment Corporation, Wilmington, Delaware	Narberth	Effective
7-1-01	Three Rivers Bank and Trust Company, Jefferson Borough, and The Pennsylvania Capital Bank, Pittsburgh Surviving Institution— Three Rivers Bank and Trust Company, Jefferson Borough <i>Branch Office Acquired Via Merger:</i> 336 Fourth Avenue Pittsburgh Allegheny County	Jefferson Borough	Effective
7-1-01	Third Street Interim Bank, Williamsport, and Woodlands Bank, Williamsport Surviving Institution— Third Street Interim Bank, Williamsport, with a change in corporate title to "Woodlands" Bank	Williamsport	Effective
7-2-01	Merger is being effected solely to facilitate the acquisition of Woodlands Bank, Williamsport, by Woodlands Financial Services Company, Williamsport, a new bank holding company. First Penn Bank, Philadelphia, and IGA Federal Savings Bank, Feasterville Surviving Institution— First Penn Bank, Philadelphia	Philadelphia	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	<i>Branches Acquired Via Merger:</i>		
	213 West Street Road Feasterville Bucks County	1501 S. Newkirk Street Philadelphia Philadelphia County	
	606 East Baltimore Pike Media Delaware County	2301 Market Street Philadelphia Philadelphia County	
	500 Chesterbrook Boulevard Wayne Delaware County		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-26-00	Premier Bank Doylestown Bucks County	New Heritage Tower 200 Veterans Lane Doylestown Bucks County (Limited Service Facility)	Opened
6-27-01	FirstService Bank Lansdale Montgomery County	94 N. Flowers Mill Rd. Langhorne Middletown Twp. Montgomery County	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-29-01	Commonwealth Bank Norristown Montgomery County	<i>To:</i> 70 Commerce Drive Wyomissing Berks County <i>From:</i> 320 Abington Drive Wyomissing Berks County	Effective
6-28-01	Keystone Savings Bank Bethlehem Northampton County	<i>To:</i> 3091 William Penn Hwy. Palmer Township Northampton County <i>From:</i> 3745 Nicholas Street Palmer Township Northampton 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>
6-29-01	Witco Credit Union, Petrolia, and Penacol Federal Credit Union, Petrolia Surviving Institution— Penacol Federal Credit Union, Petrolia	Petrolia	Effective

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1273. Filed for public inspection July 13, 2001, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council; Meeting Notice

A meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) is scheduled for Wednesday, July 25, 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. 01-1274. Filed for public inspection July 13, 2001, 9:00 a.m.]

Pennsylvania Rivers Conservation Registry

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Conestoga Greenways: A River Corridor Plan (Plan) and is placing the Conestoga River along with the Little Conestoga Creek and the West Branch of the Little Conestoga on the Pennsylvania Rivers Conservation Registry (Registry).

On June 19, 2001, the Lancaster Inter-Municipal Committee submitted the Conestoga Greenways Plan and other required information to gain Registry status.

After review of the Plan and the other information, DCNR has determined that Pennsylvania Rivers Conservation Program (Program) requirements have been satisfied and places the following on the Registry.

- *Conestoga River*: The river corridor from Hunsecker's Mill Covered Bridge/Hunsecker Road (between Manheim and Upper Leacock Townships) downstream to the confluence with the Susquehanna River.

- *Little Conestoga Creek*: The creek corridor from East Petersburg Community Park (between East Petersburg Borough and Manheim Township) downstream to the confluence with the Conestoga River.

- *West Branch of the Little Conestoga Creek*: The creek corridor for the entire length of the waterway; from Stony Battery Road (West Hemfield Township) downstream to the confluence with the Little Conestoga Creek.

This action becomes effective July 14, 2001. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the final plan is available for review at Lancaster Inter-Municipal Committee, P. O. Box 8347, Lancaster, PA 17604-8347, (717) 397-7313; and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17105-8475, (717) 787-2316.

Maps and supporting data are on file at the Lancaster Inter-Municipal Committee office.

JOHN C. OLIVER III,
Secretary

[Pa.B. Doc. No. 01-1275. Filed for public inspection July 13, 2001, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

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

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

name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay service at (800) 654-5984.

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0052019	Avon Grove Trailer Park P. O. Box 1177 Hockessin, DE 19707	Chester County London Grove Township	UNT East Branch White Clay Creek	Renewal
PA0053830	Michael Vincent 1195 Westbourne Road West Chester, PA 19382	Chester County Westtown Town- ship	Goose Creek	Renewal
PA0056812	YMCA of Pottstown 724 North Adams Street Pottstown, PA 19464	Montgomery County Upper Hanover Township	Macoby Creek	Renewal
PA0057011	Thornbury Township 8 Township Road Cheyney, PA 19319-1019	Chester County Thornbury Town- ship	Radley Run	Renewal

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA-0060038 (Sewage)	Integrated Health Services, Inc. (Julia Ribauda STP) Golf Park Road, Lake Ariel, PA 18436	Wayne County Lake Township	Unnamed tributary to Ariel Creek Watershed # 1C	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0021245	Borough of Duncannon 428 N. High Street Duncannon, PA 17020	Perry County Duncannon Bor- ough	Susquehanna River/7A	Yes
PA0033111	Oak Creek Campground Inc. P. O. Box 128 Bowmansville, PA 17507	Lancaster County Brecknock Town- ship	Muddy Creek/7J	Yes
PA0080861	LaDeira, Inc. Walmar Manor 125 Walmar Manor Dillsburg, PA 17019	York County Franklin Township	UNT North Branch Bermudian Creek/7F	Yes

Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0114740 Indus- trial Waste	Consumers PA Water Co. 204 East Sunbury Street Shamokin, PA 17872-0909	Northumberland Coal Township	South Branch Roaring Creek 5E	Yes

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0112607 Sewerage	Pepper Hill Ltd. P. O. Box 139 Danville, PA 17821	Cooper Township Montour County	Sechler Run 5-E	Yes

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0103659, Industrial Waste. **Calumet Lubricants Company, L.P.**, Allegheny Avenue, Reno, PA 16343.

This proposed facility is located in Sugarcreek Borough, **Venango County**.

Description of Proposed discharge of treated I.W. and stormwater, is in watershed 16E and classified for: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 39 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.00072 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	XX				
Oil and Grease	0.09	0.18	15	30	30
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 002 based on a design flow of n/a 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>
No discharge unless authorized by the Northwest Regional Water Quality Manager or his representative.					

The proposed effluent limits for Outfall 003 based on a design flow of n/a 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	XX				
Oil and Grease			XX		
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 004 based on a design flow of n/a 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	XX				
Oil and Grease			XX		
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 005 based on a design flow of n/a 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	XX				
Oil and Grease			XX		
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 006 based on a design flow of n/a 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	XX				
Oil and Grease			XX		
pH	Within limits of 6.0 to 9.0 standard units at all times.				

XX—Monitor and report.

The EPA Waiver is in effect.

PA0103381, Industrial Waste. **Merisol Antioxidants, L.L.C.**, P. O. Box 8A. Route 8 North, Oil City, PA 16301-9702.

This proposed facility is located in Cornplanter Township, **Venango County**.

Description of Proposed discharge of treated I.W., is in watershed 16E and classified for: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 40.5 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0172 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>
(MO) Flow (MGD)	XX				
(BAT) BOD ₅	8.7	22.8	40	105	
(BAT) TSS	11.9	36.9	55	170	
(BPJ) phenolics			0.5	1.0	1.25
Acenaphthene	0.0037	0.0098	XX	XX	XX
Acenaphthylene	0.0037	0.0098	XX	XX	XX
Acrylonitrile	0.016	0.0404	XX	XX	XX
Anthracene	0.0037	0.0098	XX	XX	XX
Benzene	0.0062	0.0227	XX	XX	XX
Benzo (a) anthracene	0.0037	0.0098	XX	XX	XX
3,4-Benzofluoranthene	0.0038	0.0102	XX	XX	XX
Benzo (k) fluoranthene	0.0037	0.0098	XX	XX	XX
Benzo (a) pyrene	0.0038	0.0098	XX	XX	XX
Bis (2-ethylhexyl)-phthalate	0.0172	0.0465	XX	XX	XX
Carbontetrachloride	0.003	0.0063	XX	XX	XX
Chlorobenzene	0.0025	0.0047	XX	XX	XX
Chloroethane	0.0173	0.0447	XX	XX	XX
2-Chlorophenol	0.0052	0.0163	XX	XX	XX
Chrysene	0.0037	0.0098	XX	XX	XX
Di-n-butylphthalate	0.0045	0.0095	XX	XX	XX
1,2-Dichlorobenzene	0.0128	0.0272	XX	XX	XX
1,3-Dichlorobenzene	0.0052	0.0073	XX	XX	XX
1,1-Dichloroethane	0.0037	0.0098	XX	XX	XX
1,2-Dichloroethane	0.0113	0.0352	XX	XX	XX
1,1-Dichloroethylene	0.0027	0.0042	XX	XX	XX
1,2-Trans-Dichloroethylene		0.009	XX	XX	XX
2,4-Dichlorophenol	0.0065	0.0187	XX	XX	XX
1,2-Dichloropropane	0.0255	0.0384	XX	XX	XX
1,3-Dichloropropylene	0.0052	0.0073	XX	XX	XX
Diethylphthalate	0.0135	0.0339	XX	XX	XX
2,4-Dimethylphenol	0.003	0.006	XX	XX	XX
Dimethylphthalate	0.0032	0.0078	XX	XX	XX
4,6-Dinitro-o-cresol	0.013	0.0462	XX	XX	XX
2,4-Dinitrophenol	0.0118	0.0205	XX	XX	XX
2,4-Dinitrotoluene	0.0425	0.1069	XX	XX	XX
Ethylbenzene	0.0053	0.018	XX	XX	XX
Fluoranthene	0.0042	0.0113	XX	XX	XX
Fluorene	0.0037	0.0098	XX	XX	XX
Hexachlorobenzene	0.0006	0.0047	XX	XX	XX
Hexachlorobutadiene	0.0033	0.0082	XX	XX	XX
Hexachloroethane	0.0035	0.009	XX	XX	XX
Methyl Chloride	0.0143	0.0317	XX	XX	XX
Methylene Chloride	0.0067	0.0148	XX	XX	XX
Napthalene	0.0037	0.0098	XX	XX	XX
Nitrobenzene	0.0045	0.0113	XX	XX	XX
2-Nitrophenol	0.0068	0.0115	XX	XX	XX
4-Nitrophenol	0.012	0.0207	XX	XX	XX
Phenanthrene	0.0037	0.0098	XX	XX	XX
Phenol	0.0025	0.0043	XX	XX	XX
Pyrene	0.0042	0.0112	XX	XX	XX
Tetrachloroethylene	0.0037	0.0093	XX	XX	XX
Toluene	0.0043	0.0133	XX	XX	XX
Total Chromium	0.1851	0.462	XX	XX	XX
Total Copper	0.2419	0.5638	XX	XX	XX
Total Cyanide	0.07	0.2	XX	XX	XX
Total Lead	0.0534	0.1151	XX	XX	XX
Total Nickel	0.2519	0.6639	XX	XX	XX

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
1,2,4-Trichlorobenzene	0.0113	0.0234	XX	XX	XX
1,1,1-Trichloroethane	0.0035	0.009	XX	XX	XX
1,1,2-Trichloroethane	0.0035	0.009	XX	XX	XX
Trichloroethylene	0.0035	0.009	XX	XX	XX
Vinyl Chloride	0.0173	0.0447	XX	XX	XX
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 002 based on a design flow of 0.0129 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	XX				
Oil and Grease			15		30
pH	Within limits of 6.0 to 9.0 standard units at all times.				

XX—Monitor and report.

The EPA Waiver is in effect.

PA0222097, Sewage, **John P. Vandenberg**, R. D. 1, Box 161A, Grand Valley, PA 16420.

This proposed facility is located in Eldred Township, **Warren County**.

Description of Proposed Activity: a renewal discharge.

The receiving stream, unnamed tributary to Caldwell Creek, is in watershed 16E and classified for: high quality-cold water fishes, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0004 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a geometric average		
Total Residual Chlorine	Monitor and Report		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

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

No. PA0054054, Sewage, **Richard and Deborah Reblock**, 2026 Broad Street, Perkasio, PA 18944.

This application is for renewal of an NPDES permit to discharge treated sewage in Hilltown Township, **Bucks County**. This is an existing discharge to Deep Run Creek.

The receiving stream is classified for the following uses: warm water fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd are as follows:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N)		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	Monitor/Report	Monitor/Report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

PA 0053449, Sewage, **Birmingham Township**, 1040 Street Road, West Chester, PA 19382-8012.

This application is for renewal of an NPDES permit to discharge treated sewage from the Birmingham Township WWTP in Birmingham Township, **Chester County**. This is an existing discharge to Radley Run.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.15 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	15	23	30
(11-1 to 4-30)	25	38	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus	2.0		4.0
Total Residual Chlorine	0.06		0.19
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA waiver is in effect.

PA0013714, Industrial Waste, **Exelon Generation Company**, No. 1 Industrial Highway, Eddystone, PA 19022.

This application is for renewal of an NPDES permit to discharge once through cooling water, noncontact cooling water and stormwater runoff from Eddystone Generating Station in Eddystone Borough, **Delaware County**. This is an existing discharge to Crum Creek (Outfalls 001, 002, 004, 005) and the Delaware River—Zone 4 (Outfalls 007, 008, 010, 013, 014).

The receiving stream is classified for warm water fish, migratory fish, industrial water supply, wildlife water supply, boating, fishing, navigation and esthetics.

Annual monitoring requirements are applicable for stormwater discharge from Outfalls 004, 013 and 014. No monitoring required for stormwater discharge from parking lots for Outfalls 001 and 002.

The proposed effluent limits for Outfall 005 based on an average flow of 0.45 MGD from fans and air compressor cooling system are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	60	75
pH	Within limits of 6.0—9.0 Standard Units at all times		
Temperature			110°F
Zinc, Total	Monitor	Monitor	
Iron, Dissolved	Monitor	Monitor	

The proposed effluent limits for Outfall 007 based on an average flow of 604 MGD of once through cooling water are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Spectrus CT1300		0.05	
Temperature			110°F
pH	Within limits of 6.0—9.0 Standard Units at all times		
Total Residual Chlorine			0.2
Total Dissolved Solids	700	1400	1750

The proposed effluent limits for Outfall 008 based on an average flow of 835 MGD of once through cooling water are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Spectrus CT1300		0.05	
Temperature			110°F
pH	Within limits of 6.0—9.0 Standard Units at all times		
Total Residual Chlorine			0.2
Hydrazine	Not Detectable (<0.002 mg/l)		
Total Dissolved Solids	700	1400	1750

The proposed effluent limits for internal monitoring points 107 and 108 based on an average flow of 3.045 mgd from the industrial wastewater treatment plant are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Dissolved Solids	15,000	30,000	37,500
Total Suspended Solids	30	100	
Oil & Grease	15	20	30
Copper, Total	Monitor	Monitor	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Iron, Total	Monitor	Monitor	
pH	—	—	Monitor
Selenium, Total	Monitor	Monitor	—
Mercury, Total	Monitor	Monitor	—

The proposed effluent limits for Outfall 010 based on an average flow of 0.144 MGD of noncontact cooling water and groundwater are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	60	75
Oil & Grease	15	20	30
pH	Within limits of 6.0—9.0 Standard Units at all times		
Temperature			110°F
Aluminum, Total	Monitor	Monitor	110°F
Iron, Dissolved	Monitor	Monitor	

Other Conditions:

- Thermal Requirements and mixing zone for Outfalls 005, 007, 008 and 010
- Special Test Methods for certain pollutants.
- Approved Cooling/Boiler Water Additives
- Intake Debris Not to be returned to Waterway
- No Discharge of PCB's
- TRC Limitations and Definitions
- Chemical Metal Cleaning
- Coal Pile Runoff
- Hydrazine Sampling Method
- Authorization to Discharge Stormwater

The EPA Waiver is not in effect.

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

Application No. PA 0008281, SIC Code 4911, Industrial Waste, Sewage and Stormwater, **PPL Brunner Island, LLC**, Two North Ninth Street, Mail Stop GENN5, Allentown, PA 18101-1179.

This application is for renewal of an NPDES permit for existing discharges of industrial waste, treated sewage and stormwater to Susquehanna River, Hartman Run and Conewago Creek in Watershed 7-F, in East Manchester Township, **York County**.

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

There are four industrial waste discharges, one treated sewage discharge, two groundwater spring discharges and 18 point source stormwater discharges. The proposed effluent limitations and monitoring requirements are as follows:

Outfall 001—Once Through Cooling Water Discharge (average 621 MGD):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Heat Rejection Rate		6,960 x 10 ⁶ BTU/hr	XXX
Total Residual Chlorine	XXX	XXX	0.2
Discharge Temperature	XXX	XXX	110°F

Outfall 002—Industrial Waste Treatment Basin Discharge (average 1.8 MGD):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 inclusive	
Oil & Grease	15	XXX	30
Total Suspended Solids	XXX	XXX	50

Outfall 003—Sewage Treatment Plant Discharge (design 0.032 MGD):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 inclusive	
Dissolved Oxygen		Minimum of 5.0 mg/l at all times	
Total Residual Chlorine	1.0	XXX	2.0

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	XXX	60
CBOD ₅	25	XXX	50
Total Phosphorus	2.0	XXX	4.0
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		

Outfall 004—Industrial Waste Treatment Basin Discharge (average 4.7 MGD):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 inclusive	
Oil & Grease	15	20	30
Total Suspended Solids	30	100	XXX

Outfall 005—Equalization Basin Discharge (emergency only):

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		From 6.0 to 9.0 inclusive	
Oil & Grease	XXX	20	30

Outfalls 006 and 007—Groundwater Spring Discharges:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	XXX	Monitor & Report	XXX
Total Copper	XXX	Monitor & Report	XXX
Total Nickel	XXX	Monitor & Report	XXX
Total Zinc	XXX	Monitor & Report	XXX
Total Iron	XXX	Monitor & Report	XXX
Total Arsenic	XXX	Monitor & Report	XXX

Outfalls SW-1, SW-2, SW-8 and SW-18—Stormwater Discharges:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	XXX	Monitor & Report	XXX
Total Copper	XXX	Monitor & Report	XXX
Total Nickel	XXX	Monitor & Report	XXX
Total Zinc	XXX	Monitor & Report	XXX
Total Iron	XXX	Monitor & Report	XXX
Total Arsenic	XXX	Monitor & Report	XXX
Total Suspended Solids	XXX	Monitor & Report	XXX
Oil & Grease	XXX	Monitor & Report	XXX

Note: These outfalls are representative of the facility's 18 stormwater outfalls.

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 not in effect.

Application No. PA 0088706, CAFO, **Hibred Pig Company (Hibred Swine Farm)**, 524 Pine Hill Road, Lititz, PA 17543.

Hibred Swine Farm has submitted an application for an Individual NPDES permit for an existing Concentrated Animal Feeding Operation (CAFO) known as Hibred Swine Farm, located at 415 Forest Road, Denver, PA in West Cocalico Township, **Lancaster County**.

The CAFO is situated near an unnamed tributary of Cocalico Creek in Watershed 7-J, which is classified for high quality warm water fishery. The CAFO is designed to maintain an animal population of approximately 568 animal equivalent units (AEUs) consisting of 1,400 sows. Manure is collected in a clay-lined lagoon. The total capacity of the manure storage facilities is 3.6 million gallons including 2 feet of freeboard. A release or discharge to waters of the Commonwealth under normal

operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice.

Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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

Application No. PA 0088714, CAFO, **Hibred Pig Company (Middle Creek Swine Farm)**, 524 Pine Hill Road, Lititz, PA 17543.

The Hibred Pig Company has submitted an application for an Individual NPDES permit for an existing Concentrated Animal Feeding Operation (CAFO) known as Middle Creek Swine Farm, located at 1925 West Route 897, Denver, PA, in West Cocalico Township, **Lancaster County**.

The CAFO is situated near an unnamed tributary of Cocalico Creek in Watershed 7-J, which is classified for high quality warm water fishery. The CAFO is designed to maintain an animal population of approximately 676 animal equivalent units (AEUs) consisting of 2,500 sows and pigs. Manure is collected in an HDPE lined lagoon. The total capacity of the manure storage facilities is 3 million gallons. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the prelimi-

nary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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

Application No. PA 0088757, Industrial Waste, SIC Code 4941, **Mount Union Municipal Authority**, Nine West Market Street, Mount Union, PA 17066.

This proposed facility is located in Shirley Township, **Huntingdon County**.

Description of proposed activity: Discharge of treated filter backwash water from water treatment plant.

The receiving stream (Singers Gap Run) is in Watershed 12-C and classified for HQ-CWF.

The proposed effluent limits for Outfall 001 based on a design flow of 0.06 MGD are:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
pH	XXX	XXX	6 to 9	
Total Suspended Solids	XXX	XXX	30	60
Total Iron	XXX	XXX	2	4
Total Aluminum	XXX	XXX	1	2
Total Manganese	XXX	XXX	1	2
Total Zinc	XXX	XXX	Monitor & Report	Monitor & Report
Hardness, Intake	XXX	XXX	Monitor & Report	Monitor & Report
Hardness, Discharge	XXX	XXX	Monitor & Report	Monitor & Report
Total Residual Chlorine	XXX	XXX	0.27	0.88

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.

Application No. PA 0088811, Sewage SIC Code 4952, **Franklin Township** (Poplar Springs Road STP), 55 South School Road, P. O. Box 309, Cashtown, PA 17310.

This proposed facility is located in Franklin Township, **Adams County**.

Description of proposed activity: new sewage treatment plant discharge.

The receiving stream (UNT Little Marsh Creek) is in Watershed 13-D and classified for cold water fishery.

The proposed effluent limits for Outfall 001 for a design flow of 0.0064 MGD are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)
CBOD ₅	25	40	50
Total Suspended Solids	30	50	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
Total Residual Chlorine	0.5	XXX	XXX
NH ₃ -N	Monitor & Report	XXX	XXX
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 28,000/100 ml as a geometric average	

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

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

PA000302, Industrial Waste, SIC 4941, **Pennsylvania-American Water Company-Indiana**, 1034 Waterworks Road, Indiana, PA 15701.

This application is for renewal of an NPDES permit to discharge treated process water and stormwater from the PA-American Water Company-Indiana-Two Lick Creek Water Treatment Plant in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Two Lick Creek, classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Saltsburg Municipal Water Works Conemaugh River Intake, located at Saltsburg, over 40 river miles below the discharge point.

Outfalls 001, 002 and 003: existing discharge, design flows of 0.139 (001 or 002) and 0.02 (003) 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				
Total Suspended Solids			30		60
Iron (Total)			2.0		4.0
Aluminum			4.0		8.0
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH (S.U.)	not less than 6.0 nor greater than 9.0				

Other Conditions: Control residual solids and floating solids, Total Residual Chlorine conditions, chemical additives, Part II permit pollutant limitations superseded, restricting discharge from either 001 or 002 but never both at any one time.

The EPA waiver is in effect.

PA0002933, Industrial Waste, SIC 4911, **West Penn Power Company, d.b.a. Allegheny Power**, 800 Cabin Hill Drive, Greensburg, PA 15601.

This application is for renewal of an NPDES permit to discharge treated process water, stormwater and untreated stormwater from the West Penn/Allegheny Power Connellsville West Side Facility in the City of Connellsville, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Youghiogheny River, classified as a High Quality Cold Water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Municipal Authority of Westmoreland County McKeesport Water Treatment Plant, located at McKeesport on the Youghiogheny River, over 40 miles below the discharge point.

Outfall 001: existing stormwater discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Total Recoverable Petroleum Hydrocarbons					Monitor and Report
Oil and Grease			15		30

Other Conditions: Chemical additives, solids disposal, floating solids, stormwater conditions, PCB discharge prohibited, amend Part II permit and tank farm special conditions.

The EPA waiver is in effect.

Internal Monitoring Point 102: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Oil and Grease			15		30
PCBs, Total				Monitor and Report	
pH (Standard Units)			not less than 6.0 nor greater than 9.0		

Internal Monitoring Point 111: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Oil and Grease			15		30
PCBs, Total				Monitor and Report	
pH (Standard Units)			not less than 6.0 nor greater than 9.0		

Internal Monitoring Point 202: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
Total Suspended Solids			30		100
Oil and Grease			15		20
pH (Standard Units)	not less than 6.0 nor greater than 9.0				

Outfalls 002 through 014: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Outfalls shall consist solely of uncontaminated stormwater runoff. (Except discharges from Internal Monitoring Points 102 and 202 to Outfall 002 and discharges from Internal Monitoring Point 111 to Outfall 011)					

PA0203807, Industrial Waste, SIC 4941, **Nanty Glo Water Authority**, 872 Chestnut Street, Nanty Glo, PA 15943.

This application is for renewal of an NPDES permit to discharge treated process water and untreated Finished Water Basin overflow and stormwater from the Nanty Glo Water Treatment Plant in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Williams Run, classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Saltsburg Municipal Water Works Conemaugh River Intake, located at Saltsburg, over 60 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.006 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				
Total Suspended Solids			30		60
Iron (Total)			2.0		4.0
Aluminum			4.0		8.0
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH (S.U.)	not less than 6.0 nor greater than 9.0				

Other Conditions: Residual solids control, floating solids control, Total Residual Chlorine conditions, chemical additives and sample Finished Water Basin overflow.

The EPA waiver is in effect.

PA0218405, Industrial Waste, SIC 3299, **Morgan Advanced Ceramics/GBC Division**, 580 Monastery Drive, Latrobe, PA 15650.

This application is for issuance of an NPDES permit to discharge treated stormwater and untreated stormwater from the Morgan Advanced Ceramics facility in Unity Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monastery 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 the Saltsburg Municipal Water Works Conemaugh Intake, located at Saltsburg, over 26 miles below the discharge point.

Outfall 001: new discharge, design flow of 0.0072 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				
Total Suspended Solids			30		60
Boron			11.5		29
Copper				Monitor and Report	
Vinyl Chloride			0.010		0.010
Trichloroethylene			0.009		0.023
pH (S.U.)	not less than 6.0 nor greater than 9.0				

Other Conditions: Solids disposal, floating solids, stormwater conditions, control of backwash or cleaning wastewater, provide Section D information within 90 days.

Outfall 002: existing discharge of stormwater

<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>
Oil and Grease				Monitor and Report	
Biological Oxygen Demand (BOD ₅)				Monitor and Report	
Chemical Oxygen Demand (COD)				Monitor and Report	
Total Suspended Solids				Monitor and Report	
Total Kjeldahl Nitrogen				Monitor and Report	
Nitrate plus Nitrite Nitrogen				Monitor and Report	
Total Phosphorus				Monitor and Report	
pH (Min./Maximum)				Monitor and Report	
Boron				Monitor and Report	
Copper				Monitor and Report	
Vinyl Chloride				Monitor and Report	
Trichloroethylene				Monitor and Report	
Zinc				Monitor and Report	
Aluminum				Monitor and Report	

The EPA waiver is in effect.

PA0033219, Sewage, **J. William Dyer**, P. O. Box 364, Sewickley, PA 15143-0364.

This application is for renewal of an NPDES permit to discharge treated sewage from Little Creek Estates STP in New Sewickley Township, **Beaver County**.

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

Outfall 001: existing discharge, design flow of 0.009 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	25			50
Phosphorus	2			4
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	25,000/100 ml as a geometric mean			
Total Residual Chlorine 1st month—36th month	Monitor and Report			
37th month—expiration	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0047228, Sewage, **Borough of Pennsbury Village**, 1043 Pennsbury Boulevard, Pittsburgh, PA 15205.

This application is for renewal of an NPDES permit to discharge treated sewage from Pennsbury Village STP in Pennsbury Borough, **Allegheny County**.

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

Outfall 001: existing discharge, design flow of 0.17 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0093050, Sewage, **Burrell Township Sewer Authority**, P. O. Box 454, Blacklick, PA 15716.

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

The following effluent limitations are proposed for discharge to the receiving waters, known as Blacklick Creek (AMD Affected), which are classified as a trout stock fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Saltsburg Municipal Waterworks.

Outfall 001: existing discharge, design flow of 0.18 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**WATER QUALITY MANAGEMENT PERMITS
CONTROLLED INDUSTRIAL WASTE AND SEWAGE
WASTEWATER
APPLICATIONS UNDER THE PENNSYLVANIA
CLEAN STREAMS LAW
PART II PERMITS**

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department). The applications are listed in two categories. Section I lists all municipal and industrial permits and Section II lists oil and gas related permit applications.

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of

the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

WQM Permit No. 4601407, Sewerage, **Limerick Township Municipal Authority**, 529 King Road, P. O. Box 29

This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a sewer collection system and pump station to serve the Estates and Landis Brooke.

WQM Permit No. 0901410, Sewerage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976.

This proposed facility is located in Doylestown Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation to install a low pressure sewer collection system to serve a residential development.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 4001403, Sewerage, **Municipal Authority of Hazle Township**, P. O. Box 502, Harleigh, PA 18225.

This proposed facility is located in Hazle Township, **Luzerne County**.

Description of Proposed Action/Activity: Construction of a new wastewater collection and conveyance system to serve limited, specific portions of the Northeast Area of Hazle Township. The areas to be served by the proposed system are the Villages of Oakdale, West Oakdale, Evervale, Middleton, South Middleton, Japan Jeddo, Harleigh Terrace, Drifton, Youngstown, Oakmont Acres and Forest Hill Acres.

Southcentral Region: Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 0101405, Sewerage, **Adams County Board of Commissioners**, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, PA 17325.

This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Construction of a wastewater treatment plant in Hunterstown, to serve the greater Hunterstown Area, including the Adams County Facilities Center, Reliant Energy electric generation facility the Village of Hunterstown and the Oak Village Mobile Home Park.

WQM Permit No. 6701407, Sewerage, **Conewago Township Sewer Authority**, 490 Copenhaffer Road, York, PA 17404.

This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Construction of a sewer extension that includes 24,000 linear feet of 8-inch PVC gravity serving the Canal Road area.

WQM Permit No. 3895401 Amendment 01-1, Sewerage, **North Lebanon Township Municipal Authority**, 725 Kimmerlings Road, Lebanon, PA 17046.

This proposed facility is located in North Lebanon Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval to replace an existing 8" force main from existing Water Street Sewage Pumping Station with approximately 2,900 lf of 12" force main.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No 4701401, Sewerage, **Valley Township Municipal Authority**, P. O. Box 307, Danville, PA 17821.

This proposed facility is located in Valley Township, **Montour County**.

Description of Proposed Action/Activity: Authority is proposing to extend an existing sanitary sewer system to serve Cloverleaf Village, three residential homes and two commercial building located in Valley Township, Montour County near McCracken Road. Application was received on May 23, 2001 at Northcentral Regional Office.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 0201408. Sewerage, **Arthur Loriso**, 103 Bertley Ridge Drive, Moon Township, PA 15108. Application for the construction and operation of a single residence sewage treatment plant to serve the Loriso Residence located in North Fayette Township, **Allegheny County**.

Application No. 2601402. Sewerage, **Ohiopyle Borough**, P. O. Box 83, Ohiopyle, PA 15470. Application for the construction and operation of a pump station to serve the Falls City Subdiv Garrette Avenue located in Ohiopyle Borough, **Fayette County**.

Application No. 6586421-A1. Sewerage, **Hempfield Township Municipal Authority**, R. D. 1 Box 501, Greensburg, PA 15601. Application for the modification and operation of sewers and sewage pumping station to serve the Renaissance Development located in Hempfield Township, **Westmoreland County**.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2501414, Sewerage, **Lake Erie Promotions, Inc.**, 3001 West 15th Street, Erie, PA 16505.

This proposed facility is located in Greenfield Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a spray irrigation on-lot sewage disposal system to serve the proposed Lake Erie Speedway.

WQM Permit No. 2001414, Sewerage, **Venango Cemetery Association**, P. O. Box 104, Venango, PA 16440.

This proposed facility is located in Venango Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No. 4301416, Sewerage, **Deborah S. Durniok**, 18 Tanner Road, Greenville, PA 16125.

This proposed facility is located in West Salem Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into 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 conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices (BMPs) which restrict the rate and quantity of sediment discharged.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate DEP Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office 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 sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

NPDES Permit PAS10 D118, Stormwater. **Bucks County Housing Development**, 7321 New Falls Road, Levittown, PA, has applied to discharge stormwater associated with a construction activity located in New Hope Borough and Solebury Township, **Bucks County** to Aquetong Creek (HQ).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

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

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10U154	T.J.F. Land Development, L.L.C. 4547 Foxtail Drive Nazareth, PA 18064	Northampton County Lower Nazareth Township	Monocacy Creek HQ-CWF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit PAS10 1921, Stormwater. **Mountain V Oil and Gas Inc.**, P. O. Box 470, Bridgeport, WV 26830 has applied to discharge stormwater associated with a construction activity located in Chapman Township, **Clinton County** to Hyner Run and Dry Run, HQ-CWF.

Clinton County Conservation District: 216 Spring Run Rd., Rm. 104, Mill Hall, PA 17751.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS101921	Mountain V Oil & Gas Inc. P. O. Box 470 Bridgeport, WV 26830	Clinton County Chapman Township	Hyner Run & Dry Run HQ-CWF

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit PAS10A115, Stormwater. **Villa de Bona Vita Development**, 2606 Lincoln Way, White Oak, PA 15131 and **Brentzel Construction**, 1070 Morris Avenue, North Huntingdon, PA 15642 have applied to discharge stormwater associated with a construction activity located in North Versailles Township, **Allegheny County** to Jacks Run HQ-TSF.

Allegheny County Conservation District: Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208-2566, (412) 241-7645.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10A115	Villa de Bona Vita Development 606 Lincoln Way White Oak, PA 15131 Brentzel Construction 1070 Morris Avenue North Huntingdon, PA 15642	Allegheny County North Versailles Township	Jacks Run/HQ-TSF

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit PAS104110, Stormwater. **Minard Run Oil Company**, P. O. Box 18, 609 South Avenue, Bradford, PA 16701 has applied to discharge stormwater associated with a construction activity located in Lafayette Township, **McKean County** to Lewis Run (HQ-CWF) and tributaries of Lewis Run (HQ-CWF).

NOTICE OF INTENT (NOI) FOR COVERAGE UNDER CAFO NPDES GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent (NOIs) for Coverage Under the Department's CAFO (concentrated Animal Feeding Operation) General NPDES Permit—PAG 12 to develop and operate a facility that may discharge Wastewater into the Surface Waters of the Commonwealth.

The EPA Region III Administrator has not waived the right to review or object to this permit action under the waiver provision 40 CFR 123.24(d).

The notice of intent and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the Regional Office noted. Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The new or renewal notice of intent, including other information submitted with the applications, is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay service at (800) 654-5984.

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

CAFO Notices of Intent Received

PAG120003, Walmoore Holsteins, Inc. (Walter T. Moore), 1826 Howellmoore Road, Chatham, PA 19330. Walter T. Moore has submitted an application for an existing Concentrated Animal Feeding Operation (CAFO) known as Walmoore Holsteins, Inc. Farm, located on 2196 Gap-Newport Pike in Londonderry Township, **Chester County**. The CAFO is situated in the Whiteclay Watershed, which is classified as a cold water fishery (CWF). This is an existing CAFO facility with approximately 1,114 Animal Equivalent Units (AEUs) consisting of 630

dairy cows, 215 heifer, 255 calves and 4 bulls. The facility has three units located within the same vicinity.

Unit 2—2196 Gap-Newport Pike, Cochranville, PA

Unit 3—345 East London Grove Road, Chatham, PA

Unit 4—2206 Gap-Newport Pike, Cochranville, PA

Unit 2 has two separate sites. Site one consist of a gravity flow collection system to a 8' x 38' concrete holding tank. From there it is separated and the liquids flow into the first stage of a two stage storage facility. Storage one has a concrete lined bottom over 12" of clay with HDPE lined side has 0.7 million gallon capacity with 12" of freeboard. Total depth is 12'. The second stage is entirely lined with HDPE with underdrain leakage detection system, has 2.8 million gallons capacity with 12" freeboard. Site two consist of two stage storage system. The liquids are separated out by use of a picket dam.

Unit 4 has one small facility used to store heifer manure. Facility is earthen with concrete bottom and limited areas with treated lumber retaining walls.

Unit 3 consist of a two stage storage system. The liquid is separated out by use of a picket dam. The facility has solid storage capacity of 70,560 ft.³ and 95,250 gallons of liquid plus 4 feet of freeboard.

The facility was inspected by a licensed professional engineer and found in proper working order and are functioning per design. Manure from these facilities are sprayed onto 941 acre fields owned/leased by Walmoore Holsteins, Inc. in accordance with the approved Nutrient Management Plan.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitations guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and the Clean Streams Law constitutes compliance the State narrative water quality standards.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary reviews of the application of lawful standards and regulations, including the Final CAFO Strategy, the Department has made a tentative determination to issue a General NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and proposed draft permit are on file at the Southeast Regional Office of the Department. Persons may make an appointment to review the files by calling Records Management at (610) 832-6270.

The Environmental Protection Agency permit review waiver provision under 40 CFR 123.24(e) applies to this General NPDES permit.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon

which it is based. A public meeting/hearing may be held if the Department considers the public response or interest significant.

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

SAFE DRINKING WATER

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

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0101509, Public Water Supply.
 Applicant **Appler Limited Partnership**
 Municipality Littlestown
 County **Adams**
 Responsible Official Edward Smariga, President
 125 South Carrol Street
 Suite 150
 Fredrick, MD 21701
 Type of Facility Public Water Supply
 Consulting Engineer Jack A Raudenbush, P.E.
 Raudenbush Engineering Inc.
 29 South Union Street
 Middletown, PA 17057
 Application Received Date June 13, 2001
 Description of Action Applicant seeks a Construction Permit for Well No. 4 to be operated as part of the Littlestown Borough Authority community water system at a rate of 86 gallons per minute. Treatment, limited to disinfection, will be provided at an existing facility.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 5501502, Public Water Supply.
 Applicant **Banzhoff, Banzhoff, & Witkowski**
 P. O. Box 339
 Camp Hill, PA 17001
 Township Union Township, **Snyder County**
 Responsible Official Gordon Banzhoff, Partner
 Banzhoff, Banzhoff, & Witkowski
 P. O. Box 339
 Camp Hill, PA 17001
 Type of Facility Public Water Supply
 Consulting Engineer Hoover Engineering Services
 658 Gaumer Road
 New Cumberland, PA 17070
 Application Received Date May 23, 2001

Description of Action Modification of existing water supply system to meet requirements of the Department
Permit No. 1401501, Public Water Supply.
 Applicant **Pennsylvania American Water Company**
 Moshannon Valley District
 410 Cooke Lane
 Pittsburgh, PA 15234
 Township Rush Township, **Centre County**
 Responsible Official Garry Hephart, Operations Super.
 Pennsylvania American Water Company
 P. O. Box 707
 Route 350 South
 Philipsburg, PA 16866
 Type of Facility Public Water Supply
 Consulting Engineer Gwin, Dobson, & Foreman, Inc.
 3121 Fairway Drive
 Altoona, PA 16602
 Application Received Date June 22, 2001
 Description of Action Replacement of the existing Curtis Park Pump Station

MINOR AMENDMENT

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

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

Application No. 0901511, Minor Amendment.
 Applicant **Upper Southampton Municipal Authority**
 Township Upper Southampton
 Responsible Official Atwood Pursel, Jr.
 945 Street Road
 Southampton, PA 18966
 Type of Facility Public Water Supply System
 Consulting Engineer Pennoni Associates, Inc.
 One Drexel Plaza
 3001 Market Street
 Philadelphia, PA 19104
 Application Received Date June 20, 2001
 Description of Action Installation of a liquid chlorination system to replace the existing gas chlorination system at wells 7 and 9.

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Application No. Minor Amendment
 Applicant **PA American Water Company**
 Township or Borough Kingston Township
Luzerne County

Responsible Official Anthony Gangemi, Operations Supr.
2699 Stafford Avenue
Scranton, PA 18505
(570) 969-7846

Type of Facility Community Water System

Consulting Engineer Andrew F. Carter, E.I.T.
PA American Water Company
800 West Hershey Park Drive
Hershey, PA 17033
(717) 531-3382

Application Received Date June 28, 2001

Description of Action Repaint the Rice Street finished water storage tank, located near Trucksville, PA

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 1693502-MA1, Minor Amendment.

Applicant **East Brady Waterworks**
502 Ferry St.
East Brady, PA 16028-0461

Township or Borough East Brady Borough, **Clarion County**

Responsible Official Darl Eck, Secretary

Type of Facility Public Water Supply

Consulting Engineer Charles K. Brence,
185 Rosemont Dr.
Moon Township, PA 15108

Application Received Date June 19, 2001

Description of Action Change of corrosion control chemical from soda ash to caustic soda.

Application No. 1092503-MA4, Minor Amendment.

Applicant **Municipal Sewer and Water Authority of Cranberry Township**
2525 Rochester Rd., Ste 400
Cranberry Township, PA 16066.

Township or Borough Cranberry Township, **Butler County**

Responsible Official Lorin F. Meeder, Manager Plant Operations

Type of Facility Public Water Supply

Consulting Engineer Eric C. Tissue, KLH Engineers, Inc.
5173 Campbells Run Rd.
Pittsburgh, PA 15205

Application Received Date June 20, 2001

Description of Action Waterline along Franklin Road

Application No. 2088505-MA1, Minor Amendment.

Applicant **Penn Lake Village MHP**,
Route 285
Conneaut Lake, PA 16316.

Township or Borough Sadsbury Township, **Crawford County**

Responsible Official Dennis Riley
P. O. Box 5229
Conneaut Lake, PA 16316.

Type of Facility Public Water Supply

Consulting Engineer James C. Rothbrust, Service Manager
Gordon Bros. Water
15454 Conneaut Lake Rd.
Meadville, PA 16335.

Application Received Date June 22, 2001

Description of Action New holding tanks.

Application No. 2588511-MA3, Minor Amendment.

Applicant **North East Township Water and Sewer Authority**
10300 W Main St.
North East, PA 16428.

Township or Borough North East Township, **Erie County**

Responsible Official Dennis Culver, Water and Sewer Superintendent

Type of Facility Public Water Supply

Consulting Engineer Douglas C. Scefird, P.E.
Hill Engineering, Inc.
8 Gibson St.
North East, PA 16428.

Application Received Date June 19, 2001

Description of Action Water line extension to Exit 12 to I-90 Welcome Center.

Application No. 2590505-MA2, Minor Amendment.

Applicant **Millcreek Township Water Authority**
3608 West 26th St.
Erie, PA 16506.

Township or Borough Millcreek Township, **Erie County**

Responsible Official David G. Wright, Technical Manager.

Type of Facility Public Water Supply

Application Received Date June 19, 2001

Description of Action Water line extension to Grubb Rd., Stellar Dr., Luna Lane
Zimmerly Rd., Sandalwood Dr.

Application No. 2596501-C1-MA1, Minor Amendment.

Applicant **Erie City Water Authority**
340 West Bayfront Parkway
Erie, PA 16507-0729

Township or Borough Millcreek Township, **Erie County**

Responsible Official James J. Rudy, Chief Operating Officer

Type of Facility Public Water Supply

Consulting Engineer Gerald C. Allender, P.E.
Consoer Townsend Envirodyne
Engineers, Inc.
155 West 8th St.
Erie, PA 16501

Application Received June 25, 2001
Date

Description of Action Extension along Sterrettania
Road in Millcreek Township.

WATER ALLOCATIONS

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

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WA32-782D, Water Allocation. **Indiana County Municipal Service Authority**, 827 Water Street, Indiana, PA 15701. **Indiana County**, Increase in subsidiary allocation from PA-American Water Co.—Indiana District, from 108,000 gpd to 243,000 gpd and extension of the Indiana County Municipal Services Authority's Shelocta water system to service the proposed Dominion Energy facility to be located in South Bend Township, Armstrong County.

Biosolids Individual Permits (PABIG and PABIS)

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (DEP) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

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

Following the 30-day comment period, the Water Management Regional 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, comments received and other information are on file and may be inspected and arrangements made for copying at the responsible DEP Regional Office indicated before the application.

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

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PABIS 4823. Leslie's Septic Service, Gaines Township, **Tioga County**. P. O. Box 211, Yahn Road, Galeton, PA 16922, has applied to beneficially use their biosolids on the White Water Acres Farm in Gaines Township, Tioga County.

Special Conditions: Management Practices, Monitoring, Recordkeeping, Reporting.

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, 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 Envi-

ronmental 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 of Environmental Protection has received the following Notices of Intent to Remediate:

Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Bethlehem Contracting Company, East Allen Township, **Northampton County**. Douglas H. Sammak, Geologist, American Analytical & Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Notice of Intent to Remediate (on behalf of his client, John Cancelliere, President, Bethlehem Contracting Company, P. O. Box 40, Bath, PA 18014) concerning the remediation of site soils found or suspected to have been contaminated with polycyclic aromatic hydrocarbons, BTEX compounds, solvents, lead and other metals. The applicant proposes to remediate the site to meet the site-specific standard. A Summary of the Notice of Intent to Remediate was reportedly published in Allentown's *The Morning Call* on May 31, 2001.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Central Chemical Site, Butler Township, **Butler County**. William H. Carver of CDC Environmental, 112 Woody Drive, Butler, PA 16001, has submitted a Notice of Intent to Remediate soil contaminated with Pesticides. The applicant proposes to remediate the site to meet the site specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Butler Eagle*.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn 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 to transport infectious and chemotherapeutic waste.

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

RENEWAL APPLICATIONS RECEIVED

Omega Medical Laboratories, Inc., 2001 State Hill Road, Wyomissing, PA 19610-1699. License No. **PA-HC 0042**. Received on June 29, 2001.

ASEPSIS, Inc., 424 West Lincoln Highway, Suite 204, Pennel, PA 19047-5152. License No. **PA-HC 0014**. Received on July 2, 2001.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application denied 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.

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

Permit Application No. 101588. Multilee, Incorporated, P. O. Box 275, St. Thomas, PA 17252, St. Thomas Township, **Franklin County**. Permit application is incomplete and fails to comply with the current municipal waste regulations. The Application was denied by the Southcentral Regional Office on June 21, 2001.

Comments concerning the application should be directed to Keith Kerns, Program Manager, Waste Management Program, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

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

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 100434. Evergreen Landfill, Inc., P. O. Box 195, Coral, PA 15731. Evergreen Landfill, P. O. Box 195, Coral, PA 15731. An application for a Major Permit Modification to increase tonnage at a municipal waste landfill in Center and Brush Valley Townships, **Indiana County** was received in the Regional Office on June 25, 2001.

AIR QUALITY

NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (DEP) 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 DEP, 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.

Notice is hereby given that DEP has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office 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 DEP 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 DEP 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 DEP 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 DEP schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior 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. 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 through 143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Contact: James Parette, New Source Review Chief, (570) 826-2531.

35-318-086: McGregor Industries, Inc. (46 Line Street, Dunmore, PA 18512) for construction of a paint spray booth and associated air cleaning device in Dunmore Borough, **Lackawanna County**.

48-309-115: Essroc Cement Corp. (3251 Bath Pike, Nazareth, PA 18064-8928) for installation of an air cleaning device to the gypsum/coal/clinker unloading hopper (Nazareth Plant #1) in Lower Nazareth Township, **Northampton County**.

13-318-005: Kovatch Mobile Equipment Corp. (t/a KME Fire Apparatus, One Industrial Complex, Nesquehoning, PA 18240) for construction of paint and sand blasting booths with associated air cleaning devices in Nesquehoning Borough, **Carbon County**.

39-318-105A: Ultra Hi-Tek Products, Inc. (827 North Meadow Street, Allentown, PA 18102) for installation of an air cleaning device (catalytic oxidizer) to control a film coating operation in Allentown, **Lehigh County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

22-05025B: Eldorado Properties Corp. (P. O. Box 2621, Harrisburg, PA 17105) for installation of a new product loading rack and vapor recovery unit at the Highspire Terminal in Lower Swatara Township, **Dauphin County**. The source is subject to 40 CFR 60, Subpart XX—Standards of Performance for Bulk Gasoline Terminals. The proposed equipment has the potential-to-emit Volatile Organic Compounds (VOC) emissions of 39.8 tons per year and 1.68 tons per year of Hazardous Air Pollutants (HAPs).

36-05092: Greiner Industries, Inc. (1650 Steel Way, Mount Joy, PA 17552-9515) for construction of three new spray-paint bays and a new shot-blast house in Mount

Joy Township, **Lancaster County**. The spray-paint bays will be controlled by dry filters.

36-05093B: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506) for modification of an existing asphalt plant to process recycled asphalt pavement in East Cocalico Township, **Lancaster County**. The asphalt plant is subject to 40 CFR 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

38-03034: Heart of My Heart Final Pet Arrangements (49 Pleasant View Road, Grantville, PA 17028) for construction of an animal crematorium in East Hanover Township, **Lebanon County**.

38-05016B: Quaker Alloy, Inc. (200 East Richland Avenue, Myerstown, PA 17067) for modification of an existing sand reclamation system in the Borough of Myerstown, **Lebanon County**.

67-05069A: Cemex, Inc. (P. O. Box 220, Thomasville, PA 17364) for installation of a new grinding mill at the Thomasville Facility in Jackson Township, **York County**. This source is subject to 40 CFR 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

67-05093: Codorus Stone and Supply Co., Inc. (135 Mundis Race Road, York, PA 17402) for construction of a batch asphalt plant controlled by a fabric collector in Manchester Township, **York County**. The asphalt plant is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities and 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Contact: David Aldenderfer, Program Manager, (570) 327-3637.

19-302-031: Dillon Floral Corp. (P. O. Box 180, Bloomsburg, PA 17815-0180) for modification of two #6 fuel oil-fired boilers, said modification consisting of the use of reprocessed oil as fuel, in the Town of Bloomsburg, **Columbia County**.

49-00005A: Hoeganaes Corp. (1001 Taylors Lane, Cinnaminson, NJ 08077) to modify a metal powder coating process (Insulated Particles Process) by increasing the allowable emission of methylene chloride, a hazardous air pollutant, to 100.6 tons per year in Delaware Township, **Northumberland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-208A: Paragon Trade Brands, Inc. (300 Zeigler Street, Harmony, PA 16037) for installation of a training panel manufacturing line in Harmony, **Butler County**.

20-145A: PPG Industries, Inc. (Kebert Industrial Park, Meadville, PA 16335) for modification of a glass melting furnace to install oxygen fuel burner technology at Works #8, Kebert Industrial Park, Meadville, **Crawford County**. PPG Industries, Works #8 is a Title V facility.

42-194A: Glenn O. Hawbaker, Inc. (Horsehead Run Road, Shinglehouse, PA 16748) for post construction plan approval of an existing Sand & Gravel Processing Facility at Plant #8, Shinglehouse Aggregate in Ceres Township, **McKean County**.

10-021I: Indspec Chemical Corporation (133 Main Street, P. O. Box 307 Petrolia, PA 16050) for minor modification of plan approval 10-021E for the 9500-gallon resorcinol storage tank and scrubber in Petrolia Borough,

Butler County. The application requests parametric monitoring rather than perform a Method 5 particulate test. The facility is a Title V Facility.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

15-0104A: Tasty Baking Oxford, Inc. (700 Lincoln Street, Oxford, PA 19363) for the increase of production on Production Line Nos. 1, 2 and 3 in Oxford Borough, **Chester County**. This facility makes bakery products. The production increase will result in an increase of 24.99 ton per year of volatile organic compounds (comprising mostly of ethanol), making the facility a Title V facility. Particulate matter emissions will also increase by 0.58 ton per year. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

46-0037F: Cabot Performance Materials (P. O. Box 1608, County Line Road, Boyertown, PA 19512-1608) for modification of its existing processes in Buildings 47 and 101 in Douglass Township, **Montgomery County**. This company is a Title V facility. This modification of the processes will result in particulate matter emissions increase of 1.04 tons per year and hydrogen fluorid acid (HF) emissions decrease of 0.04 ton per year. Nitrogen oxides (NOx) emissions, hydrogen chloride (HCl) emissions and nitric acid emissions will remain unchanged. 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.

15-0064A: QVC, Inc. (1200 Wilson Drive, West Chester, PA 19380) for installation of three No. 2 fuel oil-fired emergency generators, each rated for 2,000 kW, at their facility located in West Goshen Township, **Chester County**. This facility is a non-Title V facility. The emergency generators shall only be used as a backup power source for television studios so that they may continue broadcasting in the event of a blackout or power interruption. Potential emissions of nitrogen oxides and carbon monoxide shall each be less than 7 tons per year. Emissions of volatile organic compounds, particulate matter and sulfur oxides will each be less than 1 ton per year. Each emergency generator will be restricted to 110 hours of operation per year. The Plan Approval will contain recordkeeping and further operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

46-0037I: Cabot Performance Materials (P. O. Box 1608, County Line Road, Boyertown, PA 19512-1608) for modification of its processes in Building 55 located in Douglass Township, **Montgomery County**. This company is a Title V facility. This modification will result in HF and VOC emission increase of less than three tons of each pollutant per year. 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. The plan

approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

15-0016E: Worthington Steel Co. (P. O. Box 3050, Malvern, PA 19355) for installation of an air cleaning device to control visible emissions from its coil coating line in East Whiteland Township, **Chester County**. This company is a Title V facility. This air cleaning device installation is intended to meet visible emissions required in 25 Pa. Code § 123.41. The Plan Approval will contain additional recordkeeping and operating requirements designed to keep the facility operating within all applicable air quality requirements. The plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

09-0142: Qwest Communications Corp. (35 Runway Road, Levittown, PA 19057) for installation of four diesel-fired emergency generators, each rated for 2,000 kW, at their facility located in Bristol Township, **Bucks County**. This facility is a non-Title V facility. The emergency generators shall only be used as a backup power source to provide continuous electrical power for Internet service that will be provided to customers. Potential emissions of nitrogen oxides shall be less than 25 tons per year. Potential emissions of carbon monoxide shall be less than 3 tons per year. Potential emissions of volatile organic compounds, particulate matter and sulfur oxides will each be less than 1 ton per year. The Plan Approval will contain recordkeeping and further operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03045B: Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 18034) for construction of a recycled asphalt paving crusher and conveyors in Maxatawny Township, **Berks County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. This source will have the potential to emit 4.4 tons of particulate per year. The plan approval will include monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

21-03023B: Ames True Temper, Inc. (465 Railroad Avenue, Camp Hill, PA 17011) for a modification to the woodworking collection system in Hampden Township, **Cumberland County**. This source has the potential to emit 0.0726 ton of particulate per year. The plan approval will include monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

22-05025B: Eldorado Properties Corp. (P. O. Box 2621, Harrisburg, PA 17105) for installation of a new product loading rack and vapor recovery unit at the Highspire Terminal in Lower Swatara Township, **Dauphin County**. The source is subject to 40 CFR 60, Subpart XX—Standards of Performance for Bulk Gasoline Terminals. The proposed equipment has the potential to emit Volatile Organic Compounds (VOC) emissions of 39.8 tons per year and 1.68 tons per year of Hazardous Air Pollutants (HAPs). The plan approval will include monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

28-03037: Greencastle Metal Works, Inc. (P. O. Box 838, Greencastle, PA 17201) for the increased operation of a surface coating system for metal products in Chambersburg Borough, **Franklin County**. This proposed operation has the potential-to-emit Volatile Organic Compounds (VOC) emissions of less than 5 tons per year. The plan approval and operating permit will include monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-322-001C: The Northern Tier Solid Waste Authority (P. O. Box 10, Burlington, PA 18814-0010) for construction of a landfill gas-fired engine at its landfill facility in West Burlington Township, **Bradford County**.

The information provided by the applicant indicates that the engine will have the potential to emit 25 tons per 12 consecutive month period of nitrogen oxides (expressed as NO₂), 16 tons per 12 consecutive month period of carbon monoxide and 8 tons per 12 consecutive month period of nonmethane organic compounds. A preliminary review of the information submitted by the applicant indicates that the engine will meet all applicable air quality requirements. Based on this finding, the Department proposes to approve the application and issue a plan approval for the construction. If compliance with all applicable regulatory requirements and plan approval conditions is demonstrated following the construction, the Department intends to administratively amend Operating Permit 08-322-001A to incorporate the conditions established in the plan approval.

In order to ensure compliance with all applicable standards, the Department proposes to place the following requirements in the respective plan approval:

This plan approval is issued for the construction of an 800 kW Caterpillar 3516-90LE landfill gas-fired reciprocating engine equipped with clean burn technology (pre-ignition system).

Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, the engine shall comply with the following emission limitations:

<i>Contaminant</i>	<i>Limit (grams per brake horsepower hour)</i>
nitrogen oxides (expressed as NO ₂)	2.0
carbon monoxide	1.3
nonmethane organic compounds	0.6

Additionally, the engine shall either provide a minimum nonmethane organic compound destruction efficiency of 98% for all nonmethane organic compounds contained in the landfill gas or maintain a maximum nonmethane organic compound concentration of 20 ppmvd, as hexane, corrected to 3% oxygen at the engine exhaust.

- Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, the Northern Tier Solid Waste Authority shall monitor the exhaust of the engine for oxygen, nitrogen oxides and carbon monoxide content at least once per month using instrumentation capable of accurately measuring the substances and shall record the monitored values as well as the date and time of each occurrence of monitoring in writing. These records are to be retained for at least 5 years and shall be made available to the Department upon request. The Au-

thority shall additionally adjust the engine on the basis of the monitored values as needed to maintain compliance with the air contaminant emission limitations specified herein.

- Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, all collected landfill gas shall be vented to either the engine identified herein or the existing LFG Specialties, Inc. #PEF7.535I10 enclosed ground-type flare identified in Operating Permit 08-322-001A. Under no circumstances shall any collected landfill gas be vented directly to atmosphere.
- The Authority shall stack test the engine for nitrogen oxides, carbon monoxide, nonmethane organic compounds and nonmethane organic compound destruction efficiency.
- The landfill is subject to Subpart Cc of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.30c through 60.36c.

08-0001B: Stroehmann Bakeries, L.C. (North Wilbur and Tuscarora Streets, Sayre, PA 18840) for installation of an air cleaning device, a CSM Worldwide Model 85A catalytic oxidizer, on an existing 6 million BTU per hour Chubco Superflo bread oven in Sayre Borough, **Bradford County**. The catalytic oxidizer will replace an existing catalytic oxidizer currently controlling the volatile organic compound emissions from the respective bread oven. There will be no change in the emission of volatile organic compounds or any other air contaminant.

The Department of Environmental Protection has determined that the proposed equipment will comply with all applicable regulatory requirements pertaining to air contaminant sources and the emission of air contaminants including the Reasonably Available Control Technology (RACT) requirements of 25 Pa. Code §§ 129.91—129.95. The Department of Environmental Protection consequently intends to issue plan approval for the installation of the respective catalytic oxidizer. Additionally, if the Department determines that the catalytic oxidizer is operating in compliance with all applicable plan approval conditions and regulatory requirements following the completion of installation of the catalytic oxidizer, the conditions established in the plan approval will be incorporated into an operating permit via administrative amendment under 25 Pa. Code § 127.450.

The Department intends to place conditions in the plan approval to be issued pertaining to the operation and monitoring of the catalytic oxidizer. These conditions are intended to assure proper operation of the oxidizer as well as maintaining compliance with all applicable air quality regulatory requirements. The following is a summary of these conditions regarding the catalytic oxidizer:

1. Under the RACT provisions of 25 Pa. Code §§ 129.91—129.95, the catalyst bed outlet temperature shall be maintained at a minimum of 600°F at all times and the catalytic oxidizer shall achieve 95% destruction efficiency for volatile organic compounds at all times. The oxidizer shall also be equipped with an alarm system which shall sound an alarm if the outlet temperature drops below 600°F.
2. Under the RACT provisions of 25 Pa. Code §§ 129.91—129.95, the volatile organic compound emission rate from the catalytic oxidizer shall not exceed 3.57 pounds per hour.
3. Under the RACT provisions of 25 Pa. Code §§ 129.91—129.95, the catalyst bed inlet and outlet tem-

peratures shall be continuously monitored and recorded. All records shall be retained for at least 5 years and shall be shown to the Department upon request.

4. Within 120 days following completion of installation of the catalytic oxidizer, stack testing shall be performed on both the inlet and outlet of the catalytic oxidizer to determine the volatile organic compound destruction efficiency of the oxidizer and the volatile organic compound emission rate from the oxidizer.

17-302-023: DuBois Regional Medical Center (P. O. Box 447, DuBois, PA 15801-0447) for construction of three 20.92 million BTU per hour Cleaver Brooks Model No. CBLE 200-500 natural gas/No. 2 oil fired boilers in DuBois Borough, **Clearfield County**.

The boilers to be constructed will replace three existing boilers located in various wings of the hospital. The proposed boilers will primarily burn natural gas, only burning No. 2 fuel oil during emergency situations where natural gas is unavailable. Only 2 of the 3 boilers will be operated simultaneously, with the remaining boiler being used as a standby unit. The worst-case air contaminant emission rates to be associated with the respective boilers are 7.34 tons per year of carbon monoxide, 8.78 tons per year of nitrogen oxides, 3.18 tons per year of volatile organic compounds, 2.04 tons per year of particulate matter and 4.8 tons of sulfur oxides in any 12 consecutive month period.

The Department of Environmental Protection has determined that the proposed boilers will comply with all applicable regulatory requirements pertaining to air contaminant sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12 and Subpart Dc of the Federal Standards of Performance for New Stationary Sources. The Department of Environmental Protection consequently intends to issue plan approval for the construction of the respective boilers.

The Department intends to place conditions in the plan approval to be issued pertaining to the operation and monitoring of the boilers. These conditions are intended to assure proper operation of the boilers as well as the maintenance of compliance with all applicable air quality regulatory requirements. The following is a summary of these conditions:

5. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the boilers shall only burn natural gas or No. 2 fuel oil with a sulfur content of 0.3% or less.

6. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the boilers shall not burn more than 213,840 gallons of No. 2 fuel oil per 12 consecutive month period. The permittee shall keep monthly records of the amount of No. 2 fuel oil burned. These records shall be maintained on site for at least 5 years and made available to the Department upon request.

7. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the boilers shall be equipped with low NO_x burners with flue gas recirculation capable of achieving nitrogen oxides and carbon monoxide emission rates of 30 ppm and 50 ppm (corrected to 3% O₂), respectively when firing natural gas and 139 ppm and 90 ppm (corrected to 3% O₂), respectively, when firing No. 2 fuel oil.

8. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant

emissions from the operation of the boilers shall not exceed 8.78 tons of nitrogen oxides, 7.34 tons of carbon monoxide and 3.18 tons of volatile organic compounds per 12 consecutive month period.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

16-00133A: Clarion Bathware (16273 Route 208, Marble, PA 16254) for the post-construction of process upgrades at their plant located in Washington Township, **Clarion County**. The facility currently has a Title V permit No. TV 16-00133. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. This construction resulted in no increase in air emissions.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Contact: Roger Fey, Chief, (215) 823-7584.

01081: Rohm and Haas Co. (5000 Richmond Street, Philadelphia, PA 19137) for acceptance of Federally enforceable facility-wide emissions limits for Hazardous Air Pollutants (HAPs) below major source thresholds. The plan approval application established that based on throughput limits for the various HAP emitting processes at the facility, facility-wide HAP emissions were less than 10 tons per rolling 12-month period for each individual HAP and less than 25 tons per rolling 12-month period for combined HAPs. On June 18, 2001 AMS issued a plan approval condition letter to Rohm and Haas establishing facility-wide emission limits of less than 10 tons per rolling 12-month period for each individual HAP and less than 25 tons per rolling 12-month period for combined HAPs. Process throughput limits and HAP control device monitoring requirements were established to assure compliance with the HAP emission limits. As a result of the HAP emission limits, the facility is not applicable to the requirements of 40 CFR 63 Subpart JJJ—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Contact: James Parette, New Source Review Chief, (570) 826-2531.

40-310-045: Brdaric Excavating, Inc. (230 Bunkerhill Road, Wyoming, PA 18644) for operation of a crushing plant and associated air cleaning device in Kingston Township, **Luzerne County**.

40-320-009A: Berwick Industries LLC (Bomboy Lane and Ninth Street, Berwick, PA 18603) for operation of flexo-graphic printing presses in Salem Township, **Luzerne County**.

39-309-055: Lafarge Corp. (5160 Main Street, Whitehall, PA 18052) for operation of the #1 finishing mill OSEPA separator and associated air cleaning device in Whitehall Township, **Lehigh County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Contact: David Aldenderfer, Program Manager, (570) 327-3637.

14-313-039: Rutgers Organics Corp. (201 Struble Road, State College, PA 16801) for operation of a chemical process facility used to manufacture an organic chemical identified as Product 9001. The respective process facility

was modified to produce Product 9001 under Plan Approval 14-313-039 which was issued by the Department on April 12, 2000 and subsequently amended on August 18, 2000 and August 24, 2000.

The chemical process facility incorporates various air cleaning devices (multiple water and glycol cooled condensers, two packed bed scrubbers and a regenerative thermal oxidizer) to control the emission of volatile organic compounds and hazardous air pollutants (hydrogen chloride, xylene, methanol and 2,2,4-trimethylpentane). The resultant air contaminant emissions will be up to .35 tons of volatile organic compounds/combined organic hazardous air pollutants and .35 tons of hydrogen chloride per year.

The Department of Environmental Protection has determined that the chemical process facility was modified and is operating, in conformance with all conditions contained in Plan Approval 14-313-039 as well in conformance with all applicable requirements contained in Article III of the Rules and Regulations of the Department of Environmental Protection. The Department of Environmental Protection consequently intends to issue an operating permit for the chemical process facility.

The Department plans to place conditions in the operating permit to be issued which are intended to assure continued compliance with all applicable requirements as well as require appropriate monitoring and recordkeeping procedures to be employed. The following is a summary of these conditions:

1. All condensers, scrubbers, regenerative thermal oxidizers, etc. identified in Plan Approval 14-313-039, as amended, shall be used as specified therein.

2. Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, packed bed scrubber S0101 shall use a scrubbing solution containing a minimum of 6% caustic soda. The scrubbing solution shall be recirculated through the scrubber at a rate not less than 25 gallons per minute and a fresh batch of scrubbing solution shall be prepared for each batch of Product 9001 produced.

3. Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, packed bed scrubber S0102 shall use a 10% sodium hydroxide scrubbing solution. The scrubbing solution shall be recirculated through the scrubber at a rate not less than 15 gallons per minute and the solution shall be sampled after each batch of Product 9001 to determine the sodium hydroxide content. Records of the sample results shall be maintained.

4. Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, all glycol cooled condensers, except for the condenser associated with the dryer, shall be supplied with glycol coolant having a temperature no greater than -1.1° C. The dryer condenser shall be supplied with glycol coolant which has a temperature no greater than 7° C. All glycol feed lines shall be equipped with a temperature monitor.

5. The production of Product 9001 shall not exceed 154,000 pounds per year.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

25-00949: Erie Advanced Manufacturing Inc. (2962 West 22nd Street, Erie, PA 16506) for a Natural Minor Permit to operate a controlled pyrolysis cleaning furnace at the Plant 2 powder coating facility in Millcreek Township, **Erie County**.

MINING ACTIVITY APPLICATIONS

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 before 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. 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 previous, 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 previously-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.

Coal Applications Received

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982.

63803009. Robinson Coal Company (200 Neville Road, Pittsburgh, PA 15225). Renewal application received for continued operation and reclamation of a surface mine located in Robinson and Smith Townships, **Washington County**, affecting 215.5 acres. Receiving stream: unnamed tributary to Robinson Run. Renewal application received: June 27, 2001.

03910401. M & M Lime Co. Inc. (R. D. 1, Box 257M, Worthington, PA 16262-9753). Renewal application received for continued operation and reclamation of a surface mine located in West Franklin Township, **Armstrong County** and Clearfield Township, **Butler County**, affecting 85.7 acres. Receiving stream: Buffalo Creek. Renewal application received: July 2, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

32010106. Walter L. Houser Coal Co., Inc. (R. D. #9, Box 434, Kittanning, PA 16201), commencement, operation and restoration of bituminous surface-auger mine in Washington and Plumcreek Townships, **Indiana and Armstrong Counties**, affecting 79.0 acres, receiving stream unnamed tributaries of South Branch Plum Creek and South Branch Plum Creek to Plum Creek to Crooked Creek to the Allegheny River. Application received: June 19, 2001.

32950108. Permit Revision, **TLH Coal Company** (R. D. #1, Box 170, Rochester Mills, PA 15771), for a variance within 100 feet of an unnamed tributary to Dixon Run in East Mahoning Township, **Indiana County**, affecting 52.6 acres, receiving stream Dixon Run and unnamed tributaries to Rayne Run. Application received: June 22, 2001.

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

3084602. Duquesne Light Company, (P. O. Box 457, Greensboro, PA 15338), to renew the permit for the Warwick Mine No. 2 Prep Plant in Monongahela Township, **Greene County** to renew the permit, no additional discharges. Application received: May 4, 2001.

32841317. Helvetia Coal Company, (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Lucerne No. 9 Mine in Young and Conemaugh Township, **Indiana County** for reclamation only, no additional discharges. Application received: May 8, 2001.

17841608. Penfield Collieries, LLC, 1088 Springhurst Dr., Green Bay, WI 54304, to renew the permit for the Penfield Collieries Prep Plant in Huston Township, **Clearfield County**, no additional discharges. Application received: May 9, 2001.

30841313. Consolidation Coal Company, (P. O. Box 100, Osage, WV 26543), to revise the permit for the Dilworth Mine in Cumberland Township, **Greene County** to add 2F pump station, no additional discharges. Application received: May 25, 2001.

Noncoal Application Received

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

8275SM3C3. Martin Limestone, Inc., (P. O. Box 550, Blue Ball, PA 17506), renewal of NPDES Permit #PA0117986 in Caernarvon Township, **Lancaster**

County, receiving stream—unnamed tributary to Conestoga Creek. Application received: June 25, 2001.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

08010810. Gregory A. Strawn (P. O. Box 675, Hallstead, PA 18822), commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Windham Township, **Bradford County** affecting 3 acres. Receiving stream—unnamed tributaries to Wysox Creek and Trout Stream. Application received: June 18, 2001.

53010803. Robert C. Paul (P. O. Box 64, Galeton, PA 16922), commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in West Branch Township, **Potter County** affecting 3 acres. Receiving stream—unnamed tributary to South Branch of Pine Creek. Application received: June 18, 2001.

08010811. Richard P. Ferguson (R. R. 3, Box 301, Wyalusing, PA 18853), commencement, operation and restoration of a Small Industrial Minerals (Shale/Flagstone) permit in Stevens Township, **Bradford County** affecting 1 acre. Receiving stream—Cold Creek to Wyalusing Creek, tributary to Susquehanna River. Application received: June 20, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

56012801. Mostoller Landfill, Inc. (7095 Glades Pike, Somerset, PA 15501), commencement, operation and restoration of a small noncoal (industrial minerals) operation in Brothersvalley Township, **Somerset County**, affecting 5.0 acres, receiving stream unnamed tributary to Kimberly Run. Application received: June 21, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

5380-37010301-E-8. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 16225). Application for a stream encroachment to mine through and construct erosion and sedimentation control facilities within the stream channel and reconstruct the channel of unnamed tributary to Slippery Rock Creek in Slippery Rock Township, **Lawrence County**. Receiving streams: unnamed tributary No. 5 to Slippery Rock Creek. Application received: June 25, 2001.

5380-37010301-E-9. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 16225). Application for a stream encroachment to mine through and construct erosion and sedimentation control facilities within the stream channel and reconstruct the channel of unnamed tributary to Slippery Rock Creek in Slippery Rock Township, **Lawrence County**. Receiving streams: unnamed tributary No. 12 to Slippery Rock Creek. Application received: June 25, 2001.

25010303. Ray Showman Jr. Excavating, Inc. (12671 Route 19 South, P. O. Box 646, Waterford, PA 16441). Commencement, operation and restoration of a sand and gravel operation in Waterford Township, **Erie County** affecting 20 acres. Receiving streams: unnamed tributary to Leboeuf Creek. Application received: June 25, 2001.

Noncoal Applications Returned

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

41000802. John W. Pepper (R. D. 1, Box 54, Granville Summit, PA 16924), commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit

in McNett Township, **Lycoming County** affecting 1 acre. Receiving stream—none. Application received: October 3, 2000. Application returned: June 26, 2001.

**FEDERAL WATER POLLUTION CONTROL ACT,
SECTION 401**

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA 33 U.S.C.A. §§ 1311—1313, 1316 and 1317 as well as relevant State requirements. Initial requests for 401 Water Quality 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 Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment 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 before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before 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 (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E15-670. PA DOT, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1925, East Whiteland Township, **Chester County**, ACOE Philadelphia District.

To install and maintain a 43-foot long extension to existing 54-foot long reinforced concrete box culvert consisting of a 16-foot span across cedar hollow run (EV) impacting 0.04 acre of wetlands (PSS). This work is work is associated with the construction of a turning lane access from Route 29 to the proposed Atwater commercial office complex (Mining Permit No. 8175SM3A1C2). The

site is located approximately 1,000 feet south of the intersection of New Morehall Road (S. R. 0029) and Yellow Springs Road (Malvern, PA-NJ USGS Quadrangle N: 13.0 inches; W: 5.0 inches).

E46-890. To extend and maintain an existing 50 linear-foot long concrete arch culvert, consisting of a 16-foot span and an 8.25-foot rise, situated in and along the Little Neshaminy Creek (WWF-MF). This work is associated with the widening of Horsham Road (S. R. 463), which will extend the culvert 10 feet on the downstream side, 20 feet on the upstream side and maintain the same hydraulic opening. This site is located approximately 800 feet northwest of the intersection of Horsham and Stump Road (Ambler, PA Quadrangle N: 20.25 inches, W: 14.25 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E13-128. PPL Utilities, Genn 4, 2 North Ninth Street, Allentown, PA 18101, in Franklin and Mahoning Townships, **Carbon County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain two electric/fiber optic line aerial crossings of the Lehigh River (TSF) and Lehigh Canal (CWF) within the same 100-foot wide easement. (Lehigh, PA, Quadrangle N: 17.3 inches; W: 11.5 inches).

E52-174. Lackawaxen Township Board of Supervisors, P. O. Box 205, Lackawaxen, PA 18435, in Lackawaxen Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain twin 5.9-foot by 3.7-foot CMP arch culverts in West Falls Creek (HQ-CWF). The project is located along T-439, approximately 300 feet north of the intersection of T-439 and S. R. 0590. (Rowland, PA, Quadrangle N: 22.4 inches; W: 9.6 inches).

E40-573. Beech Mountain Lakes Association, 1 Burke Drive, Drums, PA 18222, in Butler Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To maintain the existing floating docks and boat slips in Beech Mountain Lake, for the purpose of providing a mooring area for the residents of Beech Mountain Lakes. The structure extends a maximum distance of approximately 52 feet lakeward from the shoreline and extends along a length of approximately 210 feet of the shoreline. The project is located near the clubhouse of the Beech Mountain Lakes residential development approximately 2.0 miles southeast of the intersection of S. R. 0309 and S. R. 0080. (Freeland, PA, Quadrangle N: 9.0 inches; W: 6.3 inches).

E40-572. Robert E. and Frances C. Dorian, 32 Barclay Drive, Turnersville, NJ 08012-1546, in Foster Township, **Luzerne County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.02 acre of wetlands for the purpose of constructing a single family residence and driveway. The project is located on Lot 112 along Lakeside Drive in the Ag-Mar Estates Subdivision, approximately 1.0 mile southwest of the intersection of S. R. 0940 and S. R. 0080. (White Haven, PA, Quadrangle N: 7.9 inches; W: 5.8 inches).

E48-306. Northampton County, 669 Washington Street, Easton, PA 18042, in Forks and Palmer Townships, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a pre-stressed concrete beam bridge having a single span of 70 feet and an underclearance of approximately 10.1 feet across Bushkill Creek (HQ-CWF). The project is located along Township Road T499 (Newlins Mill Road), just north of S. R. 2019 (Bushkill Drive). (Easton, PA-NJ, Quadrangle N: 18.8 inches; W: 16.9 inches).

E54-287. Dr. Vincent G. Duchess, 78 Great Oaks Drive, Nesquehoning, PA 18240-2136, in Rush Township, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain an existing private, floating boat dock and associated concrete bulkhead in Lake Hauto having a surface area of approximately 1,185 S.F. and extending 36.5 feet from the shore. The project is located along the northern shore approximately 3 miles northeast of the intersection of S. R. 0309 and S. R. 0054. (Tamaqua, PA, Quadrangle N: 15 inches; W: 7.5 inches).

E48-307. Conectiv Mid-Merit, Inc., P. O. Box 6066, Newark, DE 19714-6066, in City of Bethlehem and Lower Saucon Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in a de minimis area of PEM/FO wetlands equal to 0.02 acre for the purpose of constructing an electrical substation for a combined cycle electric generating facility. The project also involves various utility line stream crossing of a tributary to East Branch Saucon Creek and Saucon Creek (CWF) and an intake and outfall structure in the Lehigh River (WWF). The project is located within the Bethlehem Commerce Center, on the south side of S. R. 2012 (Applebutter Road) with utility line work extending to the confluence of Saucon Creek and the Lehigh River. (Hellertown, PA, Quadrangle N: 21.7 inches; W: 8.0 inches).

E45-413. LTS Development, Inc., P. O. Box 160, Shawnee-on-Delaware, PA 18356, in Stroud Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a stormwater outfall structure along Wigwam Run (HQ-CWF) consisting of twin 36-inch diameter H.D.P.E. plastic pipe. The project is associated with the proposed Arbor Woods residential subdivision and is located just downstream Wigwam Lake Dam, approximately 0.8 mile north of the intersection of S. R. 0611 and Township Road T-469. (Mount Pocono, PA, Quadrangle N: 0.75 inch; W: 1.00 inches).

E54-288. Stanley L. Staller and Cynthia S. Keeley, 44 Cedar Street, Cressona, PA 17929-1414, in Cressona Borough, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain a pedestrian bridge having a single span of 8 feet and underclearance of approximately 5 feet across Panther Creek (CWF). The project is located southwest of the intersection of S. R. 0901 and S. R. 0183. (Pottsville, PA, Quadrangle N: 1.6 inches; W: 9.6 inches).

E45-414. Carol Wagner, P. O. Box 172, Skytop, PA 18357, in Barrett Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing bridge superstructure and modify and maintain the existing bridge by constructing a new deck consisting of wooden planks attached to three 18-inch steel I-beams across Leavitt Branch (HQ-CWF). This private bridge has a single span of approximately 25 feet and an underclearance of 7.3 feet and is located

approximately 0.7 mile upstream of the confluence with Brodhead Creek. (Buckhill Falls, PA, Quadrangle N: 13.5 inches; W: 1.0 inch).

E52-173. Peter and Nancy Pinchot, 123 Moon Valley Road, Milford, PA 18337, in Milford Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To modify and maintain an existing single-family residence in the floodway of Vandermark Creek (HQ-CWF), with work consisting of constructing a 210-square-foot building addition. The existing house has a footprint of approximately 1,400 square feet. The project is located approximately 0.25 mile upstream of the Milford Borough/Milford Township boundary. (Milford, PA-NJ, Quadrangle N: 14.9 inches; W: 6.6 inches).

E39-401. Liberty Property Trust, 1510 Valley Center Parkway, Suite 240, Bethlehem, PA 18102, in Upper Saucon Township, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in 0.14 acre of wetlands within the Saucon Creek Watershed (CWF) for the purpose of developing Lot 12 of the Stabler Executive Center Development. (Allentown East, PA, Quadrangle N: 9.6 inches; W: 6.6 inches).

E64-219. Persephone, Inc., R. R. 3, Box 1238, Honesdale, PA 18341, in Dyberry Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain a 0.7-acre irrigation pond associated with a nonjurisdictional dam and excavated reservoir in and along a tributary to the Lackawaxen River (HQ-CWF, MF). The project is located along the east side of T-546 approximately 0.4 mile north of the intersection of T-546 and S. R. 4005. (Aldenville, PA Quadrangle N: 4.2 inches; W: 9.2 inches).

E64-220. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Lake Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a roadcrossing of Ariel Creek (HQ-CWF), consisting of a 14.0-foot x 4.0-foot concrete box culvert with its invert depressed 1.0 foot below streambed elevation. The project includes riprap bank stabilization along approximately 100 feet of the left channel bank to protect the roadway embankment at a location approximately 250 feet upstream of the culvert. The project will impact a de minimis area of wetlands equal to 0.01 acre. The project is located along S. R. 3040, between Wildwood Lake and Roamingwood Lake. (Lakeville, PA Quadrangle N: 12.2 inches; W: 13.4 inches).

E35-341. Corning, Inc.—Benton Park, Franklin Valley Road, Fleetville, PA 18420-0228, in Benton Township, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain a concrete arch bridge having a span of 20 feet and a rise of 5 feet across a tributary to South Branch Tunkhannock Creek (CWF) and to place fill in 0.14 PEM wetlands within the South Branch Tunkhannock Creek Watershed for the purpose of constructing parking facilities associated with the Corning-Benton Park Expansion Project. (Dalton, PA Quadrangle N: 15.4 inches; W: 4.5 inches).

E48-308. T & S Development Corporation, 623 Selvaggio Drive, Suite 200, Nazareth, PA 18064, in

Nazareth Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 25-foot x 3-foot reinforced concrete box culvert in a tributary to Monocacy Creek (HQ-CWF). The project is associated with the proposed Newburg Estates Residential Subdivision and is located on the north side of S. R. 3020 (Newburg Road), approximately 0.4 mile north west of its intersection with S. R. 0191 (Nazareth, PA, Quadrangle N: 15.0 inches; W: 12.7 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E21-325. Jonathan Stough, Mechanicsburg Borough, 2 W. Strawberry Alley, Mechanicsburg, PA 17055 in Mechanicsburg Borough, **Cumberland County**, ACOE Baltimore District.

To (1) remove an existing 8-foot wide by 4-foot high concrete box culvert and to construct at 10-foot wide by 6-foot high concrete box culvert in Trindle Spring Run (CWF) on Mulberry Drive (T-586) and (2) remove an existing box culvert and to construct and maintain a concrete box culvert having a clear span of 16-feet and a rise of 3.3-feet in Trindle Run (CWF) on Church Road (T-592) for the purpose of widening the roadways located on the western corporate boundaries of the Mechanicsburg Borough (Mechanicsburg, PA Quadrangle N: 16.35 inches; W: 4.0 inches and N: 15.15 inches; W: 4.0 inches).

E21-326. Richard Darr, Letort Regional Authority, 415 Franklin Street, Carlisle, PA 17013 and Fred Bohls, Cumberland Valley Chapter of Trout Unlimited, 3519 Ada Drive, Mechanicsburg, PA 17050 in Carlisle Borough, South Middleton Township, North Middleton Township and Middlesex Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 1,400 foot long stone stream bank retaining wall and 12 stone stream flow deflectors as the initial phases of a watershed wide stream restoration project in and along the Letort Spring Run (CWF, HQ-CWF, EV) for the purpose of stabilizing stream banks, improving water quality, aquatic habitat and fisheries habitat for the recreational and educational values of the stream located in Carlisle Borough's Letort Park. The watershed projects will implement a natural stream channel design approach—construction activities will include stream flow deflectors, water jacks, mud sill cribbing, bank cover cribbing, channel blocks, half and whole log structures, midstream boulders, log frame channel block, stream bank retaining walls, log overhead bank cover, root wad bank cover, stone saw tooth deflector, access ramps, stream crossing, modified mud sill, soil/rock sills (Carlisle, PA Quadrangle N: 2.5 inches; W: 8.4 inches).

E21-327. John Bard, Shippensburg Township, P. O. Box 219, Shippensburg, PA 17257 in Shippensburg Township, **Cumberland County**, ACOE Baltimore District.

To relocate about 1,200 feet of stream channel of Burd Run (CWF) to mitigate excessive stream bank erosion by (1) constructing and maintaining about 1,500 feet of new channel with a 40-foot wide riparian buffer on both sides of the stream channel and to (2) construct a 1.0 foot high 87.0 foot long clay dike across an excavated drainage channel through a wetland area to provide water retention to the wetland area (3) impact about 0.28 acre of existing wetlands which will be replaced with an equal amount of new wetland all for the purpose of restoring Burd Run to its historic location on a 21-acres of Town-

ship property on the north west side of Britton Road, between Britton Road and The Penn Central Railroad Tracks (Shippensburg, PA Quadrangle N: 11.3 inches; W: 2.3 inches).

E36-716. Jenny Roy, Caernarvon Township, 2147 Main Street, Narvon, PA 17555

To remove the existing bridge and to construct and maintain a box culvert having a span of 19-feet by 6.5-foot underclearance at the channel of an unnamed tributary to Conestoga River (WFF) on Glick Road (T-924) located about 4,000 feet northeast of Wanger Church in Churchtown Village, (Morgantown, PA Quadrangle N: 3.7 inches; W: 10.8 inches) in Caernarvon Township, **Lancaster County**.

E50-204. Jay Dregg, Sun Pipe Line Company, 1824 Horsepike, Honeybrook, PA 19344 in Jackson Township, **Perry County**, ACOE Baltimore District.

To excavate about 100 feet of stream channel to depth of about 5.0 feet deep for the purpose of exposing an existing 8-inch diameter high pressure petroleum pipeline in Laurel Run (EV) to facilitate the inspection and repair of a section of the pipe located about 750 feet upstream of the confluence of Laurel Run and the South Branch of Laurel Run (Andersonburg, PA Quadrangle N: 2.3 inches; W: 16.30 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-374. James A. Kendter, Pennsylvania Department of Transportation, District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Streambed Paving SR 0187, 0080/0069, in Wilmot Township, **Bradford County**, ACOE Baltimore District (Jenningsville, PA Quadrangle N: 21.8 inches; W: 15.5 inches).

To construct and maintain streambed paving at the outlet to a bridge located on SR 0187 in Sugar Run Creek approximately 1 mile north of Hollenback. The project will not impact wetlands while impacting 15 feet of waterway. Sugar Run Creek is a cold water fisheries Class A wild trout stream.

E17-358. Clearfield County Commissioners, 230 East Market St., Clearfield, PA 16830. Bridge Replacement, in Curwensville Borough, **Clearfield County**, ACOE Baltimore District (Curwensville, PA Quadrangle N: 18.1 inches; W: 2.8 inches).

To 1) remove the existing bridge, 2) construct and maintain a two span prestressed concrete spread box beam bridge with normal clear spans of 31.00 meters (101.7 feet), 3.411-meter (11.19 feet) minimum underclearance and an 85° right ahead skew, 3) construct a temporary bridge with a waterway opening as large or larger than the permanent bridge, 4) construct cofferdams around the abutments and the pier, in or across the West Branch Susquehanna River. This project proposes to temporarily impact 50 meters (164 feet) and permanently impact 28 meters (1,102 feet) of the West Branch Susquehanna River that is classified as a Warm Water Fishery.

E53-358. Stephen Jervis, R. R. 3, Box 3480, Factoryville, PA 18419. Jervis Minor Road Crossing South Woods Branch, in Homer Township, **Potter County**, ACOE Baltimore River Basin District (Austin, PA Quadrangle N: 12.75 inches; W: 5.0 inches).

To construct, operate and maintain a minor road crossing on South Woods Branch-Sinnemahoning Creek (High

Quality-Cold Water Fishery) to provide access to a private, recreational dwelling. The minor road crossing shall be constructed with three corrugated metal culvert pipes. Each culvert pipe shall have a minimum diameter of 2-feet, length of 20-feet and depression into the streambed of 0.5-feet. The culvert pipe installation shall be completed in dry work conditions through the use of temporary dams and pumping or fluming stream flow around work areas. The project will not impact wetlands while impacting 40-feet of waterway.

E55-177. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit Application, in Adams Township, **Snyder County**, ACOE Susquehanna River Basin District (Beavertown, PA Quadrangle N: 9.9 inches; W: 10.5 inches).

To remove 20 linear feet of box culvert and construct and maintain 32 linear feet of 48-inch by 76-inch elliptical concrete pipe in an unnamed tributary to Walker Lake located along S. R. 4018, Segment 0010, Offset 1250. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E57-094. Carol St. Clair, Davidson Township Municipal Authority, R. R. 1, Box 7112, Sonestown, PA 17758. Sewerage Facilities, in Davidson Township, **Sullivan County**, ACOE Baltimore District (Sonestown, PA Quadrangle:

a) Outlet Creek 4-inch diameter sewer crossing N: 19.50 inches; W: 7.40 inches

b) Muncy Creek 4-inch diameter sewer crossing N: 19.40 inches; W: 7.35 inches

c) Muncy Creek 6-inch diameter outfall sewer N: 18.65 inches; W: 7.40 inches).

To construct and maintain approximately 3,000 feet of 3 to 4 inch diameter collection sewers and 900-feet of 6-inch diameter outfall and a sewage pumping facility in the floodplains of Muncy Creek and Outlet Creek. The project is located in miscellaneous areas of Sonestown in Davidson Township, Sullivan County. The project will not impact wetlands while impacting approximately 100 feet of waterway. Muncy Creek is a cold water fisheries stream. Outlet Creek is a high quality—cold water fisheries stream.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E56-307. Seven Springs Farm, Inc., 777 Waterwheel Drive, Champion, PA 15622. Jefferson Township, **Somerset County**, ACOE Pittsburgh District.

To construct and maintain a single 87-inch x 63-inch metal pipe arch culvert in an unnamed tributary to Jones Mill Run (EV) for the purpose of providing access to proposed dwellings associated with the Pheasant Run Subdivision. The applicant also proposes the installation and maintenance of two 8-inch PVC sewer lines and an 8-inch PVC waterline across an unnamed tributary to Jones Mill Run. The project is located on Grouse Point Drive in the Pheasant Run Subdivision (Somerset, PA Quadrangle N: 6.35 inches; W: 3.89 inches).

E63-509. Charleston Holdings, L.L.C., 700 South Lakeside Drive, Canonsburg, PA 15317. North Franklin Township, **Washington County**, ACOE Pittsburgh District.

To place and maintain fill in two closed Pennsylvania American Water Company manmade reservoirs, (reservoir #1 [WWF] and #2 [HQ]) located within the right bank side of the flood plain of Chartiers Creek (WWF). The reservoirs will be filled in order to develop the United Washington Associates (UWA) Business Park. The business park will be located along the west side of Franklin Farm Road approximately 2,500 feet from its intersection with SR 0040 (Washington West, PA Quadrangle N: 5.8 inches; W: 3.2 inches).

E63-510. H. Jay and Amy Bioni, 10 Antil Street, McDonald, PA 15057. Cecil and Chartiers Townships, **Washington County**, ACOE Pittsburgh District.

To construct and maintain a 16' span by 6'-7.5" underclearance corrugated structural steel plate half pipe across Brush Run (WWF) for the purpose of providing access to a proposed residential home. The culvert will be located on the south side of State Route 980, approximately 700 feet south of its intersection with Chartiers Run Road (formerly Venice Road) (Canonsburg, PA Quadrangle N: 5.9 inches; W: 11.7 inches).

E65-783. Pennsylvania Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. Donegal and Mount Pleasant Townships, Donegal Borough, **Westmoreland County**, ACOE Pittsburgh District.

To conduct the following activities as part of Turnpike Mainline Reconstruction Project from Milepost 85 to Milepost 94:

1. Structure B-327A: to extend and maintain an existing bridge across Jacobs Creek (CWF) by 1.86 meters downstream. The bridge is located at Milepost 87.25 (Mammoth, PA Quadrangle N: 3.5 inches; W: 6.55 inches) in Mt. Pleasant Township, Westmoreland County.

2. Structure B-219A: to construct and maintain a 9.7-meter x 5.3-meter corrugated metal arch culvert having a length of 44.91 meters in Jacobs Creek (CWF) at Milepost 87.66 (Mammoth, PA Quadrangle N: 2.9 inches; W: 5.6 inches) in Mt. Pleasant Township, Westmoreland County.

3. Structure B-220: to construct and maintain a 9.8-meter x 3.9-meter corrugated metal arch culvert having a length of 44.93 meters in Jacobs Creek at Milepost 88.27 (Mammoth, PA Quadrangle N: 1.65 inches; W: 4.8 inches) in Mt. Pleasant Township, Westmoreland County.

4. Structure S-228A at Milepost 93.27: to extend and maintain the existing 49.26 meter long, 3.05-meter x 1.98-meter reinforced concrete arch culvert by 12.2 meters downstream in an unnamed tributary to Indian Creek (CWF) at Milepost 93.64 (Seven Springs, PA Quadrangle N: 21.5 inches; W: 12.0 inches) in Donegal Township, Westmoreland County.

5. Structure S-228A at Milepost 93.64: to extend and maintain the existing 58.76-meter long, 4.27-meter x 2.29-meter reinforced concrete arch culvert by 13.03 meters downstream in an unnamed tributary to Indian Creek (CWF) at Milepost 93.64 (Seven Springs, PA Quadrangle N: 21.8 inches; W: 11.1 inches) in Donegal Township, Westmoreland County.

6. To extend and maintain an existing 91-meter long, 66-inch corrugated metal pipe culvert by 36 meters upstream in Fourmile Run (TSF) at Milepost 91.25 (Seven Springs, PA Quadrangle N: 19.5 inches; W: 16.9 inches) in Donegal Township, Westmoreland County. This culvert extension qualifies for authorization under the Department's waiver 105.12(a)(2).

7. To remove the existing structure and to construct and maintain a 975 mm x 1535 mm corrugated metal

pipe arch culvert in Fourmile Run (TSF) located on Snyder Road (T-333) (Seven Springs, PA Quadrangle N: 19.8 inches; W: 16.9 inches) in Donegal Township, Westmoreland County.

8. To permanently place and maintain fill in a 0.383 acre of wetlands (0.366 acre PEM, 0.017 acre PSS). To compensate for wetland impacts, the applicant will make a monetary contribution to the Pennsylvania Wetland Replacement Project.

9. To relocate and maintain 130 meters of an unnamed tributary to Fourmile Run (TSF) between stations 146+730 and 146+850 and 115 meters of an unnamed tributary to Fourmile Run (TSF) between stations 146+850 and 146+950 in Donegal Township, Westmoreland County.

E65-784. Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. Hempfield Township, **Westmoreland County**, ACOE Pittsburgh District.

To construct and maintain a bridge having a clear span of 9.14 m and an underclearance of 1.77 m across an unnamed tributary to Sewickley Creek (WWF) located on S. R. 3075, Section A10. Also, to place and maintain fill in 0.065 acre of palustrine emergent and scrub/shrub wetland for the purpose of improving highway safety. To compensate for the loss of wetland, the applicant will make a monetary contribution to the Pennsylvania Wetland Replacement Project. The project includes removal of an abandoned concrete weir located upstream of the structure. The project is located at a point approximately 4,000 feet north of I-70 (Smithton, PA Quadrangle N: 18.5 inches; W: 2.6 inches)

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-339. Minnock Land Development Company, 7207 Old McKnight Road, Pittsburgh, PA 15237. Lot 51-St. Leonards Woods Phase II, in Cranberry, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 13 inches; W: 11 inches).

To fill a total of 0.025 acre of wetland in the center of a 0.5 acre residential lot on Lot 51 in St. Leonard's Woods Phase II, a development consisting of 51 residential lots, for the construction of a single family home and the installation of sanitary sewer line utilities and a storm sewer located approximately 0.38 mile north of Hendersonville.

E20-502. Cambridge Township, 22530 Electric Drive, Cambridge Springs, PA 16403. Jericho Road Across Conneauttee Creek, in Cambridge and Venango Townships, **Crawford County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 16.6 inches; W: 11.1 inches).

To construct and maintain a steel truss bridge having a span of 88 feet and an underclearance of 10 feet across Conneauttee Creek on T-305 Jericho Road approximately 1,000 feet west of T-303 Mt. Pleasant Road north of Drakes Mills.

E25-634. Millcreek Township, 3608 West 26th Street, Erie, PA 16506-2037. Channel cleaning and scour protection of unnamed tributary to Mill Creek, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Erie South, PA Quadrangle N: 15.3 inches; W: 10.0 inches).

To dredge approximately 250 feet of an unnamed tributary to Mill Creek (WWF-MF) located south of the intersection of West 52nd Street and Edgevale Drive.

ACTIONS

FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval. The actions are listed in two categories. Section I lists all municipal and industrial permits and Section II lists oil and gas related permits.

Persons aggrieved by this action may appeal, under Section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 of 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.

I. Municipal and Industrial Permit Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

NPDES Permit No. PA0034487. Industrial Waste, **Meenan Oil Company**, 113 Main Street, Tullytown, PA 19007.

This proposed facility is located in Tullytown Borough, **Bucks County**.

Description of Proposed Action/Activity: Renewal of a NPDES permit to discharge to the Delaware River and an unnamed tributary to the Delaware River-2E Watershed.

NPDES Permit No. PA0036978 Amendment No. 2. Sewage, **Telford Borough Authority**, P. O. Box 209, Telford, PA 18969-0209.

This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: To discharge into Indian Creek-3E Watershed.

NPDES Permit No. PA0058271. Sewage, **Hilltown Township Water and Sewer Authority**, P. O. Box 143, Hilltown, PA 18927.

This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Proposed Action/Activity: To discharge into an unnamed tributary to Mill Creek-3E Watershed.

WQM Permit No. 1501401, Sewage, **Penn Township**, 260 Lewis Road, West Grove, PA 19390-0039.

This proposed facility is located in Penn Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the expansion of the existing wastewater treatment facility.

WQM Permit No. 1501409, Sewage, **Oxford Area Sewer Authority**, P. O. Box 380, Oxford, PA 19363.

This proposed facility is located in East Nottingham Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the construction and operation of a pump station to serve Twin Ponds Subdivision.

WQM Permit No. 1501411, Sewage, **Pennsylvania American Water Company**, 114 East Lincoln Highway, P. O. Box 791, Coatesville, PA 19320.

This proposed facility is located in West Sadsbury Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the construction and operation of a pump station to serve the proposed West Sadsbury Commons commercial development.

WQM Permit No. 2398405 Amendment No. 1, Sewage, **Brandywine Operating Partnership**, 16 Campus Boulevard, Suite 150, Newtown Square, PA 19073.

This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Approval to modify the existing sewage treatment plant to serve the Newtown Square Corporate Center.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 5400407, Sewerage, **Orwigsburg Borough Municipal Authority**, 209 North Warren Street, Orwigsburg, PA 17961-1829.

This proposed facility is located in North Manheim Township, **Schuylkill County**.

Description of Proposed Action/Activity: increasing the capacity and upgrading the treatment equipment at the existing wastewater treatment plant.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES Permit No. PA0082945, Sewage, **Hamilton Township**, Glabview Acres, 272 Mummert's Church Road, Abbottstown, PA 17301.

This proposed facility is located in Hamilton Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to Conewago Creek in Watershed 7-F.

NPDES Permit No. PA0080555, Sewage, **Conewago Industrial Park Water & Sewer Company**, P. O. Box 332, Lemoyne, PA 17043-0332.

This proposed facility is located in West Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Conewago Creek in Watershed 7-G.

NPDES Permit No. PA0022535, Sewage, **Millersburg Area Authority**, Millersburg STP, 101 West Street, Millersburg, PA 17061.

This proposed facility is located in Upper Paxton Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River in Watershed 6-C (Mahantango-Wiconisco Creeks).

NPDES Permit No. PA0011169 Amendment No. 1, Industrial Waste, **Brush Wellman, Inc.**, Shoemakersville Road, Shoemakersville, PA 19555.

This proposed facility is located in Perry Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of the Schuylkill River.

WQM Permit No. PA00088673, Sewage, **Marklesburg Authority**, P. O. Box 24, James Creek, PA 16657-0024.

This proposed facility is located in Marklesburg Borough, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT James Creek in Watershed 11-D.

WQM Permit No. 6701405, Sewerage, **Mr. and Mrs. Kenneth P. Runkle**, 3041 East Prospect Road, York, PA 17402-9506.

This proposed facility is located in Chanceford Township, **York County**.

Description of Proposed Action/Activity: The construction/operation of sewage treatment facilities to serve their single family residence in Watershed 7-I.

WQM Permit No. 2896404 Amendment 00-1, Sewerage, **Borough of Chambersburg**, 100 South Second Street, Chambersburg, PA 17201.

This proposed facility is located in Chambersburg Borough, **Franklin County**.

Description of Proposed Action/Activity: Authorization for modification to the construction/operation of Sewage Treatment Facilities.

WQM Permit No. 2201403, Sewerage, **West Hanover Township Water & Sewer Authority**, 7901 Jonestown Road, Harrisburg, PA 17112.

This proposed facility is located in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization for the construction /operation of Pump Stations.

WQM Permit No. 6701404, Sewerage, **York Township**, 25 Oak Street, York, PA 17402-4972.

This proposed facility is located in York Township, **York County**.

Description of Proposed Action/Activity: Authorization for the construction /operation of Sewers and Appurtenances.

WQM Permit No. 3601404, Sewerage, **Frey Dairy Farms, Inc.**, 2646 River Road, Conestoga, PA 17516.

This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization for the construction /operation of Sewage Treatment Facilities.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PAS236103. Industrial. **Cerdec Corporation Drakenfeld Colors**, P. O. Box 519, Washington, PA 15301 is authorized to discharge from a facility located at Cerdec Drakenfeld Colors Facility, Canton Township, **Washington County** to receiving waters named Chartiers Creek.

NPDES Permit No. PA0043524. Sewage. **Michael's Development Company, Inc.** (Simpson Manor), 800 Hunter's Ridge, Brownsville, PA 15417 is authorized to discharge from a facility located at Hunter's Ridge Sewage Treatment Plant, Redstone Township, **Fayette County** to receiving waters named unnamed tributary to Dunlap Creek.

Permit No. 0279202-A3. Industrial Waste. **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225-1496. Construction of chemical manufacturing located in Neville Township, **Allegheny County** to serve Neville Island Plant—Industrial Wastewater Treatment Facility.

Permit No. 6398201-A1. Industrial Waste, **Green Valley Packing, Inc.**, P. O. Box 202, Claysville, PA 15323. Construction of Industrial Waste—Meat Processing Facility located in Buffalo Township, **Washington County** to serve Green Valley Packing, Inc.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0221244. Industrial Waste, **Salem Tube, Inc.**, 951 Fourth Street, Greenville, PA 16125.

This proposed facility is located in Pymatuning Township, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Big Run.

NPDES Permit No. PA0005053. Industrial Waste, **Reliant Energy, Mid-Atlantic Power Holdings, LLC**, Warren Generating Station, 2325 Pennsylvania Avenue West Extension, Warren, PA 16365.

This proposed facility is located in Conewango Township, **Warren County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Allegheny River.

NPDES Permit No. PA0210196 Amendment No. 2. Industrial Waste, **Seneca Landfill, Inc.**, P. O. Box 1080, Mars, PA 16046.

This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Connoquenessing Creek.

NPDES Permit No. PA0103713. Industrial Waste, **Scrubgrass Generating Company L.P.**, R. R. #1, Box 238, Kennerdell, PA 16374.

This proposed facility is located in Scrubgrass Township, **Venango County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Allegheny River, an unnamed tributary to the Allegheny River and Falling Spring Run.

NPDES Permit No. PA0100056. Sewage, **Rose Point Park Campground**, R. D. 4, Box 410, New Castle, PA 16101.

This proposed facility is located in Slippery Rock Township, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Slippery Rock Creek.

NPDES Permit No. PA0222071. Sewage, **Bruce W. and Cynthia A. Baker SFTF**, 141 Shingle Hollow Road, Harmony, PA 16037.

This proposed facility is located in Perry Township, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Camp Run.

NPDES Permit No. PA0031305. Sewage, **The Summit School, Incorporated**, P. O. Box 13, 839 Herman Road, Herman, PA 16039.

This proposed facility is located in Summit Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Bonnie Brook.

NPDES Permit No. PA0103047. Sewage, **Laughlin Builders**, P. O. Box 8935, Erie, PA 16505.

This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Elk Creek.

NPDES Permit No. PA0103594. Sewage, **Windsor Mobile Home Park**, 2951 Route 6N East, Lot #1, Edinboro, PA 16412.

This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Little Conneauttee Creek.

NPDES Permit No. PA0209996. Sewage, **Camp Allegheny**, The Salvation Army, Western PA Divisional Headquarters, 424 Third Avenue, Pittsburgh, PA 15219.

This proposed facility is located in Wayne Township, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Slippery Rock Creek.

NPDES Permit No. PA0100706. Sewage, **Valley View Village Mobile Home Park**, Box 1792A, Russell, PA 16345.

This proposed facility is located in Pittsfield Township, **Warren County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Gar Run.

NPDES Permit No. PA0026387 Amendment No. 1. Sewage, **Municipal Authority of the City of St. Marys**, P. O. Box 1994, 808 South Michael Road, St. Marys, PA 15857.

This proposed facility is located in City of St. Marys, **Elk County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Elk Creek.

WQM Permit No. 1001201, Industrial Waste, **Borough of Zelenople**, 111 West New Castle Street, Zelenople, PA 16063.

This proposed facility is located in Borough of Zelenople, **Butler County**.

Description of Proposed Action/Activity: This project is for the installation of a temporary reverse osmosis treatment system.

WQM Permit No. 2501407, Sewerage, **George Wisniewski**, 202 West 25th Street, Erie, PA 16509.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a Single Residence.

WQM Permit No. 4301412, Sewerage, **Charles Jr. and Paula Ference**, 46 Reno Road, Hermitage, PA 16148.

This proposed facility is located in Jefferson Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a Single Residence.

NPDES STORMWATER INDIVIDUAL PERMITS (PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10 D110	Trueblood Construction Company 904 Sumneytown Pike Springhouse, PA 19477	Bucks	Buckingham Township	Paunacussing Creek (HQ, CWF)
PAS10 J051	Sunoco, Inc. P. O. Box 426 Delaware Avenue and Green Street Marcus Hook, PA 19061-0426	Delaware	Marcus Hool Borough	DELCORA—municipal storm sewer

APPROVALS TO USE 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 Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
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 (CSO)
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-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
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 & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Upper Dublin Township Montgomery County	PAR 10 T742	John G. Eichenlaub, Inc. 1101 Hagues Mill Road Ambler, PA 19002	Rapp Run (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Hanover Township Montgomery County	PAR 10 T707	Stauffer Glive & Safety P. O. Box 45 361 East Sixth Street Red Hill, PA 18076	Macoby Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Carbon County Lansford & Summit Hill Boroughs	PAR101326	DEP, BAMR 2 Public Square 5th Floor Wilkes-Barre, PA 18711	Panther Creek CWF	Carbon County Conservation District (610) 377-4894
Northampton County Moore Township	PA10U155	Jeffrey Persing 3113 E. Walker Rd. Bath, PA 18014	Hokendaqua Creek CWF	Northampton County Conservation District (610) 746-1971
Northampton County Lehigh Township	PAR10U160	Bill & Debra Jones 4186 Cashew Dr. Walnutport, PA 18088	Bertsch Creek CWF	Northampton County Conservation District (610) 746-1971
Schuylkill County Wayne Township	PAR105821	Lefty's Lockers Gary & Carolyn Krammes 1555 Sweet Arrow Lake Rd. Pottsville, PA 17901	Tributary to Lower Little Swatara Creek CWF	Schuylkill County Conservation District (570) 622-3742
Upper Leacock Township Lancaster County	PAR100495	Super Dog Pet Food Co. 43 Graybill Rd. Leola, PA 17540	UNT Mill Creek (WWF)	Lancaster County Conservation District 1383 Arcadia Rd. Rm. 6 Lancaster, PA 17601
Clay Township Lancaster County	PAR100496	Mark L. Musser 1800 West Main St. Ephrata, PA 17522	UNT Middle Creek (TSF)	Lancaster County Conservation District 1383 Arcadia Rd. Rm. 6 Lancaster, PA 17601
Lancaster Township Lancaster County	PAR100498	Suburban Lancaster Sewer Auth. P. O. Box 458 Lancaster, PA 17608	Conestoga River (WWF)	Lancaster County Conservation District 1383 Arcadia Rd. Rm. 6 Lancaster, PA 17601
Denver Borough Lancaster County	PAR100500	Cocalico School District S. Fourth St. Denver, PA 17517	UNT Cocalico Creek (WWF)	Lancaster County Conservation District 1383 Arcadia Rd. Rm. 6 Lancaster, PA 17601

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Ephrata Township Lancaster County	PAR100501	Gary L. Weaver 824 E. Main St. Ephrata, PA 17522	UNT Conestoga River (WWF)	Lancaster County Conservation District 1383 Arcadia Rd. Rm. 6 Lancaster, PA 17601
Penn Township York County	PAR10Y498	Warehime Enterprises, Inc. 251 Frederick Street Hanover, PA 17331	Oil Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Spring Garden Township York County	PAR10Y535	Kinsley Equities II, LP 2700 Water Street P. O. Box 2886 York, PA 17405	Codorus Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Dover Township York County	PAR10Y507	Ignazio Argento 890 Windsor Road York, PA 17402	UNT to Conewago Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAR10Y429	Timothy F. Pasch 2645 Carnegie Road York, PA 17402	UNT to Kreutz Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Springfield Township York County	PAR10Y521	Jennifer McDonald 13612 Jarrettsville Pike Phoenix, MD	East Branch of Codorus Creek (CWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Shrewsbury Township York County	PAR10Y493-1	Antique Markets LP 248 South Main Street Shrewsbury, PA 17361	South Branch of Codorus Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Shrewsbury Township York County	PAR10Y532	R.H.I., Inc. 208 N. Constitution Avenue New Freedom, PA 17349	Deer Creek (CWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAR10Y522	York County Board of Commissioners 1 West Marketway 4th Floor York, PA 17401	Kreutz Creek (WWF)	York County Conser- vation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Straban Township Adams County	PAR100124	Gettysburg Baptist Church 60 N. Fifth Street Gettysburg, PA 17325	Rock Creek (WWF)	Adams County Con- servation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636

NOTICES

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Union Township Adams County	PAR100130	Laverne Leese BJML Enterprises	Piney Creek (WWF)	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Columbia County Locust Township	PAR102147	Municipal Auth. of Locust Township C/O Larson Design Group P. O. Box 487 Williamsport, PA 17701	UNT Roaring Creek/ Susquehanna River Basin CWF	Columbia County Conservation District 702 Sawmill Rd., Suite 105 Bloomsburg, PA 17815 (570) 784-1310

Southwest Region: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Allegheny County Ross Township	PAR10A488	The Home Depot USA, Inc. 3096 Hamilton Blvd. South Plainfield, NJ 07080	Girty's Run/WWF	Allegheny County Conservation District (412) 241-7645
Beaver County Center Township	PAR100284	P & D Land Development 121 Radcliffe Drive Aliquippa, PA 15001	UNT Logtown Run/ WWF	Beaver County Conservation District (724) 774-7090
Washington County South Franklin Township	PAR10W169-1	Washington County Airport 205A Airport Road Washington, PA 15301	Chartiers Creek/ WWF	Washington County Conservation District (724) 228-6774
Westmoreland County Washington Township	PAR10X259	Leeds Business Accessories 1380 Old Freeport Road Pittsburgh, PA 15238	UNT Pucketa Creek/ TSF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAR10X260	Yorkshire Enterprises 53 Bel Aire Drive Delmont, PA 15626	Sewickley Creek/ WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAR10X262	Barney Kistler 2 Eleventh Street Penn, PA 15675	Marguerite Reservoir/WWF	Westmoreland County Conservation District (724) 837-5271

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Midland Township Beaver County	PAR206133	WHEMCO (West Homestead Engineering and Machine Co.) 12th Street Midland, PA 15059	Ohio River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Beaver Falls Beaver County	PAR216152	Vesuvius McDanel Company 510 Ninth Avenue Beaver Falls, PA 15010-4700	Walnut Bottom Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Moon Township Allegheny County	PAR606112	H. Snyder Steel Corp. P. O. Box 111 Coraopolis, PA 15108	Montour Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
<i>General Permit Type—PAG-4</i>				
Hempfield Township Mercer County	PAG048741	Gary K. SeGall 470 Methodist Road Greenville, PA 16125	Mathay Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greene Township Erie County	PAG048746	George Wisniewski 2020 West 25th Street Erie, PA 16509	Tributary to Fourmile Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Jefferson Township Mercer County	PAG048740	Charles Jr. and Paula FERENCE 46 Reno Road Hermitage, PA 16148	Magargee Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-5</i>				
Luzerne County Kingston Borough	PAG052210	Petroleum Service Co. 454 S. Main St. Wilkes-Barre, PA 18702	Susquehanna River	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711
Dauphin County Halifax Township	PAG053553	Exxon Mobile Refining & Supply Company 1900 East Linden Avenue P. O. Box 728 Linden, NJ 07036	Susquehanna River/ WWF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
West Mifflin Borough Allegheny County	PAG056165	Sunoco Inc. 5733 Butler Street Pittsburgh, PA 15201-2115	UNT to Streets Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
<i>General Permit Type—PAG-9 (SSN)</i>				
Rapho Township Lancaster County	PAG083533	Ridgewood Manor Mobile Home Park, Inc. 223 N Strickler Road Manheim, PA 17545	Ridgewood Manor MHP, Inc. Farm Rapho Township Lancaster County	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

SAFE DRINKING WATER

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

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

Permit No. 1501502, Public Water Supply.

Applicant **Philadelphia Suburban Water Company**
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

Township East Bradford

County **Chester**

Type of Facility Public Water Supply System

Consulting Engineer CET Engineering Services
1240 N. Mountain Road
Harrisburg, PA 17112

Permit to Construct Issued June 19, 2001

Permit No. 4601507, Public Water Supply.

Applicant **JRP Development, LTD**
210 Bassett Court
Limerick, PA 19468

Township Upper Frederick

County **Montgomery**

Type of Facility Public Water Supply System

Consulting Engineer ARRO Consulting, Inc.
649 N. Lewis Road
Suite 100
Limerick, PA 19468

Permit to Construct Issued June 28, 2001

Operations Permit issued to: **Castle Transport and Service Company, Inc.**, Avondale Borough, **Chester County** on June 20, 2001.

Permit No. 1156477, Minor Amendment. Public Water Supply.

Applicant **Springton Water Company**

Township West Goshen

County **Chester**

Type of Facility Vended Machine

Permit to Construct Issued June 19, 2001

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit No. 5400504, Public Water Supply.

Applicant **Jackson Perry**
1703 Panther Valley Road
Pine Grove, PA 17963

Borough or Township Wayne Township

County **Schuylkill County**

Type of Facility Public Water Supply

Consulting Engineer Edward E. Davis, P.E.
WJP Engineers
1406 Laurel Boulevard
Pottsville, PA 17901

Permit to Construct Issued June 27, 2001

Permit No. 5401503, Public Water Supply.

Applicant **Pennsylvania American Water Company**
800 West Hershey Park Drive
Hershey, PA 17033

Borough or Township West Mahanoy Township

County **Schuylkill County**

Type of Facility Public Water Supply

Consulting Engineer Peter Lusardi, P.E.
CET Engineering Services
1240 North Mountain Road
Harrisburg, PA 17112

Permit to Construct Issued June 26, 2001

Operations Permit (Permit No. 2520033) issued to: **Hemlock Farms Community Association**, 1007 Hemlock Farms, Hawley, PA 18428, Blooming Grove Township, **Pike County** on June 26, 2001.

Operations Permit (Permit No. 2520035) issued to: **Pennsylvania American Water Co.**, 800 West Hersheypark Drive, Hershey, PA 17033, Delaware Township, **Pike County** on June 20, 2001.

Permit No. 7226136, Public Water Supply.

Applicant **Sweet Arrow Springs, LLC**

Municipality City of Harrisburg

County **Dauphin**

Type of Facility Operation of a 5-gallon water bottling line relocated from Harrisburg Dairies. Sources of supply will be the Sweet Arrow Spring, Temple Spring and Egg Harbor Spring.

Consulting Engineer Steve Fulton, P.E.
Alliance Environmental Services, Inc.
117 S. West End Ave.
Lancaster, PA 17603

Permit to Operate Issued: June 26, 2001

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. Minor Amendment. Public Water Supply.

Applicant **Huston Township Water Authority**
P. O. Box 166
Penfield, PA 15849

Township Huston Township

County **Clearfield**

Type of Facility Public Water Supply

Consulting Engineer Gibson-Thomas Engineering, Co. Inc.
P. O. Box 853
Latrobe, PA 15650

Permit to Construct Issued June 20, 2001

Permit No. Minor Amendment. Public Water Supply.

Applicant **Consumers Pennsylvania Water Company**
Roaring Creek Division
204 East Sunbury Street
Shamokin, PA 17872

City City of Shamokin
County **Northumberland**
Type of Facility Public Water Supply
Consulting Engineer CET Engineering Services
321 Washington Street
Huntington, PA 16652

Permit to Construct June 20, 2001
Issued

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 2600502, Public Water Supply.

Applicant **NWL Company**
Nemacolin Woodlands Resort

Township Wharton Township
County **Fayette**
Type of Facility Well
Consulting Engineer Todd Radolec, McMillen Engineering

Permit to Construct June 21, 2001
Issued

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit No. 1099504 issued to: **Municipal Sewer and Water Authority of Cranberry Township**, 2525 Rochester Road, Suite 700, Cranberry Township, PA 16066-6498, Cranberry Township, **Butler County** on June 13, 2001.

Operations Permit No. 2597506 issued to: **Waterford Borough Municipal Authority**, 224 East Third St., Waterford, PA 16441, Waterford Borough, **Erie County** on June 27, 2001.

Permit No. 2594501-MA6, Minor Amendment. Public Water Supply.

Applicant **Erie City Water Authority**
340 West Bayfront Authority
Erie, PA 16507-0729.

Borough or Township Summit Township
County **Erie**
Type of Facility Public Water Supply
Consulting Engineer Michael Sanford
Henry T. Welka and Associates
Erie, PA 16507.

Permit to Construct June 13, 2001
Issued

Permit No. 1010-T1-MA4, Minor Amendment. Public Water Supply.

Applicant **Erie City Water Authority**
340 West Bayfront Parkway
Erie, PA 16507-0729

Borough or Township City of Erie
County **Erie**

Type of Facility Public Water Supply
Consulting Engineer KLH Engineers, Inc., 5173
Campbells Run Road
Pittsburgh, PA 15205.

Permit to Construct June 13, 2001
Issued

SEWAGE FACILITIES ACT PLAN APPROVAL**Plan Approvals granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

Borough or Township	Borough or Township Address	County
Fawn Township	P. O. Box 229 New Park, PA 17352	York

Plan Description: The approved plan provides for the requirement for all proposed subdivisions utilizing on-lot sewage disposal systems to use denitrification units or to complete a preliminary hydrogeologic study. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Plan Location:

Borough or Township	Borough or Township Address	County
Valley Township	5 Indian Run Road Danville, PA 17821	Montour

Plan Description: The approved plan provides for construction of gravity sewers in the Cloverleaf Area which flow to a Pump Station followed by a forcemain to the existing Valley Township Municipal Authority system. Local funding with CDBG monies are proposed for this \$123,000 project. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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 where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in

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

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Fourway Properties—Breezewood Development—Area 1, Moon Township, Allegheny County. John P. Englert Kirkpatrick & Lockhart LLP, 535 Smithfield Street, Pittsburgh, PA 15222 (on behalf of Fourway Properties, L.P., 1198 Mulberry Street, Bridgewater, PA 15009) has submitted a Final Report concerning remediation of site soil contaminated with solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LTV Southside Sarah Street Properties, City of Pittsburgh, Allegheny County. Martin C. Knuth, Civil & Environmental Consultants Inc., 333 Baldwin Road, Pittsburgh, PA 15205 and a.m. Rodriguez Associates, 200 Railroad Avenue, Carnegie, PA 15016 (on behalf of URA of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219) has submitted a Final Report concerning remediation of site soil contaminated with heavy metals, solvents and BTEX. The report is intended to document remediation of the site to meet the Site Specific Standard

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) 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. 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 refuse 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 of 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 of Environmental Protection 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 received the following final reports:

Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Valley Housing Development Corporation (former Industrial Engraving—Knox Facility), Forks Township, Northampton County. William K. Ahlert, Manager, Mid-Atlantic Services, LMS Engineers LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 submitted a Remedial Investigation Report (on behalf of his client, Valley Housing Development Corporation, 635 Broad Street, Emmaus, PA 18049) concerning the characterization of site soils and groundwater found or suspected to have been contaminated with metals and solvents. The report was approved on June 11, 2001.

Lott Residence/Ace Robbins, Inc., Meshoppen Borough, Wyoming County. Thomas Jimmie, Jr., Vice-President, Datom Products, Inc., 452 East Drinker Street, Dunmore, PA 18512 and James Strickland, P.G., Geological and Environmental Associates, Inc., 430 W. Mountain Road, Plymouth, PA 18651 submitted a Final Report (on behalf of their client, Ace Robbins, Inc., P. O. Box 477, Trucksville, PA 18957) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with no. 2 fuel oil petroleum constituents. The final report demonstrated attainment of the Statewide health standard and was approved on June 14, 2001.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Jarrell & Rea Property, 2nd Ward, City of Pittsburgh, Allegheny County. David R. Perry, American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 (on behalf of Walnut Capital Partners, 5541 Walnut Street, Suite 200, Pittsburgh, PA 15232) has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with lead, BTEX and PHCs. This report is intended to document remediation of the site to meet the special industrial area requirements and was approved by the Department on May 22, 2001.

Fourway Properties—Breezewood Development Area 2, Moon Township, **Allegheny County**. John P. Englert, Kirkpatrick & Lockhart, LLP, 535 Smithfield Street, Pittsburgh, PA 15222 (on behalf of Fourway Properties, LP 1198 Mulberry Street, Bridgewater, PA 15009) has submitted a Final Report concerning the remediation of site soil contaminated with solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 25, 2001.

Colinet Residence, Lucerne Township, **Fayette County**. James P. Gallagher, Marshall Miller and Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 (on behalf of Sam and Madelyn Colinet, 192 Oakhill Drive, Adah, PA 15410) has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 9, 2001.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

HAZARDOUS WASTE TRANSPORTER LICENSE RENEWED

Hittman Transport Services, Inc., 1560 Bear Creek Road, Oak Ridge, TN 37830. License No. **PA-AH S239**. Effective June 26, 2001.

Onyx Industries, Inc., 2630 Industrial Blvd., Chambly, PQ J3L 4V2. License No. **PA-AH 0335**. Effective June 26, 2001.

HAZARDOUS WASTE TRANSPORTER LICENSE

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

HAZARDOUS WASTE TRANSPORTER LICENSE VOLUNTARILY TERMINATED

Specialty Transportation Services, Inc., 5965 McCasland Avenue, Portage, IN 46368. License No. **PA-AH 0582**. Effective June 19, 2001.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit revoked 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.

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

Permit No. 602724. White Run Regional Municipal Authority, Mount Joy Township, **Adams County**. Samuel L. Dayhoff Farm. The permit was revoked by the Southcentral Regional Office on June 26, 2001.

Persons interested in reviewing the general permit may contact Mary DiSanto, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

Permit No. 602724. White Run Regional Municipal Authority, Mount Joy Township, **Adams County**. Robert J. Dayhoff Farm. The permit was revoked by the Southcentral Regional Office on June 26, 2001.

Persons interested in reviewing the general permit may contact Mary DiSanto, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits approved 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.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 100963. Lycoming County Commissioners, Courthouse, 48 West Third Street, Williamsport, PA 17701, for the Lycoming County Landfill in Brady Township, **Lycoming County** for the expansion of disposal capacity and other operational changes. The permit was approved by the Williamsport Regional Office on June 26, 2001.

Persons interested in reviewing the permit may contact John C. Hamilton, P.E., Facilities Operations Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

AIR QUALITY

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 Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Contact: James Parette, New Source Review Chief, (570) 826-2531.

48-310-043GP: Keystone Cement Co. (P. O. Box A, Bath, PA 18014) for construction and operation of a portable crushing plant and associated air cleaning device in East Allen Township, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

GP3-31-03030: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664)

authorized use of a general permit for the relocation of a portable nonmetallic mineral processing plant to Morris Township, **Huntingdon County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

09-0141: Lower Bucks County Joint Municipal Authority (19 Kingwood Lane, Levittown, PA 19057) on June 28, 2001, for operation of a Packed Tower Air Scrubber in Bristol Township, **Bucks County**.

46-0060A: Norristown State Hospital DPW (1001 East Sterigere Street, Norristown, PA 19401) on June 28, 2001, for operation of two Natural Gas #2 Oil Fired Boilers in Norristown Borough, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

22-05023A: Mobil Oil Corp. (600 Billingsport Road, Paulsboro, NJ 08066) on June 27, 2001, for installation of a vapor combustion unit to control emissions from the loading rack at the Mobil Harrisburg Terminal in Swatara Township, **Dauphin County**.

22-05037B: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105) on June 26, 2001, for modification of an asphalt concrete/aggregate drying plant controlled by a knockout box and a fabric collector located in the City of Harrisburg, **Dauphin County**. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities and 40 CFR Part 60, Subpart Kb—Standards for Performance for Volatile Organic Liquid Storage Vessels.

28-05028: Allegheny Energy Supply Co., LLC (4350 Northern Pike, Monroeville, PA 15146-2841) on June 26, 2001, for construction of the Chambersburg Combustion Turbine Power Station in Guilford Township, **Franklin County**. This source is subject to 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines and 40 CFR Part 60, Subpart Kb—Standards for Performance for Volatile Organic Liquid Storage Vessels.

34-05003A: Tedd Wood, Inc. (Nine Birch Dr., R. R. 1, Box 104, Thompsontown, PA 17094) on June 26, 2001, for installation of wood finishing operations in Delaware Township, **Juniata County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

62-161A: ARC Steel—Irvine (One Front Street, Warren, PA 16365) on June 19, 2001, for construction of a slag processing facility at National Forge Company in Brokenstraw Township, **Warren County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

67-05070B: Graham Packaging Co., LP (2401 Pleasant Valley Road, York, PA 17402) on June 14, 2001, to authorize temporary operation of a No. 2 Barrier Bottle Production Line, covered under this Plan Approval until October 12, 2001, in Manchester Township, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-302-039: Masonite Corp. (P. O. Box 311, Towanda, PA 18848) on June 22, 2001, for operation of two woodwaste-fired boilers and associated air cleaning devices (an electrostatic precipitator and a selective noncatalytic reduction system) on a temporary basis until October 20, 2001, in Wysox Township, **Bradford County**.

41-303-009: HRI, Inc. (1750 West College Avenue, State College, PA 16804-0155) on June 25, 2001, to modify a volatile organic compound emission limitation for a batch asphalt plant to state that the limitation is expressed as methane rather than as propane, thereby correcting an error previously made by the Department, in the City of Williamsport, **Lycoming County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-021C: Indspec Chemical Corp. (133 Main Street, Petrolia, PA 16050) on June 30, 2001, for a #10 gas fired boiler economizer in Petrolia, **Butler County**. This plan approval was extended.

10-021D: Indspec Chemical Corp. (133 Main Street, Petrolia, PA 16050) on June 30, 2001, for a copeland incinerator in Petrolia, **Butler County**. This plan approval was extended.

10-021H: Indspec Chemical Corp. (133 Main Street, Petrolia, PA 16050) on June 30, 2001, for a reactor 507, new resin hold tank in Petrolia, **Butler County**. This plan approval was extended.

25-069C: Engelhard Corp. (1729 East Avenue, Erie, PA 16503) on June 28, 2001, for a sphere plant loader in Erie, **Erie County**. This plan approval was extended.

25-069D: Engelhard Corp. (1729 East Avenue, Erie, PA 16503) on June 28, 2001, for a metal oxide catalyst building 400 in Erie, **Erie County**. This plan approval was extended.

37-399-009A: Hickman Mfg. Inc. (R. D. 2, Route 18, Wampum, PA 16157) on June 30, 2001, for a roof coating operation in New Beaver Borough, **Lawrence County**. This plan approval was extended.

42-158A: Temple Inland Forest Products Corp.—Mt. Jewett Particleboard (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on June 28, 2001, for post modification of the particleboard operation (System 17) in Sergeant Township, **McKean County**.

42-399-013C: Temple Inland Forest Products Corp.—Mt. Jewett Particleboard (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on June 28, 2001, for post modification of the particleboard operation (System 15/15A) in Sergeant Township, **McKean County**.

42-176C: Temple Inland Forest Products Corp.—Mt. Jewett MDF (R. D. 2, Hutchins Road, Mt. Jewett,

PA 16740) on June 28, 2001, for a sander dust system in Sergeant Township, **McKean County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00027: Ortho-McNeil Pharmaceutical (Welsh and McKean Roads, Spring House, PA 19477) on June 25, 2001, for operation of a Facility Title V Operating Permit in Lower Gwynedd Township, **Montgomery County**.

23-00038: Delaware County Regional Water Authority (100 East Fifth Street, P. O. Box 999, Chester, PA 19016) on June 26, 2001, for operation of a Facility Title V Operating Permit in City Of Chester, **Delaware County**.

09-00009: Webcraft Technologies, Inc. (4371 County Line Road, Chalfont, PA 18914) on June 27, 2001, for operation of a Facility Title V Operating Permit in New Britain Township, **Bucks County**.

46-00020: Superior Tube Co. (3900 Germantown Pike, Collegeville, PA 19426) on June 27, 2001, for operation of a Facility Title V Operating Permit in Lower Providence Township, **Montgomery County**.

09-00005: 3M Co. (2201 Green Lane, Bristol, PA 19007) on June 28, 2001, for operation of a Facility Title V Operating Permit in Bristol Township, **Bucks County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00181: Southern Alleghenies Landfill, Inc. (Westpointe Corporate Center One, Suite 2000, Moon Township, PA 15108) on June 26, 2001, for operation of a Landfill in Conemaugh Township, **Somerset County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

09-0073: Leonard Kunkin Associates (1946 Cherry Lane, Souderton, PA 18964) on June 25, 2001, for operation of a Facility NOx/VOC RACT in Hilltown Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

22-03014: Stewart Amos Steel, Inc. (4400 Paxton Street, Harrisburg, PA 17111) on June 27, 2001, for a Natural Minor Operating Permit in Swatara Township, **Dauphin County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Contact: William Charlton, New Source Review Chief, (412) 442-4174.

63-00901: Allegheny Millwork (P. O. Box 493, 104 Commerce Blvd., Lawrence, PA 15055) on June 26, 2001, for operation of Spray Booths at Cecil Township Plant in Cecil Township, **Washington County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

25-00955: Foam Fabricators, Inc. (6550 West 26th Street, Erie, PA 16506) on June 11, 2001, for a Synthetic Minor Operating Permit in Fairview Township, **Erie County**.

25-00944: PHB Inc.—PHB Die Casting (7900 West Ridge Road; Fairview, PA 16415) for a Natural Minor Operating Permit for emissions from zinc and aluminum die casting operations and related processes in Fairview Township, **Erie County**.

43-285A: Caparo Steel Co. (15 Roemer Blvd, Farrell, PA 16121) for Emission Reduction Credit (ERC) Approval for 45.83 tons per year (tpy) of nitrogen oxides and 12.24 tpy of volatile organic compounds (VOCs) resulting from the shutdown of #2 Electric Arc Furnace, #2 Ladle Preheater, #6 Anneal Pickle Line and #11 Coating Line in Farrell, **Mercer County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Contact: Roger Fey, Chief, (215) 823-7584.

95-063: Naval Support Activity (700 Robbins Avenue, Philadelphia, PA 19111-5098) on June 25, 2001, for operation of a Naval support facility in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor facility's air emission sources include a 40 MMBTU/hr boiler, a 36 MMBTU/hr boiler, a 29.3 MMBTU/hr boiler, 18 boilers and two water heaters less than 2 MMBTU/hr, 11 emergency generators, a fire pump, a carpentry shop with a cyclone, an abrasive blaster, a paint booth and an underground gasoline storage and dispersion tank.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

46-00006: Allegro MicroSystems, W.G., Inc. (3900 Welsh Road, Willow Grove, PA 19090) issued a minor modification on June 26, 2001, for Facility Title V Operating Permit in Upper Moreland Township, **Montgomery County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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 application 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).

Coal Permits Issued

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

40940204C4. Northampton Fuel Supply Co., Inc., (7500 Old Georgetown Road, 13th Floor, Bethesda, MD 20814), correction to an existing coal refuse reprocessing operation to include fly ash disposal in Hanover Township, **Luzerne County** affecting 48.0 acres, receiving stream—none. Correction issued: June 26, 2001.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

17000104. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661), commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 47.7 acres. Receiving streams—unnamed tributaries to Moshannon Creek and Moshannon Creek to the West Branch of the Susquehanna River. Application received: April 3, 2000. Permit issued: June 26, 2001.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982.

63990103. Twilight Industries, A Division of U. S. Natural Resources, Inc. (212 State Street, Belle Vernon, PA 15012). Permit revised to add and delete 4.4 acres at an existing bituminous surface mine located in Somerset Township, **Washington County**, affecting 287.1 acres. Receiving streams: unnamed tributaries to Center Branch of Pigeon Creek, Center Branch of Pigeon Creek, Pigeon Creek, Monongahela River. Application received: February 27, 2001. Revised permit issued: June 28, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

56950103. Permit Renewal, **Heritage Mining Company** (Box 126, Cresson, PA 16630), for continued operation of a bituminous surface mine in Shade Township, **Somerset County**, affecting 78.5 acres, receiving stream unnamed tributary to and Oven Run, unnamed tributary to and Stony Creek River. Application received: April 20, 2001. Issued: June 27, 2001.

56823123. Permit Revision, **Croner, Inc.** (P. O. Box 260, Friedens, PA 15541), to include augering and to conduct surface mining activities within 100 feet of the right-of-way of two public roads.

The proposed road variances are as follows:

(1) State Route 2018:

Beginning on SR 2018 at its intersection with SR 2027 and continuing northward, on both sides of SR 2018, for a distance of approximately 2,855 feet to Township Road T-616. Continuing northward on SR 2018, west side only, for a distance of approximately 170 feet to the boundary of this surface mine permit.

(2) State Route 2027:

Beginning on SR 2027 approximately 435 feet south of its intersection with Township Road T-415 at the boundary of this surface mine permit and continuing northward, west side only, for a distance of approximately 840 feet to the intersection of SR 2018. Continuing northeast on SR 2027, west side only, for a distance of approximately 4,540 feet to the boundary of this surface mine

permit in Brothersvalley Township, Somerset County, affecting 222.0 acres, receiving stream an unnamed tributary to Buffalo Creek; and an unnamed tributary to Swamp Creek. Application received: April 3, 2001. Issued: June 28, 2001.

11960101. Permit Renewal, **Cloe Mining Company, Inc.** (P. O. Box I, Grampian, PA 16838), for continued operation of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 107.9 acres, receiving stream unnamed tributaries to Muddy Run and Muddy Run. Application received: May 29, 2001. Issued: June 29, 2001.

07000101. Cooney Brothers Coal Company (P. O. Box 246, Cresson, PA 16630), commencement, operation and restoration of a bituminous surface mine in Logan Township, **Blair County**, affecting 31.0 acres receiving stream unnamed tributary to Kittanning Run. Application received: November 14, 2000. Issued: June 29, 2001.

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

11841601. E. P. Bender Coal Co., Inc., (Main and Lehmier St., P. O. Box 594, Carrolltown, PA 15722), to renew the permit for the Fallentimber Prep Plant in Reade Township, **Cambria County** to renew the permit, no additional discharges. Permit issued: June 20, 2001.

56841306. Lion Mining Company, (204 College Park Plaza, Johnstown, PA 15904), to revise the permit for the Grove No. 1 Mine, Jenifer E seam Refuse Disposal Area in Jenner Township, **Somerset County** to revise deep mine permit to include coal refuse disposal area, no additional discharges. Permit issued: June 21, 2001.

30841601. Consolidation Coal Company, (P. O. Box 100, Osage, WV 26543), to renew the permit for the Robena Prep. Plant in Monongahela Township, **Greene County** to renew the permit, no discharge associated with this permit. Permit issued: June 27, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

33000103. Falls Creek Energy Co., Inc. (R. D. 6, Box 231, Kittanning, PA 16201) Commencement, operation and restoration of a bituminous strip and auger operation in McCalmont Township, **Jefferson County** affecting 56.0 acres. Receiving streams: Big Run. Application received: November 22, 2000. Permit Issued: June 25, 2001.

Noncoal Permits Issued

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

35000301. Keystone Quarry, Inc., (P. O. Box 249, Dunham Drive, Dunmore, PA 18512), commencement, operation and restoration of a quarry operation in Ransom Township, **Lackawanna County** affecting 105.0 acres, receiving stream—none. Permit issued: June 25, 2001.

**FEDERAL WATER POLLUTION CONTROL ACT
SECTION 401**

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

Except as otherwise noted, the Department of Environmental Protection certifies that the construction and operation herein described will comply with the appli-

cable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by this action may appeal, under Section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 of 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 for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) 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: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Permits Issued and Actions on 401 Certifications:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-802. Trueblood Construction Company, 904 Sunnyside Pike, Springhouse, PA 19477, Buckingham Township, **Bucks County**, ACOE Philadelphia District.

To perform the following activities in and along the Paunacussing Creek (HQ-CWF), its 100-year floodway and in and along its unnamed tributaries for the purpose of constructing the Stoneymead Subdivision:

1. To construct and maintain a bridge crossing (a.k.a. Wellsford Bridge) consisting of a 100-foot span and 6.4-foot maximum underclearance and a roadway width of 22 feet spanning the Paunacussing Creek and impacting 0.26 acre of wetland.

2. To construct and maintain a bridge crossing (a.k.a. Kingfisher Lane Bridge) consisting of a 16-foot span and 5.4-foot maximum underclearance and a roadway width of 8.0 feet spanning an unnamed tributary to the Paunacussing Creek.

3. To construct and maintain a bridge crossing (a.k.a. Lot 17 Bridge) consisting of a 16-foot span, 5-foot maximum underclearance and 20-foot roadway width spanning an unnamed tributary to the Paunacussing Creek and impacting 0.03 acre of wetland.

4. To enlarge an existing pond (a.k.a. Kingfisher Pond) which will impact 0.03 acre of wetland (PEM) and 0.76 acre of open water (POW).

5. To modify an existing pond (a.k.a. Blue Heron Pond) which will impact 0.05 acre of wetland (PEM) and 0.03 acre of open water (POW).

Issuance of this permit constitutes approval of the environmental assessment for the nonjurisdictional dam for this site, which will facilitate a wet stormwater detention basin (a.k.a. Spring Oak Pond) and will impact 0.01 acre of wetland (POW). This project also includes activities under General Permit No. 5 for a utility line crossing.

The project will permanently impact 0.42 acre of wetland; temporarily impact 0.29 acre of wetland and 670 linear feet of watercourse. The site is located just east of the intersection of Indian Spring road and Long Lane (Buckingham, PA USGS Quadrangle, N: 20.3 inches; W: 9.4 inches). The applicant has met the wetland replacement requirements by providing for 0.35 acre of replacement wetlands and making a monetary contribution to the wetland replacement fund for the balance 0.07 acre of wetland.

E23-406. FPL Energy Marcus Hook, LP, 700 Universe Boulevard, Juno Beach, Florida 33408-2683 and Sunoco, Inc. (R&M), P. O. Box 426, Delaware Avenue and Green Streets, Marcus Hook, PA 19061, Borough of Marcus Hook, **Delaware County**, ACOE Philadelphia District.

To maintain 8.3 acres of existing fill in and along the Delaware River, adjacent to the Sun Oil Company property. This fill was placed under Navigation License No. 352, issued on November 2, 1964 to Sun Oil Company and will be used for the construction of a cogeneration facility. This site is situated just east of the Delaware/Pennsylvania state border (Marcus Hook, PA-NJ-DEL Quadrangle N: 10.2 inches; W: 6.5 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E39-396. Ronald A. Lokay, 5785 Haasadah Road, Orefield, PA 18069, Upper Macungie Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a single-span wooden pedestrian bridge, having a span of approximately 42 feet and an underclearance of 9.8 feet, across Hassen Creek to provide access to an existing barn and land along the left bank of the creek; and to construct and maintain a 24 foot x 20 foot storage building in the floodway along the right bank of Hassen Creek. The project is located at a private residence located along Haasadah Road (S. R. 4004), approximately 2.0 miles west of S. R. 0309 (Allentown West, PA Quadrangle N: 21.5 inches; W: 15.4 inches).

E48-301. Williams Township, 655 Cider Press Road, Easton, PA 18042, Williams Township, **Northampton County**, Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain an 8' x 6' concrete box culvert depressed 1-foot below the streambed of a tributary to the Delaware River. This work also includes the installation of gabion basket streambank retaining walls having a maximum length of 45 feet and height of 6.5 feet upstream and downstream of the proposed culvert. The project is located along Township Road T396 (Browns Drive), approximately 0.3 mile west of S. R. 0611. (Easton, PA-NJ Quadrangle N: 3.7 inches; W: 11.7 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E19-213. Stanley W. Griffin, 240 Green Creek Road, Orangeville, PA 17859. Green Creek bridge replacement, in Greenwood Township, **Columbia County**, ACOE Susquehanna River Basin District (Benton, PA Quadrangle N: 8.65 inches; W: 6.96 inches).

To construct and maintain a two span wooden structure having a span of 40.08 feet and a minimum underclearance of 5.83 feet with a skew of 90° and wood abutments in Green Creek located one mile along Green Creek Road, east of the intersection of SR 254 and Green Creek Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E41-479. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218 Montoursville, PA 17754-0218. SR 0220 Muncy Creek bridge replacement, in Picture Rocks Borough, **Lycoming County**, ACOE Susquehanna River Basin District (Picture Rocks, PA Quadrangle N: 4.8 inches; W: 12.2 inches).

To remove an existing structure, construct, maintain and remove a 170-foot temporary structure and construct and maintain a three span concrete box beam structure having a span of 220-feet over Muncy Creek in Picture Rocks Borough. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E55-177. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit Application, in Adams Township, **Snyder County**, ACOE Susquehanna River Basin District (Beavertown, PA Quadrangle N: 9.9 inches; W: 10.5 inches).

To remove 20 linear feet of box culvert and construct and maintain 32 linear feet of 48-inch by 76-inch elliptical concrete pipe in an unnamed tributary to Walker Lake located along S. R. 4018, Segment 0010, Offset 1250. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E59-416. PA DCNR—Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. Bear Run Road Bridge Replacement, in Elk Township, **Tioga County**, ACOE Baltimore River Basin District (Lee Fire Tower, PA Quadrangle N: 10.1 inches; W: 7.2 inches).

To remove an existing structure and construct, operate and maintain a single span prestressed concrete spread box beam bridge that will carry Bear Run Road across Cushman Branch, Slate Run. The bridge shall be constructed with a minimum clear span of 40.6-feet, underclearance of 2.5-feet and a skew of 55-degrees. Construction of bridge abutments and rock scour protection shall be completed in dry work conditions by dams and pumping or fluming stream flow around the work area. The project is located along the eastern right-of-way of SR 0044 approximately 2,000-feet north of Francis Road and Bear Run Road intersection.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1300. Municipality of Penn Hills, 12245 Frankstown Road, Penn Hills, PA 15235. Municipality of Penn Hills, **Allegheny County**, ACOE Pittsburgh District.

To place and maintain fill in a de minimis area of wetland and to construct and maintain a 125.0 foot long pipe arch culvert having a span of 79 inches with an underclearance of 68 inches in an unnamed tributary to Plum Creek (WWF) to provide access to the proposed maintenance facility located on the south side of Leechburg Road, approximately 900 feet east from the intersection of Leechburg Road and Sentry Avenue (Brad-dock, PA Quadrangle N: 20.4 inches; W: 6.4 inches).

E02-1316. Richland Properties, Inc., 7805 McKnight Road, Pittsburgh, PA 15237. Richland and West Deer Townships, **Allegheny County**, ACOE Pittsburgh District.

To place and maintain fill in 0.45 acre of wetlands (PEM) and temporarily disturb 0.02 acre of Wetland 4 (PEM) in the Deer Creek and West Branch of Deer Creek watersheds (CWF), for the purpose of developing 174 single family residential area and 120 single family quad area as part of the Grandview Estates development plan. To meet the wetland replacement requirements, the applicant has made a donation to the Wetland Replacement Fund. The project is located on the north side of Route 910 approximately 1 mile east of its intersection with Route 8 (Valencia, PA Quadrangle N: 0.7 inch; W: 6.7 inches).

E02-1339. Moon Township Municipal Authority, 1700 Beaver Grade Road, Municipal Center, Suite 200, Moon Township, PA 15108-2987. Moon Township, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a river intake structure in the channel and on the left bank of the Ohio River (WWF) and a Caisson on the left bank of said stream for the purpose of providing public water supply. The project is located at River Mile 11.7, approximately 600 feet upstream from the Sewickley Bridge (Ambridge, PA Quadrangle N: 5.6 inches; W: 8.7 inches).

E26-274. CBF, Inc., J&J Landfill, R. D. 1, Box 266, McClellandtown, PA 15458. German Township, **Fayette County**, ACOE Pittsburgh District.

To place and maintain fill in 0.08 acre of wetland in the watershed of an unnamed tributary to Dunlap Creek (WWF) in association with an expansion of the existing J&J Landfill, located approximately 1,200 feet north of SR 21 and 9,000 feet east of the intersection of SR 214 and SR 3013 (New Salem, PA Quadrangle N: 3.8 inches; W: 12.1 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E27-063. Northern Allegheny Resources, 218 Elm Street, Tionesta, PA 16353. Timber Access Road across Johns Run, in Tionesta Township, **Forest County**, ACOE Pittsburgh District (Tionesta, PA Quadrangle N: 15.4 inches; W: 5.8 inches).

To operate and maintain a 30-foot long, 6-foot diameter steel pipe culvert originally installed under DEP Permit No. GP082798602 in Johns Run on a timber access road extending approximately 2,500 feet northeast from S. R. 36 2.3 miles southeast of Tionesta.

E42-277. Keating Township, R. D. 1 Route 46 South, P. O. Box 103, East Smethport, PA 16730. T-350 Across Cole Creek, in Keating Township, **McKean County**, ACOE Pittsburgh District (Smethport, PA Quadrangle N: 19.3 inches; W: 13.0 inches).

To remove the existing deck and floor beams, install new footers behind the existing abutments, new steel

beams and reinstall the metal deck and to maintain the bridge having an approximate clear span of 45 feet and an underclearance of 7 feet across Cole Creek on T-350 approximately 0.5 mile south of S. R. 46 west of Farmers Valley.

ENVIRONMENTAL ASSESSMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

EA39-005NE. Central Penn, Inc., Campus on College Hill, Summerdale, PA 17093. Lynn Township, **Lehigh County**, ACOE Philadelphia District.

To remove an existing bridge, known as Henszey's Bridge, across Ontelaunee Creek, for the purpose of relocating the bridge to another site. The stone abutments and wing walls will remain in place. The project is located approximately 0.6 mile upstream of the Lehigh County/Berks County boundary, near the town of Wanamakers (New Tripoli, PA Quadrangle N: 5.4 inches; W: 13.3 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

EA41-003NC. U. S. Fish and Wildlife Service, 315 South Allen Street, Suite 322, State College, PA 16801-4855. Bear Creek Restoration Project, Plunketts Creek Township, **Lycoming County**, ACOE Baltimore District (Barbours, PA Quadrangle N: 1.7 inches; W: 5.1 inches).

To stabilize the channel within a 10,800 foot reach of Bear Creek (HQ-CWF) by installing a series of cross-vanes, j-hook rock vanes, single rock vanes, vortex rock weirs and natural material revetment. The purpose of the project is to control bank erosion, reduce sediment load and improve fish habitat. The work area extends from the confluence of Bear Creek and Shingle Run, downstream to the confluence of Bear Creek and Loyalsock Creek. The lower end of the project is located at the Village of Barbours.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

EA10-016NW, Aquascape Wetland and Environmental Services, 114 Deer Road, Boyers, PA 16020. SR 89 Passive Treatment System, in Washington Township, **Butler County**, ACOE Pittsburgh District (Hilliards, PA Quadrangle N: 18.5 inches; W: 14.0 inches).

To construct and maintain a passive treatment system for the treatment of abandoned mine discharge (AMD) that has severely degraded a wetland that discharges into Slippery Rock Creek approximately 500-feet to the north. Proposed activities include the construction of a vertical flow pond, a flush pond/settling pond and an approximately one-acre treatment wetland; and the disturbance of approximately one acre of the severely degraded AMD-impacted wetland area. The project is located in State Game Lands No. 95 approximately 0.4 mile southwest of Higgins Corner.

SPECIAL NOTICES

Bureau of Deep Mine Safety Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (BDMS), has approved R&R Mining, Inc.'s request for a variance from the requirements of Section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the #73 Mine. This notification contains a summary of this request and the basis for the Department's

approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: R&R Mining, Inc. requested a variance from Section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of the belt conveyor entry with other entries at the #73 Mine along the No. 4, 5 and 6 belts. The proposal accords protection to persons and property substantially equal to or greater than the requirements of Section 242(c).

The basis for the Bureau's approval is summarized as follows:

1. R&R's plan provides for an advanced fire detection and control system consisting of CO monitors, thermal detectors and a fire suppression system.

2. R&R's plan provides a separate intake escapeway that will be isolated from the belt conveyor entries. The isolated intake escapeway will be maintained at a higher ventilation pressure than the belt and common entries.

3. R&R's plan provides for the belt and common entries to serve as an alternate intake escapeway.

4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Safer access is provided to workers performing repair and maintenance work in the belt entry. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to the use of entries in common with the belt entry. All other terms and requirements of Section 242(c) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in R&R's plan and the following conditions.

1. Operation, maintenance and calibration of the Logi-Tec, Inc. Model LTPA-98 Point CO (carbon monoxide) Monitor System shall comply with the manufacturer's recommendation and DEP equipment approval number BOTE 1712-98.

2. R&R Mining, Inc. shall comply with the Mine Safety and Health Administration's approved Fire Fighting and Evacuation Plan.

3. R&R shall notify the DEP District Mine Inspector when the point CO monitor system has been installed.

Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (BDMS) has approved Rosebud Mining Company's request for a variance from the requirements of Section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the Clementine Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: Rosebud Mining Company requested a variance from Section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of belt conveyor entry with other entries at the Clementine Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of Section 242(c).

The basis for the Bureau's approval is summarized as follows:

1. Clementine's plan provides for an advanced fire detection and control system consisting of carbon monoxide (CO) monitors, thermal detectors and a fire suppression system.

2. Clementine's plan provides a separate intake escapeway that will be isolated from the belt conveyor entries. The isolated intake escapeway will be maintained at a higher ventilation pressure than the belt and common entries.

3. Clementine's plan provides for the belt and common entries to serve as an alternate intake escapeway.

4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Safer access is provided to workers performing repair and maintenance work in the belt entry. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to a variance from the requirements in Section 242(c) requiring that the belt entry is isolated from other entries. All other terms and requirements of Section 242(c) shall remain in effect. This approval applies to all areas developed after May 20, 1998. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Clementine's plan and the following conditions:

1. Operation, maintenance and calibration of the Logi-Tec, Inc. Model LTPA-98 Point CO (carbon monoxide) Monitor System shall comply with the manufacturer's recommendation and DEP equipment approval number BOTE 1712-98.

2. Clementine shall comply with the Mine Safety and Health Administration's approved Fire Fighting and Evacuation Plan.

3. Clementine shall notify the DEP District Mine Inspector when the point CO monitor system has been installed.

Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (BDMS), has approved Mon View Mining Company's request for a variance from the requirements of Section 268(b) of the Pennsylvania Bituminous Coal Mine Act at the Mathies Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request. Mon View Mining Company requested a variance from Section 268(b) of the Pennsylvania Bituminous Coal Mine Act to extend shelter hole distances along track haulage roads at the Mathies Mine. The proposal accords protection to persons and property substantially equal to or greater than the requirements of Section 268(b).

The basis for the Bureau's approval is summarized as follows:

1. All transportation equipment (jeeps, portal buses, locomotive, and the like) will immediately sound an audible warning and bring the equipment to a complete stop when encountering personnel traveling by foot along the track haulageway. The equipment operator will allow the personnel to enter the nearest shelter hole before proceeding.

2. Signs shall be posted inby and outby the affected area that state extended shelter hole intervals.

3. Shelter hole locations will be marked with a reflective indicator visible from along the track haulageway, which will allow personnel walking along the track to judge the distance to the shelter hole. Indicators will be consistent in color and design at all locations.

4. Flashing warning lights shall be placed at least 100 feet from each approach to each work site when men are working in the affected area.

5. All trips traveling through the areas will be provided with a locomotive coupled to the front and back of the trip at all times. Each locomotive will be of sufficient capacity to control the entire trip.

6. All self-propelled track haulage equipment will have properly maintained radio communications equipment. Track haulage equipment with malfunctioning radio communications equipment shall immediately be taken out of service until the equipment is repaired.

7. All employees, contractors, inspectors, visitors, and the like will be adequately trained and instructed concerning shelter hole guidelines and safety procedures prior to entering the mine. This training will become a part of the annual retraining, task training and hazard training.

8. Coal will not be transported on the rail haulage in the area where the variance allows extended shelter holes.

This approval is limited to Mathies' variance from the requirements in Section 268(b). All other terms and requirements of Section 268(b) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Mathies' plan and the following condition:

Flashing warning lights shall be placed at least 100 feet from each approach to each work site when men are working in the affected area.

Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (BDMS), has approved Quecreek Mining, Inc.'s request for a variance from the requirements of Section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the Quecreek Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request. Quecreek Mining, Inc. requested a variance from Section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of the belt conveyor entry with other entries at the Quecreek Mine. The proposal accords protection to persons and property substantially equal to or greater than the requirements of Section 242(c).

The basis for the Bureau's approval is summarized as follows:

1. Quecreek's plan provides for an advanced fire detection and control system consisting of CO monitors, thermal detectors and a fire suppression system.

2. Quecreek's plan provides a separate intake escapeway that will be isolated from the belt conveyor entries.

The isolated intake escapeway will be maintained at a higher ventilation pressure than the belt and common entries.

3. Quecreek's plan provides for the belt and common entries to serve as an alternate intake escapeway.

4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Safer access is provided to workers performing repair and maintenance work in the belt entry. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to the use of entries in common with the belt entry. All other terms and requirements of Section 242(c) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in your enclosed plan and the following conditions.

1. Operation, maintenance and calibration of the Logi-Tec, Inc. Model LTPA-98 Point CO (carbon monoxide) Monitor System shall comply with the manufacturer's recommendation and DEP equipment approval number BOTE 1712-98.

2. Quecreek shall comply with the Mine Safety and Health Administration's approved Fire Fighting and Evacuation Plan.

3. Quecreek shall notify the DEP District Mine Inspector when the point CO monitor system has been installed.

[Pa.B. Doc. No. 01-1276. Filed for public inspection July 13, 2001, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's website (www.dep.state.pa.us) at the public participation center. The "July 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its nonregulatory documents, as necessary, throughout 2001.

Ordering Paper Copies Of DEP Technical Guidance

DEP encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes To Technical Guidance Documents

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with the document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Technical Guidance

DEP ID: 392-2130-013 Title: *Policy for Protecting Aquatic Resources and Related Stream Uses In Processing*

Approvals for Water Rights Acquisitions in Certain Waters of the Commonwealth Description: This policy establishes a method for determining appropriate flows in certain cold-water streams, generally of 100 square mile drainage or less, that support naturally reproducing trout populations. The policy enables the Department to condition surface water allocation permits to prevent degradation of special protection waters and to maintain and protect existing and designated aquatic life uses defined in Chapter 93 of the Department's regulations. Anticipated Effective Date: September 8, 2001 Comment Period Ends: August 13, 2001 Contact: William Gast at (717) 772-4048 or email to WGast@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-1277. Filed for public inspection July 13, 2001, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Design Professional Selections; Withdrawal

The Department of General Services has withdrawn the request for applications for design services for the following project which was advertised at 31 Pa.B. 3599 (July 7, 2001):

Project No. DGS A 251-634—Building Addition, PennDOT District Office Building, Montoursville, Lycoming County, PA. Construction Cost: \$1,498,000. The scope of work includes, but is not limited to, a 16,850 sq. ft. second story addition to the building to include office areas, restrooms, conference rooms and training rooms. Also included are: HVAC system; emergency generator with associated switchgear; renovation of existing restrooms; floor tiles; ADA access; partitions and lighting.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 01-1278. Filed for public inspection July 13, 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 (Department) 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 Department's Bureau of

Laboratories. 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; 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 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 semi-annually 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].

Alleg. Cnty. Coroners Div. of Labs—SBSe, CBSe
10 County Office Building
Pittsburgh, PA 15219
(412) 350-6873

American Medical Laboratories—SBSe, CBSe
14225 Newbrook Drive
P. O. Box 10841
Chantilly, VA 20153-0841
(703) 802-6900

Analytic Bio-Chemistries Inc.—SBSe, CBSe
1680-D Loretta Avenue
Feasterville, PA 19053
(215) 322-9210

Clinical Laboratories Inc.—SBSe, CBSe
901 Keystone Industrial Park
Throop, PA 18512-1534
(717) 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 Rd.
P. O. Box 2969
Warminster, PA 18974
(215) 674-9310

Good Samaritan Hospital—SSe
4th and Walnut Sts.
P. O. Box 1281
Lebanon, PA 17042-1218
(717) 270-7500

Guthrie Clinic Path. Lab.—SSe
Guthrie Square
Sayre, PA 18840
(717) 888-5858

Health Network Laboratories—SBSe, CBSe
2024 Lehigh Street
Allentown, PA 18103-4798
(610) 402-8150

Labcorp Occupational Testing Ser.—SBSe, CBSe
1904 Alexander Drive
Resrch Trngl Park, NC 27709
(919) 549-8263

Lancaster Regional Med. Center—SSe
250 College Avenue
P. O. Box 3434
Lancaster, PA 17604
(717) 291-8022

Medtox Laboratories Inc.—SBSe, CBSe
402 West County Road D
St. Paul, MN 55112
(612) 636-7466

Mercy Health Lab./MFH—SSe
1500 Lansdowne Avenue
Darby, PA 19023
(610) 237-4262

Mercy Health Lab./MHOP—SSe
54 and Cedar Avenue
Philadelphia, PA 19143
(215) 748-9181

National Med. Services Inc. Lab.—SBSe, CBSe
3701 Welsh Road
Willow Grove, PA 19090
(215) 657-4900

Pittsburgh Criminalistics—SBSe, CBSe
1320 Fifth Avenue
Pittsburgh, PA 15219
(412) 391-6118

Quest Diagnostics of PA Inc.—SBSe, CBSe
875 Greentree Rd.
4 Parkway Center
Pittsburgh, PA 15220-3610
(412) 920-7600

Quest Diagnostics Venture LLC—SBSe, CBSe
875 Greentree Road
4 Parkway Center
Pittsburgh, PA 15220-3610
(412) 920-7631

St. Joseph Quality Medical Lab.—SBSe, CBSe
215 North 12th Street
Box 316
Reading, PA 19603
(610) 378-2200

Toxi-Con Laboratory—SB
201 Smallcombe Drive
Scranton, PA 18508
(570) 963-0722

Western Reserve Care System—SSe, CSe
500 Gypsy Lane
Youngstown, OH 44504
(216) 740-3794

WVHCS Hosp. 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. 01-1279. Filed for public inspection July 13, 2001, 9:00 a.m.]

Requests for Exceptions; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

ManorCare Health Services—Whitehall, 505 Weyman Road, Pittsburgh, PA 15236.

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.28(c) (relating to nurses station):

Rest Haven—York, 1050 South George Street, York, PA 17403.

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities):

Hillcrest Center, 1245 Church Road, Wyncote, PA 19095.

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, Fax: (717) 772-2163, E-Mail Address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid service or other accommodation to do so, should contact V/TT: (717) 783-6514 for

speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1280. Filed for public inspection July 13, 2001, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania 200 Grand 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 200 Grand.

2. *Price:* The price of a Pennsylvania 200 Grand instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania 200 Grand instant lottery game ticket will contain one play area featuring one "Winning Numbers" area and one "Your Numbers" area. The play symbols and their captions located in the "Winning Numbers" area and "Your Numbers" 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), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the 14 "Prize" areas are: \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$10⁰⁰ (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$200,000 (TWOHUNTHO). The prize play symbols and their captions located in the "Bonus Box" area are: \$20\$ (TWENTY), \$50\$ (FIFTY) and TRY AGAIN.

5. *Prizes:* The prizes that can be won in this game are \$2, \$5, \$6, \$10, \$12, \$15, \$20, \$50, \$100, \$500 and \$200,000. The player can win up to 11 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania 200 Grand instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$200,000 (TWOHUNTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$200,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$500 (FIV HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$100 (ONE HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(e) Holders of tickets with a prize play symbol of \$50\$ (FIFTY) in the "Bonus Box" area, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$20\$ (TWENTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets with a prize play symbol of \$20\$ (TWENTY) in the "Bonus Box" area, on a single ticket, shall be entitled to a prize of \$20.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$15\$ (FIFTN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning

Numbers" play symbols and a prize play symbol of \$12\$ (TWELV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$10⁰⁰ (TEN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$6⁰⁰ (SIX DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$5⁰⁰ (FIV DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$2⁰⁰ (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

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>Win With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate No. of Approximate Odds</i>	<i>Winners Per 3,600,000 Tickets</i>
\$5	\$5	1:6.67	540,000
\$6	\$6	1:60	60,000
\$2 x 5	\$10	1:40	90,000
\$5 x 2	\$10	1:60	60,000
\$10	\$10	1:120	30,000
\$10 + \$2	\$12	1:300	12,000
\$5 x 2 + \$2	\$12	1:200	18,000
\$6 x 2	\$12	1:200	18,000
\$12	\$12	1:300	12,000
\$5 x 3	\$15	1:120	30,000
\$10 + \$5	\$15	1:300	12,000
\$15	\$15	1:200	18,000
\$15 + \$5	\$20	1:600	6,000
\$5 x 4	\$20	1:600	6,000
\$10 x 2	\$20	1:600	6,000
\$20	\$20	1:600	6,000
\$20 (Bonus Box)	\$20	1:100	36,000
\$5 x 10	\$50	1:2,000	1,800
\$20 (Bonus Box)	\$50	1:300	12,000
+ \$10 x 3			
\$20 (Bonus Box)	\$50	1:369.23	9,750
+ \$5 x 6			
\$20 (Bonus Box)	\$50	1:369.23	9,750
+ \$20 + \$10			
\$50 (Bonus Box)	\$50	1:120	30,000
\$50	\$50	1:2,400	1,500
\$50 (Bonus Box)	\$100	1:30,000	120
+ \$50			
\$50 (Bonus Box)	\$100	1:20,000	180

<i>Win With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate No. of Approximate Odds</i>	<i>Winners Per 3,600,000 Tickets</i>
+ \$5 x 10			
\$15 x 4 +	\$100	1:40,000	90
\$10 x 4			
\$20 (Bonus Box)	\$100	1:20,000	180
+ \$20 x 2 +			
\$5 x 8			
\$100	\$100	1:120,000	30
\$50 (Bonus Box)	\$500	1:30,000	120
+ \$50 x 9			
\$100 x 5	\$500	1:60,000	60
\$500	\$500	1:60,000	60
\$200,000	\$200,000	1:1,200,000	3

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania 200 Grand 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 200 Grand, prize money from winning Pennsylvania 200 Grand 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 200 Grand 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 200 Grand or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-1281. Filed for public inspection July 13, 2001, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Indiana County

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

The Department of Transportation is proposing a project to reconstruct existing U.S. Route 22 (S.R. 0022, Section 491) between the Route 22/119 interchange to the western end of the Armagh Bypass, a distance of 13.1 km (8.1 miles). The proposed facility will provide four lanes

(two in each direction) and a median barrier in the center. Access will be provided at key intersections and crossing movements will be limited to those locations. Sight distances will be improved through adjustments to the horizontal and vertical alignments. The Department of Transportation has received environmental clearance in the form of a Finding of No Significant Impact from the Division Administrator of the Federal Highway Administration. The project will require 0.35 hectares (0.87 acres) of land from within the boundaries of the National Register of Historic Places eligible Meanor Farm/Gazza Property. The project will also require 0.41 hectares (1.00 acres) of land from Pine Ridge Park and 10.97 hectares (27.1 acres) of land from State Game Lands Number 276.

The Meanor Farm/Gazza Property and the Price Farm Miller Property will be landscaped to minimize the visual and audible effect of the highway improvements on the property. These mitigation commitments are included in a Memorandum of Agreement (MOA) for the proposed action which has been signed by all appropriate agencies. Where a Section 6(f) Land conversion occurs in Pine Ridge Park, replacement land will be provided that is of an equal or greater fair market value and that is equivalent in recreational usefulness. The Pennsylvania Game Commission will receive fair market value monetary compensation for impacts to State Game Lands Number 276.

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

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 01-1282. Filed for public inspection July 13, 2001, 9:00 a.m.]

Revised Goal-Disadvantaged Business Enterprise Participation in Federally Funded Contracts

Under the authority contained in the Transportation Act for the 21st Century, Act of June 9, 1998, Pub. L. No 105-178, 112 Stat. 113 (23 U.S.C. 101), and in keeping with the requirements of Part 26 of Title 49 of the Code of Federal Regulations, the Pennsylvania Department of Transportation (Department) provides public notice of its revised goal for participation by Disadvantaged Business Enterprises (DBEs) in its Federally assisted contracts.

Pending receipt of public comments, the Department's revised goal is a work in progress. However, the Department proposes an overall goal of 9.19 percent for DBE participation in Department contracts funded in whole or in part with Federal monies.

As a recipient of Federal funds from the United States Department of Transportation (US DOT) through its agencies, including the Federal Highway Administration, the Department must comply with the goal setting provisions of the new US DOT DBE regulation, set forth in 49 C.F.R. Part 26, effective March 4, 1999. The Department is mandated to submit a revised goal and methodology for Federally assisted contracts in accordance with the provisions of 49 C.F.R. Sections 26.45 and 26.51. The revised goal and methodology must be submitted to the Federal Highway Administration by August 1, 2001. An important part of this process is providing notice to the public concerning the revised goal and methodology used to arrive at the final goal and affording the public the opportunity to provide comments on the goal proposal.

To comply with the goal setting provisions of the new regulation, the Department employed a two-step process, as outlined in 49 C.F.R. Section 26.45. Under step one; the Department created a baseline figure for the relative availability of "ready, willing and able DBEs" in a relevant market, derived from demonstrative evidence of local market conditions. To this end, the Department developed a definition of "ready, willing and able DBEs" relative to any business "ready willing and able" to perform on Federally assisted Department contracts. The Department considered historical activity within specified market areas including research, engineering, and design consulting, contractors (prime, subcontractors and suppliers), and other consultant activities. Additionally, the Department developed a ratio within market areas of "ready willing and able DBEs" relative to the universe of all other "ready willing and able" enterprises.

Under step two, the Department examined all relevant evidence in its jurisdiction to determine what adjustments, up or down, are needed to arrive at the overall goal, taking into consideration other conditions or variables impacting DBEs in the Commonwealth. As part of this adjustment phase, the Department considered market potential based upon employment security data and other public data. The Department also considered certain changes relative to counting and certification that occurred as the result of the new regulation.

Consistent with the public participation requirement for this process, the Department is making the proposed revised goal and methodology available for inspection and review for forty-five days from the date of this notice. The Department considers the revised overall goal and methodology a work in progress pending input from the public. To review the DBE goal documents, contact any of the following locations:

Bureau of Equal Opportunity
Commonwealth Keystone Building
400 North Street, 5th Floor
Harrisburg, PA 17101
(717) 787-5891
Attn.: Jocelyn I. Harper

Engineering District 1-0
255 Elm Street, P. O. Box 398
Oil City, PA 16301-398
(814) 678-7105
Attn.: John L. Baker, PE

Engineering District 2-0
1924-30 Daisy Street
Clearfield, PA 16830
(814) 765-0400
Attn.: George M. Khoury, PE

Engineering District 3-0
715 Jordan Avenue
Montoursville, PA 17754
(570) 368-8686
Attn.: James A. Kendter, PE

Engineering District 4-0
O'Neill Highway, P. O. Box 111
Dunmore, PA 18512
(570) 963-4061
Attn.: Charles M. Mattei, PE

Engineering District 5-0
1713 Lehigh Street
Allentown, PA 18103
(610) 798-4100
Attn.: Walter E. Bortree, PE

Engineering District 6-0
7000 Geerdes Blvd.
King of Prussia, PA 19406
(610) 205-6660
Attn.: Andrew L. Warren

Engineering District 8-0
2140 Herr Street
Harrisburg, PA 17103-1699
(717) 787-6653
Attn.: Barry G. Hoffman, PE

Engineering District 9-0
North Juniata Street, P. O. Box 69.
Hollidaysburg, PA 16648
(814) 696-7250
Attn.: Earl L. Neiderheiser, PE

Engineering District 10-0
250 Oakland Avenue, P. O. Box 429
Indiana, PA 15701
(724) 357-2806
Attn.: Richard H. Hogg, PE

Engineering District 11-0
45 Thoms Run Road
Bridgeville, PA 15017
(412) 429-5001
Attn.: Raymond S. Hack, PE

Engineering District 12-0
N. Gallatine Avenue Ext., P. O. Box 459
Uniontown, PA 15401-0459
(724) 439-7340
Attn.: Michael H. Dufalla, PE

The document may also be reviewed online at the following website address: <http://pasdc.hbg.psu.edu/pasdc/dot/>

Comments, questions or suggestions regarding this notice may be directed in writing to Jocelyn I. Harper, Director, Bureau of Equal Opportunity, Telephone Number (717) 787-5891, Pennsylvania Department of Transportation, Bureau of Equal Opportunity, P. O. Box 3251, Harrisburg, PA 17105-3251, Attn: Jocelyn I. Harper, Director FAX: (717) 772-4026.

All comments should be postmarked no later than September 1, 2001 for consideration.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 01-1283. Filed for public inspection July 13, 2001, 9:00 a.m.]

FISH AND BOAT COMMISSION

Consideration of Changes to Special Regulation Designations

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meetings on July 27 and 28, 2001, the Commission will consider designating or redesignating the following stream sections and lakes as waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2002:

58 Pa. Code § 65.5. Catch-and-release areas.

The Commission will consider adding the following stream section to the list of catch-and-release areas designated under 58 Pa. Code § 65.5:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Carbon	Hickory Run	From Sand Spring Run upstream to Saylorville Dam, a distance of 1.38 miles.

This change, if approved, will result in a total of 2.88 miles of Hickory Run being regulated and managed under the catch-and-release program. The revised section will be as follows:

From the outlet of Saylorville dam downstream to the mouth, a distance of 2.88 miles.

58 Pa. Code § 65.8. Warmwater/coolwater species special conservation waters.

The Commission will consider removing the following lake from the list of conservation waters designated under 58 Pa. Code § 65.8:

<i>County</i>	<i>Water</i>
Westmoreland	Bridgeport Dam

58 Pa. Code § 65.9. Big bass special regulations.

The Commission will consider designating the following lakes as regulated and managed under the big bass special regulations and adding them to the list of waters subject to these regulations, 58 Pa. Code § 65.9:

<i>County</i>	<i>Water</i>
Berks	Carsonia Lake
Bucks	Towhee Lake
Westmoreland	Bridgeport Dam

58 Pa. Code § 65.10. Select Trout Stocked Lake Program.

The Commission will consider removing the following lakes from the list of waters regulated and managed under the Select Trout Stocked Lake Program under 58 Pa. Code § 65.10:

<i>County</i>	<i>Water</i>
Beaver	Upper Hereford Manor Lake
Berks	Angelica Lake
Lackawanna	Merli-Sarnoski Lake
Luzerne	Irena Lake
Luzerne	Lily Lake
Sullivan	Hunters Lake

At this time, the Commission is soliciting public input concerning the previous designations and redesignations. Persons with comments, objections or suggestions concerning the designations and redesignations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, by no later than 4 p.m. on Thursday, July 26, 2001. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 01-1284. Filed for public inspection July 13, 2001, 9:00 a.m.]

Notice of Proposed Change to Special Regulation Designation

The Coalition of Concerned Pennsylvania Anglers has requested that the Fish and Boat Commission (Commission) consider extending the big bass regulation on the Susquehanna River to Lock Haven on the West Branch of the Susquehanna and to the New York state line on the main branch of the Susquehanna. They also requested that these special bass regulations be extended on the Juniata River from its confluence with the Susquehanna upstream to the old dam at Warriors Run.

At its May 2001, meeting, the Commission's Fisheries Committee discussed the proposed extensions of big bass regulations and heard a report from Robert Lorantas, Warmwater Unit Leader, and Richard Snyder, Chief of the Fisheries Management Division. The Bureau of Fisheries recommended, consistent with the available fisheries management data, that big bass special regulations be extended on the Juniata River from the Route 11/15 bridge at Amity Hall (the current lower limit) upstream to Newport. Big bass regulations currently apply on the Juniata River upstream from Newport to the S. R. 0075 bridge at Port Royal. The proposed extension would mean

that big bass regulations will apply on the Juniata River from its mouth upstream to Port Royal.

The Bureau of Fisheries also recommended that it is premature to consider further extensions of big bass regulations on the Susquehanna River at this time. Further briefings on this subject will be provided to the Commissioners at upcoming meetings.

The Commission is soliciting public input concerning the extension of big bass regulations on the Juniata River from the Route 11/15 bridge at Amity Hall upstream to the S. R. 0034 bridge at Newport.

Persons with comments, objections or suggestions concerning the designation of this area as subject to big bass special regulations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, by no later than 4 p.m. on Wednesday, July 25, 2001. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 01-1285. Filed for public inspection July 13, 2001, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(d) and (g) of the Regulatory Review Act (71 P. S. § 745.5(d) and (g)) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committees' comment period. The Commission's Comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted by the date indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-form Submission Deadline</i>
10-137	Department of Health Newborn Disease Screening and Follow-Up	6/28/01	5/29/03

31 Pa.B. 2271 (April 28, 2001)

Department of Health Regulation No. 10-137 Newborn Disease Screening and Follow-Up June 28, 2001

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by May 29, 2003, the regulation will be deemed withdrawn.

1. Section 28.1. Definitions.—Clarity.

Hemoglobin diseases

This definition includes a list of sickle cell diseases, including "SS, SC, SV, S beta Thalassemia, S O Arab." A commentator stated that there is no hemoglobin named "SV." We suggest the Department review the definition and consider replacing "V" with "+ other variant."

2. Section 28.21. Responsibility for collecting and testing initial and repeat specimens.—Economic impact; Clarity

Subsection (c)

Subsection (c) requires a healthcare provider to designate a "newborn screening coordinator" to perform several duties. We have two concerns.

First, the regulation does not specify what qualifications the "newborn screening coordinator" must have. Included in the duties in paragraph (1), the newborn screening coordinator must "ensure that a specimen collection form contains *correct* and complete information." (Emphasis added.) What level of medical training does the newborn screening coordinator need to ensure information is "correct"?

Second, paragraph (7) is vague. What is the intent of requiring the newborn screening coordinator to "assist the Department in followup of an abnormal or presumptive abnormal test result"?

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-1286. Filed for public inspection July 13, 2001, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
7-350	Environmental Quality Board Radiological Health	6/27/01
7-354	Environmental Quality Board Host Municipality Fund Allocation	6/27/01

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
14-445	Department of Public Welfare Medical Assistance Estate Recovery Program	6/29/01

<i>Final-Omit Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16-27	Department of State UCC Fees	6/26/01

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-1287. Filed for public inspection July 13, 2001, 9:00 a.m.]

INSURANCE DEPARTMENT

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's Regional Office in Philadelphia, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Sandra L. Glass; file no. 01-215-018858; State Farm Mutual Automobile Insurance Company; doc. no. PH01-06-031; September 14, 2001, at 3 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the 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 represen-

tatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-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. 01-1288. Filed for public inspection July 13, 2001, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of MCI Metro Access Transmission Services, LLC for Designation as an Eligible Telecommunications Carrier; Doc. No. P-00011890

On May 2, 2001, MCI Metro Access Transmission Services, LLC (MCI) filed a petition requesting designation as an eligible telecommunications carrier (ETC) for applicable State and Federal universal service funding. The petition seeks ETC approval for the entire area covered by MCI's approved tariffs. The Pennsylvania Public Utility Commission (Commission) has determined that publication and comment on this petition is appropriate. Interested parties must submit comments on the MCI petition within 7 days of publication in the *Pennsylvania Bulletin*.

Copies of the petition may be obtained from the Office of the Secretary, upon request. The contact person at the Commission is Elizabeth A. Lion Januzzi, Assistant Counsel, Law Bureau, (717) 772-0696.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1289. Filed for public inspection July 13, 2001, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority application for the right to render service as a common carrier or contract carrier in this Commonwealth has 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 August 6, 2001, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application, or both.

Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.*

A-00117973. Susan P. Gratalo, t/d/b/a Castle Transportation (23 Griffith Street, Hughestown, Luzerne

County, PA 18640)—persons in paratransit service, between points in the county of Luzerne.

**Notice of Motor Carrier Applications—
Persons in Limousine Service**

The following applications for authority to transport persons in **limousine service between points in Pennsylvania** have been filed with the Commission. The applications will be considered without hearing in the absence of substantive protests limited to the issue of applicant fitness. Protests to these applications are due on or before August 6, 2001.

A-00117974. Suzanne Gambino Rivera, t/d/b/a R & S Transportation, 721 Erlen Road, Plymouth Meeting, PA 19462.

A-00117996. Magnum Limousine Service, Inc., t/d/b/a O What A Nite Limousine Service, 113 Cedar Lane, McMurray, PA 15317. *Attorney:* Gary J. Ogg, 245 Fort Pitt Blvd., Pittsburgh, PA 15222.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1290. Filed for public inspection July 13, 2001, 9:00 a.m.]

Inc. and Premiere Network Services, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Premiere Network Services, Inc. filed on June 26, 2001, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Premiere Network Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1292. Filed for public inspection July 13, 2001, 9:00 a.m.]

Telecommunications

A-310824F0002. Verizon North Inc. and DSLnet Communications, LLC. Joint petition of Verizon North Inc. and DSLnet Communications, LLC, for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and DSLnet Communications, LLC filed on June 26, 2001, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and DSLnet Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1291. Filed for public inspection July 13, 2001, 9:00 a.m.]

**Transfer of Stock
Without Hearing**

A-230063 F0002; A-210072 F0002; and A-230013 F0002; Penn Estates Utilities, Inc. and Utilities, Inc. of Pennsylvania. Application of Penn Estates Utilities, Inc. and Utilities, Inc. of Pennsylvania for approval of stock transfer leading to a change in control of its parent corporation Utilities, Inc.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before July 30 2001, under 52 Pa. Code (relating to public utilities).

Applicant: Penn Estates Utilities, Inc. and Utilities, Inc. of Pennsylvania.

Through and By Counsel: James P. Dougherty and Susan E. Bruce, McNeese, Wallace and Nurick, LLC, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1293. Filed for public inspection July 13, 2001, 9:00 a.m.]

Telecommunications

A-310987F0002. Verizon North Inc. and Premiere Network Services, Inc. Joint petition of Verizon North

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

9905-17 Traffic Counters.

Department: General Services
Location: Various, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

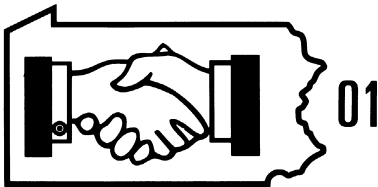
1476200 Mini-Crime Scope, Forensic Light Source with 1500 hour bulb, 10 MM. diameter. Liquid light guide 6' long. Two (2) remote interchangeable thumbwheels with built-in collimator, light capabilities UV365-UV390-415-445-CSS-515-535-555- SP575-600-white light, carrying case, plus three (3) spare MCS bulbs, SPEX Forensics Model #MCS400-12FNK. NO SUBSTITUTE.

Department: State Police
Location: Pittsburgh, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

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.

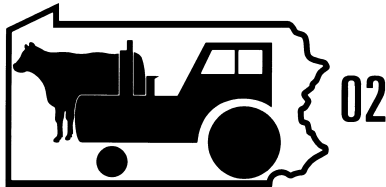
Department: General Services
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

SERVICES

**Advertising**

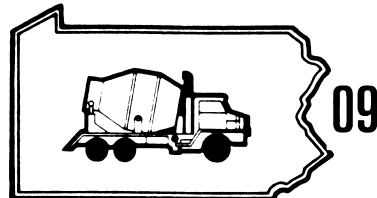
BMR-01-01 Notice is given that the Department of Environmental Protection (DEP) will retain a contractor to provide advertising and marketing services for the implementation and further development of mass marketing campaigns and public outreach efforts to promote Mine Subsidence Insurance subscriptions. At the discretion of DEP, up to \$1,000,000 may be spent on these services during the contract period. For a copy of the Request for Proposal for Professional Services, please contact Lawrence Ruane, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, Pa., 17105-8461. Faxed requests will be accepted at fax number (717) 783-4675. Questions may be directed to Lawrence Ruane at (717) 783-9590, during the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

Department: Environmental Protection
Location: The coal regions of Pennsylvania
Duration: 5 years after the Notice to Proceed
Contact: Lawrence Ruane, (717) 783-9590

**Agricultural Services**

388116121 Ground application of herbicide to control undesirable woody vegetation on 90 acres in 3 specified forested areas of the Tioga State Forest in Shippen, Liberty, and Middlebury Townships, Tioga County. Vegetation is to be basal sprayed.

Department: Conservation and Natural Resources
Location: Tioga State Forest District # 16, One Nessmuk Lane, Wellsboro, PA 16901
Duration: 4/30/02
Contact: William C. Beacom, (570) 724-2868

**Construction & Construction Maintenance**

FDC-435-781 Rehabilitate 19 miles of hiking/biking trail and 5 bridges in Lehigh Gorge State Park in Carbon and Luzerne Counties. Work includes clearing, excavating, E&S measures, landscaping, aggregates, stabilized turf paving, drainage work, bituminous paving, fencing, concrete and metal work, carpentry, paints and coatings. (Project is estimated between \$1 and \$2 Million). NOTE: Requests for Bid Documents may be made ON or AFTER July 16, 2001.

Department: Conservation and Natural Resources
Location: Boro of Jim Thorpe & Lehigh Township in Carbon County and Foster Township in Luzerne County
Duration: Complete all work by May 15, 2002
Contact: Construction Management Section, (717) 787-5055

FDC-317-820.5 Demolition of Swimming Pool Area at Little Buffalo State Park in Perry County. Work includes E&S measures; reinforced concrete, piping and building demolition; structural fill and rough grading. (Project Est. \$100,000 to \$500,000). NOTE: Requests for Bid Documents may be made ON or AFTER July 16, 2001.

Department: Conservation and Natural Resources
Location: Centre Township
Duration: 90 Days
Contact: Construction Management Section, (717) 787-5055

DGS A 251-473 PHASE 2 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. BRIEF DESCRIPTION: Construct a New 80' X 96' High Arch Salt Building. ESTIMATED RANGE: \$100,000.00 to \$500,000.00. General Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, July 25, 2001 at 11:00 A.M.

Department: General Services
Location: PennDOT Maintenance Stockpile, Erie, Erie County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

DGS A 251-461 PHASE 2 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. BRIEF DESCRIPTION: Construct a New 70' X 88' High Arch Salt Building. ESTIMATED RANGE: \$100,000.00 to \$500,000.00. General Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, July 25, 2001 at 11:00 A.M.

Department: General Services
Location: PennDOT Maintenance Stockpile, Mercer, Mercer County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

DGS 570-27EX4 PROJECT TITLE: State Correctional Institution Fayette. BRIEF DESCRIPTION: All work necessary to furnish and erect one 2-story (2,854 SF) and two 1-story (1,625 SF) modular houses on foundations prepared by others. ESTIMATED RANGE: \$450,000.00 to \$650,000.00. Staff Residences Construction. PLANS DEPOSIT: \$150.00 per set payable to P. J. DICK INCORPORATED. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$50.00 or provide your express mail account number to the office listed below. Mail requests to: P. J. Dick Inc., 421 LaBelle Road, East Millsboro, PA 15433, Attn: Cindy Nichols, Tel: (724) 785-2066. Bid Date: WEDNESDAY, August 1, 2001 at 11:00 A.M. A Pre-Bid Conference has been scheduled for Tuesday, July 24, 2001 at 10:00 A.M. at the field office of P. J. Dick Inc., 421 LaBelle Rd., East Millsboro, PA 15433. Contact: Douglas Zaenger, Tel: (724) 785-2066. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference. All bidders & other interested parties, that wish to visit the Project Work Site shall schedule appointments to do so with the Construction Manager. Only those with such an appointment shall be permitted access to the site.

Department: General Services
Location: State Correctional Institution Fayette, 421 LaBelle Rd. (State Route 4020), Luzerne Township, Fayette County, PA
Duration: 270 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit, (717) 787-6556

DGS A 251-358 PHASE 2 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. BRIEF DESCRIPTION: Construct a New 70' X 88' High Arch Salt Building. ESTIMATED RANGE: \$100,000.00 to \$500,000.00. General Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, July 25, 2001 at 2:00 P.M.

Department: General Services
Location: PennDOT Maintenance Stockpile, Montoursville, Lycoming County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

DGS 979-25 Rebid Project Title: Restoration and Improvements. Brief Description: Work consists of restoration of existing house, new elevator, kitchen, toilet, electrical/mechanical room and elevator room. Estimated Range: \$500,000.00 to \$1,000,000.00. General, HVAC, Plumbing and Electrical Construction. Plans Deposit: \$160.00 per set. Checks must be payable to the Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery. Mail a separate check of \$25.00 or provide your express mail account number. Mail requests to: BPSAS, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, August 1, 2001 at 11:00 AM. A Pre-bid Conference has been scheduled for Tuesday, July 17, 2001 at 1:00 PM at the Thomas Hughes House, Jefferson Township, Greene County, PA. Contact: Jim Caufield, Tel: (717) 787-6944. All contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference. Contractor's qualifications apply to this project. Contractors must demonstrate the qualifications and experience of key full-time personnel, gained within the last ten years, involving carpentry, roofing and masonry.

Department: General Services
Location: Thomas Hughes House, Jefferson Township, PA
Duration: 210 Calendar Days from Date of Initial Job Conference
Contact: Bidding, Contracting and Central File Section, (717) 787-6556

DGS A 251-623 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. BRIEF DESCRIPTION: Construct a New 60' X 96' High Arch Salt Building. ESTIMATED RANGE: \$100,000.00 to \$300,000.00. General Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: WEDNESDAY, July 25, 2001 at 2:00 P.M.

Department: General Services
Location: PennDOT Maintenance Stockpile, Curtin, Centre County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

DGS A 251-626 Project Title: Bulk Salt Storage Facility with High Gambrel Roof. Brief Description: Construct a new 70'x 88' high arch salt building. Estimated Range: \$200,000.00 to \$250,000.00. General Construction. Plans Deposit: \$25.00 per set. Checks must be made payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of plans and specifications. Mail a separate check for \$5.00 per set or provide your express mail account number. Mail requests to: BPSAS, Room 107 Headquarters, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, July 25, 2001 at 11:00 AM.

Department: General Services
Location: PennDOT Maintenance Stockpile, Springfield Township, PA
Duration: On or before October 1, 2001
Contact: Bidding/Contracting and Central File Section, (717) 787-6556

DGS948-53 PHASE 1, PART K PROJECT TITLE: Plumbing Improvements, 3rd & E Floors, S. Wing. BRIEF DESCRIPTION: The work of this phase on the 3rd & E Floors, S. Wing includes, without limiting, removal & replacement of plumbing piping, fixtures, sink cabinets & room finishes for toilet rooms on the 3rd & E Floors, S. Wing as well as toilet rooms in the main rotunda. ESTIMATED RANGE: \$1,000,000.00 to \$2,000,000.00. Plumbing Construction. PLANS DEPOSIT: \$140.00 per set. Payable to: REYNOLDS CONSTRUCTION MANAGEMENT, INC. All bidders will receive one (1) set of documents for each project noted for coordination of work of all projects in the same area. Refundable upon return of plans & specs. in re-usable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Mail a separate check for \$15.00 per set or provide your express mail account number to the office listed below. Mail requests to: Reynolds Construction Management, Inc., P. O. Box 5746, Hbg., PA 17110, Tel: (717) 230-8063. Bid Date: WED., 8/1/2001 at 2:00 P.M. A Pre-bid conference has been scheduled for Thurs., 7/12/2001 at 4:30 P.M. in RM 8E-A, E. Wing, Main Capitol Bldg., Hbg., PA. Contact Tim Werner, Tel: (717) 230-8367. There will be a walk through immediately following the pre-bid conf. All contractors who have received contract doc. are invited & urged to attend this pre-bid conf. Special insurance contractor qualification and historic conservation qualification forms are included in the bid package & must be completed & submitted prior to award. The Contr. must demonstrate the qualifications & experience of key full time personnel of its own or subcontractors involving conservation of historic materials that will be encountered in the building. The qualifications require specialized education, training & experience in several restoration related disciplines involving supervising of conservation work & restoration & conservation trades among other skills & trades as described in the contractor qualifications summary of work.

Department: General Services
Location: Main Capitol Bldg., Hbg., PA
Duration: On or before Nov. 17, 2002
Contact: Contract & Bidding Unit, (717) 787-6556

DGS-948-37 PHASE 5, PART B PROJECT TITLE: Expansion of Central Air Conditioning System to Main Capitol Building, 3rd and E Floors, South Wing. BRIEF DESCRIPTION: The work of this phase on the 3rd & E Flrs, includes, without limiting, removal & replacement of HVAC sys., abatement of hazardous materials, new fan coil enclosures & the patching of disturbed wall chases. EST. RANGE: \$1,000,000.00 to \$2,000,000.00. HVAC Const. PLANS DEPOSIT: \$140.00 per set. Payable to: REYNOLDS CONSTRUCTION MANAGEMENT, INC. All bidders will receive one set of docs. for each project noted for coordination of work of all projects in the same area. Refundable upon return of plans & specs in reusable condition as const. docs. within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of plans & specs. Mail a separate ck for \$15.00 per set or provide your express mail account # to the office listed below: Mail requests to: Reynolds Construction Management, P. O. Box 5746, Hbg., PA 17110, Tel: (717) 230-8063. Bid Date: WED., 8/1/01 AT 2:00 p.m. A pre-bid conf. has been scheduled for Thurs., 7/12/01 at 4:30 P.M. in RM 8E-A, E. Wing, Main Capitol Bldg., Hbg., Dauphin Co., PA. Contact: Tim Werner, Tel: (717) 230-8367. There will be a walk through immediately following the pre-bid conf. All contrs. who have secured cont. docs are invited & urged to attend this pre-bid conf. Special Ins. Contr. Qualif. & Historic Conservation Qualif. Forms are included in the bid package & must be completed & submitted prior to award. The contr. must demonstrate the qualif. & experience of key full-time personnel of its own or subcontractors involving conservation of historic materials that will be encountered in the bldg. The qualifications require specialized education, training & experience in several restoration related disciplines involving supervising of conservation work & restoration & conservation trades among other skills & trades as described in the contr qualif. summary of work.

Department: General Services
Location: Main Capitol Bldg., Harrisburg, Dauphin Co., PA
Duration: On or before November 17, 2002
Contact: Contract & Bidding Unit, (717) 787-6556

DGS-948-36, PHASE 4 PART B PROJECT TITLE: Waterproofing of Main Capitol, 3rd & E Floors, South Wing. BRIEF DESCRIPTION: The work of this phase on the 3rd & E Floors, S. Wing includes, without limiting, comprehensive restoration or replacement of windows including hardware. EST. RANGE: \$500,000.00 to \$1,000,000.00. Gen. Const. PLANS DEPOSIT: \$140.00 per set. Payable to: REYNOLDS CONSTRUCTION MANAGEMENT, INC. All bidders will receive one set of docs. for each project noted for coordination of work of all projects in the same area. Refundable upon return of plans & specs in reusable condition as const. docs. within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of plans & specs. Mail a separate ck for \$15.00 per set or provide your express mail account # to the office listed below: Mail requests to: Reynolds Construction Management, P. O. Box 5746, Hbg., PA 17110, Tel: (717) 230-8063. Bid Date: WED., 8/1/01 AT 2:00 p.m. A pre-bid conf. has been scheduled for Thurs., 7/12/01 at 4:30 P.M. in RM 8E-A, E. Wing, Main Capitol Bldg., Hbg., Dauphin Co., PA. Contact: Tim Werner, Tel: (717) 230-8367. There will be a walk through immediately following the pre-bid conf. All contrs. who have secured cont. docs are invited & urged to attend this pre-bid conf. Special Ins. Contr. Qualif. & Historic Conservation Qualif. Forms are included in the bid package & must be completed & submitted prior to award. The contractor must demonstrate the qualif. & experience of key full-time personnel of its own or subcontractors involving conservation of historic materials that will be encountered in the bldg. The qualifications require specialized education, training & experience in several restoration related disciplines involving supervising of conservation work & restoration & conservation trades among other skills & trades as described in the contr qualif. summary of work.

Department: General Services
Location: Main Capitol Bldg., Harrisburg, Dauphin Co., PA
Duration: On or before Nov. 17, 2002
Contact: Contract & Bidding Unit, (717) 787-6556

DGS-948-35, PHASE 1 PART Q PROJECT TITLE: Fire Safety Code Improvements 3rd & E Floors, South Wing. **BRIEF DESCRIPTION:** The work of this phase on the 3rd & E Floors, S. Wing consists of historical refurbishment, general construction work, the installation of fire alarm systems, automatic sprinkler, electrical system upgrades & telephone/data/audio system. **EST. RANGE:** \$5,000,000.00 to \$10,000,000.00. **Gen., Elec & Fire Prof. Const. PLANS DEPOSIT:** \$140.00 per set. **Payable to:** REYNOLDS CONSTRUCTION MANAGEMENT, INC. All bidders will receive one set of docs. for each project noted for coordination of work of all projects in the same area. Refundable upon return of plans & specs in reusable condition as const. docs. within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of plans & specs. Mail a separate ck for \$15.00 per set or provide your express mail account # to the office listed below: Mail requests to: Reynolds Construction Management, P. O. Box 5746, Hbg., PA 17110, Tel: (717) 230-8063. **Bid Date:** WED., 8/1/01 AT 2:00 p.m. A pre-bid conf. has been scheduled for Thurs., 7/12/01 at 4:30 P.M. in RM 8E-A, E. Wing, Main Capitol Bldg., Hbg., Dauphin Co., PA. **Contact:** Tim Werner, Tel: (717) 230-8367. There will be a walk through immediately following the pre-bid conf. All contrs. who have secured cont. docs are invited & urged to attend this pre-bid conf. **Special Ins. Contr. Qualif. & Historic Conservation Qualif.** Forms are included in the bid package & must be completed & submitted prior to award. The contractor must demonstrate the qualif. & experience of key full-time personnel of its own or subcontractors involving conservation of historic materials that will be encountered in the bldg. The qualifications require specialized education, training & experience in several restoration related disciplines involving supervising of conservation work & restoration & conservation trades among other skills & trades as described in the contr qualif. summary of work.

Department: General Services
Location: Main Capitol Bldg., Harrisburg, Dauphin Co., PA
Duration: On or before Nov. 17, 2002
Contact: Contract & Bidding Unit, (717) 787-6556

DGS A 251-619 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. **BRIEF DESCRIPTION:** Construct a new 70' X 88' High Arch Salt Building. **ESTIMATED RANGE:** \$200,000.00 to \$400,000.00. **General Construction. PLANS DEPOSIT:** \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-6556. **Bid Date:** WEDNESDAY, August 1, 2001.

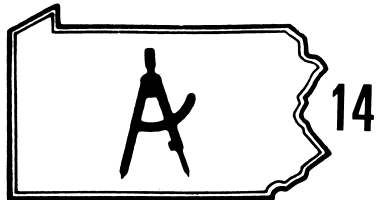
Department: General Services
Location: PennDOT Maintenance Building, Punxsutawney, Jefferson County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

DGS A 251-493 PHASE 2 PROJECT TITLE: Bulk Salt Storage Facility with High Gambrel Roof. **BRIEF DESCRIPTION:** Construct a new 70' X 88' High Arch Salt Building. **ESTIMATED RANGE:** \$200,000.00 to \$400,000.00. **General Construction. PLANS DEPOSIT:** \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: 717/787-6556. **Bid Date:** WEDNESDAY, August 1, 2001 at 11:00 A.M.

Department: General Services
Location: PennDOT Maintenance Stockpile, Beachdale, Somerset County, PA
Duration: ON OR BEFORE OCTOBER 1, 2001
Contact: Contract and Bidding Unit, (717) 787-6556

080S72 Modifications and repairs to the erosion and sedimentation control systems at Exit 14 on Interstate 83 in York County.

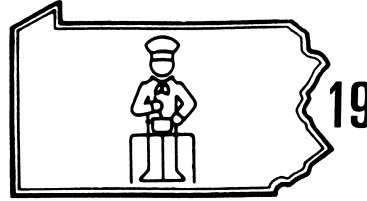
Department: Transportation
Location: York County, Interstate 83, Exit 14
Duration: Three months
Contact: Ray Ebersole, (717) 787-4735



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Food

N-5 Meat—To be delivered weekly during contract period.

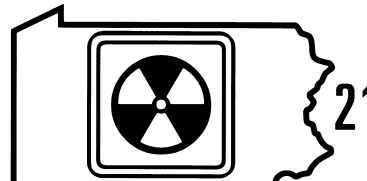
Department: Military Affairs
Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475
Duration: October 1, 2001 through December 31, 2001
Contact: Patricia M. Urban, (610) 948-2448

N-6 Poultry—To be delivered weekly during contract period.

Department: Military Affairs
Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475
Duration: October 1, 2001 through December 31, 2001
Contact: Patricia M. Urban, (610) 948-2448

N-7 Frozen Foods—To be delivered weekly during contract period.

Department: Military Affairs
Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475
Duration: October 1, 2001 through December 31, 2001
Contact: Patricia M. Urban, (610) 948-2448



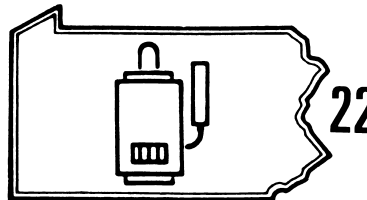
Hazardous Material Services

10976007 Hazardous Waste Removal at Polk Center to include testing, pickup, transportation and disposal.

Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: October 1, 2001 through September 30, 2004
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

STP-01-41801-101.1 Blue Bell Gulf Station Site, Groundwater Treatment Plant Construction involves approximately 10 extraction well-head vaults, 250 tons residual waste disposal, off-site transportation and disposal of 4,600 tons excess and unsuitable material, access road and parking area construction, treatment plant building, extraction system(s) installation, discharge system(s) installation, groundwater treatment system equipment and mechanical system installation and startup, process control system, and electrical construction. This project issues July 20, 2001; payment in the amount of \$40.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Whitpain Township, Montgomery County
Duration: 528 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 783-7994



HVAC Services

080S71 On-Call and scheduled maintenance of highway and sign lighting throughout Engineering District 8-0.

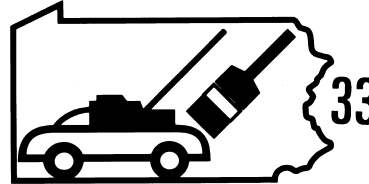
Department: Transportation
Location: Various location in Engineering District 8-0 (Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry Counties)
Duration: Two years with renewals by mutual consent
Contact: John Kennedy, (717) 787-4776



Janitorial Services

07-A-01 Janitorial Services to be provided Monday through Friday except for State Holidays. For bid package please call Cheri Thomas at (717) 787-2877 or fax request Attn: Cheri Thomas at (717) 787-0688.

Department: Labor and Industry
Location: Department of Labor and Industry, Bureau of Employee Tax Operations, FAS, 1 South Second Street, Suite 400, Allentown, PA 18102
Duration: Commonwealth approval of contract to June 30, 2002
Contact: Cherianita Thomas/BJ, (717) 787-2877



Property Maintenance

0370 Seven (7) windows. Furnish and install Bronze Aluminum Thermally Broken Windows. Site Visit required. Please send a request on company letterhead which includes address, telephone and fax numbers to fax (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: 08/01/01 through 09/30/01
Contact: Stanley Rygelski, PA, (570) 587-7291



Laboratory Services

10976005 Non-emergent Laboratory Services to include the drawing of blood specimens and the processing of all specimens at Polk Center.

Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: October 1, 2001 through September 30, 2003
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

03RS30 This contract includes the furnishing of all equipment and personnel needed to apply pesticides within Engineering District 3-0 according to Bid Specifications. Contract will be bid on a line item basis for all items that will be needed to perform this work. Contract award will be based on TOTAL CONTRACT PRICE.

Department: Transportation
Location: Engineering District 3-0
Duration: One year with two, two year renewals. Total of five years.
Contact: District Roadside Unit, (570) 368-4224

3864501001 Remove and replace house wood siding. Install ridge vent and soffit. Finish attic, drywall, electric, insulation and floor. Build deck and walkway. Building located in Uhlerstown, PA.

Department: Conservation and Natural Resources
Location: Delaware Canal State Park, 11 Lodi Hill Road, Upper Black Eddy, PA 18972
Duration: December 14, 2001
Contact: Richard Dalton, (610) 982-5560



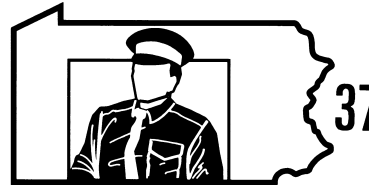
Medical Services

111100000102 Provide adult CPR certification, first aid certification, and automated external defibrillator orientation for basic training participants and re-certification of departmental employees.

Department: Corrections
Location: PA DOC Training Academy, 1451 North Market Street, Elizabethtown, PA 17022
Duration: Anticipated 19 months (November 8, 2001—June 30, 2003)
Contact: Jack Hall, (717) 361-4340

10972030 Provide physical therapy services by licensed physical therapist to Mayview State Hospital patients.

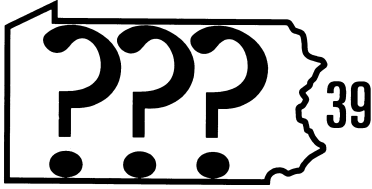
Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: 01-01-02 through 12-31-06
Contact: Fred Molisee, (412) 257-6215



Security Services

SP1111000152 Secure prisoner transportation services.

Department: Corrections
Location: 2520 Lisburn Road, Camp Hill, PA 17011
Duration: Anticipated length of contract—3 years
Contact: Beth Procopio, (717) 975-4960



Miscellaneous

SO-235 The State Correctional Institution at Somerset will be soliciting bids for various pump repair parts i.e. Grundfos, Aurora, Love Joy, & T. B. Woods. Vendors interested in bidding on these repair parts should contact the institution directly for a bid package.

Department: Corrections
Location: State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001
Duration: 7/1/01 through 6/30/02
Contact: Theresa Solarczyk, Purchasing Agent II, (814) 443-8100 X311

10976004 Installation of new clock unit at the Polk Center, Administration Building.
Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: 120 days from receipt of approved contract
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

DLR-5636 Coal, Bituminous Nut-Delivery Requirements-None Maximum sulfur content 1.5%; Ash Softening Temperature Minimum 2,550 degrees F; Minimum volatile matter 35%; Maximum grind 60; maximum undersize 15%. Must be Double Screened, Washed (Flotation Cleaned), Free swelling index 5. Deliveries accepted Monday through Friday 8:00 a.m. to 3:00 p.m. excluding recognized Commonwealth holidays. Each load must be accompanied with a load certification of values of the aforementioned coal qualities. Shipment may be refused if certification is not presented at time of delivery. Interested bidders should contact the Purchasing Department, in writing to request a bid package or by fax at (814) 946-7339.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: September 1, 2001 through June 30, 2002
Contact: Peggy Chilcote, Purchasing Agent, (814) 643-6520, ext. 125

08-370501 The Department of Transportation, Knowledge Center, is soliciting contractors interested in supplying a subscription service to the PennDOT Library. This will include renewals, claims, and preparing PennDOT Knowledge Center periodical subscriptions. Base amount of contract covers publisher price of subscriptions. Service charge bid is for percent of service charge, not total contract amount since subscription publisher prices are paid and award will be based on lowest % of service. One annual billing except for price adjustment by publisher and new orders. Reports needed by title (including mailing address for each title.) Interested contractors may request a copy of the bid package by faxing their name, company name, address, telephone number, and fax number to Cheryl Bodan at (717) 705-1558. Please reference # 08-370501 on your request.

Department: Transportation
Location: Throughout the Commonwealth of Pennsylvania
Duration: Five (5) Years
Contact: Cheryl Bodan, (717) 787-6527

RFP#01-11 Service is needed to provide contract referral services for continuity of care from SCI Muncy to the community for mentally ill female offenders.

Department: Corrections
Location: 2520 Lisburn Road, Camp Hill, PA 17011
Duration: One year, with two options to extend the contract for additional one-year periods.
Contact: Linda Malinak, (717) 975-4931

ME1204 This contract is for assistance in developing the Grade Three Reading Assessment for Commonwealth students; for printing and scoring those assessments; and for providing results to the local school districts and the Pennsylvania Department of Education.

Department: Education
Location: 333 Market Street, 8th Floor, Harrisburg, PA 17126-0333
Duration: 5 years with annual amendments
Contact: Ray A. Young, (717) 783-6538

07-B-01 Pressboard Classfiles; Letter size; 1/3 top tab, sorted, 20pt, Type I. For bid package please contact Cheri Thomas at (717) 787-2877 or fax request ATTN: Cheri Thomas at (717) 787-0688.

Department: Labor and Industry
Location: Department of Labor and Industry, Hiram G. Andrews Center; ATTN: Central Stores, 272 Goucher Street, Johnstown, PA 15905
Duration: Delivery within 45 days ARO
Contact: Cherianita Thomas/JB, (717) 787-2877

[Pa.B. Doc. No. 01-1294. Filed for public inspection July 13, 2001, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1034111-01	07/02/01	W S Lee & Sons	32,134.80
1039150-01	07/02/01	Tri-Dim Filter	20,286.00
1040151-01	07/02/01	Action Lift	18,954.88
1250110-01	07/02/01	Mail-Well Envelope	242,820.00
1330110-01	07/02/01	Grosse Webereimaschinen GMBH	41,653.00
1423380-01	07/02/01	River's Truck Center	135,990.00
1467210-01	07/02/01	Recreation Equipment Unlimited	61,425.26
1495070-01	07/02/01	Sylvan Enterprises	13,950.00
1528210-01	07/02/01	Rohrer Enterprises	85,987.00
1534110-01	07/02/01	Benco Dental Co.	125,674.80
1541110-01	07/02/01	Mayer Circular Knitting Machinery Inc.	75,734.00
1554110-01	07/02/01	Tabb Textile Co.	56,000.00
1558110-01	07/02/01	David M. Maines Associates	29,154.00
1559110-01	07/02/01	Plascon	153,000.00
1560110-01	07/02/01	John R. Wald	41,013.00
1560110-02	07/02/01	Comeq Inc.	23,500.00
1561110-01	07/02/01	Advanced Training Systems	161,282.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1562110-01	07/02/01	Butler Fence Co.	36,132.65
1569180-01	07/02/01	Schafer Systems	119,437.50
1571140-01	07/02/01	Kenny Ross Chevrolet Buick North	30,447.00
7284320-01	07/02/01	The Great Gazebo	11,000.00
7314600-01	07/02/01	Modern Handling Equipment	16,595.00
8141520-01	07/02/01	I A Construction	836,589.60
8141540-01	07/02/01	Dunbar Asphalt Products	170,843.40
8176060-01	07/02/01	Washington Printing Supplies	70,944.00
8223030-01	07/02/01	Kmel Corp/dba Keystone Precision Instrument	122,466.00
8260080-01	07/02/01	Surface Systems	103,676.57
8505710-01	07/02/01	CWS Co.	255,455.50
8505820-01	07/02/01	H & D Evans/ta Builders Supply	21,909.25
8505820-02	07/02/01	Valley Supply	62,772.25

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 01-1295. Filed for public inspection July 13, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY [34 PA. CODE CHS. 123, 125, 129 AND 143] Workers' Compensation Health and Safety

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), by this order, adopts amendments to clarify and provide detailed guidance for the uniform application of the health and safety provisions of the Workers' Compensation Act (act) (77 P. S. §§ 1-1041.4 and 2501-2626). These amendments, to read as set forth in Annex A, are to be added as Chapter 129 (relating to workers' compensation health and safety). Chapter 129 will further clarify and expand upon the previous interpretations of the act of July 2, 1993 (P. L. 190, No. 44) (Act 44) provided in the proposed rulemaking published at 29 Pa.B. 3161 (June 19, 1999). In response to comments received and meetings with affected parties, some changes have been made to the interpretations published in the statement of policy which appears in Chapter 143 (relating to workers' compensation health and safety—statement of policy), which the Department intends to delete with the addition of Chapter 129. This notice also includes the Department's interpretation of the provision of the act of June 24, 1996 (P. L. 350, No. 57) (Act 57) extending the one-time 5% discount for safety committee certification to a total of 5 years.

In addition, the Department is amending language in § 123.202 (relating to qualifications) to delete the requirement that an expert, who qualifies under § 123.202(4), shall provide vocational rehabilitation services which include vocational testing and assessment. It was brought to the attention of the Department, after the publication of the regulations, that this requirement may exclude experts, otherwise qualified under § 123.202(4)'s experience requirements. Section 123.202(4) was specifically designed to allow vocational experts, which had at least 5 years of experience prior to August 23, 1996, to continue to be qualified to offer their services as a vocational expert. Therefore, to ensure the proper interpretation of that section, the vocational testing and assessment requirement is deleted.

Finally, the Department amends §§ 125.133(c)(4) and 125.155(a) (relating to application; and homogeneity). Section 125.133(c)(4) requires an applicant for group self-insurance to explain how it meets the homogeneity requirement of section 801 of the act (77 P. S. § 1036.1). Section 125.155(a) provides one set of conditions for satisfying the homogeneity requirement. These sections refer to a member's premium and manual premium, respectively, in their application. However, as a result of recent amendments to Chapter 125 (relating to workers' compensation self-insurance), neither of these terms is defined. The Department intends to replace premium and manual premium with contributions, which is a defined term under § 125.132 (relating to definitions). This change will have no practical effect on the application of the sections to existing or proposed group self-insurance funds.

Statutory Authority

These amendments are adopted under the authority provided in sections 401.1 and 435 of the act (77 P. S.

§§ 710 and 991), which provides that the Department will adopt regulations reasonably calculated to explain and enforce provisions of the act. These amendments are adopted under the additional authority of sections 1001 and 1002 of the act (77 P. S. §§ 1038.1 and 1038.2), which require insurers and self-insurers to have accident and illness prevention programs as regulated by the Department, and also encourage the establishment of workplace safety committees under criteria established by the Department.

Background

Act 44 significantly amended the act. Among other things, Act 44 established provisions for the following: accident and illness prevention services and programs; requirements for accident and illness prevention services providers; and the formation and certification of workplace safety committees. These amendments are designed to reduce the number and severity of accidents and illnesses within the workplace.

Since the passage of Act 44, extensive outreach and communication efforts have been undertaken to gain input from the various affected parties, including insurers, self-insured employers, group self-insurance funds, providers of accident and illness prevention services and members of the public. Summaries of these activities follow.

On July 31, 1993, the Department published a notice at 23 Pa.B. 3626 inviting interested parties to a public meeting on August 10, 1993, to discuss a number of Act 44 issues, including those relating to health and safety. At this meeting, Department representatives encouraged those wishing to do so to submit written comments to the Bureau.

On August 28, 1993, the Department published a notice concerning implementation of Act 44 at 23 Pa.B. 4185 (August 28, 1993). This notice was intended to provide timely guidance to all affected parties regarding the implementation of the health and safety provisions of Act 44. Interested parties were advised to write to the Bureau with information requests and comments.

The Department published a statement of policy at 25 Pa.B. 3943 (September 16, 1995). This statement of policy provided guidance to workers' compensation insurance carriers, self-insured employers, group self-insurance funds and employers regarding the Department's interpretation of sections 1001 and 1002 of the act, pending promulgation of final-form regulations. The statement of policy also served to inform other interested members of the public of the Department's interpretation of these provisions.

These amendments further clarify and expand upon the implementation of Act 44 health and safety provisions. A number of changes have been made to the statement of policy guidelines in response to comments received from affected parties.

Act 57 modified section 1002 of the act (77 P. S. § 1038.2) by extending the one-time, 5% workers' compensation premium discount for being granted workplace safety committee certification to a total of 5 years. After initial committee certification, an employer may be entitled to four additional premium discounts by providing annual verification by affidavit that the committee continues to be operative and continues to meet certification requirements.

Since the passage of Act 44 and Act 57 and the publication of the notice and statement of policy, the Bureau has received written comments, telephone inquiries and has continually solicited participation from affected parties. Meetings with affected parties were also held to provide guidance and explanation of Act 44 implementation efforts. The Bureau also employed a Nationally recognized consultant in the field of health and safety to assist in the development of the administrative requirements and processes, requirements for accident and illness prevention services providers, reporting requirements relating to accident and illness prevention services and programs imposed upon insurers, self-insured employers and group self-insurance funds.

Department efforts to provide assistance and to inform affected parties regarding health and safety provisions have included the activities listed as follows.

On April 19, 1994, the Department held a Statewide teleconference to provide information to a variety of affected parties relating to the certification of workplace safety committees. Participating in this conference were members, not only of the Department, but also representatives of the National Safety Council, recognized consultants in the field of occupational safety and health.

From March through August 1994, the Department convened an ad hoc committee to obtain input regarding requirements for accident and illness prevention services providers. The committee included representatives from the academic, insurer, self-insured employer, healthcare provider and other communities. Recommendations included in the final committee report were utilized in compiling the list of credentials and requirements included in the September 1995 statement of policy. Additional comments received from members of the regulated community and the findings of subsequent research are reflected in these amendments.

In September 1995, the Department called a series of three meetings with representatives of insurers, self-insured employers and group self-insurance funds respectively. Draft annual reports required under the health and safety provisions of Act 44 were reviewed at these sessions by the represented affected parties. Comments and suggestions were included in later report versions, draft copies of which were released to all affected parties in April 1996. Recipients were asked to voluntarily complete and return these reports as part of a voluntary report field test. Final report drafts were mailed to members of the regulated community requesting completion and official filing with the Department as required by Act 44. Reports were sent to insurers on February 28, 1997, requesting return within 60 days. Favorable comments and responses to report format and content have been volunteered by affected parties.

In August 1996, in response to the passage of Act 57, the Department implemented procedures to renew the initial certification of employers. These amendments extended the one-time, 5% discount offered under Act 44 to a total of 5 years if, by affidavit, an employer attests to the continued operation of its certified committee according to Department criteria. Completed certification renewal affidavits were produced and mailed to employers commencing with August 23, 1996, due dates. To expedite renewal, affidavits are produced with all needed information completed, necessitating that employers only update data as required, and include a notarized signature before return for processing.

From April through June of 1997, the Department conducted official tests of the complete reporting and

onsite auditing process with the assistance of three volunteer members from each of the three affected groups: licensed insurers; individual self-insured employers; and group self-insurance funds. Input from affected participants resulted in modification and revisions to several areas of the process and information requirements.

Since the passage of Act 44 and Act 57, members of the Bureau have continued to participate in meetings with numerous professional organizations, safety and labor conferences and various seminars. At those meetings, the Bureau members described the Department's interpretation of the health and safety provisions and processes that have been implemented to effect them. This participation has also provided an important vehicle for affected parties to comment and input.

At 29 Pa.B. 3161 (June 19, 1999), the Department published the notice of proposed rulemaking, again inviting all interested parties to provide written comments to the Department regarding the Department's interpretation of Acts 44 and 57. As a result, the Department received comments from the following groups and individuals: Dr. Jasen M. Walker, CEC Associates, Inc.; John P. Halvorsen, Insurance Services Office, Inc.; George Ellis, Pennsylvania Coal Association; Peter N. Calcara, Professional Insurance Agents Association of Pennsylvania, Maryland, and Delaware; J. A. Hold and P. W. Nicholson, Consol, Inc.; John H. Cheffer, Travelers Property and Casualty; Daniel R. Tunnell, Pennsylvania Gas Association; Steven A. Bennett, American Insurance Association; and Samuel R. Marshall, The Insurance Federation of Pennsylvania. The Department also received written comments from the Independent Regulatory Review Commission (IRRC), by means of a letter dated August 19, 1999.

This notice of final-form rulemaking supplants and further clarifies and expands upon the previous interpretation of Act 44 and Act 57 health and safety provisions provided in the notice of proposed rulemaking. In response to comments received, some changes have been made to the previously published interpretation.

Purpose

The purpose of these amendments is to effectuate the provisions of Act 44 and Act 57 pertaining to workplace accident and illness prevention. The amendments to sections 1001 and 1002 of the act (77 P. S. §§ 1038.1 and 1038.2) in Act 44 were designed to curtail the costs of workers' compensation coverage by reducing or eliminating workplace injuries and illnesses and reducing their severity. The amendments to section 1002(b) of the act in Act 57 were designed to curtail the costs of workers' compensation coverage by providing an immediate discount based upon the continuing operation of workplace safety committees according to specified criteria.

Since the passage of Act 44 and Act 57, interested parties have requested information which provides definitive interpretations, so that all parties will have a clear understanding of their rights and duties under the health and safety provisions of the act. These amendments provide clarification regarding the accident and illness prevention program or services requirements which workers' compensation insurance carriers, self-insured employers and group self-insurance funds shall comply with under Chapter 7E of the act (77 P. S. § 1038.1) and reporting requirements relating to the programs or services. These amendments also describe the acceptable credentials and required experience for accident and illness prevention services providers. Finally, these

amendments describe the process by which an employer may apply for certification and certification renewal of its workplace safety committee to be eligible for eligibility for the one-time premium discount established by Act 44 which was extended to a total of 5 years by Act 57.

Affected Persons

Those affected by these health and safety amendments include all private and public sector employers and employees in this Commonwealth, workers' compensation insurance companies, self-insured employers, group self-insurance funds and accident and illness prevention services providers.

Fiscal Impact

The Commonwealth will incur ongoing costs related to the administration of the new statutory health and safety provisions. These costs will be chargeable to the Bureau, and funded by assessments submitted to the Workmen's Compensation Administration Fund by carriers on behalf of insured employers and by self-insured employers.

Generally, the Bureau's new program responsibilities require augmenting existing staff. The staff is needed to review, process and evaluate applications and reports and to conduct onsite audits of accident and illness prevention programs. These administrative costs, however, are a result of the statute and not these amendments.

The only costs imposed on local governments are those same costs imposed upon all other employers. The Commonwealth, likewise, may have costs related to its role as a self-insured employer.

There are some potential costs to insurers and self-insured employers that may result from changes to data capture and tracking procedures necessary to produce the required information for reporting purposes. These costs are difficult to calculate, however, as changes may or may not be required. Savings will, however, be immediate to employers who apply and are granted safety committee certification or certification renewal in the form of a 5% workers' compensation premium discount. Further savings should be realized through the monitoring of the quality and availability of accident and illness prevention programs and services which are aimed toward reducing workplace injuries and illnesses and therefore improving the overall level of health and safety.

Responses to Comments

The following addresses the common areas of concerns found in the comments received from the public and IRRC.

One commentator, CEC Associates Incorporated, objected to the proposed rulemaking's deleting § 123.202(4)(vi). Nonetheless, the Department believes that it is still necessary to delete § 123.202(4)(vi) because "vocational testing and assessment," as that term is used in the industry, requires formal education and training, a qualification that is inconsistent with the regulations' defining a limited "grandfathered" class of vocational evaluators. Therefore, the clause remains deleted in the final-form regulations.

Section 129.2 (relating to definitions) of the proposed rulemaking contains the definitions for various terms and phrases which are incorporated throughout these regulations. At the request of IRRC and various commentators, the following definitions have been either amended, added or deleted to increase clarity. The rating determination of "adequate" has been defined relative to the requirements that shall be met to achieve this evaluation.

The definition of "audit" has been modified to allow for the submission of documentation required by other governmental agencies to evidence compliance. The phrase "effectiveness measures" has been amended to include specific formulas which may be used to monitor programs and services. The definition of "need" has been deleted. The definitions of "workplace," "recommendations" and "training program" have been amended for clarity. Definitions of the terms "credential," "suggestions" and "worksite" have been added to increase clarity. The definition of "program evaluation methods" has been modified for clarity and renamed as "evaluation methods." The terms "program coordinator" and "emergency action plans" have been included for additional clarity.

Section 129.102(1) of the proposed rulemaking describes policyholder notification requirements for insurers. Several commentators have suggested that because insurer contact personnel frequently change, the insurer's department should also be listed as a point of contact on the notice. The Department agrees, and has amended the subsection to require the name of a contact person or department.

Section 129.102(2) of the proposed rulemaking states that an insurer must have the capacity to maintain or provide adequate services as required by the nature of the carrier's business or policyholders' operations. Several commentators have advised the Department that the substitution and definition of the term "capacity" would more accurately interpret the obligation of the insurer and that such capacity should only apply to policyholders who request services. Although the Department is in general agreement with this interpretation and has made appropriate wording changes, the obligation to maintain or provide accident and illness prevention services is interpreted by the Department as requiring proactive action by insurers in providing notification of the availability of accident and illness prevention services and in the notice, review, analysis and proposal of preventive corrective actions under a policyholder's request under § 129.103.

Section 129.102(3)(ii)(A) of the proposed rulemaking describes required insurer actions when imminent danger situations or significant program deficiencies are identified. A number of commentators and IRRC have stated that the phrase "appropriate follow-up" is ambiguous as used in this subsection. The Department has amended the subsection to read that the carrier shall "propose further corrective actions if necessary."

Section 129.102(3)(ii)(D) and (E) of the proposed rulemaking describes required industrial health and hygiene services. Several commentators have stated that this section should be deleted as it might be interpreted to require that insurers maintain specialized staff to directly provide all the services to policyholders. Since both of these services are specifically mentioned in the Article X provisions of the act, the language cannot be deleted. The Department's intent, however, is to permit insurers to identify policyholder needs for these services and to either directly provide or recommend them given their specialized nature. Language has been modified accordingly.

Sections 129.102 (3)(ii)(D) and (E), 129.402(a)(6) and (7) and 129.457(3) and (4) of the proposed rulemaking were drafted to describe the required industrial hygiene or health services to be provided by an insurer, self-insured employer or group self-insurance fund. Several commentators and IRRC have suggested that the words "appropriate" and "needs" are ambiguous. The Department

agrees and has modified wording to reflect that policyholder needs are to be determined by the insurer.

Section 129.102(3)(ii)(H) of the proposed rulemaking allows for review and recommendation of planned or newly introduced industrial materials processes, equipment, layouts and techniques. Several commentators have expressed concern that because of the potential variety of new processes and equipment, insurers would face unnecessary and burdensome expenses to employ adequate staff to effectively conduct assessments of all specific hazards. In keeping with the Department's original intent, language has been modified to describe the requirement as providing consultations to policyholders concerning hazard abatement programs and techniques associated with those introductions.

Sections 129.104(b), 129.403(b) and 129.453(b) (relating to insurer's accident and illness prevention services providers requirements; individual self-insured employer's accident and illness prevention services providers requirements; and group self-insurance fund accident and illness prevention services providers requirements) of the proposed rulemaking state that insurers, individual self-insured employers and group self-insurance funds have proof that the qualifications for accident and illness prevention providers have been met. The American Insurance Association has expressed concern that this language, as drafted, directed carriers to provide proof annually in conjunction with required yearly reports. The subsection has been rewritten to specify that proof of qualification shall be provided only upon an onsite inspection and maintained for specified record retention periods.

Section 129.106 (relating to reporting requirements licensed insurers) of the proposed rulemaking set forth the due date for submission of the annual report by each carrier. Several commentators have requested that the March 1 date be changed to June 1 to allow additional time for the compilation of report data. The Department feels that this is a reasonable request and has modified language accordingly. Additionally, commentators have voiced that the report information should be limited to information concerning services "requested" by policyholders. However, it is the Department's interpretation that the determination of the "adequacy" of the accident and illness prevention services and programs also requires an examination of not only policyholder requests, but proactive insurer actions to address client exposures and to recommend or implement corrective actions. Therefore, the Department believes a revision to the language is not warranted.

Sections 129.106, 129.404 and 129.455 of the proposed rulemaking stated that the insurer, self-insurer and group self-insurance fund shall provide the Bureau with documentation concerning accident and illness prevention services on forms supplied by the Bureau. Several commentators and IRRC inquired into the ability of the insurer to use other similar types of governmental regulatory documentation in lieu of the Bureau's forms. As a result, the Department has changed the regulatory language to include this type of documentation as acceptable to meet the requirements of Article X of the act (77 P. S. § 1038.1).

Sections 129.106, 129.404, 129.455, 129.108, 129.406 and 129.458 of the proposed rulemaking listed reporting and recordkeeping requirements. IRRC commented that the current language is inconsistent with the requirements enumerated in section 1001(e)(1), (2) and (5) of the act. The Department has reconciled the language and requirements of these sections.

Sections 129.109, 129.407 and 129.459 (relating to periodic audits of insurer's accident and illness prevention services) of the proposed rulemaking stated that the Bureau may audit the insurer, self-insured employer or group self-insurance fund's accident and illness prevention programs or services "at least once every 2 years." IRRC has requested clarification as to when an audit would be initiated and that the written notice of the audit include the reasons for the audit. Several commentators have requested that the language "at least once every 2 years" be eliminated. The Department has amended the language to better describe when an audit would be triggered and to specify that the written notice of the audit will include the reasons for the audit. The language of the act, however, specifically permits inspections at least once every 2 years, and this language has been retained rather than eliminated as some commentators have suggested.

Sections 129.110, 129.408 and 129.460 (relating to preaudit exchange of information; periodic audits of individual self-insured employer's accident and illness prevention program; and preaudit exchange of information) of the proposed rulemaking provided for the preaudit exchange of information. IRRC has commented on three areas of the sections: first, that the necessity for the submission of 1 to 3 years of Insurer's Annual Report of Accident and Illness Prevention Services (AIPS) or Annual Report of Accident and Illness Prevention Program Status (AIPPS) by Individual Self-Insured Employer reports makes the preaudit exchange of the same material duplicative; second, the requirement that insurers submit a list of current "employers/policyholders" that have certified safety committees is unnecessary and duplicative since the Department already has access to this information; and finally, the phrase "in a timely manner" would benefit from clarification. With respect to the initial point, the Department has inserted language explaining that the need for submittal of 3 years of AIPS or AIPPS reports only arises when an audit has been initiated and no annual reports have previously been filed. In addition, the Department has narrowed the requirement that insurers submit the list of current employers/policyholders that have a certified safety committee so that the list will be far less burdensome on the carrier, and only need to include those employers/policyholders that "have reported to the carrier" that Department certification has been granted. The Department believes that the party most able to compile this information is the insurer, as policyholders frequently change insurers and the Department does not necessarily receive notification of these changes. The Department does concur with IRRC's assessment that the phrase "in a timely manner" is vague, and has deleted this language, and will instead rely on the language defining required filing time periods.

Sections 129.112, 129.410 and 129.462 (relating to written report of audit; site of audit; and written report of audit) of the proposed rulemaking explained the form and notification of a written report of audit. IRRC commented that there was no mention of a time period when the Department would issue its rating determination. The Department believes that since these regulations are not intended to regulate the Department itself, there is no need for a fixed time frame to be included. Further, IRRC noted that the phrase "satisfactory proof" is vague. The confusion regarding this language has led the Department to amend the regulation, substituting the phrase "written documentation" for "satisfactory proof."

Sections 129.112, 129.410, 129.462, 129.113, 129.411 and 129.463 of the proposed rulemaking concerned the

assignment of rating determinations based upon the written report of audit and reports of progress on correcting deficiencies. IRRC requested that the regulations be amended to give more precise guidance to insurers as to the criteria, standards or requirements to be used to determine compliance. The Department has amended the regulations to more clearly describe how it will determine and assign adequacy review process.

Section 129.113 (relating to plan of correction/reports of progress on correcting deficiencies) of the proposed rulemaking provided that, within 60 days after the issuance of the audit report, an insurer will either comply with all report recommendations and provide written evidence of compliance or, for deficiencies requiring more than 60 days to correct, shall file a plan of correction acceptable to the Department and subsequently file monthly reports of progress. IRRC has requested that the requirements and sequence of these time periods be clarified. The Department agrees, and therefore has modified language accordingly, further clarifying when final determinations will be assigned during these periods and defining the circumstances which may initiate an audit during the correction period.

Sections 129.114, 129.412 and 129.464 (relating to contesting final determinations; plan of correction/reports of progress on correcting deficiencies; and contesting final determinations), as proposed, detailed the ramifications of an employer's failure to maintain or provide adequate services. Travelers Property Casualty indicated, and the Department concurs, that the reference to the act in these sections are inaccurate and the provisions dealing with penalties are unclear. Accordingly, the Department has incorporated language to correct the references to the *Pennsylvania Code* and clarified the authority and process for imposition of monetary penalties.

Section 129.702 of the proposed rulemaking used the term "certification" to reference qualifications acceptable to the Department for accident and illness prevention services providers. IRRC correctly pointed out that the term certification, as used in Subchapter F (relating to workplace safety committees) in reference to the evaluation of safety committees, is in conflict with its current usage in this subsection. As such, the Department has substituted the term "credential" when referencing provider qualifications and uses the term "certification" exclusively in reference to safety committees.

Section 129.702 of the proposed rulemaking referenced the credentials for accident and illness services providers established by the Department as required by section 1001(a) and (b) of the act. Several commentators remarked that the qualification standards as proposed should be deleted. The Department disagrees with this position since the act requires the Department to specify levels of qualification.

IRRC also questioned whether the "in service" designation, as described in § 129.702, equated to the apprenticeship program described in the previously published statement of policy. At IRRC's suggestion, the language concerning in-service status has been clarified to indicate that a provider who does not possess recognized Department qualification has 5 years to meet the necessary qualification criteria.

Further, IRRC questioned why subsection (e) of § 129.702 of the proposed rulemaking required that at least 60% of a service provider's job activities be devoted to accident and illness prevention services to meet the 2-year experience requirement for qualification rather

than 50% as stated in the statement of policy. The Department's use of 50% in the statement of policy was in error.

Finally, § 129.702(g) of the proposed rulemaking described the 5-year qualification period for providers designated as "in-service." IRRC questioned whether this provision applied to both existing and newly hired employees. The subsection has been amended to reference any provider whose services were utilized during a given reporting period without regard to employment status.

Section 129.1003 (relating to minimum eligibility requirements) of the proposed rulemaking concerned the minimum eligibility requirements for workplace safety committees. IRRC requested clarification of the phrase "reasonably represent all." The Department has amended the section to state that all primary functions of an employer must be represented by committee membership.

Section 129.1004(d)(2) (relating to committee formation and membership) of the proposed rulemaking provided that "[m]ember rotation should be structured so that there is always at least a core group of experienced members." IRRC recommended that, in the interest of clarity, this section be revised to state that "workplace safety committees shall establish procedures that retain a core group of experienced members serving on the committee at any given time." The Department concurs with this suggestion and adopted this language in the final-form regulations.

IRRC also asked for clarity in the language of the subsection dealing with terms of committee members and associated recordkeeping requirements. In response, the Department has amended this provision to specify that a committee member's term commences upon attending the first committee meeting and that records shall be kept for 5 years.

Section 129.1005 (relating to committee responsibilities) of the proposed rulemaking described the workplace safety committee responsibilities. IRRC commented that the terms "timely" as used in subsection (a)(4) relating to the review of incidents and "reasonable" as used in reference to time limits for response to safety committee recommendations under subsection (b)(7) were ambiguous. The Department concurs, and has eliminated the terms.

Section 129.1010 (relating to recordkeeping requirements) of the proposed rulemaking required an applicant-employer to keep copies of the "required documents" of the workplace safety committee for a minimum of 3 years. IRRC noted the inconsistency with this retention period and the stated retention for other committee records including those for member training. Accordingly, the Department has revised the retention time periods to be consistent at 5 years. At IRRC's suggestion, the Department has also clarified the documentation to be retained which has been limited to information necessary to make determinations of adequacy or inadequacy.

Section 129.1301 (relating to purpose) of the proposed rulemaking provided the subchapter's purpose. At IRRC's suggestion, the Department has revised the section to include more expansive definitions of the types of "final determinations" which are subject to appeal.

Section 129.1303 (relating to hearing process) of the proposed rulemaking described the hearing process for situations where a party contests a final determination. IRRC has posited that the section, as written, failed to completely outline the hearing process. In response, the Department has clarified the language as to the process

and appointment of a hearing officer by the Director and the resultant notifications. Additionally, a new subsection has been added referencing 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

Several commentators questioned the additional recordkeeping and costs associated with the implementation of these regulations. Although it is realized that some additional administration may be required, the Department has sought to minimize this burden to the extent possible. The Department's acceptance of documentation required by other state and Federal agencies as evidence of compliance with these regulations is one example of how the Department has attempted to minimize the burdens placed on affected parties.

Reporting, Recordkeeping and Paperwork Requirements

Some forms have been adopted in accordance with sections 802(b)(13), 1001 and 1002 of the act as amended by Act 44 and Act 57. The information requested on the reports is required for: evaluation as to the adequacy of accident and illness prevention services or program requirements for initial or continued licensure; attestation and verification that accident and illness prevention services providers employed or contracted with insurers and self-insured employers meet requirements established by the Department; determination of eligibility for safety committee certification and certification renewal and resulting 5% premium discounts; and determination as to whether group self-insurance fund status should be granted to an applicant group based upon preparedness to provide adequate accident and illness prevention services.

To comply with section 1001(a) of the act, insurers desiring to write workers' compensation insurance in the Commonwealth are required to file form LIBC-211I, Initial Report of Accident and Illness Prevention Services, when applying for a license with the Insurance Department. This form has been adopted to provide information for the evaluation of the applicant-insurer's capability to provide accident and illness prevention services to prospective policyholders as required by law. Based upon the information provided, the Department will recommend a final adequate or inadequate rating determination to the Commissioner of the Insurance Department who will determine whether to grant a certificate of authority to write workers' compensation insurance to the insurer-applicant.

Section 1001(a) of the act also requires that insurers employ or otherwise make available qualified accident and illness prevention personnel who meet Department requirements. Additionally, section 1001(e) of the act mandates annual reporting by licensed insurers as to the accident and illness prevention services being maintained or provided to policyholders and the number and credentials and experience of individuals used to provide services. Form LIBC-210I, Insurer's Annual Report of Accident and Illness Prevention Services, was adopted to provide information for evaluation as proof of compliance with these requirements.

As with licensed insurers, self-insured employers and group self-insurance funds exempted from privately insuring their workers' compensation liability are required by section 1001(b) of the act to maintain an adequate accident and illness prevention program as a prerequisite for retention of self-insured status. Section 1001(b) of the act also requires that self-insured employers and group self-insurance funds employ or otherwise make available qualified accident and illness prevention personnel who

meet Department requirements to provide program services. Form LIBC-220E, Annual Report of Accident and Illness Prevention Program Status by Individual Self-Insured Employers, and Form LIBC-230G, Annual Report of Accident and Illness Prevention Program Status By Group Self-Insurance Funds, have respectively been adopted to provide information for evaluation by the Bureau to determine the adequacy of these programs and service providers according to Department established criteria.

Additionally, a group self-insurance fund is required by § 129.454 (relating to reporting requirements applicants for group self-insurance fund status) to file form LIBC-231G, Initial Report of Accident and Illness Prevention Program, as a prerequisite for being granted group self-insurance fund status. The data requested on this form allows evaluation of planned program implementation for adequacy.

Section 1002 of the act states that employers may apply to the Department for the certification of any established safety committee operating within its workplace. Form LIBC-372, Application for Certification of Workplace Safety Committee, has been adopted for use by employers. Certification criteria requirements are specified on the form.

Section 1002 of the act also provides that employers who continue to operate workplace safety committees according to established criteria are eligible to receive a 5% discount in workers' compensation insurance premiums for a total of 5 years if, after initial certification, the employer provides annual verification of the operation to the Department by affidavit. Form LIBC-372R, Certification Renewal Affidavit of Workplace Safety Committee, has been adopted to allow information for the verification to be provided by the employer. An affidavit is automatically mailed to employers previously granted certification or certification renewal prior to the renewal of their workers' compensation policy. The employer then updates information as needed prior to returning the affidavit for review and processing.

Under Chapter 129, the Department has established amendments pertaining to the health and safety provisions of the workers' compensation law. Record retention periods have been established for the purpose of documenting information provided to the Department and for possible onsite record examination.

Effective Date

These amendments are effective immediately upon publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 4, 1999, the Department submitted a copy of the notice of proposed rulemaking published at 29 Pa.B. 3161 to IRRC and to the Chairpersons of the House Labor Relations Committee and the Senate Committee on Labor and Industry for review and comment. IRRC and the Committees were provided with copies of 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, stakeholders and the public. These final-form regulations were deemed approved by the House and Senate Committees on April 13, 2001. IRRC met on April 19, 2001, and approved the amendments in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

Contact Person

The contact person is Len E. Negley, Chief, Health and Safety Division, Bureau of Workers' Compensation, Department of Labor and Industry, (717) 772-1917, 1171 South Cameron Street, Room 324, Harrisburg, PA 17104-2501.

Findings

The Department finds that:

(1) Public notice of intention to amend the administrative regulations amended 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 in 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment of the regulations of the Department in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 34 Pa. Code, are amended by adding §§ 129.1, 129.2, 129.101—129.114, 129.401—129.413, 129.451—129.464, 129.701—129.705, 129.1001—129.1011, 129.1301—129.1303 and 129.1601, 129.1602; and by amending §§ 123.202, 125.133 and 125.155; and by deleting §§ 143.1, 143.2, 143.101—143.118, 143.401, 143.411—143.414, 143.451—143.458, 143.701—143.703 and 143.1001—143.1009, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect upon publication in the Pennsylvania Bulletin as final-form rulemaking.

JOHNNY J. BUTLER, Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 2444 (May 5, 2001).)

Fiscal Note: Fiscal Note 12-54 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VIII. BUREAU OF WORKERS' COMPENSATION

CHAPTER 123. GENERAL PROVISIONS—PART II

Subchapter C. QUALIFICATIONS FOR VOCATIONAL EXPERTS APPROVED BY THE DEPARTMENT

§ 123.202. Qualifications.

To be an expert approved by the Department for the purpose of conducting earning power assessment interviews, the individual shall possess a minimum of one of the following:

* * * * *

(4) At least 5 years experience primarily in the workers' compensation field prior to August 23, 1996, as a vocational evaluator, with experience in analyzing labor market information and conditions, industrial and occupational trends, with primary duties providing actual vocational rehabilitation services, which include, but are not limited to, the following:

- (i) Job seeking skills.
(ii) Job development.
(iii) Job analysis.
(iv) Career exploration.
(v) Placement of individuals with disabilities.

CHAPTER 125. WORKERS' COMPENSATION SELF-INSURANCE

Subchapter B. GROUP SELF-INSURANCE

§ 125.133. Application.

* * * * *

(c) With the application, the applicant shall include:

* * * * *

(4) An explanation of the same classification series, as described under § 125.155(a) (relating to homogeneity), common to all prospective members with the amount of each member's contributions derived from the classification codes within the common series, or an explanation of how the prospective members are engaged in the same or similar types of business, as described under § 125.155(b). The Bureau may request additional information to determine the homogeneity of the applicant.

* * * * *

§ 125.155. Homogeneity.

(a) The definition of "homogeneous employer" under section 801 of the act (77 P.S. § 1036.1) and under § 125.132 (relating to definitions) is deemed satisfied as to employers who have been assigned to the same classification series if the members derive a majority of their contributions from codes within the same classification group listed in a manual of risk classes approved by the Commissioner of the Insurance Department under Article VII of the act (77 P. S. §§ 1035.1—1035.22).

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CHAPTER 129. WORKERS' COMPENSATION HEALTH AND SAFETY

Subchap.

- A. PRELIMINARY PROVISIONS
B. INSURER'S ACCIDENT AND ILLNESS PREVENTION SERVICES
C. INDIVIDUAL SELF-INSURED EMPLOYER'S ACCIDENT AND ILLNESS PREVENTION PROGRAMS
D. GROUP SELF-INSURANCE FUND'S ACCIDENT AND ILLNESS PREVENTION PROGRAMS
E. ACCIDENT AND ILLNESS PREVENTION SERVICES PROVIDERS REQUIREMENTS
F. WORKPLACE SAFETY COMMITTEES
G. HEARINGS
H. ORDER TO SHOW CAUSE/PENALTIES

Subchapter A. PRELIMINARY PROVISIONS

Sec.

- 129.1. Purpose.
129.2. Definitions.

§ 129.1. Purpose.

This subchapter provides definitions of terms used in this chapter to allow for accurate understanding of commonly and frequently used terminology.

§ 129.2. Definitions.

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

AIPS—Form LIBC-210I, *Insurer's Annual Report of Accident and Illness Prevention Services*, which provides detailed information about services being maintained or provided by a workers' compensation insurer to its policyholders.

AIPPS—Form LIBC-220E, *Annual Report of Accident and Illness Prevention Program Status*, which provides detailed information about a self-insured employer's prevention program or prevention services being provided to employer members of a group self-insurance fund.

Accident analysis—The review of injury and illness records for the purpose of identifying trends, causal factors and methods of preventing and reducing work-related accidents and illnesses.

Accident and illness prevention services providers—A person or persons providing accident and illness prevention services for an insurer, individual self-insured employer or group self-insurance fund who meets the requirements in § 129.702 (relating to accident and illness prevention services providers credentials and experience).

Accident and illness prevention services—Services, within the context of the act, which include: surveys, proposed corrective actions, training programs, consultations, analyses of accident causes and industrial hygiene and industrial health services.

Act—The Workers' Compensation Act (77 P. S. §§ 1-1041.4 and 2501-2626).

Act 44—The act of July 2, 1993 (P. L. 190, No. 44).

Act 57—The act of June 24, 1996 (P. L. 350, No. 57).

Adequate—A Bureau of Workers' Compensation final determination that the insurer, individual self-insured employer or group self-insurance fund has fulfilled the program and service requirements as stated in this chapter.

Affiliated company—Employers which are closely related through common ownership or control.

Applicant-employer—An insured employer, an individual self-insured employer or an employer member of a group self-insurance fund having its own separate Federal Employer Identification Number (FEIN) applying to the Bureau for certification or certification renewal of its workplace safety committee.

Application—Form LIBC-372, *Application for Certification of Workplace Safety Committee*, used to apply for Department certification.

Audit—An inspection of documentation or other evidence relating to the adequacy of accident and illness prevention services or programs as authorized by section 1001(c) of the act (77 P. S. § 1038.1(c)).

Bureau—The Bureau of Workers' Compensation of the Department.

Centralized workplace safety committee—A safety committee comprised of personnel, both employer and employee representatives, who are selected from and reasonably represent those job functions located at all auxiliary or satellite employer locations, in addition to the headquarter facilities (if the headquarters facility is located in

this Commonwealth) and which represents the health and safety concerns of all personnel at those auxiliary or satellite locations.

Certification—The Departmental approval of an applicant-employer's application for certification of its workplace safety committees.

Certification renewal—Form LIBC-372R, *Certification Renewal Affidavit of Workplace Safety Committee*, used to attest to the continued operation, according to Departmental requirements, of a previously certified workplace safety committee.

Commissioner—The Insurance Commissioner of the Commonwealth.

Consultation—Providing advice relative to existing and potential hazards.

Contracted accident and illness prevention services providers—A person or organization which meets the qualification standards in § 129.702 (relating to accident and illness prevention services providers requirement) under contract with an insurer, individual self-insured employer or group self-insurance fund for the purpose of maintaining or providing accident and illness prevention services and programs as required under the act.

Credential—A designation in the health and safety field recognized by the Department.

Department—The Department of Labor and Industry of the Commonwealth.

Director—The Director of the Bureau.

Effectiveness measures—Any one of the various statistical means used by an insurer, self-insured employer or group self-insurance fund to evaluate the adequacy of accident and illness prevention programs and services such as Occupational Health and Safety Administration (OSHA)/United States Department of Labor Bureau of Labor Statistics (BLS) incidence rate comparison, loss ratio or experience modification factor.

Emergency action plans—Plans to be at least annually reviewed by individual self-insured employers and which address the need for immediate action to protect employees due to the occurrence of life-threatening or endangering exposures. Examples of types of plans include: building and site evacuation; hazardous material spill; and urgent employee medical treatment.

Evaluation methods—Periodic reviews of accident and illness prevention services or programs to determine if actual health and safety concerns, experience and exposures are being addressed, and conducted at least annually.

Group self-insurance fund—A group of employers authorized by the Bureau to act as a self-insurance fund under section 802 of the act (77 P. S. § 1036.2).

Group self-insurance fund initial report of accident and illness prevention services—A report to be filed with the Bureau when an application for group self-insurance fund status is submitted which details accident and illness prevention services to be maintained for member companies.

Hazard identification methods—Methods used to conduct hazard identification and for providing proposed corrective actions for the purpose of eliminating or reducing occupational accidents, injuries and illnesses. Activities may include: providing solutions; explanations; resources; reference materials; and referrals.

Industrial health services—Services that include a consultation concerning the well-being of people in relation to their job and working environment. This consultation may produce proposed corrective actions aimed at identifying, controlling and preventing exposures as part of the implementation of a program of accident and illness prevention services.

Industrial hygiene services—Services that include consultation concerning suspected chemical, physical or biological exposures. This consultation may produce proposed corrective actions designed to control or prevent identified exposures and is directed toward implementing a program of accident and illness prevention services.

In-service status—The classification granted to an accident and illness prevention services provider who does not possess a Bureau-recognized credential under § 129.702.

Insurer—An entity or group of affiliated entities subject to The Insurance Company Law of 1921 (40 P. S. §§ 341—477(d)), including the State Workers' Insurance Fund, but not including self-insured employers or runoff self-insurers, with which an employer has insured its liability under section 305 of the act (77 P. S. § 501).

Insurer's initial report of accident and illness prevention services—Form LIBC-211I, *Insurer's Initial Report of Accident and Illness Prevention Services*, which shall be filed with the Insurance Department when an insurer applies for a license to write workers' compensation insurance in this Commonwealth which details accident and illness prevention services to be maintained by or provided to policyholders.

Loss run—A report containing an employer's incurred losses including the following information concerning an employee's injury or illness: type; cause; medical cost; compensation paid; and moneys reserved for claim payment.

Member—An employer participating in a group self-insurance fund.

Program coordinator—An employee or contracted individual selected by an individual self-insured employer or group self-insurance fund to coordinate the accident and illness prevention program.

Quorum—A majority of permanent workplace safety committee members.

Recommendations—Findings included in an audit report issued by the Bureau which must be satisfactorily implemented and supported by written documentation in order to achieve a final determination of adequacy.

Renewal—A new policy offered by an insurer and accepted by an employer for the next annual anniversary date of the applicant-employer's workers' compensation insurance policy after certification of its workplace safety committee.

SWIF—The State Workers' Insurance Fund.

Self-insured employer—An individual self-insured employer who is authorized by the Department to self-insure its workers' compensation liability under section 305 of the act, or a group of employers authorized by the Department to act as a group self-insurance fund under section 802 of the act.

Self-insured employer's initial report of accident and illness prevention program—A report to be filed with the Bureau when an application for individual self-insurance is submitted which details the accident and illness prevention program to be maintained by the employer.

Suggestions—Findings of an audit or report evaluation issued by the Bureau which would improve accident and illness prevention programs and services but are not mandatory to achieve a final determination of adequacy.

Survey—A review of past accident records or an onsite assessment, or both, to identify existing and potential hazards and the initiation of further corrective actions, as appropriate.

Training program—Training which enables employers and employees to enhance knowledge, skills, attitudes and motivations concerning health and safety issues, and requirements relating to operations, processes, materials and specific work environments.

Workplace—A permanent location in this Commonwealth of the applicant-employer at which full-time or permanent part-time workers perform their job duties or from which job assignments are made and administrative controls are exercised.

Workplace safety committee—A joint employer and employee committee established at a workplace for the purpose of hazard detection and accident and illness prevention activities.

Worksite—A temporary location at which full-time or permanent part-time workers perform their job duties for a limited period of time.

Subchapter B. INSURER'S ACCIDENT AND ILLNESS PREVENTION SERVICES

- Sec.
- 129.101. Purpose.
- 129.102. Accident and illness prevention service requirements.
- 129.103. Obligation of an insured employer/policyholder.
- 129.104. Insurer's accident and illness prevention services providers requirements.
- 129.105. Reporting requirements for applicants for licensure.
- 129.106. Reporting requirements for licensed insurers.
- 129.107. Report findings.
- 129.108. Recordkeeping requirements.
- 129.109. Periodic audits of insurer's accident and illness prevention services.
- 129.110. Preaudit exchange of information.
- 129.111. Site of audit.
- 129.112. Written report of audit.
- 129.113. Plan of correction/reports of progress on correcting deficiencies.
- 129.114. Contesting final determinations.

§ 129.101. Purpose.

This subchapter interprets the requirements of the act that an insurer desiring to write workers' compensation insurance in this Commonwealth shall maintain or provide adequate accident and illness prevention services as a prerequisite for a license to write this insurance. Services shall be adequate to furnish accident and illness prevention required by the nature of the insurer's business or its policyholders' operations. This subchapter also establishes the criteria that the Department will employ in determining the adequacy of the services required to be maintained or provided by an insurer.

§ 129.102. Accident and illness prevention services requirements.

The Bureau will annually evaluate the following required accident and illness prevention services components for adequacy:

- (1) *Notice of availability of services.* Notice that services required by this subchapter are available to the policyholder from an insurer shall appear in at least 10 point bold type and shall accompany each workers' compensation insurance policy delivered or issued for delivery in this Commonwealth. The notice shall include information about the 5% premium discount available to employers who form a certified workplace safety committee as

described in this chapter. The required elements of the notice include the name, address and telephone number of the contact person or department for additional information about the services.

(2) *Requirements to maintain accident and illness prevention services.* An insurer shall have the capacity to provide services that are adequate to furnish accident and illness prevention required by the nature of the insurer's business or its policyholders' operations. Capacity to provide services is defined as an insurer having established means to deliver services such as those listed in paragraph (3) based upon anticipated policyholder requests for services or based upon an insurer's evaluation of policyholder requirements. Capacity to provide services shall be established by an insurer utilizing its own or contracted staff who shall meet the requirements established by the Department as outlined in Subchapter E (relating to accident and illness prevention services providers requirements).

(3) *Requirements to provide accident and illness prevention services.*

(i) An insurer shall provide accident and illness prevention services to policyholders who request them or based on the insurer's determination of the policyholders' operational requirements. Services shall be provided through an insurer's own or contracted staff who meet the requirements established by the Department in Subchapter E.

(ii) Services include the following:

(A) Surveys to identify existing or potential accident and illness hazards or safety program deficiencies. Surveys may, for example, be in the form of an underwriting risk analysis or an onsite review. If the insurer determines through a survey and analysis of survey results that the hazards or deficiencies are present, it shall propose corrective actions to the policyholder concerning the abatement of hazards or program deficiencies identified in the surveys. If one or more imminent danger situations are identified, the insurer shall inquire as to the corrective actions a policyholder has taken and propose further corrective actions if necessary.

(B) Providing or proposing corrective actions in the area of industrial hygiene services as requested by the policyholder or as determined by the insurer to meet the policyholders' operational requirements, for example, air quality testing.

(C) Providing or proposing corrective actions in the area of industrial health services as requested by the policyholder or as determined by the insurer to meet the policyholders' operational requirements, for example, health screenings or substance abuse awareness and prevention training policies and programs.

(D) Accident and illness prevention training programs which may include training for safety committee members as outlined under Subchapter F (relating to workplace safety committees).

(E) Consultations regarding specific safety and health problems and hazard abatement programs and techniques related to the introduction of new equipment or new materials.

§ 129.103. Obligation of an insured employer/policyholder.

An insured employer/policyholder requesting accident and illness prevention services as mandated by the act

shall provide the necessary information and access to the insurer to permit the insurer to fulfill its requirements under the act.

§ 129.104. Insurer's accident and illness prevention services providers requirements.

(a) Accident and illness prevention services providers employed by or contracted with an insurer to perform accident and illness prevention services shall meet the requirements specified in Subchapter E (relating to accident and illness prevention services providers requirements).

(b) The Bureau may require that the insurer provide documentation or evidence to support that the requirements for accident and illness prevention services providers have been met by each individual providing accident and illness prevention services, whether employed or under contract, based on the criteria in Subchapter E.

§ 129.105. Reporting requirements for applicants for licensure.

(a) As part of their application for a certificate of authority submitted to the Insurance Department, applicants for a license to write workers' compensation insurance shall provide information concerning their accident and illness prevention services required under § 129.102 (relating to accident and illness prevention services requirements) using Form LIBC-211I, *Insurer's Initial Report of Accident and Illness Prevention Services*.

(b) As part of the process of licensing to write workers' compensation insurance in this Commonwealth, the Insurance Department will forward to the Bureau the report in subsection (a) for a determination of adequacy. The Bureau will provide a final determination of adequate or inadequate to the Commissioner.

§ 129.106. Reporting requirements for licensed insurers.

A licensed insurer shall, by June 1 of each year, provide the Bureau with information concerning accident and illness prevention services offered or provided to the insurer's policyholders during the preceding calendar year. The information shall be provided using the AIPS report. In addition, documentation required by other governmental regulatory agencies can be used as supporting evidence of accident and illness prevention services. Report information shall be subject to Bureau verification.

§ 129.107. Report findings.

(a) Upon receipt of a report required under § 129.105 (relating to reporting requirements applicants for licensure), the Bureau will review the report data, make a final determination of the adequacy or inadequacy of services and provide notification to the Commissioner and the insurer of its final determination.

(b) Upon receipt of a report required under § 129.106 (relating to requirements for licensed insurers), the Bureau will review the report data and make a final determination of adequacy or an initial determination of inadequacy of services. An inadequate determination may result in an audit of services before a final determination is made. The Bureau will provide notification to the Commissioner and the insurer of its final determination.

§ 129.108. Recordkeeping requirements.

Insurers shall maintain records of accident and illness prevention services by a policyholder for the most complete current calendar year and 2 preceding consecutive calendar years which include:

- (1) The dates of the requests for services.
- (2) The services requested or problems presented.
- (3) Reports from site inspections performed.
- (4) Other service reports including proposed corrective actions.
- (5) The dates on which services were provided and the policyholder's responses to proposed corrective actions.
- (6) The results of industrial hygiene and health surveys and consultations.
- (7) Accident and illness prevention training conducted.
- (8) Documentation supporting the funds expended for the delivery of accident and illness prevention services.
- (9) Evidence of the effectiveness and accomplishments of accident and illness prevention services.

§ 129.109. Periodic audits of insurer's accident and illness prevention services.

- (a) The Bureau may audit an insurer's accident and illness prevention services at least once every 2 years.
- (b) The Bureau may audit an insurer's accident and illness prevention services if the insurer fails to file an AIPS by specified time frames or fails to meet the requirements of this subchapter.
- (c) The notice of the audit will include the reasons for audit.
- (d) At least 60-calendar days prior to an audit, the Bureau will notify the insurer in writing of the date on which the audit will occur.

§ 129.110. Preaudit exchange of information.

- (a) At least 45-calendar days prior to the audit, the insurer shall provide the Bureau with:
 - (1) If not already submitted, a completed, annual AIPS report for the most recently completed calendar year and if requested, the AIPS reports for the 2 preceding consecutive calendar years including those of its affiliated companies, if applicable.
 - (2) A description of the type of accident and illness prevention services provided during the last completed calendar year and a list of current insured employers/policyholders specifying name and premium size grouping which: received services; requested but did not receive services; and have reported to the carrier that they have a certified workplace safety committee.
 - (3) The name, address, business telephone number, credentials, experience and status (whether employed or contracted) of each person acting as an accident and illness prevention services provider for the insurer.
 - (b) The Bureau will keep the list of insured employers/policyholders confidential.
 - (c) Within 10-calendar days of receipt of the list of policyholders, the Bureau will notify the insurer of the accounts selected for audit and the information required concerning these accounts.
 - (d) At least 15-calendar days prior to the date of the audit, the insurer shall provide the account information referenced in subsection (c) to the Bureau.
 - (e) If the information necessary for the audit is not furnished, the Bureau may cancel the audit, and a final determination of inadequate will be forwarded to the Director. The Director will provide notification to the Commissioner and to the insurer of its final determina-

tion. A rating may be challenged by the insurer in accordance with Subchapter G (relating to hearings).

§ 129.111. Site of audit.

- (a) The audit of the insurer's accident and illness prevention services will take place at the insurer's main office in this Commonwealth unless otherwise agreed by the Bureau and the insurer. If the insurer has no office in this Commonwealth, the audit will take place at the Bureau's headquarters.
- (b) At the site where the audit will occur, the insurer shall provide the documentation required by § 129.108 (relating to recordkeeping requirements) and any other documentation chosen by the insurer supporting the existence and adequacy of required services.

§ 129.112. Written report of audit.

- (a) After the conclusion of the audit, the Bureau will issue a written report containing its findings. The report will indicate whether the Bureau has issued a final determination of adequate or an initial determination of inadequate with regard to an insurer's accident and illness prevention services.
- (b) The Bureau will notify the insurer of a final determination of adequate.
- (c) The Bureau will provide written notification to the insurer of specific deficiencies and recommendations for corrective action if it assigns an initial determination of inadequate. Within 60-calendar days from the date of the audit report, the insurer shall provide written documentation that it has complied with the Bureau's recommendations. If the insurer believes that it will take more than 60 days to implement the recommendations, it shall file a plan of correction in accordance with § 129.113 (relating to plan of correction/reports of progress on correcting deficiencies). At the end of the 60-calendar day correction period, a final determination of adequate or inadequate will be assigned. The insurer will receive notification of this final determination. The Commissioner will receive notification of final determinations of inadequate.

§ 129.113. Plan of correction/reports of progress on correcting deficiencies.

An insurer shall file a plan of correction to implement audit report recommendations referenced in § 129.112(c) (relating to written report of audit) for any deficiency requiring more than 60 days to correct. The plan shall include a timetable for correction acceptable to the Bureau. Progress reports shall be filed by the insurer detailing corrective actions at the end of each 30-day period of the correction plan period. The Bureau may audit the insurer's accident and illness prevention services if the insurer fails to file progress reports, implement recommendations, or provide acceptable documentation of corrective actions. At the end of the correction plan period, a final determination of adequate or inadequate will be made, and the insurer will be notified of the determination. The Commissioner will be notified of final determinations of inadequate.

§ 129.114. Contesting final determinations.

An insurer may contest a final determination of inadequate under Subchapter G (relating to hearings).

Subchapter C. INDIVIDUAL SELF-INSURED EMPLOYER'S ACCIDENT AND ILLNESS PREVENTION PROGRAMS

- Sec. 129.401. Purpose.
- 129.402. Program requirements.

- 129.403. Individual self-insured employer's accident and illness prevention services providers requirements.
- 129.404. Reporting requirements for applicants for individual self-insurance status.
- 129.405. Reporting requirements for individual self-insured employers.
- 129.406. Report findings.
- 129.407. Recordkeeping requirements.
- 129.408. Periodic audits of individual self-insured employer's accident and illness prevention program.
- 129.409. Preaudit exchange of information.
- 129.410. Site of audit.
- 129.411. Written report of audit.
- 129.412. Plan of correction/reports of progress on correcting deficiencies.
- 129.413. Contesting final determinations.

§ 129.401. Purpose.

This subchapter interprets the requirements of the act that an individual self-insured employer shall maintain an adequate accident and illness prevention program as a prerequisite for retention of its self-insured status. The subchapter establishes the criteria that the Bureau will employ in determining the adequacy of the accident and illness prevention program required to be maintained by an individual self-insured employer.

§ 129.402. Program requirements.

(a) An individual self-insured employer shall maintain an adequate accident and illness prevention program and maintain records for this program for the 3 most current, complete fiscal years. The program shall include the following elements:

- (1) A safety policy statement.
- (2) A designated accident and illness prevention program coordinator.
- (3) Assignment of responsibilities for developing, implementing and evaluating the accident and illness prevention program.
- (4) Program goals and objectives.
- (5) Methods for identifying and evaluating hazards and developing corrective actions for their mitigation.
- (6) Industrial hygiene surveys required by the nature of the individual self-insured employer's workplace and worksite environments, for example, air quality testing.
- (7) Industrial health services required by the nature of the individual self-insured employer's workplace environment, for example, health screenings, substance abuse awareness and prevention training programs.
- (8) Accident and illness prevention orientation and training.
- (9) Regularly reviewed and updated emergency action plans.
- (10) Employee accident and illness prevention suggestion and communications programs.
- (11) Mechanisms for employee involvement, which may include establishment of a workplace safety committee as described in Subchapter F (relating to workplace safety committees).
- (12) Established safety rules and methods for their enforcement.
- (13) Methods for accident investigation, reporting and recordkeeping.
- (14) Prompt availability of first aid, CPR and other emergency treatments.
- (15) Methods for determining and evaluating program effectiveness. These may include:
 - (i) Comparison of the individual self-insured employer's incidence rate as derived using the OSHA/BLS formula to

the current OSHA/BLS industry-wide rate published annually in the BLS Survey of Occupational Injuries and Illnesses.

(ii) Comparison of individual employer injury and illness rates determined by means of a formula prescribed by the Bureau to current, Statewide rates by industry published annually by the Bureau in the *Pennsylvania Work Injuries and Illnesses Report*.

- (iii) Experience modification factor.
 - (iv) Loss ratio.
 - (v) Other methods used by individual self-insured employers deemed appropriate by the Bureau.
- (16) Protocols or standard operating procedures, when applicable to the workplace and worksite environments for:
- (i) Electrical and machine safeguarding.
 - (ii) Personal protective equipment.
 - (iii) Hearing and sight conservation.
 - (iv) Lockout/tagout procedures.
 - (v) Hazardous materials handling, storage and disposal procedures.
 - (vi) Confined space entry procedures.
 - (vii) Fire prevention and control practices.
 - (viii) Substance abuse awareness and prevention policies and programs.
 - (ix) Control of exposure to bloodborne pathogens.
 - (x) Preoperational process reviews.
 - (xi) Other protocols as may be appropriate for the individual self-insured employer's operations.

(b) Individual self-insured employers shall maintain records describing the comparison methods chosen from subsection (a)(15) for the most current complete fiscal year and 2 preceding consecutive fiscal years. Those records shall contain at a minimum:

- (1) The annual calculated rates for the methods chosen.
- (2) A copy of the calculations used to determine the annual rates.
- (3) A copy of the sources containing the complete data used in calculating the annual rates.

§ 129.403. Individual self-insured employer's accident and illness prevention services providers requirements.

(a) Accident and illness prevention services providers employed by an individual self-insured employer or serving through a contract to perform accident and illness prevention services shall meet the requirements in Subchapter E (relating to accident and illness prevention services providers requirement).

(b) The Bureau may require that the individual self-insured employer provide documentation or evidence to support that the requirements for accident and illness prevention services providers have been met by each individual providing accident and illness prevention services, whether employed or under contract, based on the criteria in Subchapter E.

§ 129.404. Reporting requirements for applicants for individual self-insurance status.

(a) As part of its application for individual self-insurance status submitted to the Bureau, an applicant

for individual self-insurance status shall provide the Bureau with detailed information on its accident and illness prevention program as required under § 129.402 (relating to program requirements) using form LIBC-221E, *Initial Report of Accident and Illness Prevention Program*.

(b) As part of the process of granting individual self-insurance status, the Bureau will use this information to determine whether to grant individual self-insurance status.

§ 129.405. Reporting requirements for individual self-insured employers.

(a) At the time of reapplication for renewal of self-insurance status, an individual self-insured employer shall, as required under section 815 of the act (77 P. S. § 1036.15), provide the Bureau with detailed information on its accident and illness prevention program using the AIPPS report, for the last complete fiscal year preceding the date of the renewal application.

(b) In addition, documentation required by other governmental regulatory agencies can be used as supporting evidence of accident and illness prevention programs.

(c) Report information shall be subject to Bureau verification.

§ 129.406. Report findings.

Upon receipt of a report required under § 129.404 (relating to reporting requirements for individual self-insurance status employers), the Bureau will review the report data and make a final determination of adequacy or an initial determination of inadequacy of programs. An inadequate determination may result in an audit of services before a final determination is made. The Bureau will provide notification to the employer of its final determination.

§ 129.407. Recordkeeping requirements.

Individual self-insured employers shall maintain records of accident and illness prevention program services for the most complete fiscal year and 2 preceding consecutive fiscal years which include:

- (1) Number and dates of surveys conducted.
- (2) Proposed corrective actions and their disposition.
- (3) Training programs conducted.
- (4) Consultations held.
- (5) Analyses of accident causes.
- (6) Industrial hygiene services provided.
- (7) Industrial health services provided.
- (8) Qualified service providers utilized to provide program services whether contracted or employed.

§ 129.408. Periodic audits of individual self-insured employer's accident and illness prevention program.

(a) The Bureau may audit an individual self-insured employer's accident and illness prevention program at least once every 2 years.

(b) A combined audit may be conducted for affiliated companies of an individual self-insured employer if the same facilities, accident and illness prevention program, and accident and illness prevention services providers are used by each of the companies.

(c) The Bureau may audit an individual self-insured employer's accident and illness prevention program if the

individual self-insured employer fails to file an AIPPS by specified time frames or fails to meet the requirements of this subchapter.

(d) The notice of the audit will include the reasons for audit.

(e) At least 60 calendar days prior to an audit, the Bureau will notify the individual self-insured employer in writing of the date on which the audit will occur.

§ 129.409. Preaudit exchange of information.

(a) At least 45-calendar days prior to the audit, the individual self-insured employer shall provide the Bureau with:

(1) If not already submitted, a completed annual AIPPS report for the most recently completed fiscal year and, if requested, the AIPPS reports for the 2 preceding consecutive fiscal years including those of its affiliated companies, if applicable.

(2) The name, address and telephone number of the contact person.

(3) A description of the types of accident and illness prevention program services provided during the last completed fiscal year.

(4) The name, address, business telephone number, credentials, experience and status (whether employed or contracted) of each person acting as an accident and illness prevention services provider for the individual self-insured employer.

(b) At least 15-calendar days prior to the date of the audit, the individual self-insured employer shall provide the Bureau with information on forms prescribed by the Bureau that describe the employer's accident and illness prevention program.

(c) If the information necessary for the audit is not furnished, the Bureau may cancel the audit, and a final determination of inadequate will be forwarded to the Director. The Director will provide notification of its final determination to the employer and initiate appropriate action regarding continuance of self-insurance status. A final determination of inadequate may be challenged by the individual self-insured employer in accordance with Subchapter G (relating to hearings).

§ 129.410. Site of audit.

(a) The audit of the individual self-insured employer's accident and illness prevention program will take place at the employer's main office in this Commonwealth unless otherwise agreed by the Bureau and the employer. If the individual self-insured employer has no office in this Commonwealth, the audit will take place at the Bureau's headquarters.

(b) At the site where the audit will occur, the individual self-insured employer shall provide the documentation required by § 129.406 (relating to report findings) and any other documentation chosen by the employer supporting the existence and adequacy of required program elements.

§ 129.411. Written report of audit.

(a) After the conclusion of the audit, the Bureau will issue a written report containing its findings. The report will indicate whether the Bureau has issued a final determination of adequate or an initial determination of inadequate with regard to an individual self-insured employer's accident and illness prevention program.

(b) The Bureau will notify the individual self-insured employer of a final determination of adequate.

(c) The Bureau will provide written notification to the individual self-insured employer of specific deficiencies and recommendations for corrective action if it assigns an initial determination of inadequate. Within 60 calendar days from the date of the audit report, the individual self-insured employer shall provide written documentation that it has complied with the Bureau's recommendations. If the individual self-insured employer believes that it will take more than 60 days to implement the recommendations, it shall file a plan of correction in accordance with § 129.412 (relating to plan of correction/reports of progress on correcting deficiencies). At the end of the 60 calendar day correction period, a final determination of adequate or inadequate will be assigned. The individual self-insured employer will receive notification of this final determination.

§ 129.412. Plan of correction/reports of progress on correcting deficiencies.

An individual self-insured employer shall file a plan of correction to implement audit report recommendations referenced in § 129.411(c) (relating to written report of audit) for any deficiency requiring more than 60 days to correct. The plan shall include a timetable for correction acceptable to the Bureau. Progress reports shall be filed by the individual self-insured employer detailing corrective actions at the end of each 30-day period of the correction plan period. The Bureau may audit an individual self-insured employer's accident and illness prevention program if an individual self-insured employer fails to file progress reports, implement recommendations or provide acceptable documentation of corrective actions. At the end of the correction plan period, a final determination of adequate or inadequate will be made, and the individual self-insured employer will be notified of the determination.

§ 129.413. Contesting final determinations.

An individual self-insured employer may contest a final determination of inadequate under Subchapter G (relating to hearings).

Subchapter D. GROUP SELF-INSURANCE FUND'S ACCIDENT AND ILLNESS PREVENTION PROGRAMS

Sec.

- 129.451. Purpose.
- 129.452. Program requirements.
- 129.453. Group self-insurance fund accident and illness prevention services providers requirements.
- 129.454. Reporting requirements for applicants for group self-insurance fund status.
- 129.455. Reporting requirements for group self-insurance funds.
- 129.456. Report findings.
- 129.457. Service requirements.
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- 129.460. Preaudit exchange of information.
- 129.461. Site of audit.
- 129.462. Written report of audit.
- 129.463. Plan of correction/reports of progress on correcting deficiencies.
- 129.464. Contesting final determinations.

§ 129.451. Purpose.

This subchapter establishes the criteria that the Bureau will employ in determining the adequacy of the accident and illness prevention program required by a group self-insurance fund under the act as a prerequisite for retention of group self-insurance fund status.

§ 129.452. Program requirements.

(a) A group self-insurance fund shall maintain or provide an adequate accident and illness prevention program and maintain records for this program for the 3 most current fiscal years. The program shall contain the following elements:

- (1) A safety policy statement.
- (2) A designated accident and illness prevention program coordinator.
- (3) An assignment of responsibilities for implementing and evaluating the accident and illness prevention program.
- (4) Program goals and objectives.
- (5) Mechanisms for employee involvement, which may include establishment of a workplace safety committee including a safety committee as described in Subchapter F (relating to workplace safety committees).
- (6) Employee accident and illness prevention suggestion and communications programs.
- (7) Methods for accident investigation, reporting and recordkeeping.
- (8) Methods for determining and evaluating program effectiveness. These may include:
 - (i) Comparison of the group self-insurance fund incidence rate as derived using the OSHA/BLS formula to the current, published OSHA/BLS industry-wide rate.
 - (ii) Comparison of the group self-insurance fund injury and illness rates determined by means of a formula prescribed by the Bureau to current, published Statewide rates by industry.
 - (iii) Experience modification factor.
 - (iv) Loss ratio.
 - (v) Other methods used by group self-insurance funds deemed appropriate by the Bureau.
- (9) Protocols or standard operating procedures, when applicable, to the workplace and worksite environments for:
 - (i) Electrical and machine safeguarding.
 - (ii) Personal protective equipment.
 - (iii) Hearing and sight conservation.
 - (iv) Lockout/tagout procedures.
 - (v) Hazardous materials handling, storage and disposal procedures.
 - (vi) Confined space entry procedures.
 - (vii) Fire prevention and control practices.
 - (viii) Substance abuse awareness and prevention policies and programs.
 - (ix) Control of exposure to bloodborne pathogens.
 - (x) Preoperational process reviews.
 - (xi) Other protocols or standard operating procedures appropriate for members' workplace and worksite operations.

(b) Group self-insurance funds shall maintain records describing the comparison methods chosen from subsection (a)(8) for the most current fiscal year and 2 preceding consecutive fiscal years. Those records shall contain at a minimum:

- (1) The annual calculated rates for the methods chosen.

(2) A copy of the calculations used to determine the annual rates.

(3) A copy of the sources containing the complete data used in calculating the annual rates.

§ 129.453. Group self-insurance fund accident and illness prevention services providers requirements.

(a) Accident and illness prevention services providers employed by a group self-insurance fund or serving through a contract to perform accident and illness prevention services shall meet the requirements specified in Subchapter E (relating to accident and illness prevention services providers requirements).

(b) The Bureau may require the group self-insurance fund to provide documentation or evidence to support that the requirements for accident and illness prevention services providers have been met by each individual providing accident and illness prevention services, whether employed or under contract, based on the criteria in Subchapter E.

§ 129.454. Reporting requirements for applicants for group self-insurance fund status.

(a) As part of its application for group self-insurance fund status submitted to the Bureau, an applicant for self-insurance fund status shall provide the Bureau with detailed information on its accident and illness prevention program that will be offered or provided to group self-insurance fund members as required under § 129.452 (relating to program requirements) using form LIBC-231G, Initial Report of Accident and Illness Prevention Program Status.

(b) As part of the process of granting group self-insurance fund status, the Bureau will use this information to determine whether to grant group self-insurance fund status.

§ 129.455. Reporting requirements for group self-insurance funds.

(a) A group self-insurance fund shall provide the Bureau with detailed information on its accident and illness prevention program using the AIPPS report along with the annual report to the Bureau required under section 815 of the act (77 P. S. § 1036.15).

(b) A group self-insurance fund shall also provide information describing the established methods used to identify individual group self-insurance fund members requiring accident and illness prevention services. A group self-insurance fund shall also provide data describing accident and illness prevention services efforts for the identified members and the effectiveness of these efforts in improving injury and illness rates.

(c) In addition, documentation required by other governmental regulatory agencies can be used as supporting evidence of accident and illness prevention programs.

(d) Report information shall be subject to Bureau verification.

§ 129.456. Report findings.

(a) Upon receipt of a report required under § 129.454 (relating to reporting requirements applicants for group self-insurance fund status), the Bureau will review the report data and make a final determination of the adequacy or inadequacy of programs and provide notification to the group self-insurance fund applicant.

(b) Upon receipt of a report required under § 129.455 (relating to reporting requirements for group self-

insurance funds), the Bureau will review the report data and make a final determination of adequacy or an initial determination of inadequacy of programs. An inadequate determination may result in an audit of programs before a final determination is made. The Bureau will provide notification to the group self-insurance fund of its final determination.

§ 129.457. Service requirements.

A group self-insurance fund shall maintain or provide through its own or contracted accident and illness prevention services providers the following accident and illness prevention services to members:

(1) Onsite surveys to identify existing or potential accident and illness hazards or safety program deficiencies. If through a survey and analysis of survey results it is determined that the hazards or deficiencies are present, corrective actions shall be proposed to the group self-insurance fund member concerning the abatement of hazards or program deficiencies identified in the surveys. If one or more imminent danger situations or program deficiencies are identified, the group self-insurance fund shall inquire as to the corrective actions the group self-insurance fund member has taken and propose further corrective actions if necessary.

(2) Analyses of the causes of accidents and illnesses at the members' worksites.

(3) Providing or proposing corrective actions in the area of industrial hygiene services as requested by the group self-insurance fund member or as determined by the group self-insurance fund to meet the group self-insurance fund members' operational requirements, for example, air quality testing.

(4) Providing or proposing corrective actions in the area of industrial health services as requested by the group self-insurance fund member or as determined by the group self-insurance fund to meet the group self-insurance fund members' operational requirements, for example, health screenings or substance abuse awareness and prevention training policies and programs.

(5) Accident and illness prevention training programs which may include training for safety committee members as outlined under Subchapter F (relating to workplace safety committees).

(6) Consultations regarding specific safety and health problems and hazard abatement programs and techniques.

(7) Review of planned or newly introduced industrial materials, processes, equipment, layouts and techniques to identify potential hazards and to recommend methods to mitigate any hazards identified.

§ 129.458. Recordkeeping requirements.

(a) Group self-insurance funds shall maintain records of accident and illness prevention programs or services for each member for the most complete current fiscal year and 2 preceding consecutive fiscal years which include:

- (1) The dates of requests for services.
- (2) The services requested or problems presented.
- (3) The dates of the group self-insurance fund's responses.
- (4) The dates on which services were provided and member responses to proposed corrective actions.
- (5) The number of hours expended providing services including both onsite and preparatory time.

- (6) The final disposition of requests.
- (7) The number of service visits.
- (8) Other service reports including proposed corrective actions.
- (9) The results of industrial hygiene and industrial health surveys and consultations.
- (10) Accident and illness prevention training conducted.
- (11) Safety-related materials provided.
- (12) Member responses to group self-insurance fund proposed corrective actions.

(b) Group self-insurance funds shall annually solicit comments from their members regarding the effectiveness of the accident and illness prevention program provided by the group self-insurance fund. This information shall be made available to the Bureau upon request for the next current fiscal year and 2 preceding consecutive fiscal years.

§ 129.459. Periodic audits of group self-insurance fund's accident and illness prevention program.

(a) The Bureau may audit a group self-insurance fund's accident and illness prevention program at least once every 2 years.

(b) The Bureau may audit a group self-insurance fund's accident and illness prevention program if the group self-insurance fund fails to file an AIPPS report by specified time frames or meet the requirements of this subchapter.

(c) A combined audit may be conducted for affiliated companies of a group self-insurance fund if the same facilities, accident and illness prevention program, and accident and illness prevention services are used by each of the companies.

(d) The notice of the audit will include the reasons for audit.

(e) At least 60-calendar days prior to an audit, the Bureau will notify the group self-insurance fund administrator in writing of the date on which the audit will occur.

§ 129.460. Preaudit exchange of information.

(a) At least 45-calendar days prior to the audit, the group self-insurance fund administrator shall provide the Bureau with:

- (1) If not already submitted, a completed annual AIPPS report as prescribed by the Bureau for the most recently completed fiscal year and, if requested, the AIPPS reports for 2 preceding consecutive fiscal years including those of its affiliated companies, if applicable.
- (2) A list of the group self-insurance fund members, including the company name, address, telephone number and contact person.
- (3) The types of accident and illness prevention program services provided to selected group self-insurance fund members during the last completed group self-insurance fund fiscal year.
- (4) The name, address, business telephone number, credentials, experience and status (whether employed or contracted) of each person acting as an accident and illness prevention services provider for the group self-insurance fund.

(b) The Bureau will keep the list of group self-insurance fund members confidential.

(c) At least 15-calendar days prior to the date of the audit, the group self-insurance fund administrator shall provide the Bureau with information on forms prescribed by the Bureau that describe the selected group self-insurance fund member's accident and illness prevention program.

(d) If the information necessary for the audit is not furnished, the Bureau may cancel the audit, and a final determination of inadequate will be forwarded to the Director. The Director will notify the group self-insurance fund administrator of its final determination and initiate appropriate action regarding continuance of group self-insurance fund status. A final determination of inadequate may be challenged by the group self-insurance fund administrator in accordance with Subchapter G (relating to hearings).

§ 129.461. Site of audit.

(a) The audit of the group self-insurance fund's accident and illness prevention program will take place at the group self-insurance fund administrator's main office in this Commonwealth unless otherwise agreed by the Bureau and the group self-insurance fund administrator. If the group self-insurance fund has no office in this Commonwealth, the audit will take place at the Bureau's headquarters.

(b) At the site where the audit will occur, the group self-insurance fund shall provide the documentation required by § 129.458 (relating to recordkeeping requirements) and any other documentation chosen by the group self-insurance fund supporting the existence and adequacy of required program elements.

§ 129.462. Written report of audit.

(a) After the conclusion of the audit, the Bureau will issue a written report containing its findings. The report will indicate whether the Bureau has issued a final determination of adequate or an initial determination of inadequate with regard to a group self-insurance fund's accident and illness prevention program.

(b) The Bureau will notify the group self-insurance fund administrator of a final determination of adequate.

(c) The Bureau will provide written notification to the group self-insurance fund administrator of specific deficiencies and recommendations for corrective action if it assigns an initial determination of inadequate. Within 60-calendar days from the date of the audit report, the group self-insurance fund shall provide written documentation that it has complied with the Bureau's recommendations. If the group self-insurance fund believes that it will take more than 60 days to implement the recommendations, it shall file a plan of correction in accordance with § 129.463 (relating to plan of correction/reports of progress on correcting deficiencies). At the end of the 60-calendar-day correction period, a final determination of adequate or inadequate will be assigned. The group self-insurance fund administrator will receive notification of this final determination.

§ 129.463. Plan of correction/reports of progress on correcting deficiencies.

A group self-insurance fund shall file a plan of correction to implement audit report recommendations referenced in § 129.462(c) (relating to written report of audit) for any deficiency requiring more than 60 days to correct. The plan shall include a timetable for correction acceptable to the Bureau. Monthly progress reports shall be filed by the group self-insurance fund detailing corrective actions at the end of each 30-day period of the correction

plan period. The Bureau may audit a group self-insurance fund's accident and illness prevention program if the group self-insurance fund fails to file progress reports, implement recommendations, or provide acceptable documentation of corrective actions. The group self-insurance fund will be notified of the determinations made by the Bureau.

§ 129.464. Contesting final determinations.

A group self-insurance fund administrator may contest a final determination of inadequate under Subchapter G (relating to hearings).

Subchapter E. ACCIDENT AND ILLNESS PREVENTION SERVICES PROVIDERS REQUIREMENTS

- Sec.
- 129.701. Purpose and scope.
- 129.702. Accident and illness prevention services providers requirements.
- 129.703. Proof of accident and illness prevention services providers credentials and experience.
- 129.704. Procedures for obtaining credential recognition.
- 129.705. Contesting denial of credential recognition or recognition as a qualified accident and illness prevention services provider.

§ 129.701. Purpose and scope.

This subchapter sets forth the requirements for accident and illness prevention services providers. These requirements apply only to those individuals either directly employed by or retained under contract with either a workers' compensation insurer, individual self-insured employer or group self-insurance fund and who provide accident and illness prevention services for the workers' compensation insurers' policyholders, the individual self-insured employer or group self-insurance fund members. Procedures by which organizations and associations may apply for recognition of credentials are also outlined.

§ 129.702. Accident and illness prevention services providers requirements.

(a) A workers' compensation insurer, individual self-insured employer or group self-insurance fund shall directly employ accident and illness prevention services providers or shall retain contracted accident and illness prevention services providers who meet the requirements as described in this section to provide accident and illness prevention services.

(b) An individual providing accident and illness prevention services as an employee or contracted accident and illness prevention services provider shall supply annual proof of current credentials and experience to the insurer, individual self-insured employer or group self-insurance fund.

(c) An insurer, individual self-insured employer or group self-insurance fund administrator shall be responsible for reviewing the documentation or evidence to support that the requirements for accident and illness prevention services providers are being met according to the criteria in subsection (d). Verification that requirements have been met by all employed or contracted accident and illness prevention services providers utilized to provide accident and illness prevention services during the reporting period shall be submitted to the Bureau as part of the annual reports.

(d) An individual shall be recognized as an accident and illness prevention services provider within the meaning of section 1001(a) and (b) of the act (77 P.S. § 1038.1(a) and (b)) and this subchapter, by providing verification that the individual meets one or more of the following requirements:

(1) An educational degree or credential recognized by the Bureau in accident and illness prevention fields from accredited institutions or programs and at least 2 years of acceptable experience as set forth in subsection (e).

(2) A credential recognized by the Bureau from a professional organization in the field of accident and illness prevention and at least 2 years of acceptable experience as set forth in subsection (e).

(3) A credential from an industry-specific accident and illness prevention program recognized by the Bureau and at least 2 years of acceptable experience as set forth in subsection (e). Holders of recognized credentials will be restricted to the delivery of accident and illness prevention services as defined by the specific program within a given industry.

(e) The 2 years of accident and illness prevention experience required in subsection (d) shall include current, full-time professional experience providing accident and illness prevention services which accounts for at least 60% of the individual's activities. Acceptable activities include: identifying hazards; conducting safety and health surveys; proposing corrective actions; analyzing accident causes; and recommending or providing industrial hygiene and industrial health surveys and consultations.

(f) The Bureau will maintain a listing of recognized organizational credentials. Inquiries may be made to the Bureau for current information reflecting additions or deletions to that listing.

(g) An insurer, individual self-insured employer or group self-insurance fund can request in-service status for a services provider utilized to provide services for a given reporting period, but who does not meet Bureau requirements as outlined in subsection (d) and has not been previously granted in-service status. Providers granted in-service status shall have 5 years from the filing date of the annual report in which the request for in-service status was made to meet Bureau requirements as outlined in subsection (d). The activities of accident and illness prevention services providers claiming in-service status shall be directed by a services provider who meets the requirements of this subchapter during the 5-year period in which a recognized credential is being earned and required experience is being obtained. After that 5-year period, an individual who has not met Bureau requirements and submitted acceptable proof to the Bureau, through the employing or contracting insurer, individual self-insured employer or group self-insurance fund may not be recognized as an accident and illness prevention services provider for purposes of the act.

§ 129.703. Proof of accident and illness prevention services providers credentials and experience.

Proof of an individual's credentials and experience as an accident and illness prevention services provider shall be maintained by the insurer, individual self-insured employer or group self-insurance fund. For audit purposes, the proof of credentials and experience for each accident and illness prevention services provider shall be retained for the most complete current year and 2 preceding consecutive years.

§ 129.704. Procedures for obtaining credential recognition.

The Bureau will accept applications from educational programs, credentialing organizations or specific industry programs requesting recognition of credentials awarded by the organization. Form and content of applications will be specified by the Bureau.

§ 129.705. Contesting denial of credential recognition or recognition as a qualified accident and illness prevention services provider.

(a) An organization may contest a denial of credential recognition under Subchapter G (relating to hearings).

(b) An insurer, individual self-insured employer or group self-insurance fund may contest a denial or recognition as a qualified accident and illness prevention services provider under Subchapter G.

Subchapter F. WORKPLACE SAFETY COMMITTEES

Sec.

- 129.1001. Purpose.
- 129.1002. Application for initial certification.
- 129.1003. Minimum eligibility requirements.
- 129.1004. Committee formation and membership.
- 129.1005. Committee responsibilities.
- 129.1006. Committee member training.
- 129.1007. Certification.
- 129.1008. Certification renewal affidavit.
- 129.1009. Information verification.
- 129.1010. Recordkeeping requirements.
- 129.1011. Contesting final determinations.

§ 129.1001. Purpose.

This subchapter sets forth the certification criteria for the operation of workplace safety committees established for the purpose of accident and illness prevention. An applicant-employer shall meet the criteria in this subchapter to obtain certification or certification renewal of its workplace safety committees for its workplaces within this Commonwealth.

§ 129.1002. Application for initial certification.

(a) An applicant-employer desiring to apply for certification of its workplace safety committee shall file form LIBC-372, *Application for Certification of Workplace Safety Committee*, with the Bureau. An application shall be filed for each legal entity of the applicant-employer and shall include all information and documentation requested in form LIBC-372.

(b) An applicant-employer shall file one application which shall incorporate all of the applicable applicant-employer workplaces within this Commonwealth.

(c) Applications shall be submitted to the Bureau between 90- and 30-calendar days prior to the annual renewal of a workers' compensation policy, self-insurance renewal year or group self-insurance fund year.

§ 129.1003. Minimum eligibility requirements.

(a) An applicant-employer's committees shall be located within this Commonwealth.

(b) The committee shall be in existence and operating according to the requirements of this subchapter for 6 full, consecutive calendar months prior to the signing, dating and submission of the application.

(c) The committee membership shall represent all primary operations of the workplace.

(d) The committees shall be composed of a minimum of two employer-representatives and a minimum of two employee-representatives.

(e) Employer-representatives are individuals who, regardless of job title or labor organization affiliation, and based upon an examination of that individual's authority or responsibility, do one or more of the following:

- (1) Select or hire an employee.
- (2) Remove or terminate an employee.
- (3) Direct the manner of employee performance.

(4) Control the employee.

(f) Employee-representatives are individuals who perform services for an employer for valuable consideration and do not possess any authority or responsibility described in subsection (e).

(g) A person may not function as both an employer-representative and an employee-representative.

§ 129.1004. Committee formation and membership.

(a) An applicant-employer who has only one workplace within this Commonwealth shall form a single workplace safety committee at that workplace within this Commonwealth for certification.

(b) An applicant-employer who has more than one workplace within this Commonwealth may form either a single, centralized workplace safety committee representing each of its workplaces within this Commonwealth or separate and individual safety committees at each workplace within this Commonwealth for certification.

(c) The committee shall be composed of at least an equal number of applicant-employer and employee-representatives unless otherwise agreed upon by both parties. An applicant-employer shall provide a satisfactory, written explanation to the Bureau when a committee is not composed of an equal number of applicant-employer and employee-representatives and a majority of applicant-employer representatives exists. The explanation shall be signed by one employer and one employee committee representative.

(d) Workplace safety committees shall establish procedures that retain a core group of experienced members to serve on the committee at all times.

(e) Employee-representatives of the committees shall:

(1) Be permitted to take reasonable time from work to perform committee duties, without loss of pay or benefits.

(2) Join the committee for a continuous term of 1 year from the date of the first meeting attended. Records of member rotation shall be maintained by the applicant-employer for 5 years from the date of the Bureau's receipt of the application.

§ 129.1005. Committee responsibilities.

(a) To qualify for certification, workplace safety committees shall have responsibilities including:

(1) Representing the accident and illness prevention concerns of employees at every applicant-employer workplace.

(2) Reviewing the applicant-employer's hazard detection and accident and illness prevention programs and formulating written proposals.

(3) Establishing procedures for periodic workplace inspections by the safety committees for the purpose of locating and identifying health and safety hazards. The locations and identity of hazards shall be documented in writing, and the committees shall make proposals to the applicant-employer regarding correction of the hazards.

(4) Conducting review of incidents resulting in work-related deaths, injuries and illnesses and of complaints regarding health and safety hazards made by committee members or other employees.

(5) Conducting follow-up evaluations of newly implemented health and safety equipment or health and safety procedures to assess their effectiveness.

(6) Establishing a system to allow the committee members to obtain safety-related proposals, reports of hazards or other information directly from persons involved in the operation of the workplace.

(b) A quorum of committee members shall meet at least monthly.

(c) The committees shall additionally:

(1) Develop operating procedures, such as rules or bylaws, prescribing the committees' duties.

(2) Develop and maintain membership lists.

(3) Develop a written agenda for each committee meeting.

(4) Maintain committee meeting attendance lists.

(5) Take and maintain minutes of each committee meeting, which the applicant-employer shall review. Copies of minutes shall be posted or made available for all employees and shall be sent to each committee member.

(6) Ensure that the reports, evaluations and proposals of the committees become part of the minutes of the meeting which shall include:

(i) Inspection reports.

(ii) Reports on specific hazards and corrective measures taken.

(iii) Reports on workplace injuries or illnesses.

(iv) Management responses to committee reports.

(7) Make decisions by majority vote.

§ 129.1006. Committee member training.

(a) The applicant-employer shall, itself or through its insurer, provide adequate, annual training programs for each committee member listed in the application.

(b) Annually required committee member training shall at a minimum address:

(1) Hazard detection and inspection.

(2) Accident and illness prevention and investigation (including substance abuse awareness and prevention training), safety committee structure and operation.

(3) Other health and safety concerns specific to the business of the applicant-employer.

(c) Prior to submitting an application to the Bureau and annually thereafter, all committee members shall receive training in the topics listed in subsection (b) from individuals who meet Bureau requirements for accident and illness prevention services providers as defined in Subchapter E (relating to accident and illness prevention services providers requirements) or who have been recognized by the Bureau as qualified trainers.

(d) Applicant-employers are responsible for providing verification of trainer qualifications to the Bureau and supplying, as necessary, documentation supporting individual trainer qualifications.

(e) The applicant-employer shall maintain written records of safety committee training including:

(1) The names of committee members trained.

(2) The dates of training.

(3) The training time period.

(4) The training methodology.

(5) The names and credentials of personnel conducting the training.

(6) The names of training organizations sponsoring training, if applicable.

(7) The training location.

(8) The training topics.

§ 129.1007. Certification.

(a) If the Bureau determines that the applicant-employer's committees meets the requirements, it will send a letter of certification approval to the applicant-employer. The Bureau will grant certification approval to an applicant-employer who, by signing the acknowledgements and agreements page of the application, agrees to continue to operate the workplace safety committee according to all requirements upon which initial certification is based. The employer may not disband committees except for valid business reasons.

(b) The insured applicant-employer shall submit a copy of the letter of certification approval to its insurer to receive an initial 5% reduction of its workers' compensation premium. The reduction will be effective upon the commencement of the policy renewal period next following the date of Bureau certification. An applicant-employer who is a member of a group self-insurance fund established to grant a 5% reduction in annual member contributions, shall submit a copy of the letter of certification to its group self-insurance fund administrator to receive the initial 5% contribution reduction. The reduction will be effective at the commencement of the next group self-insurance fund year following certification.

(c) The Bureau will notify the Pennsylvania Compensation Rating Bureau of approved insured applicant-employers.

(d) If an application is disapproved, the applicant-employer will receive written notification listing specific reasons for disapproval. The applicant-employer may resubmit a corrected application for reconsideration prior to the renewal of its workers' compensation policy, self-insurance renewal year or group self-insurance fund year. The applicant-employer may challenge the disapproval determination under Subchapter G (relating to hearings).

§ 129.1008. Certification renewal affidavit.

(a) After initial certification, the applicant-employer may, using form LIBC-372R, *Certification Renewal Affidavit of Workplace Safety Committee*, apply to the Bureau for renewal of its initial safety committee certification. Affidavits will be generated by the Bureau and provided to eligible applicant-employers for submission. Affidavits shall be submitted to the Bureau between 90 and 15 calendar days prior to the annual renewal of a workers' compensation policy, self-insurance renewal year or group self-insurance fund year. Certification may be renewed for a total of 4 remaining years after the initial certification.

(b) If an applicant-employer has established additional safety committees which have not previously been certified, an Application for Certification of Workplace Safety Committee shall be completed and approved by the Bureau before certification renewal may be granted. Certification renewal approval is granted to an applicant-employer who, by signing the acknowledgements and agreements page of the affidavit, attests that the certified workplace safety committee has continued to operate according to the requirements upon which initial certification approval was based. Employers will not disband committees except for valid business reasons.

(c) If the Bureau determines that the applicant-employer has met certification renewal requirements, it will send a letter of certification renewal approval to the applicant-employer.

(d) An insured applicant-employer shall submit a copy of the letter of certification renewal to its insurer to receive a 5% premium reduction of its workers' compensation insurance premium at the next renewal premium period following the date of Bureau certification renewal. An applicant-employer who is a member of a group self-insurance fund established to grant a 5% reduction in annual member contributions, shall submit a copy of the letter of certification renewal approval to its group self-insurance fund administrator to receive the renewal 5% contribution reduction. The reduction will be effective at the commencement of the next group self-insurance fund year following certification renewal.

(e) The Bureau will notify the Pennsylvania Compensation Rating Bureau of all approved insured applicant-employers.

(f) If a renewal affidavit is disapproved, the Bureau will notify the applicant-employer of the specific reasons for disapproval. The applicant-employer may resubmit a corrected renewal affidavit for reconsideration prior to the renewal of its workers' compensation policy, self-insurance renewal year or group self-insurance fund year. The applicant-employer may challenge the disapproval under Subchapter G (relating to hearings).

§ 129.1009. Information verification.

The Bureau may verify the information submitted by application or affidavit including pertinent supporting documentation.

§ 129.1010. Recordkeeping requirements.

Copies of the required documents of the functioning committee as defined in §§ 129.1005(c) and 129.1006(e) (relating to committee responsibilities; and committee member training) shall be retained by the applicant-employer for 5 years.

§ 129.1011. Contesting final determinations.

An applicant-employer may contest a final application or affidavit determination under Subchapter G (relating to hearings).

Subchapter G. HEARINGS

Sec.

129.1301. Purpose.
129.1302. Request for hearing.
129.1303. Hearing process.

§ 129.1301. Purpose.

This subchapter sets forth the process to be followed for hearings related to appeals of final determinations of inadequate as they pertain to accident and illness prevention services and programs, final determinations of approved or disapproved as they pertain to a workplace safety committee initial application or renewal affidavit, denials of recognition as an accident and illness prevention service provider or denials of credential recognition.

§ 129.1302. Request for hearing.

(a) A party contesting a final determination shall file an original and two copies of a written request for a hearing to the Director within 30 calendar days of the date of the determination. The hearing request shall be made to the Bureau at the address listed on the determination.

(b) A proof of service indicating the date and form of service of the written request for a hearing shall be provided to the Bureau at the time the request for hearing is filed.

§ 129.1303. Hearing process.

(a) The Director will assign requests for hearings to an impartial hearing officer who will schedule a de novo hearing. The hearing officer will provide notice to parties of the hearing date, time and place.

(b) The hearing will be conducted in a manner to provide the parties with an opportunity to be heard. The hearing officer will not be bound by strict rules of evidence.

(c) Testimony will be recorded and a full record kept of the proceeding.

(d) Following the close of the record, the hearing officer will issue a written final decision and order.

(e) Any party to the hearing aggrieved by a decision rendered under subsection (d) may, within 30 days, appeal the decision to the Commonwealth Court. The hearing officer's determination will include a notification to the parties of their appeal rights.

(f) Subsections (a)—(e) supplement 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(g) If, after all appeals have been exhausted, the group self-insurance fund or individual self-insured employer is subject to a final determination that its accident and illness prevention program is inadequate, the group self-insurance fund or individual self-insured employer's certificate to self-insure its obligations under the act shall be void. The group self-insurance fund or individual self-insured employer's failure to properly insure its obligations under the act, through an insurer licensed to provide that coverage in this Commonwealth, within 15 days of the final determination may result in criminal liability under section 305 of the act (77 P. S. § 501).

(h) If, after all appeals have been exhausted, the insurer is subject to a final determination that its accident and illness prevention program is inadequate, the Bureau will notify the Commissioner that the insurer has failed to comply with section 1001(a) of the act (77 P. S. § 1038.1(a)). In that notification, the Bureau may recommend that the insurer's license to write that insurance in this Commonwealth be revoked.

Subchapter H. ORDER TO SHOW CAUSE/PENALTIES

Sec.

129.1601. Purpose.
129.1602. Order to show cause/penalties.

§ 129.1601. Purpose.

This subchapter sets forth the process that the Department may institute to determine whether there has been a violation of the act or related regulations.

§ 129.1602. Order to show cause/penalties.

Whenever the Department has information, through its own investigation or through complaint by any party, upon which it believes that an insurer, individual self-insured employer or group self-insurance fund has failed to establish, maintain or provide accident and illness prevention programs or services, using qualified personnel, and to provide proof of those programs or services required under the act, or upon which it believes that an applicant-employer has misrepresented that it has established or maintained a certified workplace safety committee according to Department criteria, the Department may serve upon the insurer, individual self-insured employer or group self-insurance fund, or applicant-employer an order to show cause why the respondent should not be

found in violation of Chapter 7E of the act (77 P. S. §§ 1038.1 and 1038.2) or related regulations and civil penalties assessed. The order to show cause will set forth the particulars of the alleged violation.

(1) An answer to the order to show cause shall be filed no later than 20 days following the date that the order to show cause is served on the respondent.

(2) The Director of the Bureau will assign the order to show cause to an impartial hearing officer who will schedule a hearing. The hearing officer will provide notice to the parties of the hearing date, time and place.

(3) The hearing will be conducted in a manner as to provide the parties with an opportunity to be heard and, when applicable, will be conducted under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The hearing officer will not be bound by strict rules of evidence.

(4) Testimony will be recorded and a full record kept of the proceeding.

(5) If the respondent fails to answer or fails to appear in person or by counsel at the scheduled hearing without adequate excuse, the hearing officer will decide the matter on the basis of the order to show cause and evidence presented.

(6) In a proceeding under this section, the Department has the initial burden to produce evidence that the respondent has failed to comply with the act or related regulations, the respondent maintains the burden of proving that no violation has occurred.

(7) This section supersedes 1 Pa. Code §§ 35.14 and 35.37 (relating to orders to show cause; and answers to orders to show cause).

CHAPTER 143. (Reserved)

§ 143.1. (Reserved).

§ 143.2. (Reserved).

§§ 143.101—143.118. (Reserved).

§ 143.401. (Reserved).

§§ 143.411—143.414. (Reserved).

§§ 143.451—143.458. (Reserved).

§§ 143.701—143.703. (Reserved).

§§ 143.1001—143.1009. (Reserved).

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