

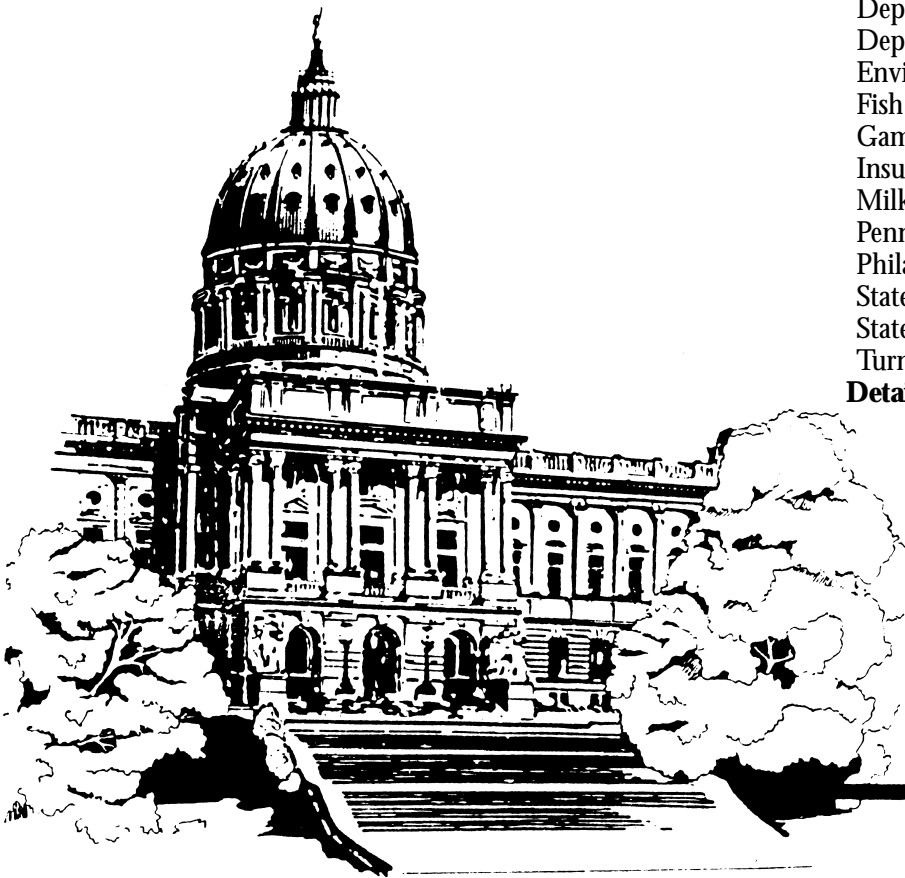
# PENNSYLVANIA BULLETIN

Volume 32  
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**Agencies in this issue:**

The Governor  
The General Assembly  
The Courts  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of General Services  
Department of Revenue  
Department of Transportation  
Environmental Quality Board  
Fish and Boat Commission  
Game Commission  
Insurance Department  
Milk Marketing Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Board of Physical Therapy  
State Real Estate Commission  
Turnpike Commission

**Detailed list of contents appears inside.**



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(Master Transmittal Sheet):**

**No. 333, August 2002**

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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 2002.

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# THE GOVERNOR

## GOVERNOR'S OFFICE

### Proclamation

Upon review of a petition filed on July 1, 2002, purporting to bear the signatures of a majority of the members of each house of the Pennsylvania Legislature, presented to me pursuant to Article II, Section 4, of the Constitution, which petition required correction and was subsequently validated by the Secretary of the Commonwealth on July 25th, 2002, I, Mark S. Schweiker, by virtue of the authority vested in me by Article II, Section 4; Article III, Section 12; and Article IV, Section 12, of the Constitution, do hereby convene the General Assembly in Special and Extraordinary Session to meet in the Capitol at Harrisburg commencing on September 4, 2002, at 4:00 p.m. for the purpose of considering any and all legislation necessary to reduce the Local Real Property Tax currently imposed upon property owners within the Commonwealth while recognizing the need to fund the delivery of those services which ensure the well being and safety of the citizens of this Commonwealth.

*Given* under my hand and the Seal of the Governor, in the City of Harrisburg, this second day of August in the year of our Lord two thousand and two, and of the Commonwealth the two hundred and twenty-seventh.



*Governor*

[Pa.B. Doc. No. 02-1362. Filed for public inspection August 9, 2002, 9:00 a.m.]

# GENERAL ASSEMBLY

## Recent Actions during the 2002 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2002 Regular Session.

<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>
<b>2002 GENERAL ACTS ENACTED—ACT 105 through 112</b>					
105	Jul 4	SB1225	PN2149	60 days	Vehicle Code (75 Pa.C.S.)—electric personal assistive mobility devices and inspection station certificates of appointment
106	Jul 4	SB0984	PN2099	immediately	Conveyance—Commonwealth property in Franklin County and removal of restrictions in Huntingdon County
107	Jul 4	SB0462	PN2156	180 days	Viatical Settlements Act—enactment
108	Jul 4	SB0893	PN2160	60 days	Pennsylvania Securities Act of 1972—omnibus amendments
109	Jul 10	SB0589	PN2169	60 days	Judicial Code (42 Pa.C.S.)—postconviction DNA testing
110	Jul 10	HB0599	PN4166	immediately*	Insurance Company Law of 1921, The—omnibus amendments
111	Jul 10	HB0754	PN4170	60 days	Waste tire recycling, reuse, disposal and cleanup—omnibus amendments
112	Jul 10	HB1501	PN4171	30 days	Crimes Code (18 Pa.C.S.) and General Local Government Code (53 Pa.C.S.)—sale of tobacco, tobacco vending machine placement and preemption

\* 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."

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[Pa.B. Doc. No. 02-1363. Filed for public inspection August 9, 2002, 9:00 a.m.]

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

#### Authority, Powers and Responsibilities of President Judges

##### Introduction

The District Justice Task Force Ad Hoc Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to further define the authority, powers, and responsibilities of the president judges of the courts of common pleas with regard to administration of the district justice system; and to make other technical or "housekeeping" amendments to this rule.

The following explanatory Report highlights the Ad Hoc Committee's considerations in formulating this proposal. The Ad Hoc Committee's Report should not be confused with the official Notes to the rules. The Supreme Court does not adopt the Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report. Unless otherwise specified, additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Staff Counsel  
Supreme Court of Pennsylvania  
District Justice Task Force Ad Hoc Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

or e-mail to: [minorcourt.rules@supreme.court.state.pa.us](mailto:minorcourt.rules@supreme.court.state.pa.us)  
no later than Wednesday, September 4, 2002.

*By the D.J. Task Force Ad Hoc Committee*

BOB YANICH,  
*Chair*

##### Annex A

#### TITLE 207. JUDICIAL CONDUCT

#### PART II. CONDUCT STANDARDS

#### CHAPTER 51. STANDARDS OF CONDUCT OF DISTRICT JUSTICES

#### PENNSYLVANIA RULES FOR DISTRICT JUSTICES

#### Rule 17. Supervision of District Justices by President Judges.

(A) The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative [control] authority over district justices within [his] the judicial district.

(B) The president judge's administrative authority over district justices within the judicial district includes but is not limited to, and shall be governed by, the following:

(1) *Records*—The president judge shall have authority to designate a person to maintain personnel and other records in such form as directed by the president judge or required by general or local rule.

(2) *Meetings with District Justices*—The president judge shall have authority to require the attendance of district justices in the judicial district, individually or collectively, at meetings with the president judge or his or her representative.

(3) *Personnel in the District Justice Courts*—

(a) Except where minimum job qualifications for employees in the district justice courts are prescribed by the Supreme Court of Pennsylvania, the president judge shall have authority to prescribe minimum job qualifications for the district justice court employees in the judicial district.

(b) The president judge shall have authority to establish procedures regarding the hiring, firing, supervision, and discipline of all employees in the district justice courts in the judicial district.

(c) Subject to subparagraphs (a) and (b) above, a district justice shall have authority to fix the duties of all authorized staff and to select one as personal staff.

(d) In the interest of efficient administration of the judicial district, the president judge shall have authority to

(i) transfer or reassign a staff member, other than personal staff who may be transferred or reassigned only with the consent of the district justice, from one district justice court in the judicial district to another, and;

(ii) hire and assign as appropriate temporary or floater personnel.

(e) The president judge shall have authority to establish a system of performance evaluation for employees in the district justice courts in the judicial district.

(f) The president judge shall have authority to prescribe initial and ongoing training for employees in the district justice courts in the judicial district.

(4) *District Justice Leave; Coverage During Leave*—

(a) The president judge shall have authority to coordinate leave for district justices in the judicial district to assure access to judicial resources.

(b) Subject to the provisions of subparagraph (a) above, district justices shall enjoy autonomy with respect to choosing when to take leave, subject to reasonable coordination by the president judge with the schedules of the other district justices in the judicial district.

(5) *Office Hours*—The president judge shall have authority to designate the ordinary hours of district justice courts in the judicial district in accordance with Rule 103 of the Rules and Standards with Respect to Offices of District Justices.

(6) *Temporary Assignments; Transfer of Cases*—The president judge shall have authority to order

temporary assignments of district justices or reassignment of cases or certain classes of cases to other magisterial districts within the judicial district or to central courts within the judicial district.

(7) *Conduct of District Justices*—When a complaint is received with respect to the conduct of a district justice, the president judge may in his or her discretion, review the matter with the affected district justice and may take any action that the president judge deems appropriate. Contemporaneous notice of any action taken by the president judge resulting in reassignment of cases or otherwise affecting the duties of the district justice shall be given to the Supreme Court of Pennsylvania and the Court Administrator of Pennsylvania.

(8) *Procedural Audits*—The president judge shall have authority to direct that procedural audits of a district justice court be conducted to assure compliance with general and local rules, administrative policies and procedures, and the *District Justice Automated Office Clerical Procedures Manual*. Such procedural audits shall be separate from the fiscal audits conducted by the county controller or state Auditor General, which shall be limited in scope to the accounts of the district justice. Such procedural audits may be conducted by the district court administrator, an outside independent auditor, or such other person as the president judge may designate.

*Official Note:* [The striking of constables from the heading and body of Rule 17 is pursuant to the Pennsylvania Supreme Court holding in *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983).] All references to constables were stricken from this Rule pursuant to the Pennsylvania Supreme Court's holding in *Rosenwald v. Barbieri*, 501 Pa. 563, 462 A.2d 644 (1983).

This Rule was amended in 2002 to more specifically outline the authority, powers, and responsibilities of the president judges with regard to management of the district justice system. In so doing, however, it was not intended that this be an exclusive list of powers and responsibilities, nor was it intended to limit the president judges' authority to the areas listed. Given the diverse needs of judicial districts throughout Pennsylvania, how president judges exercise this authority will recognizably be varied. In general, president judges have broad authority with regard to management of the district justice courts, but it seemed advisable that certain areas of authority and responsibility be specifically defined.

With regard to paragraph (B)(2), president judges or their representatives are encouraged to meet regularly with the district justices in the judicial district to foster and maintain open lines of communication regarding the management of the district justice system.

Subparagraphs (B)(3)(c) and (B)(4)(b) limit the president judges' authority in certain areas that are within the district justices' discretion. With regard to subparagraph (B)(3)(c), see 42 Pa.C.S. §§ 102 and 2301(a)(1), and Rule 5C. With regard to subparagraph (B)(4)(b), see Rule 3A.

Subparagraph (B)(3)(d)(i) gives president judges authority to transfer or reassign district justice court personnel as needed, except for personal staff

as provided in subparagraph (B)(3)(c), who may be transferred or reassigned only with the consent of the affected district justice. It is contemplated that president judges would give sufficient notice to the affected district justices and employees before making transfers.

Nothing in subparagraph (B)(3)(f) is intended to circumvent any training program established or required by the Supreme Court of Pennsylvania or the Court Administrator of Pennsylvania.

As to paragraph (B)(6), compare Pa.R.Crim.P. 131(B) relating to central locations for preliminary hearings and summary trials. In addition, if the judicial district is part of a regional administrative unit, district justices may be assigned to any other judicial district in the unit. See Pa.R.J.A. No. 701(E).

Nothing in paragraph (B)(7) is intended to contradict or circumvent the constitutionally established process for the suspension, removal, and discipline of district justices. See Pa. Const. art. V, § 18; see also 207 Pa. Code chs. 101–119 (Judicial Conduct Board rules of procedure). President judges do not have authority to suspend or discipline district justices.

Adopted, effective Feb. 1, 1973. Amended and effective April 3, 1973; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended and effective June 20, 1985; amended \_\_\_\_\_, effective \_\_\_\_\_.

## REPORT

*Proposed Amendment to Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices*

### DEFINING THE AUTHORITY, POWERS, AND RESPONSIBILITIES OF THE PRESIDENT JUDGES OF THE COURTS OF COMMON PLEAS WITH REGARD TO ADMINISTRATION OF THE DISTRICT JUSTICE SYSTEM

#### I. Background

The District Justice Task Force Ad Hoc Committee (hereinafter Ad Hoc Committee) was established by the Supreme Court of Pennsylvania to follow up on and develop implementation strategies regarding certain recommendations contained in the Report of the Intergovernmental Task Force to Study the District Justice System.<sup>1</sup> One of the Ad Hoc Committee's specific assignments was to develop implementation strategies for Recommendation No. 1 of the Special Courts Administration Subcommittee of the Task Force (hereinafter Recommendation No. 1). Recommendation No. 1 relates to the authority, powers, and responsibilities of the president judges of the courts of common pleas with regard to administration of the district justice system, as defined in Rule 17 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices (hereinafter Rule 17).<sup>2</sup> As is noted in the Comment to Recommendation No. 1, the Special Courts Administration Subcommittee found that Rule 17,<sup>3</sup>

<sup>1</sup> The Intergovernmental Task Force to Study the District Justice System was convened on May 30, 2001 "to examine the current state of the district justice court system" and to "propose clear standards for the decennial magisterial district reestablishment, identify immediate and long-term system problems and needs, and formulate solutions to ensure the prudent and effective administration of the district justice courts." Report of the Intergovernmental Task Force to Study the District Justice System vii (October 2001) (available online at <http://www.courts.state.pa.us/>) [hereinafter Task Force Report].

<sup>2</sup> *Id.* at 29.

<sup>3</sup> Rule 17, as currently written, states, "[t]he president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative control over district justices within his judicial district."

"broadly states that the president judge of the judicial district has general supervisory authority and administrative control over the district justices in the judicial district, but fails to specifically define the president judge's authority in major administrative areas. Accordingly, the Subcommittee determined that Rule 17 should be amended and expanded to specifically outline the authority, powers, and responsibilities of the president judge with regard to management of the district justice system."<sup>4</sup> The Special Courts Administration Subcommittee enumerated eight major areas in which the president judges' authority should be defined, including record keeping, meetings with district justices, personnel, district justice leave time, office hours, temporary assignments of district justices and transfer of cases, conduct of district justices, and procedural audits.<sup>5</sup> As further noted in the Comment to Recommendation No. 1, "[i]n enumerating the authority, powers, and responsibilities of the president judge, however, it was not the Subcommittee's intention to create an exclusive list of powers and responsibilities, nor was it the Subcommittee's intention to limit the president judges' authority to the areas listed. The Subcommittee agreed that the president judges should have broad authority with regard to management of the district justice courts, but it further determined that certain areas of authority and responsibility should be specifically defined."<sup>6</sup> It was against this backdrop that the Ad Hoc Committee went about the task of formulating an implementation strategy for Recommendation No. 1.

The Ad Hoc Committee considered two options to implement Recommendation No. 1. The first option would have substantially left Rule 17 as it is currently written and would have added the enumerated list of president judge powers and responsibilities as clarifying language in the Note to the rule. However, after considerable discussion and the recognition that the Supreme Court does not adopt the language of the committee Notes to the rules, the Ad Hoc Committee agreed on the second option that would incorporate the enumerated list into the body of Rule 17, with additional clarifying language added to the Note.

## II. Discussion of Rule Changes

As discussed above, the Ad Hoc Committee agreed on a proposed amendment to Rule 17 that would incorporate the substance of Recommendation No. 1 into the body of the rule. To accomplish this, the Ad Hoc Committee proposes that Rule 17 be divided into two subdivisions. Subdivision (A) would retain the existing, broad language of the rule granting general supervisory and administrative authority to the president judge. A new subdivision (B) would incorporate the enumerated list from Recommendation No. 1. In keeping with its charge to implement the recommendation substantially as it was approved by the Intergovernmental Task Force, the Ad Hoc Committee made only minor editorial changes to the language of Recommendation No. 1 and made no major substantive changes to the list of president judge powers and responsibilities.

The Ad Hoc Committee further proposes substantial revisions to and expansion of the Note to Rule 17 to add clarifying language about the rule. Significantly, the proposed Note would make clear that the rule was amended "to more specifically outline the authority, powers, and responsibilities of the president judges," but that "it was not intended that this be an exclusive list of

powers and responsibilities, nor was it intended to limit the president judges' authority to the areas listed." The proposed Note would further state that, "[g]iven the diverse needs of judicial districts throughout Pennsylvania, how president judges exercise this authority will recognizably be varied." The proposed Note would also include a number of cross-references to other rules, and constitutional and statutory provisions.

In addition to the substantive changes to Rule 17 to implement Recommendation No. 1, the Ad Hoc Committee also proposes minor technical amendments to the rule and Note to address gender neutrality issues and to correct citation form.

[Pa.B. Doc. No. 02-1364. Filed for public inspection August 9, 2002, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

### [231 PA. CODE CH. 200]

#### Amendment of Rule 237.1 Governing Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead; No. 369 Civil Procedural Rules; Doc. No. 5

### Order

*Per Curiam:*

*And Now*, this 23rd day of July, 2002, Pennsylvania Rule of Civil Procedure 237.1 is amended as follows.

Whereas prior distribution and publication of the amendment would otherwise be required, it has been determined that immediate promulgation of the amendment is required in the interest of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 237.1. Notice of Praecipe for Entry of Judgment of Non Pros for Failure to File Complaint or by Default for Failure to Plead.

(a)(1) \* \* \*

(2) No judgment of non pros for failure to file a complaint or by default for failure to plead shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered

\* \* \* \* \*

**The ten-day notice period in subdivision (a)(2)(i) and (ii) shall be calculated forward from the date of the mailing or delivery, in accordance with Rule 106.**

<sup>4</sup> Task Force Report, *supra* note 1, at 31.

<sup>5</sup> *Id.* at 29-31.

<sup>6</sup> Task Force Report, *supra* note 1, at 32.

**Official Note:** The final sentence of Rule 237.1(a)(2) alters the practice described in the decision of *Williams v. Wade*, 704 A.2d 132 (Pa. Super. 1997).

(3) A copy of the notice shall be attached to the praecipe.

\* \* \* \* \*

[Pa.B. Doc. No. 02-1365. Filed for public inspection August 9, 2002, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CH. 200]**

**Amendment of Rule 238 Governing Damages for Delay; No. 371 Civil Procedural Rules; Doc. No. 5**

**Order**

*Per Curiam:*

And Now, this 29th day of July, 2002, Pennsylvania Rule of Civil Procedure 238 is amended as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 200. BUSINESS OF COURTS**

**Rule 238. Damages for Delay in Actions for Bodily Injury, Death or Property Damage.**

(a)(1) \* \* \*

(2) Damages for delay shall be awarded for the period of time

**[ (i) in an action commenced before August 1, 1989, from the date the plaintiff first filed a complaint or from a date one year after the accrual of the cause of action, whichever is later, up to the date of the award, verdict or decision; or**

**(ii) in an action commenced on or after August 1, 1989, ]** from a date one year after the date original process was first served in the action up to the date of the award, verdict or decision.

\* \* \* \* \*

(b)(1) The period of time for which damages for delay shall be calculated under subdivision (a)(2) shall exclude the period of time, if any,

**[ (1) after which the defendant has made a written offer of**

**(i) settlement in a specified sum with prompt cash payment to the plaintiff, or**

**(ii) a structured settlement underwritten by a financially responsible entity, and continued that offer in effect for at least ninety days or until commencement of trial, whichever first occurs, which offer was not accepted and the plaintiff did not recover by award, verdict or decision, exclusive of damages for delay, more than 125 percent of**

**either the specified sum or the actual cost of the structured settlement plus any cash payment to the plaintiff; or ]**

**(i) after the defendant made a written offer which complied with the requirements of subdivision (b)(2), provided that the plaintiff obtained a recovery which did not exceed the amount described in subdivision (b)(3), or**

**[ (2) ] (ii) during which the plaintiff caused delay of the trial.**

**Official Note:** This rule does not preclude the suspension of damages for delay as a pre-trial sanction under Discovery Rule 4019.

In additional defendant proceedings, the additional defendant will be considered the defendant, for purposes of this subdivision, and the plaintiff will be considered either the original defendant if liability over is claimed, or the original plaintiff if direct liability is claimed, or both if both forms of liability are claimed.

**(2) The written offer of settlement required by subdivision (b)(1)(i) shall contain an express clause continuing the offer in effect for at least ninety days or until commencement of trial, whichever occurs first, and shall either**

**(i) be in a specified sum with prompt cash payment, or**

**(ii) contain a structured settlement plus any cash payment. An offer that includes a structured settlement shall disclose the terms of payment underwritten by a financially responsible entity, the identity of the underwriter and the cost.**

**Official Note:** The offer of the cost of the structured settlement and any cash payment must remain open for ninety days. The cost of the entire structured settlement must remain the same while the terms of the payment may vary and have to be recalculated at the time of acceptance due to market fluctuation over the ninety-day period during which the offer must remain open.

**(3) The plaintiff's recovery required by subdivision (b)(1)(i), whether by award, verdict or decision, exclusive of damages for delay, shall not be more than 125 percent of either the specified sum or the cost of the structured settlement plus any cash payment to the plaintiff.**

\* \* \* \* \*

**Explanatory Comment**

**Subdivision (a)(2)**

Prior to the present amendment, the subdivision differentiated between cases commenced before and after August 1, 1989. With the passage of time, there now remain few cases, if any, commenced prior to that date. The amendment to subdivision (a)(2) streamlines the provision by eliminating paragraph (i) referring to these cases. Paragraph (ii) formerly governing cases commenced after August 1, 1989 continues as subdivision (a)(2).

**Subdivision (b)**

The revision to subdivision (b) of Rule 238 restructures the former provision and incorporates the requirements set forth by the Superior Court In *Sonlin v. Abington Memorial Hospital*, 748 A.2d 213 (2000).

Prior to the present amendment, subdivision (b) contained several complex concepts in one paragraph. For clarity, the amended subdivision is divided into three paragraphs.

New paragraph (1) states the basis for excluding time periods from the calculation of delay damages, i.e., a written offer of settlement not accepted and delay caused by the plaintiff. In defining the offer, paragraph (1)(i) incorporates by reference the detailed provisions of new paragraph (2) relating to the offer and new paragraph (3) relating to the plaintiff's recovery. Paragraph (1)(ii) retains without change the language of former subdivision (b)(2) relating to periods of time "during which the plaintiff caused delay of the trial."

New paragraph (2) incorporates into the rule three requirements imposed by the *Sonlin* case to bring an offer of settlement within the exclusion of that rule from the calculation of delay damages. The first requirement is that a written offer of settlement, whether cash or structured, must, in the words of the *Sonlin* case, contain "a clause expressly validating the offer for 90 days. . . ." This requirement carries out the intention of the rule which presently requires that an offer be in writing and that it be continued "in effect for at least ninety days or until commencement of trial, whichever first occurs. . . ."

In the case of an offer of a structured settlement, *Sonlin* adds two additional requirements: the identity of the underwriter and the cost of the entire structured settlement. New paragraph (2) of the rule adds a third requirement: "the terms of payment underwritten by a financially responsible entity."

A note added to paragraph (2) recognizes that most entities underwriting a structured settlement annuity cannot commit to the exact payment terms of a structured settlement for the entire ninety-day period required under the rule because the payment is often dependent on the financial market which may fluctuate over the period of the offer. Variations in the amount of the payment due to market forces shall not invalidate the offer for purposes of this rule and thus repeated modifications of the offer are not required.

Paragraph (3) continues without change the provision of former subdivision (b) that an offer is valid to toll the running of delay damages only if the plaintiff does not recover "more than 125 percent of either the specified sum or the cost of the structured settlement plus any cash payment to the plaintiff."

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 02-1366. Filed for public inspection August 9, 2002, 9:00 a.m.]

## PART I. GENERAL

### [231 PA. CODE CH. 200]

#### Rescission of Rules 214 and 215 and Promulgation of New Rule 214; No. 370 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 23rd day of July, 2002, the Pennsylvania Rules of Civil Procedure are amended as follows:

I. Rules 214 and 215 are rescinded.

II. New Rule 214 is promulgated to read as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 214. Preferences on Trial Lists.

Preference shall be given in the preparation of trial lists to

(1) cases in which a new trial has been granted, and

(2) such cases as the court upon application and cause shown may designate.

#### Explanatory Comment

Rule 214 governing preferences on trial lists formerly listed seven categories of cases that should be accorded priority. By the present amendment, five of the seven categories have been deleted. These categories were based generally upon statutes which have been repealed since the promulgation of the rule in 1938. The provision for preference of a case in which a new trial has been granted formerly in paragraph (d) and the catchall provision for cases designated for preference by the court upon cause shown formerly in paragraph (g) are retained as the bases for the revised rule.

Prior to its rescission, Rule 215 required that a request for a preference be brought to the attention of the court and specified a procedure. The procedure is a matter of administration which need not be set forth in the rules of civil procedure. The requirement to apply for the preference is included in revised Rule 214.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 02-1367. Filed for public inspection August 9, 2002, 9:00 a.m.]

## PART I. GENERAL

### [231 PA. CODE CH. 1000]

#### Amendment of Rule 1018.1 Governing the Notice to Defend; Proposed Recommendation No. 181

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1018.1 governing the Notice to Defend be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than September 13, 2002 to:

Harold K. Don, Jr., Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civil.rules@supreme.court.state.pa.us



The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 1000. ACTIONS AT LAW**

**Subchapter A. CIVIL ACTION**

**PLEADINGS**

**Rule 1018.1. Notice to Defend. Form**

\* \* \* \* \*

(b)

[CAPTION]

Notice

\* \* \* \* \*

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER REDUCED FEE OR NO FEE LEGAL SERVICES TO ELIGIBLE PERSONS.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

This rule applies to all complaints including those where service is by publication. For the mandatory content of the publication in such cases see Rule [1009(f)] 430(b).

When a defendant is a nonresident served outside the United States, [Rules 2081(a), 2131.2(a), 2157.2(a) and 2182(a) provide] Rule 1026(b) provides a sixty-day period for pleading.

(c) Each court shall by local rule designate the officer, organization, agency or person to be named in the notice from whom [legal help] information can be obtained.

\* \* \* \* \*

**Explanatory Comment**

Rule 1018.1 requires that every complaint begin with a notice to defend which advises the defendant in part as follows:

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

It appears that defendants are interpreting the notice as stating that they have a right to free legal counsel irrespective of eligibility requirements. This interpretation creates a difficult situation for the office to which defendants are referred by the notice. It is therefore

proposed that the notice be revised to eliminate the misconception engendered by it.

The following rules prescribe notices which contain language identical to that of the Notice to Defend under Rule 1018.1. These rules will require amendment as well:

- Rule 430 Service Pursuant to Special Order of Court. Publication
- Rule 1910.25 Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required
- Rule 1910.27(b) Form of Complaint. Order. Income and Expense
- Rule 1910.27(f) Statement. Health Insurance Coverage. Information Form. Form of Support Order. Form Petition for Modification
- Rule 1915.12 Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order
- Rule 1915.15 Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order
- Rule 1915.16 Form of Order and Notice. Joinder. Intervention
- Rule 1920.71 Form of Notice
- Rule 1920.73 Notice of Intention to Request Entry of divorce Decree. Praecepte to Transmit Record. Forms
- Rule 3146 Judgment Against Garnishee Upon Default or Admission in Answer to Interrogatories
- Rule 3252 Writ of Execution. Money Judgments
- Rule 3282 Petition. Averments. Notice to Defend
- Rule 3288 Petition. Averments. Notice to Defend
- Rule 4009.33 Motion for Entry upon Property of a Person Not a Party

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 02-1368. Filed for public inspection August 9, 2002, 9:00 a.m.]

**Title 234—RULES OF CRIMINAL PROCEDURE**

[234 PA. CODE CH. 4]

**Electronic Preparation and Transmission of Citation Information Generally**

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules of Criminal Procedure 401 (Proceedings In Summary Cases Charging Parking Violations), 405 (Issuance of Citation), 411 (Procedures Following Filing of Citation—Issuance of Summons), and 460 (Notice of Appeal), and approve the revision of the Comments to Rules of Criminal Procedure 400 (Means of Instituting Proceedings in Summary Cases), 403 (Contents of Citation), 406 (Procedure Following Issuance of Citation), and

410 (Filing of Citation). These rule changes would provide the procedures for electronically preparing and transmitting citation information generally.<sup>1</sup> This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Supplemental Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report. Deletions appear in bold and brackets, and the proposed 2002 additions appear in bold and small capital letters.<sup>2</sup>

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Anne T. Panfil  
Chief Staff Counsel  
Supreme Court of Pennsylvania  
Criminal Procedural Rules Committee  
P. O. Box 1325  
Doylestown, PA 18901

no later than Monday, September 9, 2002.

*By the Criminal Procedural Rules Committee*

JOSEPH P. CONTI,  
*Chair*

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
CHAPTER 4. PROCEDURES IN SUMMARY CASES**

**PART A. Instituting Proceedings**

**Rule 400. Means of Instituting Proceedings in Summary Cases.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

**ELECTRONICALLY TRANSMITTING THE CITATION INFORMATION OR PARKING TICKET INFORMATION TO THE ISSUING AUTHORITY WOULD INSTITUTE PROCEEDINGS BY FILING PURSUANT TO PARAGRAPH (2) OF THIS RULE.**

For the procedures when a citation is filed pursuant to paragraph (2), see Chapter 4 Part B(2), Rules 410, 411, 412, 413, and 414.

\* \* \* \* \*

For general procedures applicable in all summary cases, see Chapter 4 Part E, Rules 451, 452, 453, 454, 455, 456, 457, and 458.

For the procedures for appealing to the court of common pleas for a trial de novo, see Chapter 4[, ] Part F, Rules 460, 461, and 462.

\* \* \* \* \*

**Official Note:** Previous Rule 51[, ] adopted January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; Comment revised December 15, 1983, effective January 1, 1984;

<sup>1</sup> This Report supplements the 1999 Committee proposal concerning the electronic filing of parking ticket information published at 29 Pa.B. 2770 (May 28, 1999).  
<sup>2</sup> The proposed 1999 additions are shown in bold.

rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rules 103, 400, 401, 402, 405, 410, 420, 440, and 430. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised January 31, 1991, effective July 1, 1991; Comment revised January 16, 1996, effective immediately; Comment revised June 6, 1997, effective immediately; renumbered Rule 400 and amended March 1, 2000, effective April 1, 2001; **Comment revised \_\_\_\_\_, effective \_\_\_\_\_.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendment adding paragraph (5) published at 32 Pa.B. 3891 (August 10, 2002).**

**Rule 401. Means of Instituting Proceedings in Summary Cases Charging Parking Violations.**

(A) Political subdivisions may use parking tickets to inform defendants of parking violations and to offer defendants an opportunity to avoid criminal proceedings by paying an amount specified on the ticket within the time specified on the ticket.

(1) When a political subdivision does use parking tickets and a ticket has been handed to a defendant or placed on a vehicle windshield, a criminal proceeding shall be instituted only if the defendant fails to respond as requested on the ticket.

(2) [ **In that event,** ] **When a defendant fails to respond to a parking ticket,** the criminal proceeding shall be instituted **either**

(a) by a law enforcement officer filing a citation with the proper issuing authority, **or**

(b) **by having the parking violation information electronically transmitted to and verified with the proper issuing authority.**

**Upon receipt of the citation or the electronically transmitted information, the issuing authority shall proceed as provided in Rule 411, and [ the filing of the citation, ] the case shall proceed [ in the same manner as other summary cases instituted by filing a citation, ] in accordance with Rules 411—414.**

(B) When a parking ticket has not been used, a criminal proceeding in a summary case charging a parking violation shall be instituted by a law enforcement officer issuing a citation either by handing it to a defendant or by placing it on a vehicle windshield.

(1) Upon the issuance of a citation, the case **ordinarily** shall [ **ordinarily** ] proceed in the same manner as other summary cases instituted by issuing a citation to the defendant, in accordance with Rules 405—409.

(2) If the defendant fails to respond to the citation, the issuing authority shall issue a summons and the case shall then proceed in accordance with Rules 411—414 as if the proceedings were instituted by filing a citation, unless the issuing authority has reasonable grounds to believe that the defendant will not obey a summons, in which case an arrest warrant shall be issued and the case shall proceed in accordance with Rule 431.

[ (C) **The filing of a citation charging a parking violation may be accomplished by electronic filing.** ]

Comment

\* \* \* \* \*

If the defendant pays the amount specified on the parking ticket within the time specified on the ticket, the case will be concluded without the institution of a criminal proceeding. If the defendant makes no response within the suggested time, or if the defendant indicates a desire to plead not guilty, and the subdivision desires to proceed with the case, a law enforcement officer must determine the identity of the vehicle owner from the Department of Transportation and then institute a criminal proceeding by either filing a citation directly with the proper issuing authority, or having the parking violation information electronically transmitted under paragraph (A) of this rule.

Although this rule and Rule 411 do not require that a citation be prepared when the parking violation information is transmitted electronically, a municipality, of course, may continue to have its officers prepare citations as provided in paragraph (A)(2)(a), and also electronically transmit the parking violation information.

When the parking violation information is transmitted electronically pursuant to paragraph (A)(2)(b), the individual who electronically transmits the information must verify with the issuing authority that the information transmitted accurately reflects the information on the subject parking tickets.

[ Paragraph (C) was added in 1996 to specifically authorize that a citation charging a parking violation may be filed electronically. ]

\* \* \* \* \*

Official Note: Rule 95 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended July 17, 1996, effective January 1, 1997; renumbered Rule 401 and amended March 1, 2000, effective April 1, 2001; amended \_\_\_\_\_, effective \_\_\_\_\_.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed amendments clarifying the procedures for electronically transmitting parking violation information published at 32 Pa.B. 3891 (August 10, 2002).

PART B. Citation Procedures

Rule 403. Contents of Citation.

\* \* \* \* \*

Comment

A LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT A CITATION ELECTRONICALLY. THE LAW ENFORCEMENT OFFICER CONTEMPORANEOUSLY MUST GIVE THE DEFENDANT A PAPER COPY OF THE CITATION CONTAINING ALL THE INFORMATION REQUIRED BY THIS RULE.

Paragraph (A)(3) requires the law enforcement officer who issues a citation to indicate on the citation if the defendant is a juvenile and, if so, whether the juvenile's parents were notified. See the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

\* \* \* \* \*

Paragraph (B)(6) was amended in 2000 to make it clear in a summary criminal case that the defendant may file

an appeal for a trial de novo following the entry of a guilty plea. See Rule [ 86 (Appeals) ] 460 (Notice of Appeal).

\* \* \* \* \*

See Rule 401 for procedures for instituting cases in which there is a parking violation. When the parking violation information is electronically transmitted as permitted by Rule 401(A), only a summons is issued as provided in Rule 411.

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; Comment revised \_\_\_\_\_, effective \_\_\_\_\_.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed Comment revisions cross-referencing Rule 401 concerning electronic transmission of parking citations published at 32 Pa.B. 3891 (August 10, 2002).

PART B(1). Procedures When Citation Is Issued to Defendant

Rule 405. Issuance of Citation.

When a criminal proceeding in a summary case is instituted by issuing a citation to the defendant [ , ] ;

(1) the law enforcement officer who issues the citation shall exhibit [ some ] AN OFFICIAL sign of THE OFFICER'S authority; AND

(2) THE LAW ENFORCEMENT OFFICER CONTEMPORANEOUSLY MUST GIVE THE DEFENDANT A PAPER COPY OF THE CITATION CONTAINING ALL THE INFORMATION REQUIRED BY RULE 403.

Comment

A LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT A CITATION ELECTRONICALLY.

\* \* \* \* \*

Official Note: Previous rule, originally numbered Rule 135, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 55 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 408. Present Rule 55 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 11, 1989, effective July 1, 1989; Comment revised January 16, 1996, effective immediately; renumbered Rule 405 and Comment revised March 1, 2000, effective April 1, 2001; amended \_\_\_\_\_, 2002, effective \_\_\_\_\_, 2002.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed amendments concerning issuance of citations published at 32 Pa.B. 3891 (August 10, 2002).

Rule 406. Procedure Following Issuance of Citation.

Within 5 days after a citation is issued to the defendant, the [original] CITATION shall be filed with the proper issuing authority.

Comment

TO SATISFY THE REQUIREMENTS OF THIS RULE, THE LAW ENFORCEMENT OFFICER MAY PREPARE AND TRANSMIT THE CITATION INFORMATION ELECTRONICALLY.

These rules are not intended to require the law enforcement officer who issued the citation to personally file the [original] citation.

It is intended that the [original] citation be filed as soon as is practical so the issuing authority may process the case. However, failure to comply with the [five] 5-day limit is not intended to be grounds for dismissal, unless the defendant is prejudiced by the delay. See Rule 109.

\* \* \* \* \*

Official Note: Previous rule, originally numbered Rule 137, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 56 and paragraph (d) amended September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rule 409. Present Rule 56 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; renumbered Rule 406 and amended March 1, 2000, effective April 1, 2001; amended \_\_\_\_\_, effective \_\_\_\_\_.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed Comment revision published at 32 Pa.B. 3891 (August 10, 2002).

PART B(2). Procedures When Citation Filed

Rule 410. Filing of Citation.

\* \* \* \* \*

Comment

FILING AS USED IN THIS RULE INCLUDES ELECTRONICALLY TRANSMITTING THE CITATION OR PARKING TICKET INFORMATION.

\* \* \* \* \*

Official Note: Previous rule, originally adopted as Rule 116 June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; readopted January 31, 1970, effective May 1, 1970 [ , ] ; renumbered as Rule 60 and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 431. Present Rule 60 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised August 13, 1999, effective immediately; renumbered Rule 410 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised \_\_\_\_\_, effective \_\_\_\_\_.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed Comment revision concerning filing published at 32 Pa.B. 3891 (August 10, 2002).

Rule 411. Procedures Following Filing of Citation— Issuance of Summons.

(A) Upon the filing of the citation, or receipt of electronically transmitted parking violation information, the issuing authority shall issue a summons commanding the defendant to respond within 10 days of receipt of the summons, unless the issuing authority has reasonable grounds to believe that the defendant will not obey a summons in which case an arrest warrant shall be issued. The summons shall be served as provided in these rules.

(B) [Except] A copy of the citation shall be served with the summons, except in cases charging parking violations when the [citation] parking violation information is electronically filed [ , a copy of the citation shall be served with the summons ] .

(C) In cases charging parking violations [ when ] in which the [citation] parking violation information is electronically filed, the summons shall also include:

\* \* \* \* \*

Comment

\* \* \* \* \*

This rule [ was amended in 1996 to facilitate ] facilitates the electronic [ filing ] transmission of [ citations charging ] parking [ violations ] violation information by (1) eliminating the requirement that a copy of the citation be served with the summons in cases in which the parking violation information is electronically filed pursuant to Rule 401(A), and (2) requiring additional information be added to the summons. See Rule 401 (Proceedings in Summary Cases Charging Parking Violations). However, nothing in this rule or Rule 401 is intended to preclude a municipality from continuing to have its officers prepare a citation in addition to electronically transmitting the parking violation information.

Official Note: Previous Rule 117, adopted June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended to apply only to summary cases September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 431. Present Rule 61 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended July 17, 1996, effective January 1, 1997; renumbered Rule 411 and Comment revised March 1, 2000, effective April 1, 2001; amended \_\_\_\_\_, effective \_\_\_\_\_.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed amendments concerning electronic transmission of parking violation information published at 32 Pa.B. 3891 (August 10, 2002).

**PART F. Procedures in Summary Cases Under the Vehicle Code**

**Rule 460. Notice of Appeal.**

\* \* \* \* \*

(D) The issuing authority shall, within 20 days after receipt of the notice of appeal, file with the clerk of courts:

\* \* \* \* \*

(2) the original complaint or citation, **if any**;

\* \* \* \* \*

**Comment**

\* \* \* \* \*

**Paragraph (D) was amended in 2002 to align this rule with Rule 401(A), which permits the electronic transmission of parking violation information in lieu of filing a citation. Therefore, in electronically transmitted parking violation cases only, because there is no original citation, the issuing authority would file the summons with the clerk of courts pursuant to paragraph (D)(3).**

Rule 462(D) provides for the dismissal of an appeal when the defendant fails to appear for the trial de novo.

\* \* \* \* \*

**Official Note:** Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; amended March 3, 2000, effective July 1, 2000; rescinded March 1, 2000, effective April 1, 2001, and paragraphs (A), (D), (E), (F), (H), and (I) replaced by Rule 460. New Rule 460 adopted March 1, 2000, effective April 1, 2001; **amended \_\_\_\_\_, effective \_\_\_\_\_.**

*Committee Explanatory Reports:*

\* \* \* \* \*

NEW RULE 460:

\* \* \* \* \*

**Report explaining the proposed changes concerning electronically transmitted parking citations published at 32 Pa.B. 3891 (August 10, 2002).**

**SUPPLEMENTAL REPORT**

*Proposed Amendments to Pa.Rs.Crim.P. 401, 405, 411, and 460, and Revision of the Comments to Rules 400, 403, 406, and 410<sup>3</sup>*

**ELECTRONIC PREPARATION AND TRANSMISSION OF CITATION INFORMATION GENERALLY**

**I. BACKGROUND**

The Committee in 1999 published a proposal that would clarify the procedures for electronically filing park-

<sup>3</sup> The 1999 proposal included changes to Rules 51, 53, 61, 86, and 95. These rules became Rules 400, 403, 411, 460, and 401 respectively as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001. Rules 405, 406, and 410 were not part of the 1999 proposal.

ing violation information in cases in which a defendant has failed to respond to a parking ticket. See 29 Pa.B. 2770 (May 29, 1999). Following the Committee's publication of the 1999 proposal, we received communications from IT Staff from the Administrative Offices of Pennsylvania Courts, representatives of the Pennsylvania State Police and the Justice Network (JNET), and representatives of Philadelphia Traffic Court concerning the development of electronic data management systems that would permit the electronic issuance of citations and the electronic transmission of citation information generally. The Committee reviewed the correspondence and agreed that implementation of the proposed systems described in the correspondence should be pursued as long as the procedural requirements in the Criminal Rules are satisfied. The Committee strongly believes the use of technology should be encouraged when its use is feasible because this promotes the Court's goals of statewide uniformity in the practice of law, and the use of technology has been shown to result in a more efficient use of the court's limited resources. However, during the Committee's consideration of the use of electronic data managing systems in general, the Committee expressed concern that the 1999 proposal clarifying the procedures for the electronic filing of parking violation information could be misconstrued as limiting electronic filing to transmission of parking violation information if the general citation rules are not similarly amended to include specific provisions for the electronic transmission of citation information.

In view of the points raised in these communications, the Committee's review of the rules as they relate to the new technologies, the Court's goals of statewide uniformity, and the potential for unintended consequences that could result from not including specific provisions for the electronic transmission of citation information, the Committee is proposing changes to the Criminal Rules that supplement the 1999 proposal for the electronic filing of parking violation information by including the procedures for the electronic preparation of the citation the electronic transmission of citation information generally.<sup>4</sup>

**II. DISCUSSION OF RULE CHANGES<sup>5</sup>**

**1) Rule 400 (Means of Instituting Proceedings in Summary Cases)**

Rule 400 provides the means of instituting proceedings in summary cases. After reviewing the rule with a focus on electronically transmitting citations generally, the Committee agreed that the current use of the term "filing" in paragraph (2) could cover not only manual filing methods, but also electronic filing. To accommodate this broad construction of "filing," we are proposing that Rule 400 be modified from the 1999 proposal by 1) deleting what was proposed new paragraph (5) and the correlative Comment provision,<sup>6</sup> and 2) adding in the Comment a new third paragraph that makes it clear that filing may be accomplished by electronically transmitting the citation information or parking ticket information to the issuing authority.

<sup>4</sup> The 1999 proposal remains the same except as otherwise explained in this 2002 supplemental proposal.

<sup>5</sup> See Report published at 29 Pa.B. 2772 (May 29, 1999) explaining the proposed rule changes involving Rules 401, 411, and 460.

<sup>6</sup> In view of the 2002 changes, the 1999 changes that included a proposed new paragraph (5) ("electronic filing of parking ticket information") and correlative Comment provision ("Paragraph (5) and Rule 401(A) authorize the electronic filing of the parking ticket information in those cases in which a defendant fails to respond to the political subdivision's parking ticket.") have been deleted as unnecessary.

**2) Rule 403 (Contents of Citation)**

Rule 403 provides the requirements for the contents of the citation. To tie this rule into the concept of using electronic means for the preparation and transmission of citation, the Committee is proposing that a new first paragraph be added to the Comment that would provide, "A law enforcement officer may prepare and transmit a citation electronically.<sup>7</sup> The law enforcement officer contemporaneously must give the defendant a paper copy of the citation containing all the information required by this rule." The Comment would retain the 1999 proposed cross-reference to Rule 401 concerning the procedures for instituting cases in which there is a parking violation.

**3) Rule 405 (Issuance of Citation)**

Rule 405 provides the procedures for instituting a summary case proceeding by issuing a citation to the defendant. From the Committee's review of Rule 405, we agreed the rule needed to be expanded to more clearly delineate that "issuing" the citation means giving a copy to the defendant at the time it is prepared by the law enforcement officer. In addition, the Committee thought the rule should be clarified concerning the provision for exhibiting a sign of authority. Accordingly, the Committee is proposing that the rule be reorganized to make it clear that the law enforcement officer who issues the citation must exhibit an official sign of his or her authority (see new paragraph (1)), and to add the requirement that the law enforcement officer at the time of issuance of the citation give the defendant a paper copy of the citation (see new paragraph (2)). The paper copy is in addition to, and includes, any information that is electronically prepared and transmitted.

**4) Rule 406 (Procedure Following Issuance of Citation)**

Rule 406 provides the procedures following the issuance of a citation. The Committee is proposing the amendment of Rule 406 by changing the term "original" to "citation" to accommodate the other proposed changes allowing the filing of the citation by electronically transmitting the citation information to the issuing authority.

**5) Rule 410 (Filing of Citation)**

Rule 410 provides the procedures when a summary case is instituted by the filing of a citation. The Committee is proposing the revision of the Rule 410 Comment to conform the rule to the other rule changes concerning the electronic filing of citations in general by including as a new first paragraph the language, "Filing as used in this rule includes electronically transmitting the citation information or parking ticket information."

[Pa.B. Doc. No. 02-1369. Filed for public inspection August 9, 2002, 9:00 a.m.]

<sup>7</sup> Comparable Comment language has been included in the Comments to Rules 405 and 406.

# Title 25—LOCAL COURT RULES

## SOMERSET COUNTY

### Consolidated Rules of Court; No. 50 Misc. 2002

#### Adopting Order

*And Now*, this 19th day of July, 2002, it is hereby *Ordered*:

1. Somerset County Rule of Civil Procedure Som.R.C.P. 1301, Arbitration, Jurisdiction Limits, is amended to read in its entirety, as reflected in revised Som.R.C.P. 1301 effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

2. The Somerset County Court Administrator is directed to:

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

B. Distribute two (2) certified copies of this Order and the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the attached Rule with the Pennsylvania Civil Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

*By the Court*

EUGENE E. FIKE, II,  
*President Judge*

**Som.R.C.P. 1301. Arbitration. Jurisdiction Limits.**

All civil actions for the recovery of money or personal property shall first be submitted to arbitration before a board of three members of the Bar of this Court, except: (i) actions which involve title to real property, and (ii) actions in which the amount in controversy, exclusive of interest and costs, exceeds \$25,000.00.

*Note:* See Judicial Code § 7361, 42 Pa.C.S.A. § 7361. The authorized arbitration limit was \$5,000.00 until increased to \$10,000.00 by Act No. 1980-38. The authorized limit was increased to \$25,000.00 by Act No. 1992-25.

Regarding referral of replevin actions to arbitration, see explanatory note-1981 to Pa.R.C.P. 1301.

On arbitration limits, see *Goncher v. Brant*, 29 Somerset Legal Journal 332, 340 (1974) and *Reffner v. Tipton* No. 2, 30 Somerset Legal Journal 269 (1974).

[Pa.B. Doc. No. 02-1370. Filed for public inspection August 9, 2002, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### MILK MARKETING BOARD

[7 PA. CODE CH. 151]

#### Calculation of Bonding Obligation

The Milk Marketing Board (Board) amends § 151.9 (relating to calculation of bonding obligation) to read as set forth in Annex A, under authority of section 14 of the Milk Producers' Security Act (act) (31 P. S. § 626.14).

Notice of proposed rulemaking was published at 30 Pa.B. 4253 (August 12, 2000) with an invitation to submit written comments within 30 days. The Board received no public comments. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee offered no comments, suggestions or objections to the proposed amendment. The Independent Regulatory Review Commission (IRRC) did offer comments, which are discussed as follows.

In final-form rulemaking, the Board considered IRRC's comments and suggestions. In addition, the Board considered this final-form rulemaking and its purpose under Executive Order 1996-1, "Regulatory Review and Promulgation."

#### *Purpose*

The principal purpose of the final-form rulemaking is to adjust the calculation of milk dealers' bonding obligations to reflect more accurately the volume of producer purchases during a 12-month period, thus providing greater economic protection for dairy farmers. The final-form rulemaking also updates the regulation by replacing a citation to the repealed Milk Producers' and Cooperative Security Funds Act with a citation to the successor act.

#### *Comments*

IRRC offered three recommendations related to subsection (a). First, IRRC recommended that the citation to the act be removed from the final-form rulemaking; the Board believes it is necessary to leave the citation in the final-form rulemaking so that it is clear that this regulation addressed the bonding obligation contained in the act. Second, IRRC noted that there is no need to quote statutory language in the regulation; the Board removed the quote from section 7(c) of the act (31 P. S. § 626.7(c)) in the final-form rulemaking. Finally, IRRC recommended that, for greater clarity and readability, the final-form rulemaking should be written in the active voice; the Board has followed this recommendation as well, and the final-form amendment has been written in the active voice.

IRRC also questioned the meanings of "a purchase subject to minimum pricing fixed by the Board" and "a purchase not subject to minimum pricing fixed by the Board" in subsection (b)(1) and (2). A "purchase subject to minimum pricing fixed by the Board" is a transaction between a milk dealer and a Commonwealth producer. A "purchase not subject to minimum pricing fixed by the Board" is another transaction between a milk dealer and a producer. This is a longstanding and well-settled distinction within the dairy industry, based on decades of enforcement and interpretation of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), that the Board does not think it is necessary to clarify the distinction in the final-form rulemaking.

#### *Paperwork Estimates*

Section 151.9 will not substantially alter paperwork, accounting or reporting requirements already in place.

#### *Effective Date*

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

There is no sunset date.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(1)), the Board submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 4253, to IRRC and to the Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the House and Senate Committees with other documentation. In preparing this final-form regulation, the Board has considered the comments received from IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 30, 2002, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 9, 2002, and approved the final-form rulemaking.

#### *Contact Person*

The official responsible for information on the final-form rulemaking is Lynda J. Bowman, Executive Secretary, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

#### *Findings*

The Board finds that:

(1) Public notice of the intention to adopt the final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder 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) The final-form rulemaking is necessary and appropriate for the administration of the act.

#### *Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 151, are amended by amending § 151.9 to read as set forth in Annex A.

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

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

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

LYNDA J. BOWMAN,  
*Secretary*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2646 (May 25, 2002).)

**Fiscal Note:** Fiscal Note 47-7 remains valid for the final adoption of the subject regulation.

#### Annex A

### TITLE 7. AGRICULTURE

#### PART VI. MILK MARKETING BOARD

#### CHAPTER 151. SECURITY FUNDS, BONDING AND ALTERNATIVE SECURITY

##### § 151.9. Calculation of bonding obligation.

(a) For the purpose of sections 7(c) and 8 of the Milk Producers' Security Act (act) (31 P. S. §§ 626.7(c) and 626.8), the Board will use the following method to ascertain the highest aggregate amount owed by the dealer to producers for a 40-day period during the preceding 12 months:

(1) Review the amount owed by the milk dealer to all its producers for each month in the preceding calendar year.

(2) Identify the 2 consecutive months in which the sum of the amounts owed was the highest.

(3) Divide the sum of the amounts owed from paragraph (2) by the total number of days in the 2 consecutive months.

(4) Multiply the quotient from paragraph (3) by 40.

(b) As used in sections 7(c) and 8 of the act and in subsection (a), "amount owed" has the following meanings:

(1) For a purchase subject to minimum pricing fixed by the Board, "amount owed" means the amount the milk dealer was required to pay the producer under the applicable Board order, even though the actual amount paid exceeded the Board-established minimum price.

(2) For a purchase not subject to minimum pricing fixed by the Board, "amount owed" means the actual amount the milk dealer lawfully paid the producer.

[Pa.B. Doc. No. 02-1371. Filed for public inspection August 9, 2002, 9:00 a.m.]

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

#### [25 PA. CODE CH. 109]

#### Safe Drinking Water

The Environmental Quality Board (Board) by this order amends Chapter 109 (relating to safe drinking water). The amendments will establish new requirements for community water systems to prepare and provide to their customers an annual consumer confidence report (CCR), major revisions to the public notification (PN) requirements, minor revisions to the regulation of lead and

copper (LCRMR) to improve implementation and minor revisions to Chapter 109 to retain primary enforcement authority (primacy) and to clarify existing requirements.

This order was adopted by the Board at its meeting of May 22, 2002.

#### A. Effective Date

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

#### B. Contact Persons

For further information, contact Jeffrey A. Gordon, Chief, Division of Drinking Water Management, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018 or Pamela Bishop, 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 final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

These amendments are being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-7 and 510-20).

#### D. Background and Purpose

The purpose of the final-form rulemaking is to amend the Department's Safe Drinking Water regulations to incorporate new primacy requirements contained in three recent Federal rulemakings. The United States Environmental Protection Agency (EPA) promulgated the following National Primary Drinking Water Regulations: CCR Final Rule as published in the August 19, 1998, *Federal Register*; PN Final Rule as published in the May 4, 2000, *Federal Register*; and the LCRMR as published in the January 12, 2000, *Federal Register* (40 CFR Parts 9, 141, and 142 (relating to OMB approvals under the Paperwork Reduction Act; National primary drinking water regulations; and National secondary drinking water regulations). The amendments will address these new and revised provisions to satisfy primacy requirements.

##### 1. New CCR requirements.

The amendments include new requirements for community water systems to prepare and provide to their customers an annual CCR on the quality of the water delivered by the public water system. These amendments will incorporate the provisions of the Federal CCR Rule that were mandated by the 1996 Amendments to the Federal Safe Drinking Water Act (SDWA). The CCR is the cornerstone of the public right-to-know provisions in the Federal SDWA.

The CCR will provide valuable information to customers of community water systems and allow them to make personal, health-based decisions regarding their drinking water consumption. The information in the report is information that the community water system already collects. Reports shall contain information on the sources of water provided, levels of detected contaminants, violations of State regulations and health information concerning drinking water and potential risks from detected contaminants. The information contained in a CCR can



raise consumers' awareness of where their water comes from, help them understand the process by which safe drinking water is delivered to their homes and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply. Water suppliers can use the CCR to promote dialogue with their consumers and to encourage consumers to become more involved in decisions which may affect their health.

#### 2. *Major revisions to PN requirements.*

The amendments include major revisions to the PN requirements and will incorporate the provisions of the Federal PN Rule. Public water suppliers use public notification to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize the risks. The EPA revised its PN requirements in April 2000 as required by the 1996 Amendments to the Federal SDWA because it was determined that the complexity of the rule hindered successful implementation. The EPA was required to amend the existing PN provisions to better target notices for serious violations posing a short-term exposure risk to health and to make the existing notification process less burdensome and more effective.

The revisions to PN modify the minimum requirements public water suppliers must meet regarding the form, manner, frequency and content of public notices. The new requirements make it easier for water suppliers to provide consumers with more accurate and timely information on violations and the seriousness of any potential adverse health effects. The revisions require faster notice in emergencies and fewer notices overall. In addition, public notification of drinking water violations provides a means to protect public health, builds trust with consumers through open and honest sharing of information and establishes an ongoing, positive relationship with the community.

#### 3. *Minor revisions to the regulation of lead and copper (LCRMR).*

The amendments reflect minor revisions to the regulation of lead and copper. The lead and copper regulations apply to community and nontransient noncommunity water systems. The EPA made several minor revisions to the National Primary Drinking Water Regulations for lead and copper. The changes do not affect the lead or copper maximum contaminant level goals, the action levels or the basic regulatory requirements. The intended effect of this action is to streamline and reduce regulatory burden where changes can be made without jeopardizing the level of public health protection or protection of the environment. Other minor changes clarify requirements and improve the rule's implementation. Finally, the amendments address two issues that were the subject of an EPA judicial remand.

#### 4. *Amendments to correct minor deficiencies and clarify existing requirements.*

The amendments will correct minor deficiencies in Chapter 109 to satisfy outstanding issues with the EPA and obtain primacy approval for the LCR and an earlier rulemaking known as the Phase II/V Rule. The amendments also clarify existing requirements.

The Board has incorporated the provisions of the Federal CCR, PN and LCRMR and the Federal corrective amendments into the Pennsylvania Safe Drinking Water Regulations (25 Pa. Code Chapter 109) in order to obtain primary enforcement authority, under the Federal SDWA.

The proposed rulemaking was approved by the Board on July 17, 2001. The proposed rulemaking was published at 31 Pa.B. 5083 (September 8, 2001). The 60-day public comment period concluded on November 7, 2001. There were 794 commentators to the proposal. An additional 1,142 electronic form letters were received from two organizations. One public meeting/hearing was held in Wyomissing, PA on October 9, 2001.

The Small Water Systems Technical Assistance Center Advisory Board (TAC) and the Water Resources Advisory Committee (WRAC) were each briefed on the comments received during the public comment period. The TAC reviewed and discussed the final-form rulemaking during two meetings held on January 8 and February 8, 2002. The TAC approved the final-form rulemaking for recommendation to the Board. The WRAC reviewed and discussed the final-form rulemaking on January 9, 2002. The WRAC approved the final-form rulemaking for recommendation to the Board.

The Federal Safe Drinking Water Act (42 U.S.C.A. § 300g-2(a)) requires that primacy states, such as the Commonwealth, adopt the EPA regulations no later than 2 years after EPA promulgation. The EPA may approve an extension of up to 2 years for states that: (1) lack legislative or regulatory authority to enforce the new regulations, or (2) lack program capability to implement the new regulations, or (3) are adopting two or more EPA regulations at the same time.

On August 9, 2000, the Department submitted a primacy extension request to the EPA. The EPA granted an extension on April 16, 2001, for the Department to submit a complete and final primacy revision application for the CCR, PN and LCRMR by August 21, 2002. Failure to adopt the amendments by this extension date may result in this Commonwealth losing its primary enforcement responsibility.

#### *E. Summary of Comments and Responses on the Proposed Rulemaking and Changes to the Proposed Rulemaking* *§ 109.1. Definitions.*

A commentator asserted that the definition of "CCR" is substantive because the word "shall" is used. Accordingly, the word "shall" was deleted.

#### *§ 109.301. General monitoring requirements.*

A commentator asserted that § 109.301(7)(ii)(C)(V) contained vague requirements to "... meet other Tier 1 public notification requirements." This requirement was redundant and was therefore deleted.

#### *§ 109.407. General public notification.*

A commentator asked what "other violations and situations" will the Department determine require a public notice under § 109.407(a)(9). The Department identifies other violations or situations requiring a public notice under § 109.408(a)(7). Section 109.407(a)(9) was redundant and was therefore deleted.

A commentator requested clarification regarding the phrase "unless other tier assignments are established by regulations or order of the Department" found in § 109.407(b). The commentator asserted that the language regarding "regulations" is not needed because the only way to change a regulation is by promulgating a new regulation. Secondly, the commentator questioned whether it was the Department's intent to issue orders on a case-by-case basis and under what circumstances an order would be issued. The language regarding "regulations" is consistent with existing language found in

§ 109.202(a)(2) and is therefore being retained. In addition to establishing an alternative tier assignment through regulations, the Department has the authority to establish an alternative tier assignment for any violation on a case-by-case basis. Some circumstances where a violation may be upgraded to a higher tier include:

- When the violation is persistent; or
- When the level of contamination is extraordinarily high. Consumers can suffer acute health effects from almost any contaminant if they are exposed to extraordinarily high levels.

The alternative tier assignment would be established during the consultation process. If need be, the Department can order the system to comply with the alternative requirements by issuing a Field Order.

*§ 109.408. Tier 1 public notice—form, manner and frequency of notice.*

A commentator asked what the circumstances would be for the Department to require Tier 1 public notice for the waterborne emergencies listed in § 109.408(a)(7)(i)–(iii). The commentator asserted that public notice should only be necessary when the waterborne emergency causes the finished water to become contaminated. Paragraph (7) has been amended to clarify that public notice is required when a waterborne emergency adversely affects the quality or quantity of the finished water.

The EPA recommended that the term “reasonably designed” rather than simply “designed” should be used to be consistent with the intent of the Federal rule. The final-form rulemaking has been amended accordingly in all relevant sections.

Commentators endorsed the inclusion of a consultation process with the Department under § 109.408(b)(3)–(4) rather than using a list of more prescriptive State requirements. However, for the consultation process to be more workable, the commentators requested a formalized dispute resolution process to assure that both parties agree to additional notification requirements that are established as a result of the consultation with the Department. The Department does not believe that a formalized dispute resolution process is needed or even appropriate. The Department intends to use the consultation process to require additional notice in situations where: (1) there were deficiencies in the initial notice; (2) there was inadequate delivery of the initial notice; (3) special populations need to be informed; (4) repeat notices are required for ongoing violations; and (5) the system returned to compliance. The Department contends that the additional notice requirements may be necessary to ensure that minimum requirements are met and that public notification is effective.

A commentator requested that § 109.408(b)(4) be amended to specify a repeat notice frequency of every 30 days. This final-form rulemaking has been amended to require a 30-day repeat notice frequency for on-going Tier 1 violations and situations.

Commentators endorsed the reduction in time allowed for the delivery of Tier 1 notices under § 109.408(b). However, the commentators were concerned that the requirements in § 109.408(c) reduce the number of activities needed to notify the public. The requirements in § 109.408(c) are consistent with the Federal regulation. To ensure that public notice is effective, the EPA provided water suppliers with the flexibility to choose from a specified list the delivery methods that are appropriate for the system type and size and that fit the specific

situation. Suppliers are required to use, at a minimum, one or more of the specified methods.

*§ 109.409. Tier 2 public notice—form, manner and frequency of notice.*

Commentators requested that the timing requirements for a Tier 2 notice under § 109.409(b)(2) be changed from “no later than 30 days” to “no later than 24 hours”. The Department has decided to retain the 30-day time frame because the existing language is consistent with the Federal regulations. Congress mandated that the Federal regulations must provide for different frequencies of notices based on the persistence of the violations and the seriousness of any potential adverse health effects that may be involved. The EPA indicated that the need to know of Tier 2 violations is not immediate. Further, the 30-day time frame distinguishes Tier 2 notification from the more immediate notice required for Tier 1-type violations or situations. The Department also contends that the rule requires notice as soon as possible, but in no case longer than 30 days after the supplier learns of the violation and that the Department may elevate any Tier 2 violation to Tier 1, if appropriate.

Commentators requested that the Department require all utilities to notify the media within 24 hours whenever their water violates a State drinking water standard. The Department declined to make this amendment because the existing delivery requirements for Tier 2 notice are consistent with the Federal regulations. Methods of delivery are directly related to the timing requirements for each tier type. Not all cases would require notification by the media to meet the timing requirements. Water suppliers are required to provide Tier 2 notice as soon as possible, but no later than 30 days after the system learns of the violation. Because suppliers have up to 30 days to provide notice, community water systems are required to provide notice by mail or other direct delivery to each customer and any other method reasonably designed to reach other persons regularly served by the system. Noncommunity water systems are required to provide notice by posting the notice in conspicuous locations throughout the distribution system, or by mail or direct delivery to each customer and any other method reasonably designed to reach other persons served by the system.

*§ 109.411. Content of a public notice.*

A commentator requested that § 109.411(c)(1)(ii) be amended to specify a minimum font size because the existing language was arbitrary for compliance determinations. The final-form rulemaking has been amended to require a minimum font size of 10 points.

In the Preamble to the proposed rulemaking, the Department requested comments regarding the multilingual requirements found in § 109.411(c)(2). Some commentators felt that the population threshold for providing multilingual information should be 5%, while other commentators felt the threshold should be 2,500 people. Some commentators supported the existing language which affords the water supplier the choice to: (1) provide information in the appropriate languages regarding the importance of the notice; or (2) provide a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language. Other commentators felt that suppliers should be required to translate all notices. Finally, some commentators questioned how the Department would determine the number of non-English speaking consumers for any given water system. The Department has decided to:

- Maintain consistency with the Federal provision and afford the water supplier the choice to provide information in the appropriate language (that is, a warning statement), or provide a translated copy of the notice or assistance in the appropriate language.

- Follow California's lead and require all public notices to contain information in Spanish regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance.

- Define a large proportion of the population as a group that exceeds 10% of the consumers for systems serving at least 1,000 people or 100 consumers for systems serving less than 1,000 people, and that speaks the same language other than English.

- Make the final determination of which systems need to include this information using data from the United States Census Bureau.

The multilingual requirements are identical for public notice and consumer confidence reports, and are located in § 109.411(c)(2) and § 109.416(3)(ii)–(iii), respectively.

The EPA asserted that the standard health effects language specified for fluoride under § 109.411(d)(1) is not appropriate for the Commonwealth's primary MCL of 2 mg/L. The EPA requested that the Department use the health effects language provided in the special notice required for an exceedance of the EPA's secondary standard for fluoride of 2 mg/L. Section 109.411(d)(1) has been amended accordingly.

#### § 109.416. Consumer confidence report requirements.

Section 109.416(3) was amended to address an oversight by the Department. The section was amended to clarify that the Federal standard health effects language for fluoride is not incorporated by reference. Systems should use the health effects language specified in § 109.411(d)(1).

Section 109.416(3)(ii) was amended to be consistent with the multilingual requirements for public notification found in § 109.411(c)(2).

Section 109.416(3)(v) was amended to be consistent with the minimum font size requirements for public notification found in § 109.411(c)(1)(ii).

#### § 109.1003. Monitoring requirements.

Sections 109.1003(b)(4) and (5) were amended to address an oversight by the Department. The references to special monitoring requirements for unregulated contaminants were deleted.

#### § 109.1004. Public notification.

The EPA requested that this section be amended to clarify that bulk water haulers must comply with the CCR requirements. This clarification was added as subsection (d).

#### § 109.1102. Action levels and treatment technique requirements.

Sections 109.1102(b)(2)(i) and (ii) were amended to address an oversight by the Department. In subparagraph (i), the phrase "An existing" was retained to clarify the requirements for an existing large water system. Language was added to subparagraph (ii) to clarify the requirements for a large system triggered into corrosion control.

#### § 109.1103. Monitoring requirements.

Sections 109.1103(e)(1)(v)(A) and (B)(I)(-a-) were amended to address an oversight by the Department. The phrase "on more than any 9 days in a 6-month period" was added to clarify how the Department determines compliance with the water quality parameters.

Section 109.1103(e)(2)(ii) was amended to address an oversight by the Department. The word "annual" was deleted from the title of this section to clarify that this section contains information about all forms of reduced water quality parameter monitoring, not just annual monitoring.

#### § 109.1107. System management responsibilities.

The EPA requested that this section be amended to satisfy primacy requirements. As a result of these amendments, all lead and copper tap water quality parameter, and source water monitoring results shall be submitted to the Department. This is consistent with the Federal regulation.

#### F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the final-form rulemaking.

##### Benefits

##### 1. New CCR requirements.

The amendments will affect all 2,201 community water systems that serve a total population of over 10.5 million in this Commonwealth. The CCR Rule, in concert with the PN Rule, will help to ensure that consumers are provided with information they need to make informed public health decisions concerning the water they are served.

##### 2. Major revisions to the PN requirements.

The amendments will affect all 10,473 public water systems that serve a total population of over 12.9 million of this Commonwealth. The benefits resulting from the PN Rule are expected to improve the current level of public health protection as a result of the simplifications.

##### 3. Minor revisions to the regulation of lead and copper (LCRMR).

The amendments will affect all 3,468 community and nontransient noncommunity water systems that serve a total population of over 11 million of this Commonwealth. The benefits resulting from the LCRMR Rule are not expected to change, and the EPA indicated that public health protection should also remain unchanged.

##### Compliance Costs

##### 1. New CCR requirements.

The EPA has estimated that, Nationwide, a total annual cost of almost \$23 million will be borne by the regulated (\$20.3 million) and regulating communities (\$2.8 million) as a result of the CCR Rule. It is estimated that water systems of this Commonwealth will bear over \$950,000 of the total annual cost. The \$950,000 estimate includes costs for preparing, printing and mailing the CCR. It is estimated the Department will bear over \$50,000 of the total annual cost.

##### 2. Major revisions to the PN requirements.

The EPA has estimated that, Nationwide, the total annual cost to the regulated and regulating communities for the current PN Rule is \$27 million. The EPA has estimated that, Nationwide, a total annual cost to the regulated and regulating communities for the new PN

Rule is \$17.9 million. This results in a net annual cost reduction of over \$9 million (a 33.7% reduction) for both the regulated and regulating communities. The total annual costs for the new PN Rule are as follows:

- The EPA has estimated that, Nationwide, the total annual cost to the regulated community is almost \$16.4 million. It is estimated that water systems of this Commonwealth will bear almost \$930,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as previously referenced, this equates to a total cost savings of over \$310,000.
- The EPA has estimated that, Nationwide, the total annual cost to the regulating communities is over \$1.5 million. It is estimated that the Department will bear almost \$27,000 of the total annual cost. Assuming an annual cost reduction of 33.7% as previously referenced, this equates to a total cost savings of over \$9,000.

3. *Minor revisions to the regulation of lead and copper (LCRMR).*

For the LCRMR Rule, the EPA estimated that, Nationwide, public water systems will realize a total cost reduction of over \$2.8 million, while the regulating communities will realize a total cost increase of almost \$2.2 million. It is estimated that water systems of this Commonwealth will realize a total cost reduction of almost \$128,000 while the Department will bear over \$39,000 of the total annual cost.

*Estimated Net Annual Cost of CCR, PN and LCRMR Rules*

Rule	Cost to Pennsylvania Water Systems	Cost to DEP
CCR	\$ 950,000	\$ 50,000
PN	-310,000	-9,000
LCRMR	-128,000	39,000
Totals	512,000	80,000

*Compliance Assistance Plan*

The final-form rulemaking address monitoring and reporting requirements. As a result, financial assistance should not be necessary.

The Safe Drinking Water Program has established a network of regional and central office training staff that is responsive to identifiable training needs. The target audience in need of training may be program staff and the regulated community. In addition, information or links to the EPA information on each of the regulations is available through the Department's Internet website at [www.dep.state.pa.us](http://www.dep.state.pa.us).

*Paperwork Requirements*

The final-form rulemaking address monitoring and reporting requirements. As a result, some changes to forms, reports and other paperwork are expected.

The CCR Rule requires community water systems to prepare and deliver a CCR. Several organizations have developed templates for systems to use when developing their CCRs (such as EPA, American Water Works Association (AWWA), Pennsylvania Rural Water Association (PRWA)). The Rule also requires water suppliers to submit a certification that all provisions have been met. The EPA has also provided a template for this certification form.

Revisions to the PN Rule should result in fewer notices overall. The EPA has provided templates for systems to use when developing public notices.

The LCRMR should result in a reduction in reporting requirements.

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 August 28, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 5083 to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), on July 1, 2002, 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 July 11, 2002, and approved the final-form regulations.

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 thereunder at 1 Pa.Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These final-form regulations do not enlarge the purpose of the proposal published at 31 Pa.B. 5083.

(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 Chapter 109, are amended by amending §§ 109.1.109.202, 109.301, 109.302, 109.503, 109.701, 109.702, 109.707, 109.805, 109.806, 109.810, 109.1003, 109.1102, 109.1103, 109.1104 and 109.1107; by adding §§ 109.407—109.416; and by deleting §§ 109.401—109.406 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 House and Senate

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

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, see 32 Pa.B. 3675 (July 27, 2002).)

**Fiscal Note:** Fiscal Note 7-368 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 109. SAFE DRINKING WATER**

**Subchapter A. GENERAL PROVISIONS**

**§ 109.1. Definitions.**

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

\* \* \* \* \*

*CCR—Consumer Confidence Report*—An annual water quality report that community water systems deliver to their customers, as described in § 109.416 (relating to CCR requirements).

\* \* \* \* \*

**Subchapter B. MCLS, MRDLS OR TREATMENT TECHNIQUE REQUIREMENTS**

**§ 109.202. State MCLS, MRDLS and treatment technique requirements.**

(a) *Primary MCLS.*

(1) A public water system shall supply drinking water that complies with the primary MCLS adopted by the EQB under the act.

(2) This subchapter incorporates by reference the primary MCLS in the National Primary Drinking Water Regulations, at 40 CFR Part 141, Subparts B and G (relating to maximum contaminant levels) as State MCLS, under authority of section 4 of the act (35 P. S. § 721.4), unless other MCLS are established by regulations of the Department. The primary MCLS which are incorporated by reference are effective on the date established by the Federal regulations.

(3) A public water system that is installing granular activated carbon or membrane technology to comply with the MCL for TTHMs, HAA5, chlorite (where applicable) or bromate (where applicable) may apply to the Department for an extension of up to 24 months past the applicable compliance date specified in the Federal regulations, but not beyond December 31, 2003. In granting the extension, the Department will set a schedule for compliance and may specify any interim measures that the Department deems necessary. Failure to meet the

schedule or interim treatment requirements constitutes a violation of National Primary Drinking Water Regulations.

(b) *Secondary MCLS.*

(1) A public water system shall supply drinking water that complies with the secondary MCLS adopted by the EQB under the act, except for the MCL for pH which represents a reasonable goal for drinking water quality.

(2) This subchapter incorporates by reference the secondary MCLS established by the EPA in the National Secondary Drinking Water Regulations, 40 CFR 143.3 (relating to secondary MCLS), as of January 30, 1991, as State MCLS, under the authority of section 4 of the act, unless other MCLS are established by regulations of the Department. The secondary MCL for copper is not incorporated by reference.

(3) A secondary MCL for aluminum of 0.2 mg/L is adopted as a State MCL.

(c) *Treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts.* A public water system shall provide adequate treatment to reliably protect users from the adverse health effects of microbiological contaminants, including pathogenic bacteria, viruses and protozoan cysts. The number and type of treatment barriers and the efficacy of treatment provided shall be commensurate with the type, degree and likelihood of contamination in the source water.

(1) A public water supplier shall provide, as a minimum, continuous filtration and disinfection for surface water and GUDI sources. The treatment technique shall provide at least 99.9% removal and inactivation of *Giardia lamblia* cysts, and at least 99.99% removal and inactivation of enteric viruses. Beginning January 1, 2002, public water suppliers serving 10,000 or more people shall provide at least 99% removal of *Cryptosporidium* oocysts. The Department, depending on source water quality conditions, may require additional treatment as necessary to meet the requirements of this chapter and to protect the public health.

(i) The filtration process shall meet the following performance requirements:

(A) *Conventional or direct filtration.*

(I) The filtered water turbidity shall be less than or equal to .5 NTU in 95% of the measurements taken each month under § 109.301(1) (relating to general monitoring requirements).

(II) The filtered water turbidity shall be less than or equal to 2.0 NTU at all times, measured under § 109.301(1).

(III) Beginning January 1, 2002, for public water systems serving 10,000 or more persons, the filtered water turbidity shall meet the following criteria:

(-a-) Be less than or equal to 0.3 NTU in at least 95% of the measurements taken each month under § 109.301(1).

(-b-) Be less than or equal to 1 NTU at all times, measured under § 109.301(1).

(B) *Slow sand or diatomaceous earth filtration.*

(I) The filtered water turbidity shall be less than or equal to 1.0 NTU in 95% of the measurements taken each month under § 109.301(1).

(II) The filtered water turbidity shall be less than or equal to 2.0 NTU at all times, measured under § 109.301(1).

(C) *Other filtration technologies.* The same performance criteria as those given for conventional filtration and

direct filtration in clause (A) shall be achieved unless the Department specifies more stringent performance criteria based upon onsite studies, including pilot plant studies, where appropriate.

(ii) The combined total effect of disinfection processes utilized in a filtration plant shall achieve at least a 90% inactivation of *Giardia* cysts and a 99.9% inactivation of viruses, as determined by CTs and measurement methods established by the EPA. The residual disinfectant concentration in the water delivered to the distribution system prior to the first customer may not be less than .2 mg/L for more than 4 hours, as demonstrated by measurement taken under § 109.301(1). Failure to maintain this level that extends beyond 4 hours constitutes a breakdown in treatment. A system that experiences a breakdown in treatment shall, under § 109.701(a)(3) (relating to reporting and recordkeeping), notify the Department within 1 hour after the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice).

(iii) For an unfiltered surface water source permitted for use prior to March 25, 1989, the public water supplier shall:

(A) Maintain a minimum residual disinfectant concentration in the water delivered to the distribution system prior to the first customer of 2.5 mg/L expressed as free chlorine or its equivalent as approved by the Department. The residual disinfectant concentration shall be demonstrated by measurements taken under § 109.301(2).

(I) For a system using disinfectants other than free chlorine, the water supplier shall maintain:

(-a-) A minimum concentration that provides, in terms of CTs achieved, a level of protection equivalent to that provided by 2.5 mg/L free chlorine, as determined by the available contact time between the point of application and the first customer, under peak flow conditions.

(-b-) At least .2 mg/L of disinfectant in the water delivered to the distribution system prior to the first customer.

(II) For a system with extended contact times, generally 60 minutes or more, between the point of application and the first customer, the Department may allow the water supplier to maintain a disinfectant residual concentration less than 2.5 mg/L free chlorine or its equivalent if the CTs established by the EPA are achieved.

(B) Provide continuous filtration and disinfection in accordance with this paragraph according to the following schedule:

(I) By December 31, 1991, for a public water system that, prior to March 25, 1989, had a waterborne disease outbreak or *Giardia* contamination in its surface water source.

(II) Within 48 months after the discovery of one of the following conditions, or by December 31, 1995, whichever is earlier, for a public water system that experiences the condition after March 25, 1989:

(-a-) A waterborne disease outbreak.

(-b-) *Giardia* contamination in its surface water source.

(-c-) A violation of the microbiological MCL, the turbidity MCL or the monitoring or reporting requirements for the microbiological MCL.

(-d-) A violation of the source microbiological or turbidity monitoring requirements under § 109.301(2)(i)(A) and (B) or the related reporting requirements.

(-e-) The source water fecal coliform concentration exceeds 20/100 ml or the total coliform concentration exceeds 100/100 ml in a source water sample collected under § 109.301(2).

(-f-) The source water turbidity level exceeds 5.0 NTU in a sample collected under § 109.301(2).

(-g-) The system fails to maintain a continuous residual disinfectant concentration as required under this subparagraph.

(III) By December 31, 1995, for other public water systems not covered by subclause (I) or (II).

(iv) For an unfiltered surface water source which is subject to subparagraph (iii)(B)(II) and (III), the public water supplier shall:

(A) Submit to the Department for approval a feasibility study which specifies the means by which the supplier shall, by the applicable deadline established in subparagraph (iii)(B), meet the requirements of this paragraph. The study shall identify the alternative which best assures the long-term viability of the public water system to meet drinking water standards. The study shall propose a schedule for completion of work, including the design, financing, construction and operation of one of the following alternatives:

(I) Permanent filtration treatment facilities that meet the requirements of this chapter.

(II) Abandonment of the unfiltered surface water source and one of the following:

(-a-) Permanent interconnection with another water supply which meets the requirements of this chapter.

(-b-) Permanent water treatment facilities, utilizing groundwater as the source of supply, which meet the requirements of this chapter.

(-c-) Provision for adequate supply from existing sources which meets the requirements of this chapter.

(B) Submit the feasibility study according to the following schedule:

(I) By March 31, 1992, for a supplier which prior to August 31, 1991, experienced a triggering event as specified in subparagraph (iii)(B)(II).

(II) By June 30, 1992, for a supplier which after August 31, 1991, but before January 1, 1992, experienced a triggering event as specified in subparagraph (iii)(B)(II).

(III) By August 31, 1992, for other suppliers.

(C) Submit a full and complete permit application for the means identified in the approved feasibility study by which the supplier shall meet the requirements of this paragraph, according to the following schedule:

(I) By the date set in the approved feasibility study for a supplier which, prior to January 1, 1992, experienced a triggering event as specified in subparagraph (iii)(B)(II).

(II) By June 30, 1993, for a supplier subject to the requirements of subparagraph (iii)(B)(II), except that a public water supplier serving fewer than 3,300 people may submit its permit application by December 31, 1993.

(D) Initiate construction of the means identified in the approved feasibility study by which the supplier shall meet the requirements of this paragraph, according to the following schedule:

(I) By the date set in the approved feasibility study for a supplier which, prior to January 1, 1992, experienced a triggering event as specified in subparagraph (iii)(B)(II).

(II) By June 30, 1994, for a supplier subject to the requirements of subparagraph (iii)(B)(III), except that a public water supplier serving fewer than 3,300 people may initiate construction by December 31, 1994.

(E) Complete construction and commence operation of the alternative identified in the approved feasibility study by the dates specified in subparagraph (iii)(B).

(v) The requirements of subparagraph (iv) do not modify, repeal, suspend, supersede or otherwise change the terms of a compliance schedule or deadline, established by an existing compliance order, consent order and agreement, consent adjudication, court order or consent decree. For purposes of this paragraph, the term "existing" means a compliance order, consent order and agreement, consent adjudication, court order or consent decree which was issued or dated before December 14, 1991.

(vi) For a source including springs, infiltration galleries, cribs or wells permitted for use by the Department prior to May 16, 1992, and determined by the Department to be a GUDI source, the public water supplier shall:

(A) Maintain a minimum residual disinfectant concentration in the water delivered to the distribution system prior to the first customer in accordance with subsection (c)(1)(iii)(A).

(B) Provide continuous filtration and disinfection in accordance with this paragraph within 48 months after the Department determines the source of supply is a GUDI source.

(C) Submit to the Department for approval a feasibility study within 1 year after the Department determines the source of supply is a GUDI source. The feasibility study shall specify the means by which the supplier shall, within the deadline established in clause (B), meet the requirements of this paragraph and shall otherwise comply with paragraph (1)(iv)(A).

(2) A community public water system shall provide continuous disinfection for groundwater sources.

(d) *Fluoride.* A public water system shall comply with the primary MCL for fluoride of 2 mg/L, except that a noncommunity water system implementing a fluoridation program approved by the Department of Health and using fluoridation facilities approved by the Department under § 109.505 (relating to requirements for noncommunity water systems) may exceed the MCL for fluoride but may not exceed the fluoride level approved by the Department of Health. The secondary MCL for fluoride of 2 mg/L established by the EPA under 40 CFR 143.3 (relating to secondary MCLs) is not incorporated into this chapter.

(e) *Treatment technique requirements for acrylamide and epichlorohydrin.* Systems which use acrylamide or epichlorohydrin in the water treatment process shall certify in accordance with § 109.701(d)(7) that the following specified levels have not been exceeded:

- (1) Acrylamide = 0.05% dosed at 1 ppm (or equivalent).
- (2) Epichlorohydrin = 0.01% dosed at 20 ppm (or equivalent).

(f) *MRDLs.*

(1) A public water system shall supply drinking water that complies with the MRDLs adopted by the EQB under the act.

(2) This subchapter incorporates by reference the primary MRDLs in the National Primary Drinking Water

Regulations, in 40 CFR Part 141, Subpart G (relating to maximum contaminant levels and maximum residual disinfectant levels) as State MRDLs, under the authority of section 4 of the act (35 P. S. § 721.4), unless other MRDLs are established by regulations of the Department. The primary MRDLs which are incorporated by reference are effective on the date established by the Federal regulations.

(g) *Treatment technique requirements for disinfection byproduct precursors.* A public water system that uses either surface water or GUDI sources and that uses conventional filtration treatment shall provide adequate treatment to reliably control disinfection byproduct precursors in the source water. Enhanced coagulation and enhanced softening are deemed by the Department to be treatment techniques for the control of disinfection byproduct precursors in drinking water treatment and distribution systems. This subchapter incorporates by reference the treatment technique in 40 CFR 141.135 (relating to treatment technique for control of disinfection byproduct (DBP) precursors). Coagulants approved by the Department are deemed to be acceptable for the purpose of this treatment technique. This treatment technique is effective on the date established by the Federal regulations.

### Subchapter C. MONITORING REQUIREMENTS

#### § 109.301. General monitoring requirements.

The monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to national primary drinking water regulations), as of December 8, 1984, are incorporated by reference. Public water suppliers shall monitor for compliance with MCLs and MRDLs in accordance with the requirements established in the National Primary Drinking Water Regulations, except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements). Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

(1) *Performance monitoring for filtration and disinfection.* A public water supplier providing filtration and disinfection of surface water or GUDI sources shall conduct the performance monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, unless increased monitoring is required by the Department under § 109.302.

(i) Except as provided under subparagraphs (ii) and (iii), a public water supplier:

(A) Shall determine and record the turbidity level of representative samples of the system's filtered water at least once every 4 hours that the system is in operation, except as provided in clause (B).

(B) May substitute continuous turbidity monitoring and recording for grab sample monitoring and manual recording if it validates the continuous measurement for accuracy on a regular basis using a procedure specified by the manufacturer. For systems using slow sand filtration or filtration treatment other than conventional filtration, direct filtration or diatomaceous earth filtration, the Department may reduce sampling frequency to once per day.

(C) Shall continuously monitor and record the residual disinfectant concentration of the water being supplied to the distribution system and record both the lowest value for each day and the number of periods each day when the value is less than .2 mg/L for more than 4 hours. If a public water system's continuous monitoring or recording equipment fails, the public water supplier may, upon notification of the Department under § 109.701(a)(3) (relating to reporting and recordkeeping), substitute grab sampling or manual recording every 4 hours in lieu of continuous monitoring. Grab sampling or manual recording may not be substituted for continuous monitoring or recording for longer than 5 days after the equipment fails.

(D) Shall measure and record the residual disinfectant concentration at representative points in the distribution system no less frequently than the frequency required for total coliform sampling for compliance with the MCL for microbiological contaminants.

(ii) For a public water supplier serving 3,300 or fewer people, the Department may reduce the residual disinfectant concentration monitoring for the water being supplied to the distribution system to a minimum of 2 hours between samples at the grab sampling frequencies prescribed as follows if the historical performance and operation of the system indicate the system can meet the residual disinfectant concentration at all times:

<i>System Size (People)</i>	<i>Samples/Day</i>
<500	1
500—1,000	2
1,001—2,500	3
2,501—3,300	4

If the Department reduces the monitoring, the supplier shall nevertheless collect and analyze another residual disinfectant measurement as soon as possible, but no longer than 4 hours from any measurement which is less than .2 mg/L.

(iii) For a public water supplier serving fewer than 500 people, the Department may reduce the filtered water turbidity monitoring to one grab sample per day, if the historical performance and operation of the system indicate effective turbidity removal is maintained under the range of conditions expected to occur in the system's source water.

(iv) A public water supplier providing conventional filtration treatment or direct filtration and serving 10,000 or more people and using surface water or GUDI sources shall, beginning January 1, 2002, conduct continuous monitoring of turbidity for each individual filter using an approved method under the EPA regulation in 40 CFR 141.74(a) (relating to analytical and monitoring requirements) and record the results at least every 15 minutes.

(A) The water supplier shall calibrate turbidimeters using the procedure specified by the manufacturer.

(B) If there is failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring.

(C) A public water supplier has a maximum of 5 days following the failure of the equipment to repair or replace the equipment.

(2) *Performance monitoring for unfiltered surface water and GUDI.* A public water supplier using unfiltered surface water or GUDI sources shall conduct the following source water and performance monitoring requirements on an interim basis until filtration is provided, unless increased monitoring is required by the Department under § 109.302:

(i) Except as provided under subparagraphs (ii) and (iii), a public water supplier:

(A) Shall perform fecal coliform or total coliform density determinations on samples of the source water immediately prior to disinfection. Regardless of source water turbidity, the minimum frequency of sampling for fecal or total coliform determination may be no less than the following:

<i>System Size (People)</i>	<i>Samples/Day</i>
<500	1
500—3,299	2
3,300—10,000	3
10,001—25,000	4
25,001 or more	5

(B) Shall measure the turbidity of a representative grab sample of the source water immediately prior to disinfection at least once every 4 hours that the system is in operation, except as provided in clause (C).

(C) May substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department.

(D) Shall continuously monitor the residual disinfectant concentration required under § 109.202(c)(1)(iii) (relating to State MCLs, MRDLs and treatment technique requirements) of the water being supplied to the distribution system and record the lowest value for each day. If a public water system's continuous monitoring equipment fails, the public water supplier may, upon notification of the Department under § 109.701(a)(3), substitute grab sampling every 4 hours in lieu of continuous monitoring. Grab sampling may not be substituted for continuous monitoring for longer than 5 days after the equipment fails.

(E) Shall measure the residual disinfectant concentration at representative points in the distribution system no less frequently than the frequency required for total coliform sampling for compliance with the MCL for microbiological contaminants.

(ii) For a public water supplier serving 3,300 or fewer people, the Department may reduce the residual disinfectant concentration monitoring for the water being supplied to the distribution system to a minimum of 2 hours between samples at the grab sampling frequencies prescribed as follows if the historical performance and operation of the system indicate the system can meet the residual disinfectant concentration at all times:

<i>System Size (People)</i>	<i>Samples/Day</i>
<500	1
500—1,000	2
1,001—2,500	3
2,501—3,300	4

If the Department reduces the monitoring, the supplier shall nevertheless collect and analyze another residual disinfectant measurement as soon as possible, but no longer than 4 hours from any measurement which is less than the residual disinfectant concentration approved under § 109.202(c)(1)(iii).

(iii) For a public water supplier serving fewer than 500 people, the Department may reduce the source water turbidity monitoring to one grab sample per day, if the historical performance and operation of the system indicate effective disinfection is maintained under the range of conditions expected to occur in the system's source water.



(3) *Monitoring requirements for coliforms.* Public water systems shall determine the presence or absence of total coliforms for each routine or check sample; and, the presence or absence of fecal coliforms or *E. coli* for a total coliform positive sample in accordance with analytical techniques approved by the Department under § 109.304 (relating to analytical requirements). A system may forego fecal coliform or *E. coli* testing on a total coliform-positive sample if the system assumes that any total coliform-positive sample is also fecal coliform-positive. A system which chooses to forego fecal coliform or *E. coli* testing shall, under § 109.701(a)(3), notify the Department within 1 hour after the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice).

(i) *Frequency.* Public water systems shall collect samples at regular time intervals throughout the monitoring period as specified in the system distribution sample siting plan under § 109.303(a)(2) (relating to sampling requirements). Systems which use groundwater and serve 4,900 persons or fewer, may collect all required samples on a single day if they are from different sampling sites in the distribution system.

(A) Except as provided under § 109.705(b) (relating to sanitary surveys), the number of monthly total coliform samples that community water systems shall take is based on the population served by the system as follows:

<i>Population Served</i>	<i>Minimum Number of Samples per Month</i>
25 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

(B) Except as provided under § 109.705(c), the number of periodic total coliform samples that noncommunity water systems shall take is as follows:

(I) A noncommunity water system using only ground-water and serving 1,000 or fewer persons per day on a permanent basis, January through December each year, shall take one sample each calendar quarter that the system provides water to the public.

(II) A noncommunity water system using surface water (in total or in part) or serving more than 1,000 persons per day during a given month shall take the same number of samples as a community water system serving the same number of persons specified in clause (A) for each month the system provides water to the public, even if the population served is temporarily fewer than 1,000 persons per day. A groundwater system determined to be under the influence of surface water shall begin monitoring at this frequency 6 months after the Department determines that the source water is under the direct influence of surface water.

(C) A public water system that uses a surface water source and does not practice filtration in compliance with Subchapter B (relating to MCLs, MRDLs or treatment technique requirements) shall collect at least one total coliform sample at the entry point, or an equivalent location as determined by the Department, to the distribution system within 24 hours of each day that the turbidity level in the source water, measured as specified in paragraph (2)(i)(B), exceeds 1.0 NTU. The Department may extend this 24-hour collection limit to a maximum of 72 hours if the system adequately demonstrates a logistical problem outside the system's control in having the sample analyzed within 30 hours of collection. A logistical problem outside the system's control may include a source water turbidity result exceeding 1.0 NTU over a holiday or weekend in which the services of a Department certified laboratory are not available within the prescribed sample holding time. These sample results shall be included in determining compliance with the MCL for total coliforms established under § 109.202(a)(2).

(ii) *Repeat monitoring.* A public water system shall collect a set of check samples within 24 hours of being notified of a total coliform-positive routine or check sample. The Department may extend this 24-hour collection limit to a maximum of 72 hours if the system adequately demonstrates a logistical problem outside the system's control in having the check samples analyzed within 30 hours of collection. A logistical problem outside the system's control may include a coliform-positive sample result received over a holiday or weekend in which the services of a Department certified laboratory are not available within the prescribed sample holding time.

(A) A system which collects more than one routine sample per monitoring period shall collect at least three check samples for each total coliform-positive sample found.

(B) A system which collects only one routine sample per monitoring period shall collect at least four check samples for each total coliform-positive sample found.

(C) The system shall collect at least one check sample from the sampling tap where the original total coliform-positive sample was taken, at least one check sample at a tap within five service connections upstream of the original coliform-positive sample and at least one check sample within five service connections downstream of the original sampling site. If a total coliform-positive sample occurs at the end of the distribution system or one service connection away from the end of the distribution system,

the water supplier shall collect an additional check sample upstream of the original sample site in lieu of a downstream check sample.

(D) A system shall collect all check samples on the same day, except that a system with a single service connection may collect the required set of check samples all on the same day or consecutively over a 4-day period.

(E) If a check sample is total coliform-positive, the public water system shall collect additional check samples in the manner specified in this subparagraph. The system shall continue to collect check samples until either total coliforms are not detected in check samples, or the system determines that the MCL for total coliforms as established under § 109.202(a)(2) has been exceeded and notifies the Department.

(F) If a system collecting fewer than five routine samples per month has one or more valid total coliform-positive samples, the system shall collect at least five routine samples during the next month the system provides water to the public. The number of routine samples for the month following a total coliform-positive sample may be reduced by the Department to at least one sample the next month if the reason for the total coliform-positive sample is determined and the problem has been corrected or will be corrected before the end of the next month.

(G) Results of all routine and check samples not invalidated by the Department shall be included in determining compliance with the MCL for total coliforms as established under § 109.202(a)(2).

(iii) *Invalidation of total coliform samples.* A total coliform sample invalidated under this paragraph does not count towards meeting the minimum monitoring requirements of this section.

(A) The Department may invalidate a total coliform-positive sample if one of the following applies:

(I) The laboratory which performed the analysis establishes that improper sample analysis caused the total coliform-positive result.

(II) A domestic or other nondistribution system plumbing problem exists when a coliform contamination incident occurs that is limited to a specific service connection from which a coliform-positive sample was taken in a public water system with more than one service connection. The Department's determination to invalidate a sample shall be based on a total coliform-positive check sample collected at the same tap as the original total coliform-positive sample and all total coliform-negative check samples collected within five service connections of the original total coliform positive sample. This type of sample invalidation does not apply to public water systems with only one service connection.

(III) A total coliform-positive sample result is due to a circumstance or condition which does not reflect water quality in the distribution system. The Department's decision to invalidate a sample shall be based on evidence that the sample result does not reflect water quality in the distribution system. In this case, the system shall still collect all check samples required under subparagraph (ii) to determine compliance with the MCL for total coliforms as established under § 109.202(a)(2).

(B) A laboratory shall invalidate a total coliform sample if no total coliforms are detected and one of the following occurs:

(I) The sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined.

(II) The sample exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter.

(C) If a laboratory invalidates a sample because of interference as specified in clause (B), the laboratory shall notify the system within 1 business day to collect another sample from the same location as the original sample within 24 hours of being notified of the interference and have it analyzed for the presence of total coliforms. The system shall resample within 24 hours of being notified of interference and continue to resample every 24 hours until it receives a valid result. The Department may extend this 24-hour limit to a maximum of 72 hours if the system adequately demonstrates a logistical problem outside the system's control in having the resamples analyzed within 30 hours. A logistical problem outside the system's control may include a notification of a laboratory sample invalidation, due to interference, which is received over a holiday or weekend in which the services of a Department certified laboratory are not available within the prescribed sample holding time.

(iv) Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement or repair, may not be used to determine compliance with the MCL for total coliform. Check samples taken under subparagraph (ii) are not considered special purpose samples, and shall be used to determine compliance with the monitoring and MCL requirements for total coliforms established under this paragraph and § 109.202(a)(2).

(4) *Exception.* For a water system which complies with the performance monitoring requirements under paragraph (2), the monitoring requirements for compliance with the turbidity MCL do not apply.

(5) *Monitoring requirements for VOCs.* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for VOCs established by the EPA under 40 CFR 141.61(a) (relating to MCLs for organic contaminants). The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.24(f) (relating to organic chemicals other than total trihalomethanes, sampling and analytical requirements), incorporated herein by reference, except as modified by this chapter. Initial or first year monitoring mentioned in this paragraph refers to VOC monitoring conducted on or after January 1, 1993.

(i) *Vinyl chloride.* Monitoring for compliance with the MCL for vinyl chloride is required only for groundwater entry points at which one or more of the following two-carbon organic compounds have been detected: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene.

(ii) *Initial monitoring schedule.* The initial monitoring shall consist of four consecutive quarterly samples at each entry point in accordance with the following monitoring schedule during the compliance period beginning January 1, 1993, except for systems which are granted reduced initial monitoring in accordance with clauses (E) and (F). A system which monitors during the initial monitoring period, but begins monitoring before its scheduled initial monitoring year specified in this subparagraph, shall begin monitoring every entry point during the first calendar quarter of the year it begins monitoring, except as provided in clause (E).

(A) Systems serving more than 10,000 persons shall begin monitoring during the quarter beginning January 1, 1994.

(B) Systems serving 3,301 persons to 10,000 persons shall begin monitoring during the quarter beginning January 1, 1995.

(C) Systems serving 500 to 3,300 persons shall begin monitoring during the quarter beginning January 1, 1993.

(D) Systems serving fewer than 500 persons shall begin monitoring during the quarter beginning January 1, 1994.

(E) For systems serving 3,300 or fewer people which monitor at least one quarter prior to October 1, 1993, and do not detect VOCs at an entry point during the first quarterly sample, the required initial monitoring is reduced to one sample at that entry point. For systems serving 500 to 3,300 people to qualify for this reduced monitoring, the initial monitoring shall have been conducted during the quarter beginning January 1, 1993.

(F) For systems serving more than 3,300 people, which were in existence prior to January 1, 1993, initial monitoring for compliance with the MCLs for VOCs established by the EPA under 40 CFR 141.61(a) is reduced to one sample for each entry point which meets the following conditions:

(I) VOC monitoring required by the Department between January 1, 1988, and December 31, 1992, has been conducted and no VOCs regulated under 40 CFR 141.61(a) were detected.

(II) The first quarter monitoring required by this paragraph has been conducted during the first quarter of the system's scheduled monitoring year under this paragraph, with no detection of a VOC.

(G) Initial monitoring of new entry points associated with new sources which are permitted under Subchapter E (relating to permit requirements) to begin operation after December 31, 1992, shall conduct initial monitoring as follows:

(I) Entry points at which a VOC is detected during new source monitoring shall be monitored quarterly beginning the first quarter the entry points begin serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with subparagraph (iii)(D).

(II) Entry points at which no VOC is detected during new source monitoring shall begin initial quarterly monitoring during the first calendar quarter of the year after the entry point begins serving the public. If no VOC is detected during the first quarter of monitoring, first year monitoring is reduced to one sample at that entry point.

(iii) *Repeat monitoring for entry points at which a VOC is detected.*

(A) For entry points at which a VOC is detected at a level equal to or greater than its MCL during the first year of quarterly monitoring, the monitoring shall be repeated quarterly beginning the quarter following detection at a level equal to or greater than the MCL, for VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in subparagraph (i), until reduced monitoring is granted in accordance with clause (D).

(B) For entry points at which a VOC is detected, and reduced monitoring is granted in accordance with clause (D), and a VOC is thereafter detected at a level greater than the MCL, the monitoring shall be repeated quarterly beginning the quarter following detection at a level for

the VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in subparagraph (i), until reduced monitoring is granted in accordance with clause (D).

(C) For entry points at which no VOC is detected during the first year of monitoring but a VOC is detected thereafter, the monitoring shall be repeated quarterly beginning the quarter following detection at a level for the VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in subparagraph (i), or until reduced monitoring is granted in accordance with clause (D).

(D) After analyses of four consecutive quarterly samples at an entry point, including initial quarterly samples, demonstrate that the VOC levels in each quarterly sample are less than the MCLs, the required monitoring is reduced to one sample per year at the entry point for the VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in subparagraph (i).

(E) A confirmation sample shall be collected and analyzed for each VOC listed under 40 CFR 141.61(a) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of notification by the certified laboratory performing the analysis that an MCL has been exceeded. The average of the results of the original and the confirmation sample will be used to determine compliance. Monitoring shall be completed by the deadline specified for VOC compliance monitoring.

(iv) *Repeat monitoring for entry points at which no VOC is detected.*

(A) For entry points at which VOCs are not detected during the first year of quarterly monitoring, or annual monitoring if only one sample was required at an entry point for first year monitoring under subparagraph (ii)(E), (F) or (G)(II), required monitoring is reduced to one sample per entry point per year.

(B) For groundwater entry points where VOCs are monitored in accordance with this paragraph, but are not detected during 3 years of quarterly or annual monitoring, or both, required monitoring is reduced to one sample per entry point during each subsequent compliance period. Reduced monitoring shall be conducted at 3-year intervals from the year of required initial monitoring.

(v) *Reduced monitoring.* When reduced monitoring is provided under subparagraph (iii)(D), or subparagraph (iv)(A) or (B), the system shall monitor the entry point during the calendar year quarter of highest anticipated VOC levels or as specified by the Department. The reduced monitoring option in subparagraph (iv)(B) does not apply to entry points at which treatment has been installed for VOC removal. Quarterly performance monitoring is required for VOCs for which treatment has been installed.

(vi) *Waivers.* Waivers under 40 CFR 141.24(f) will not be available for the VOC monitoring requirements in this paragraph.

(6) *Monitoring requirements for SOCs (pesticides and PCBs).* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for SOCs established by the EPA under 40 CFR 141.61(c). The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.24(h), incorporated herein by reference except as modified by this chapter.

(i) *Initial monitoring schedule.* Initial monitoring shall consist of four consecutive quarterly samples at each entry point beginning during the quarter beginning January 1, 1995, except for systems which are granted an initial monitoring waiver in accordance with subparagraph (v). Systems which monitor during the initial monitoring period but begin monitoring before 1995 shall begin monitoring during the first calendar quarter of the year.

(A) New entry points associated with new sources which are vulnerable to SOC contamination, as determined in accordance with subparagraph (v), and which begin operation after March 31, 1995, and do not detect an SOC during new source sampling shall begin initial quarterly monitoring during the first calendar year quarter of the year after the entry point begins serving the public.

(B) New entry points associated with new sources which are vulnerable to SOC contamination as determined in accordance with subparagraph (v), at which an SOC is detected during new source sampling shall begin initial quarterly monitoring the first quarter the entry point begins serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with subparagraph (ii)(E).

(ii) *Repeat monitoring for SOCs that are detected.* For entry points which were monitored for SOCs during the initial quarterly monitoring period or during the required quarterly monitoring immediately after being determined vulnerable to contamination by an SOC, repeat monitoring shall be conducted as follows:

(A) For entry points at which an SOC is detected at a level equal to or greater than its MCL, the monitoring for the detected SOC shall be continued quarterly, until reduced monitoring is granted in accordance with clause (E).

(B) For entry points at which an SOC is detected during the first year of quarterly monitoring, and reduced monitoring is granted in accordance with clause (E), and the SOC is thereafter detected at a level greater than its MCL, the monitoring for the detected SOC shall be repeated quarterly, until reduced monitoring is granted in accordance with clause (E).

(C) For entry points at which an SOC is not detected during the first year of quarterly monitoring, but an SOC is detected initially thereafter at a level less than the MCL, monitoring shall be repeated annually for the detected SOC.

(D) For entry points at which an SOC is not detected during the first year of quarterly monitoring, but the SOC is detected thereafter at a level equal to or greater than the MCL, monitoring for that SOC shall be repeated quarterly, until reduced monitoring is granted in accordance with clause (E).

(E) After analyses of four consecutive quarterly samples at an entry point, including initial quarterly samples, demonstrate that the SOC level in each quarterly sample is less than the MCL, the required monitoring for each SOC detected below the MCL is reduced to one sample per year at the entry point.

(F) For entry points at which either heptachlor or heptachlor epoxide is detected during the initial round of consecutive quarterly samples, or in subsequent repeat samples, the monitoring shall be continued for both contaminants in accordance with the more frequent moni-

toring required of the two contaminants based on the level at which each is detected.

(G) A confirmation sample shall be collected and analyzed for each SOC listed under 40 CFR 141.61(c) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of the water supplier receiving notification from the certified laboratory performing the analysis that an MCL has been exceeded. The average of the results of the original and the confirmation samples will be used to determine compliance. Confirmation monitoring shall be completed by the deadline specified for SOC compliance monitoring.

(iii) *Repeat monitoring for SOCs that are not detected.* For entry points at which SOCs are not detected during the first year of quarterly monitoring, the required monitoring is reduced to one sample in each 3-year compliance period for systems serving 3,300 or fewer persons and to two consecutive quarterly samples in each compliance period for systems serving more than 3,300 persons. Reduced monitoring shall be conducted at 3-year intervals from the year of required initial VOC monitoring, in accordance with paragraph (5)(ii).

(iv) *Reduced monitoring.* When reduced monitoring is provided under subparagraph (ii) or (iii), the system shall monitor the entry point during the second calendar year quarter, or the second and third calendar year quarter when two quarterly samples are required in each compliance period, unless otherwise specified by the Department. The reduced monitoring option in subparagraph (iii) does not apply to entry points at which treatment has been installed for SOC removal. Compliance monitoring for SOCs for which treatment has been installed to comply with an MCL shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(v) *Waivers.* A waiver will be granted to a public water supplier from conducting the initial compliance monitoring or repeat monitoring, or both, for an SOC based on documentation provided by the public water supplier and a determination by the Department that the criteria in clause (B), (C) or (D) has been met. A waiver is effective for one compliance period and may be renewed in each subsequent compliance period. If the Department has not granted an areawide use waiver in accordance with clause (B), the public water supplier is responsible for submitting a waiver application and renewal application to the Department for review in accordance with clause (B) or (C) for specific entry points. Waiver applications will be evaluated relative to the vulnerability assessment area described in clause (A) and the criteria in clause (B) or (C). Entry points at which treatment has been installed to remove an SOC are not eligible for a monitoring waiver for the SOCs for which treatment has been installed.

(A) *Vulnerability assessment area for SOCs except dioxin and PCBs.*

(I) For groundwater entry points, the vulnerability assessment area shall consist of wellhead protection area Zones I and II.

(II) For surface water entry points, the vulnerability assessment area shall consist of the area that supplies water to the entry point and is separated from other watersheds by the highest topographic contour.

(B) *Use waivers.* An areawide use waiver will be granted by the Department for contaminants which the Department has determined have not been used, stored, manufactured or disposed of in this Commonwealth, or

portions of this Commonwealth. A use waiver specific to a particular entry point requires that an SOC was not used, stored, manufactured or disposed of in the vulnerability assessment area. If use waiver criteria cannot be met, a public water supplier may apply for a susceptibility waiver.

(C) *Susceptibility waivers.* A susceptibility waiver for specific contaminants may be granted based on the following criteria, and only applies to groundwater entry points:

- (I) Previous analytical results.
- (II) Environmental persistence and transport of the contaminant.
- (III) Proximity of the drinking water source to point or nonpoint source contamination.
- (IV) Elevated nitrate levels as an indicator of the potential for pesticide contamination.
- (V) Extent of source water protection or approved wellhead protection program.

(D) *Waivers for dioxin and PCBs.* A system is granted a waiver from monitoring for dioxin and PCBs unless the Department determines that there is a source of dioxin or PCB contamination which poses a threat to a drinking water source.

(7) *Monitoring requirements for IOCs.* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for IOCs established by the EPA under 40 CFR 141.62 (relating to maximum contaminant levels (MCLs) for inorganic contaminants), and for arsenic established by the EPA under 40 CFR 141.11 (relating to maximum contaminant levels for inorganic contaminants). Transient noncommunity water suppliers shall monitor for compliance with the MCLs for nitrate and nitrite. The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.23 (relating to inorganic chemical sampling and analytical requirements). The requirements are incorporated by reference except as modified by this chapter.

(i) *Monitoring requirements for asbestos.*

(A) *Waivers for asbestos monitoring.* A system is granted a waiver from asbestos monitoring unless the Department determines that the system's distribution system contains asbestos cement pipe and the system has not implemented optimum corrosion control measures, or the Department determines that the system's source water is vulnerable to asbestos contamination.

(B) *Initial monitoring schedule.* Community water systems and nontransient noncommunity water systems not granted a waiver under clause (A) shall monitor for compliance with the MCL for asbestos by taking one sample at each vulnerable sampling point during the first 3-year compliance period of each 9-year compliance cycle, with the initial compliance monitoring beginning not later than the calendar year beginning January 1, 1995.

(C) *Monitoring of new entry points.* New entry points which begin operation after December 31, 1995, shall conduct initial monitoring during the first compliance period of the first compliance cycle after the entry point begins serving the public, if the Department determines that a waiver cannot be granted in accordance with clause (A).

(D) *Repeat monitoring for systems that detect asbestos.* If a sample exceeds the MCL for asbestos, the monitoring at that sampling point shall be continued quarterly

beginning in the quarter following the MCL violation. After four consecutive quarterly samples less than the MCL at that entry point, the required monitoring is reduced to one sample at that entry point during the first 3-year compliance period of each subsequent 9-year compliance cycle, if treatment has not been installed to remove asbestos from the source water. Compliance monitoring at entry points at which treatment has been installed to remove asbestos from source water shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(ii) *Monitoring requirements for nitrate and nitrite.* The following compliance monitoring for nitrite is not required at entry points receiving water which has been disinfected with free chlorine, chlorine dioxide or ozone:

(A) *Initial monitoring schedule.* A public water system shall begin new monitoring for nitrate and nitrite by taking one annual sample at each groundwater entry point to the system beginning during the year beginning January 1, 1993. Community water systems and nontransient noncommunity water systems with surface water sources shall monitor quarterly at each surface water entry point for nitrate and nitrite beginning during the quarter beginning January 1, 1993. Transient noncommunity water systems shall monitor each surface water entry point by taking one annual sample beginning during the year beginning January 1, 1993.

(B) *Monitoring of new entry points.* New community and nontransient noncommunity surface water entry points which begin serving the public after the first calendar quarter of a year and did not detect levels of nitrate or nitrite equal to or greater than 50% of the MCL during new source sampling shall begin initial monitoring for nitrate and nitrite during the first calendar quarter of the year after the entry point begins serving the public. New community and nontransient noncommunity groundwater and surface water entry points at which nitrate or nitrite is detected at levels equal to or greater than 50% of the MCL during new source sampling shall begin initial quarterly monitoring the first quarter the entry point begins serving the public. New community and nontransient noncommunity groundwater entry points at which nitrate and nitrite are not detected at levels equal to or greater than 50% of the MCL, and all transient noncommunity entry points, shall begin initial annual monitoring during the first new calendar year after the entry point begins serving the public.

(C) *Repeat monitoring for systems with nitrate or nitrite levels equal to or greater than 50% of the MCL.*

(I) For entry points at which initial monitoring results or subsequent monitoring indicate nitrate or nitrite levels equal to or greater than 50% of the MCL, community and nontransient noncommunity water systems shall begin quarterly monitoring the quarter following detection at that level and continue quarterly monitoring for both nitrate and nitrite, unless reduced monitoring is granted in accordance with subclause (III).

(II) For entry points at which initial monitoring results or subsequent monitoring indicate nitrate or nitrite levels greater than the MCL, transient noncommunity systems shall begin quarterly monitoring the quarter following detection at that level and continue quarterly monitoring for both nitrate and nitrite, unless reduced monitoring is granted in accordance with subclause (IV).

(III) After four consecutive quarterly samples at an entry point for a community or nontransient noncommunity system indicate nitrate and nitrite levels in each

sample are less than 50% of the MCLs, the required compliance monitoring is reduced to one sample per year at the entry point. Annual monitoring shall be conducted during the calendar quarter in which the consecutive quarterly monitoring indicated that the highest levels of contamination were present, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(IV) After four consecutive quarterly samples at an entry point for a transient noncommunity system indicate nitrate and nitrite levels in each sample are less than the MCLs, the required compliance monitoring is reduced to one sample per year at the entry point. Annual monitoring shall be conducted during the calendar quarter in which the consecutive quarterly monitoring indicated that the highest levels of contamination were present, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(V) For nitrate or nitrite sample results in excess of the MCLs, the water supplier shall take a confirmation sample within 24 hours of having received the original sample result. A water supplier that is unable to comply with the 24-hour sampling requirement shall immediately notify persons served by the public water system in accordance with § 109.408. Systems exercising this option shall take and analyze a confirmation sample within 2 weeks of notification of the analytical results of the first sample.

(VI) Noncommunity water systems for which an alternate nitrate level has been approved by the Department in accordance with 40 CFR 141.11(d) are not required to collect a confirmation sample if only the nitrate MCL is exceeded and nitrate is not in excess of the alternate nitrate level. If the alternate nitrate level is exceeded, the water supplier shall collect a confirmation sample within 24 hours after being advised by the certified laboratory performing the analysis that the compliance sample exceeded 20 mg/L for nitrate. Confirmation monitoring shall be completed by the deadline for compliance monitoring. Quarterly performance monitoring is required for nitrate and nitrite at entry points where treatment has been installed to remove nitrate or nitrite.

(D) *Repeat monitoring for systems with nitrate and nitrite levels less than 50% of the MCLs.* For entry points at which initial monitoring results indicate nitrate and nitrite levels in each sample are less than 50% of the MCLs, nitrate and nitrite monitoring shall be repeated annually during the calendar quarter in which the water supplier anticipates the highest levels of contamination, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(iii) *Monitoring requirements for antimony, arsenic, barium, beryllium, cadmium, cyanide, chromium, fluoride, mercury, nickel, selenium and thallium.*

(A) *Initial monitoring schedule.* Community water systems and nontransient noncommunity water systems shall monitor each surface water entry point annually beginning during the year beginning January 1, 1993, and shall monitor each groundwater entry point once every 3 years beginning during the year beginning January 1, 1994.

(B) *Monitoring of new entry points.* New groundwater entry points which begin operation after December 31, 1994, shall begin initial monitoring in accordance with the schedule in clause (A)—that is, 1997, and so forth.

New surface water entry points shall begin initial annual monitoring during the first new calendar year after the entry point begins serving the public.

(C) *Repeat monitoring for entry points at which an IOC MCL is exceeded.*

(I) For entry points at which initial monitoring results or subsequent monitoring indicates an IOC level in excess of the MCL, monitoring shall be repeated quarterly beginning the quarter following detection at that level for each IOC in excess of an MCL, until reduced monitoring is granted in accordance with subclause (II).

(II) After analyses of four consecutive quarterly samples at an entry point where treatment has not been installed to comply with an IOC MCL indicate that contaminant levels are less than the MCLs, the required monitoring for each IOC less than the MCL is reduced to the frequencies stated in clause (A). This reduced monitoring option does not apply to entry points at which treatment has been installed for IOC removal. Compliance monitoring for IOCs for which treatment has been installed to comply with an MCL shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(III) A confirmation sample shall be collected and analyzed for each IOC listed under 40 CFR 141.11(b) or 141.62(b) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of notification by the certified laboratory performing the analysis that an MCL has been exceeded. The average of the results of the original and the confirmation samples will be used to determine compliance. Confirmation monitoring shall be completed by the deadline specified for IOC compliance monitoring.

(D) *Waivers for IOC monitoring.* Except when treatment has been installed to remove the IOC, after three consecutive rounds of quarterly, annual or triennial monitoring indicate the contaminant level for an IOC is below the MCL in all samples at an entry point, routine monitoring for the remainder of the compliance cycle for that IOC is waived and the required monitoring for the IOC is reduced to one sample per 9-year compliance cycle at that entry point. Reduced monitoring shall be conducted during the first monitoring period of the next monitoring cycle. A waiver is effective for one compliance cycle and may be renewed in each subsequent compliance cycle.

(E) *Operational monitoring for fluoride.* Public water suppliers who fluoridate shall conduct operational monitoring for fluoride daily.

(8) *Monitoring requirements for public water systems that obtain finished water from another public water system.*

(i) Consecutive water suppliers shall monitor for compliance with the MCL for microbiological contaminants at the frequency established by the EPA and incorporated by reference into this chapter.

(ii) Community consecutive water suppliers shall:

(A) Monitor for compliance with the MCL for TTHMs established under 40 CFR 141.12 (relating to maximum contaminant levels for total trihalomethanes) in accordance with 40 CFR 141.30 (relating to total trihalomethanes sampling, analytical and other requirements) if the system does one of the following:

(I) Serves more than 10,000 persons.

(II) Obtains finished water from another public water system serving more than 10,000 persons.

(B) Monitor the distribution system for compliance with the MCL for asbestos at the frequency indicated in paragraph (7)(i), when the Department determines that the system's distribution system contains asbestos cement pipe and optimum corrosion control measures have not been implemented.

(iii) Consecutive water suppliers are exempt from conducting monitoring for the MCLs for VOCs, SOCs and IOCs if the public water system from which the finished water is obtained complies with paragraphs (5)–(7), except that asbestos monitoring is required in accordance with subparagraph (ii)(B).

(iv) For a public water system which is not a consecutive water system, the exemption in subparagraph (iii) applies to entry points which obtain finished water from another public water system.

(v) A public water supplier that obtains finished water from another permitted public water system using surface water sources shall, beginning May 16, 1992, measure the residual disinfectant concentration at representative points in the distribution system at least as frequently as the frequency required for total coliform sampling for compliance with the MCL for microbiological contaminants.

(vi) Community water systems and nontransient noncommunity water systems that provide finished water that contains a chemical disinfectant or oxidant shall comply with the monitoring requirements for disinfection byproducts and disinfectant residuals in paragraphs (12)(i)–(iii) and (13).

(9) *Monitoring requirements for POE devices.* A public water supplier using a POE device shall, in addition to the monitoring requirements specified in paragraphs (1)–(8), conduct monitoring on the devices installed. As a minimum, the monitoring shall include the MCLs for which the POE device is intended to treat and monthly microbiological monitoring. The Department may allow the water supplier to reduce the frequency of microbiological monitoring based upon historical performance. Except for microbiological contaminants, monitoring shall be performed quarterly on 25% of the installed POE devices with the locations rotated so that each device is monitored at least once annually, unless increased monitoring is required by the Department under § 109.302.

(10) *Additional monitoring.* The Department may by written notice require a public water supplier to conduct monitoring for compliance with MCLs or MRDLs during a specific portion of a monitoring period, if necessary to ensure compliance with the monitoring or reporting requirements in this chapter.

(11) *Monitoring requirements for entry points that do not provide water continuously.* Entry points from which water is not provided during every quarter of the year shall monitor in accordance with paragraphs (5)–(7), except that monitoring is not required during a quarter when water is not provided to the public, unless special monitoring is required by the Department under § 109.302.

(12) *Monitoring requirements for disinfection byproducts and disinfection byproduct precursors.* Community water systems and nontransient noncommunity water systems that use a chemical disinfectant or oxidant, or provide finished water that contains a chemical disinfectant or oxidant, shall monitor for disinfection

byproducts. Systems that use either surface water or GUDI sources and that serve at least 10,000 persons shall begin monitoring by January 1, 2002. Systems that use either surface water or GUDI sources and that serve fewer than 10,000 persons, or systems that use groundwater sources, shall begin monitoring by January 1, 2004. Systems monitoring for disinfection byproducts and disinfection byproduct precursors shall take all samples during normal operating conditions. Systems monitoring for disinfection byproducts and disinfection byproduct precursors may use only data collected under this chapter to qualify for reduced monitoring. Compliance with the MCLs and monitoring requirements for TTHMs, HAA5, chlorite (where applicable) and bromate (where applicable) shall be determined in accordance with 40 CFR 141.132 and 141.133 (relating to monitoring requirements; and compliance requirements) which are incorporated herein by reference.

(i) *TTHMs and HAA5.*

(A) *Routine monitoring.*

(I) Systems that use either surface water or GUDI sources shall monitor as follows:

(-a-) Systems serving at least 10,000 persons shall take at least four samples per quarter per treatment plant. At least 25% of all samples collected each quarter shall be collected at locations representing maximum residence time. The remaining samples shall be taken at locations that are representative of the entire distribution system and that are representative of at least average residence time.

(-b-) Systems serving from 500 to 9,999 persons shall take at least one sample per quarter per treatment plant. The sample shall be taken at a location that represents a maximum residence time.

(-c-) Systems serving fewer than 500 persons shall take at least one sample per year per treatment plant during the month of warmest water temperature. The sample shall be taken at a location that represents a maximum residence time. If the sample, or average of all samples, exceeds either a TTHM or HAA5 MCL, then the system shall take at least one sample per quarter per treatment plant. The sample shall be taken at a location that represents a maximum residence time. The system may reduce the sampling frequency back to one sample per year per treatment plant in accordance with the reduced monitoring criteria of clause (B).

(-d-) If a system samples more frequently than the minimum required in items (-a)–(-c-), at least 25% of all samples collected each quarter shall be collected at locations representing maximum residence time, with the remainder of the samples representing locations of at least average residence time.

(II) Systems that use groundwater sources shall monitor as follows:

(-a-) Systems serving at least 10,000 persons shall take at least one sample per quarter per treatment plant. Multiple wells drawing water from a single aquifer may be considered as a single treatment plant. The sample shall be taken at a location that represents a maximum residence time.

(-b-) Systems serving fewer than 10,000 persons shall take at least one sample per year per treatment plant during the month of warmest water temperature. Multiple wells drawing water from a single aquifer may be considered as a single treatment plant. The sample shall be taken at a location that represents a maximum

residence time. If the sample, or average of all samples, exceeds either a TTHM or HAA5 MCL, the system shall take at least one sample per quarter per treatment plant. The sample shall be taken at a location that represents a maximum residence time. The system may reduce the sampling frequency back to one sample per year per treatment plant in accordance with the reduced monitoring criteria of clause (B).

(-c-) If a system samples more frequently than the minimum required, at least 25% of all samples collected each quarter shall be collected at locations representing maximum residence time, with the remainder of the samples representing locations of at least average residence time.

(B) *Reduced monitoring.* Systems that have monitored for TTHMs and HAA5 for at least 1 year may reduce monitoring according to this clause. Systems that use either surface water or GUDI sources shall monitor source water TOC monthly for at least 1 year prior to qualifying for reduced monitoring. The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

(I) Systems that use either surface water or GUDI sources and that have a source water annual TOC average that is no greater than 4.0 mg/L and an annual TTHM average that is no greater than 0.040 mg/L and an annual HAA5 average that is no greater than 0.030 mg/L may reduce monitoring according to items (-a)—(-c-). Systems that qualify for reduced monitoring may remain on reduced monitoring provided that the annual TTHM average is no greater than 0.060 mg/L and the annual HAA5 average is no greater than 0.045 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the quarter in which the system exceeds 0.060 mg/L for TTHMs or 0.045 mg/L for HAA5.

(-a-) Systems serving at least 10,000 persons may reduce monitoring to one sample per quarter per treatment plant. The sample shall be taken at a location that represents a maximum residence time.

(-b-) Systems serving from 500 to 9,999 persons may reduce monitoring to one sample per year per treatment plant. The sample shall be taken during the month of warmest water temperature and at a location that represents a maximum residence time.

(-c-) Systems serving fewer than 500 persons and that are on increased monitoring as prescribed by clause (A) may reduce monitoring to one sample per year per treatment plant. The sample shall be taken during the month of warmest water temperature and at a location that represents a maximum residence time.

(II) Systems that use groundwater sources may reduce monitoring according to the following:

(-a-) Systems serving at least 10,000 persons may reduce monitoring to one sample per year per treatment plant if the annual TTHM average is no greater than 0.040 mg/L and the annual HAA5 average is no greater than 0.030 mg/L. The sample shall be taken during the month of warmest water temperature and at a location that represents a maximum residence time. Systems that qualify for reduced monitoring may remain on reduced monitoring provided that the annual TTHM average is no greater than 0.060 mg/L and the annual HAA5 average is no greater than 0.045 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the

quarter in which the system exceeds 0.060 mg/L for TTHMs or 0.045 mg/L for HAA5.

(-b-) Systems serving fewer than 10,000 persons may reduce monitoring to one sample per 3-year cycle per treatment plant if the annual TTHM average is no greater than 0.040 mg/L and the annual HAA5 average is no greater than 0.030 mg/L for 2 consecutive years or the annual TTHM average is no greater than 0.020 mg/L and the annual HAA5 average is no greater than 0.015 mg/L for 1 year. The sample shall be taken during the month of warmest water temperature within the 3-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring. The sample shall be taken at a location that represents a maximum residence time. Systems that qualify for reduced monitoring may remain on reduced monitoring provided that the annual TTHM average is no greater than 0.080 mg/L and the annual HAA5 average is no greater than 0.060 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the quarter in which the system exceeds 0.080 mg/L for TTHMs or 0.060 mg/L for HAA5.

(ii) *Chlorite.* Community water systems and nontransient noncommunity water systems that use chlorine dioxide for disinfection or oxidation, or provide finished water that contains chlorine dioxide, shall monitor for chlorite.

(A) *Routine monitoring.*

(I) *Daily monitoring.* Systems shall take daily samples at the entrance to the distribution system. Systems that must conduct additional monitoring in accordance with clause (B) shall continue to take routine daily samples at the entrance to the distribution system.

(II) *Monthly monitoring.*

(-a-) Systems shall take a three-sample set each month in the distribution system. The system shall take one sample at each of the following locations:

(-1-) As close to the first customer as possible.

(-2-) At a location representing an average residence time.

(-3-) At a location representing a maximum residence time.

(-b-) Systems that must conduct additional monitoring in accordance with subclause (III) may use the results of the additional monitoring to meet the monthly monitoring requirements of this subclause.

(III) *Additional monitoring.* If a daily sample at the entrance to the distribution system exceeds the chlorite MCL, the system shall take three samples in the distribution system on the following day. The system shall take one sample at each of the following locations:

(-a-) As close to the first customer as possible.

(-b-) At a location representing an average residence time.

(-c-) At a location representing a maximum residence time.

(B) *Reduced monitoring.* Chlorite monitoring in the distribution system required by clause (A)(II) may be reduced to one three-sample set per quarter after 1 year of monitoring where no individual chlorite sample taken in the distribution system under clause (A)(II) has exceeded the chlorite MCL and the system has not been required to conduct additional monitoring under clause (A)(III). The system may remain on the reduced monitor-



ing schedule until either any of the three individual chlorite samples taken quarterly in the distribution system exceeds the chlorite MCL or the system is required to conduct additional monitoring under clause (A)(III), at which time the system shall revert to routine monitoring as prescribed by clause (A).

(iii) *Bromate*. Community water systems and nontransient noncommunity water systems that use ozone for disinfection or oxidation, or provide finished water that contains ozone, shall monitor for bromate.

(A) *Routine monitoring*. Systems shall take one sample per month for each treatment plant that uses ozone. Systems shall take the monthly sample at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) *Reduced monitoring*. Systems required to analyze for bromate may reduce monitoring from monthly to quarterly provided that the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for 1 year. Systems on reduced monitoring shall continue to take monthly samples for source water bromide. Systems may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements, at which time the system shall revert to routine monitoring as prescribed by clause (A).

(iv) *Disinfection byproduct precursors*. Systems that use either surface water or GUDI sources and that use conventional filtration shall monitor for disinfection byproduct precursors.

(A) *Routine monitoring*. Systems shall take monthly samples of the source water alkalinity, the source water TOC and postsedimentation TOC for each treatment plant that uses conventional filtration. Postsedimentation TOC can be taken at any point between sedimentation effluent and the entry point to the distribution system. The three samples shall be taken concurrently and at a time that is representative of both normal operating conditions and influent water quality.

(B) *Reduced monitoring*. Systems with an average postsedimentation TOC of less than 2.0 mg/L for 2-consecutive years, or less than 1.0 mg/L for 1 year, may reduce monitoring for source water alkalinity, source water TOC and postsedimentation TOC from monthly to quarterly for each applicable treatment plant. The system shall revert to routine monitoring as prescribed by clause (A) in the month following the quarter when the annual average postsedimentation TOC is not less than 2.0 mg/L.

(C) *Early monitoring*. Systems may begin monitoring to determine whether the TOC removal requirements of 40 CFR 141.135(b)(1) (relating to enhanced coagulation and enhanced softening performance requirements) can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the requirements of 40 CFR 141.135(b)(1) and shall therefore apply for alternate minimum TOC removal requirements under 40 CFR 141.135(b)(4) is not eligible for retroactive approval of the alternate minimum TOC removal requirements and is in violation. Systems may apply for alternate minimum TOC removal requirements any time after the compliance date.

(13) *Monitoring requirements for disinfectant residuals*. Community water systems and nontransient noncommunity water systems that use a chemical disinfectant or oxidant, or provide finished water that contains a chemical disinfectant or oxidant, shall monitor for disinfectant residuals. Transient noncommunity water systems that use chlorine dioxide as either a disinfectant or oxidant shall monitor for chlorine dioxide disinfectant residual. Systems that use either surface water or GUDI sources and that serve at least 10,000 persons shall begin monitoring by January 1, 2002. Systems that use either surface water or GUDI sources and that serve fewer than 10,000 persons, or systems that use groundwater sources, shall begin monitoring by January 1, 2004. Systems monitoring for disinfectant residuals shall take all samples during normal operating conditions. Compliance with the MRDLs and monitoring requirements for chlorine, chloramines and chlorine dioxide (where applicable) shall be determined in accordance with 40 CFR 141.132 and 141.133 (relating to monitoring requirements; and compliance requirements) which are incorporated herein by reference.

(i) *Chlorine and chloramines*. Systems shall measure the residual disinfectant level at the same points in the distribution system and at the same time that total coliforms are sampled, as specified in paragraph (3). Systems that used either surface water or GUDI sources may use the results of residual disinfectant concentration sampling conducted under paragraph (1) or (2) in lieu of taking separate samples.

(ii) *Chlorine dioxide*.

(A) *Routine monitoring*. Systems shall take one sample per day at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system shall conduct additional monitoring as specified in clause (B) in addition to the sample required at the entrance to the distribution system. Compliance shall be based on consecutive daily samples collected by the system under this clause.

(B) *Additional monitoring*. If a daily sample at the entrance to the distribution system exceeds the chlorine dioxide MRDL, the system shall take three samples in the distribution system on the following day. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfectant addition points after the entrance to the distribution system, the system shall take three samples as close to the first customer as possible, at intervals of at least 6 hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system, the system shall take one sample at each of the following locations:

(I) As close to the first customer as possible.

(II) At a location representing an average residence time.

(III) At a location representing a maximum residence time.

#### § 109.302. Special monitoring requirements.

(a) The Department may require a public water supplier to conduct monitoring in addition to that required by § 109.301 (relating to general monitoring requirements) if the Department has reason to believe the public

water system is not in compliance with the MCL, MRDL or treatment technique requirement for the contaminant.

(b) The Department may require a public water supplier to conduct additional monitoring to provide information on contamination of the water supply where a potential health hazard may exist in the water supply and monitoring required under § 109.301 may not be adequate to protect the public health.

(c) The Department may require a public water supplier to conduct special monitoring for an unregulated contaminant if the Department has reason to believe the contaminant is present in the public water system and creates a health risk to the users of the public water system.

(d) The Department will provide a schedule for sampling, instructions for sampling methods and handling samples, and analytical procedures to be followed by public water systems required to perform special monitoring.

(e) The Department may designate special monitoring requirements on a case-by-case basis for experimental facilities.

(f) To enable the Department to determine if a public water supplier is using a source directly influenced by surface water, the Department may require a public water supplier to conduct monitoring to evaluate the direct influence of surface water upon the source of supply. Monitoring shall be conducted for at least 6 months to include both the wet and dry periods of the year. Samples shall be taken from the collection facilities and measurements shall include the following:

(1) Daily field measurement of temperature, pH, specific conductance and turbidity.

(2) Daily measurement of water level, or flow, and precipitation necessary to establish climatic conditions.

(3) Weekly measurements for total coliform.

(4) Other measurements as required by the Department to evaluate the direct influence of surface water upon the source of supply.

(g) The Department may reduce or eliminate the monitoring required by subsection (f) if the public water supplier demonstrates and the Department determines that the source of supply is not directly influenced by surface water.

#### Subchapter D. PUBLIC NOTIFICATION

##### §§ 109.401—109.406. (Reserved).

##### § 109.407. General public notification requirements.

(a) *Violation categories and other situations requiring a public notice.* A public water supplier shall give public notice for the following circumstances:

(1) Failure to comply with an applicable State primary MCL or MRDL in Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B or Subchapter K (relating to lead and copper).

(3) Failure to perform water quality monitoring, as required by Subchapter C (relating to monitoring requirements) or Subchapter K.

(4) Operation under a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department).

(5) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

(6) Occurrence of a waterborne disease outbreak or other waterborne emergency.

(7) Availability of unregulated contaminant monitoring data.

(8) Exceedance of the nitrate MCL by noncommunity water systems, when permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to MCLs for inorganic contaminants).

(b) *Definition of public notice tiers.* Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and any potential adverse health effects that may be involved. The public notice requirements for each violation or situation identified in subsection (a) is determined by the tier to which it is assigned. This subchapter incorporates by reference the tier assignment for each specific violation or situation in the National Primary Drinking Water Regulations, 40 CFR Part 141, Subpart Q, Appendix A (relating to the tier assignment for each specific NPDWR violation and other situations requiring public notice), unless other tier assignments are established by regulations or order of the Department.

(1) *Tier 1 public notice.* Required for violations and situations specified in subsection (a) with significant potential to have serious adverse effects on human health as a result of short-term exposure. General violation categories and other situations requiring a Tier 1 public notice are specified in § 109.408(a) (relating to Tier 1 public notice—form, manner and frequency of notice).

(2) *Tier 2 public notice.* Required for all other violations and situations in subsection (a) with potential to have serious adverse effects on human health. General violation categories and other situations requiring a Tier 2 public notice are specified in § 109.409(a) (relating to Tier 2 public notice—form, manner and frequency of notice).

(3) *Tier 3 public notice.* Required for all other violations and situations in subsection (a) not included in Tier 1 and Tier 2. General violation categories and other situations requiring a Tier 3 public notice are specified in § 109.410(a) (relating to Tier 3 public notice—form, manner and frequency of notice).

(c) *Public notice recipients.*

(1) A public water supplier shall provide public notice to persons served by the public water system, in accordance with this subchapter. A public water system that sells or otherwise provides drinking water to another public water system, such as to a consecutive water, bulk water hauling or vended water system, shall give public notice to the owner or operator of the other water system. The other water system is responsible for ensuring that public notice is provided to the persons it serves.

(2) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Department may allow the water supplier to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.

Permission for limiting distribution of the notice shall be granted in writing by the Department.

(3) If a public water system has a violation involving a point-of-entry (POE) device, the Department may allow the water supplier to limit distribution of the public notice to only persons served by that POE device. Permission for limiting distribution of the notice shall be granted in writing by the Department.

(4) If a community water system has a Tier 1 violation, the water supplier shall also notify key public officials as designated in the community water system's emergency response plan under § 109.707(a) (relating to emergency response plan).

(5) If a noncommunity water system in which persons 17 years of age or under are cared for or educated, such as a school or day care center, has a Tier 1 violation, the water supplier shall also provide public notice directly to the parent or guardian of those persons.

(6) A water supplier shall provide a copy of the notice to the Department in accordance with the requirements under § 109.701(a)(4) (relating to reporting and recordkeeping).

**§ 109.408. Tier 1 public notice—form, manner and frequency of notice.**

(a) *General violation categories and other situations requiring a Tier 1 public notice.* A public water supplier shall provide Tier 1 public notice for the following circumstances:

(1) Violation of the MCL for total coliforms when fecal coliforms or *E. coli* are present in the water distribution system, as specified in § 109.202(a)(2) (relating to MCLs, MRDLs or treatment technique requirements), or when the water supplier fails to test for fecal coliforms or *E. coli* when any check sample tests positive for coliforms, as specified in § 109.301(3) (relating to general monitoring requirements).

(2) Violation of the MCL for nitrate, nitrite or total nitrate and nitrite, as defined in § 109.202(a)(2), or when the water supplier fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in § 109.301(7)(ii)(C)(V).

(3) Exceedance of the nitrate MCL by noncommunity water systems, where permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals).

(4) Violation of the MRDL for chlorine dioxide, as defined in § 109.202(f)(2), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water supplier does not take the required samples in the distribution system, as specified in § 109.301.

(5) Violation of the turbidity MCL of 5 NTU based on an average for 2 consecutive days by a public water system using an unfiltered surface water source, as specified in § 109.202(a)(2).

(6) Violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c), resulting from a single exceedance of the maximum allowable turbidity limit.

(7) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other

waterborne emergency that adversely affects the quality or quantity of the finished water including, but not limited to, the following:

(i) Failure or significant interruption in key water treatment processes.

(ii) A natural disaster that disrupts the water supply or distribution system.

(iii) A chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.

(8) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Department on a case-by-case basis.

(b) *Timing for a Tier 1 public notice.* A public water supplier shall do the following:

(1) Provide a public notice as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation under subsection (a).

(2) Report the circumstances to the Department within 1 hour of discovery of the violation or situation in accordance with § 109.701(a)(3) (relating to reporting and recordkeeping).

(3) Initiate consultation with the Department as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation, to determine initial and any additional public notice requirements.

(4) Comply with initial and any additional public notification requirements that are established as a result of the consultation with the Department. These requirements may include the timing, form, manner, duration, frequency, and content of the initial and any repeat notices, and other actions reasonably designed to reach all persons served. The repeat notice frequency, if applicable, for a Tier 1 public notice shall be established as a result of the consultation, but may be no less often than once every 30 days as long as the violation or situation persists.

(c) *Form and manner of a Tier 1 public notice.* The form and manner used by a public water supplier shall fit the specific situation and shall be reasonably designed to reach residential, transient and nontransient users of the water system. To reach all persons served, a water supplier shall use, at a minimum, one or more of the following forms of delivery:

(1) Appropriate broadcast media, such as radio or television.

(2) Posting of the notice in conspicuous locations throughout the area served by the water system.

(3) Hand delivery of the notice to persons served by the water system.

(4) Another delivery method approved in writing by the Department.

**§ 109.409. Tier 2 public notice—form, manner and frequency of notice.**

(a) *General violation categories and other situations requiring a Tier 2 public notice.* A public water supplier shall provide Tier 2 public notice for the following circumstances:

(1) All violations of the primary MCL, MRDL and treatment technique requirements in Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements; and lead and copper), except where a Tier 1

notice is required under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice) or when the Department determines that a Tier 1 notice is required. The tier assignment for fluoride is not incorporated by reference. Under § 109.202(d) (relating to MCLs, MRDLs or treatment technique requirements), a public water system shall comply with the primary MCL for fluoride of 2 mg/L. As such, a public water supplier shall provide Tier 2 public notice for violation of the primary MCL for fluoride.

(2) Violations of the monitoring requirements in Subchapter C (relating to monitoring requirements) or Subchapter K, when the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

(3) Failure to comply with the terms and conditions of any variance or exemption in place under Subchapter I (relating to variances and exemptions issued by the Department).

(b) *Timing for a Tier 2 public notice.* A public water supplier shall do the following:

(1) Report the circumstances to the Department within 1 hour of discovery of a violation under subsection (a)(1), in accordance with § 109.701(a)(3) (relating to reporting and recordkeeping).

(2) Provide the public notice as soon as possible, but no later than 30 days after the system learns of the violation. If the public notice is posted, the notice shall remain in place for as long as the violation or situation persists, but in no case for less than 7 days, even if the violation or situation is resolved. The Department may, in appropriate circumstances, allow additional time for the initial notice of up to 3 months from the date the system learns of the violation. The Department will not grant an extension across the board or for an unresolved violation. Extensions granted by the Department will be in writing.

(3) Repeat the notice every 3 months as long as the violation or situation persists, unless the Department determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstances may the repeat notice be given less frequently than once per year. The Department will not allow less frequent repeat notices across the board; or for an MCL violation for total coliforms established under § 109.202(a)(2); or for a violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c); or for other ongoing violations. Determinations granted by the Department for less frequent repeat notices will be in writing.

(c) *Form and manner of a Tier 2 public notice.* A public water supplier shall provide the initial public notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall at a minimum meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method reasonably designed to reach other persons regularly served by the system, if they

would not normally be reached by the notice required in subparagraph (i). Those persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places served by the system or on the Internet or delivery to community organizations.

(2) Unless directed otherwise by the Department in writing, noncommunity water systems shall provide notice using the following forms of delivery:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection, when known.

(ii) Any other method reasonably designed to reach other persons served by the system if they would not normally be reached by the notice required in subparagraph (i). Those persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include publication in a local newspaper or newsletter distributed to customers, use of e-mail to notify employees or students or delivery of multiple copies in central locations such as community centers.

**§ 109.410. Tier 3 public notice—form, manner and frequency of notice.**

(a) *General violation categories and other situations requiring a Tier 3 public notice.* A public water supplier shall provide Tier 3 public notice for the following circumstances:

(1) Monitoring violations under Subchapter C or K (relating to monitoring requirements; and lead and copper), except when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice) or where the Department determines that a Tier 2 notice is required.

(2) Operation under a variance or an exemption granted under Subchapter I (relating to variances and exemptions issued by the Department).

(3) Availability of unregulated contaminant monitoring results, as required under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants).

(b) *Timing for a Tier 3 public notice.*

(1) A public water supplier shall provide the public notice no later than 1 year after the public water system learns of the violation or situation or begins operating under a variance or exemption. Following the initial notice, the water supplier shall repeat the notice annually for as long as the violation, variance, exemption or other situation persists. If the public notice is posted, the notice shall remain in place for as long as the violation, variance, exemption or other situation persists, but in no case may the initial and annual repeat notice be posted for less than 7 days (even if the violation or situation is resolved).

(2) Instead of individual Tier 3 public notices, a public water supplier may use an annual report detailing all violations and situations that occurred during the previous 12 months, as long as the timing requirements of paragraph (1) are met.

(c) *Form and manner of a Tier 3 public notice.* A public water supplier shall provide the initial notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall, at a minimum, meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method reasonably designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Those persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places or on the Internet or delivery to community organizations.

(2) Unless directed otherwise by the Department in writing, noncommunity water systems shall provide notice using the following forms of delivery:

(i) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection, if known.

(ii) Any other method reasonably designed to reach other persons served by the system, if they would not normally be reached by the notice required in subparagraph (i). Those persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include publication in a local newspaper or newsletter distributed to customers, use of e-mail to notify employees or students or delivery of multiple copies in central locations such as community centers.

(d) *Use of a CCR to meet the Tier 3 public notice requirements.* For community water systems, the CCR required under § 109.416 (relating to CCR requirements) may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as the following conditions are met:

(1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation as required under subsection (b).

(2) The Tier 3 notice contained in the CCR follows the content requirements under § 109.411 (relating to content of a public notice).

(3) The CCR is distributed following the delivery requirements under subsection (c).

**§ 109.411. Content of a public notice.**

(a) *Elements of a public notice.* When a public water system is required to give public notice under this subchapter, each public notice shall include the following elements:

(1) A description of the violation or situation, including the contaminants of concern, and (as applicable) the contaminant levels.

(2) When the violation or situation occurred.

(3) Any potential adverse health effects from the violation or situation, including the standard language under subsection (d)(1) or (2), whichever is applicable.

(4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water.

(5) Whether alternative water supplies should be used.

(6) What actions consumers should take, including when they should seek medical help, if known.

(7) What the system is doing to correct the violation or situation.

(8) When the water system expects to return to compliance or resolve the situation.

(9) The name, business address and telephone number of the water system owner, operator or designee of the public water system as a source of additional information concerning the notice.

(10) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under subsection (d)(3), where applicable.

(b) *Elements of a public notice for public water systems operating under a variance or exemption.*

(1) If a public water system has been granted a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department), the public notice shall contain the following elements:

(i) An explanation of the reason for the variance or exemption.

(ii) The date on which the variance or exemption was issued.

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption.

(iv) A notice of any opportunity for public input in the review of the variance or exemption.

(2) If a public water system violates the conditions of a variance or exemption, the public notice shall contain the ten elements listed in subsection (a).

(c) *Presentation of a public notice.*

(1) Each public notice required by this section shall:

(i) Be displayed in a conspicuous way when printed or posted.

(ii) Not contain overly technical language or print that is smaller than a font size of 10 points.

(iii) Not be formatted in a way that defeats the purpose of the notice.

(iv) Not contain language that nullifies the purpose of the notice.

(2) Each public notice required by this section shall comply with multilingual requirements, as follows:

(i) The public notice shall contain information in Spanish regarding the importance of the notice or contain a telephone number or address where persons served may

contact the water system to obtain a translated copy of the notice or to request assistance.

(ii) For each non-English-speaking group other than Spanish-speaking that exceeds 10% of the consumers for systems serving at least 1,000 people or 100 consumers for systems serving less than 1,000 people, and speaks the same language other than English, the public notice shall contain information in the appropriate languages regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language. The Department will make the final determination of which systems need to include this information.

(d) *Standard language for a public notice.* Public water systems shall include the following standard language in their public notice:

(1) *Standard health effects language for primary MCL or MRDL violations, treatment technique violations, and violations of the condition of a variance or exemption.* Public water systems shall include in each public notice appropriate health effects language. This subchapter incorporates by reference the health effects language specified in 40 CFR Part 141, Subpart Q, Appendix B (relating to standard health effects language for public notification), corresponding to each primary MCL, MRDL and treatment technique violation listed in 40 CFR Part 141, Subpart Q, Appendix A (relating to NPDWR violations and other situations requiring public notice), and for each violation of a condition of a variance or exemption, unless other health effects language is established by regulations or order of the Department. The health effects language for fluoride is not incorporated by reference. Public water systems shall include the following health effects language in each Tier 2 public notice for violation of the primary MCL of 2 mg/L for fluoride:

“This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/L) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). Dental fluorosis, in its moderate or severe forms, may result in a brown staining and or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Drinking water containing more than 4 mg/L of fluoride (the U.S. Environmental Protection Agency’s drinking water standard) can increase your risk of developing bone disease.”

(2) *Standard language for violations of monitoring requirements.* Public water systems shall include the following language in their notice, including the language necessary to fill in the blanks, for all violations of monitoring requirements listed in 40 CFR Part 141, Subpart Q, Appendix A:

“We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [insert compliance period], we “did not monitor or test” or “did not complete all monitoring or testing” for [insert contaminant(s)] and therefore cannot be sure of the quality of your drinking water during that time.”

(3) *Standard language to encourage the distribution of the public notice to all persons served.* Public water systems shall include in their notice the following language, if applicable:

“Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.”

**§ 109.412. Special notice of the availability of unregulated contaminant monitoring results.**

(a) *Timing for a special notice.* A community water system or nontransient, noncommunity water system required to monitor for an unregulated contaminant under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants) shall notify persons served by the system of the availability of the results of the sampling no later than 12 months after the monitoring results are known.

(b) *Form and manner of a special notice.* The form and manner of the public notice shall follow the requirements for a Tier 3 public notice prescribed in § 109.410 (relating to Tier 3 public notice—form, manner and frequency of notice). A public water system may use an annual report or CCR to notify persons served by the system of the availability of the results of the sampling as long as the requirements under § 109.410(d) are met. The notice shall also identify a person and provide the telephone number to contact for information on the monitoring results.

**§ 109.413. Special notice for nitrate exceedances above MCL by noncommunity water systems, where granted permission by the Department.**

(a) *Timing for a special notice.* A noncommunity water system granted permission by the Department in writing in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals) to exceed the nitrate MCL shall provide notice to persons served according to the requirements for a Tier 1 notice under § 109.408(a) and (b) (relating to Tier 1 public notice—form, manner and frequency of notice).

(b) *Form and manner of a special notice.* Noncommunity water systems granted permission by the Department in writing to exceed the nitrate MCL in accordance with 40 CFR 141.11(d) shall provide continuous posting of the fact that nitrate levels exceed 10 mg/L and include the potential health effects of exposure, according to the requirements for a Tier 1 notice delivery under § 109.408(c) and the content requirements under § 109.411 (relating to content of a public notice).

**§ 109.414. Notice to new billing units or new customers.**

(a) *Requirements for community water systems.* Community water systems shall give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) *Requirements for noncommunity water systems.* Noncommunity water systems shall continuously post the public notice in conspicuous locations to inform new consumers of any continuing violation, variance or exemption, or other situation requiring a public notice for as long as the violation, variance, exemption or other situation persists.

**§ 109.415. Notice by the Department on behalf of the public water system.**

If a public water supplier fails to give notice to the public as required by this subchapter, the Department may perform this notification on behalf of the supplier of water and may assess costs of notification on the responsible water supplier.

(1) *Public notice given by the Department on behalf of the public water system.* If the Department gives the public notice required by this subchapter on behalf of the public water supplier, the Department will comply with this subchapter.

(2) *Public water system responsibilities when public notice is given by the Department.* If the Department gives public notice, the public water supplier remains responsible for ensuring that the requirements of this subchapter are met.

**§ 109.416. CCR requirements.**

This section applies only to community water systems and establishes the minimum requirements for the content of the annual CCR that each system must deliver to its customers. This report shall contain information on the quality of the water delivered by the system and characterize the risks, if any, from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) For the purposes of this section, the definitions of "customer" and "detected" established by the EPA under 40 CFR 141.151(c) and (d) (relating to definitions), respectively, are incorporated by reference.

(2) Each community water system shall deliver to its customers an annual CCR on the dates established by the EPA under 40 CFR 141.152 (relating to effective dates), which is incorporated by reference.

(3) Except as noted in subparagraphs (i)–(v), the annual report that a community water system provides to its customers shall contain all of the information, mandatory language and optional text specified by the EPA under 40 CFR 141.153 and 141.154 (relating to content of the reports; and required additional health information), which are incorporated by reference, and under 40 CFR 141, Subpart O, Appendix A (relating to regulated contaminants), which is incorporated by reference, unless other information, mandatory language or optional text is established by regulations or order of the Department. The health effects language for fluoride is not incorporated by reference. Public water systems shall include the health effects language specified in § 109.411(d)(1) (relating to content of a public notice) for violation of the primary MCL of 2 mg/L fluoride.

(i) If a water system wants to use wording of its own choice in place of optional text, the water supplier shall submit the proposed wording to the Department for review and written approval prior to including it in its annual CCR. Once approved, the water supplier's wording may be used in future CCRs without further approval from the Department as long as it is not changed and is still applicable.

(ii) The CCR shall contain information in Spanish regarding the importance of the report or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the report or to request assistance.

(iii) For each non-English-speaking group other than Spanish-speaking that exceeds 10% of the residents for

systems serving at least 1,000 people or 100 residents for systems serving less than 1,000 people, and speaks the same language other than English, the report shall contain information in the appropriate languages regarding the importance of the report or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the report or to request assistance in the appropriate language. The Department will make the final determination of which systems need to include this information.

(iv) For the purpose of defining how certain portions of a CCR shall appear, the term "prominently display" as used in 40 CFR 141.154(a) means that the information shall be printed either in a larger size typeface or bolded or enclosed within a border or all these so as to make the information conspicuous in comparison to the rest of the text appearing before and after the prominently displayed text. Prominently displayed text placed away from other text (such as, in a highlighted or boxed area) shall be printed no smaller than the text used elsewhere in the body of the report, excluding main or section titles.

(v) Information contained in a CCR shall appear in an easy-to-read format. Font sizes below 10 points or color combinations, or both, that make it difficult for persons to read and understand the information contained in the CCR may not be used.

(4) *Report delivery and recordkeeping.* Each community water system shall do the following:

(i) Mail or otherwise directly deliver to each customer and to the Department one copy of the annual CCR no later than the date the water system is required to distribute the CCR to its customers.

(ii) Make a good faith effort to reach consumers who do not get water bills. The Department will determine "good faith" based on those methods identified in 40 CFR 141.155(b) (relating to delivery requirements), which are incorporated by reference.

(iii) Submit in writing to the Department no later than 3 months after the delivery of the annual CCR:

(A) A certification that the annual CCR has been distributed to customers and that the information contained in the report is correct and consistent with the compliance monitoring data previously submitted to the Department.

(B) A description of what was done to meet the good faith effort requirement described in subparagraph (ii).

(iv) If another State agency or commission also regulates the community water system, submit a copy of the system's annual CCR to the other agency or commission upon the specific request of that agency or commission no later than the date the water system is required to distribute the CCR to its customers. Each State agency or commission shall determine the way it requests a copy of the system's CCR. Those agencies or commissions may include, but are not limited to, the following:

(A) The Pennsylvania Public Utility Commission and the Office of Consumer Advocate in the Office of the Attorney General, for water systems that are public utilities regulated under 66 Pa.C.S. (relating to Public Utility Code).

(B) The Department of Public Welfare for self-contained community water systems serving personal care or other group housing facilities.

(C) The Department of Health, for self-contained community water systems serving skilled healthcare facilities.

(v) Make copies of its annual CCR available to the public on request.

(vi) If a community water system serves 100,000 or more people, post its current year's report to a publicly accessible site on the Internet.

(vii) Retain copies of each annual CCR and the related information required in paragraph (3) on the premises of the system or at a convenient location near the premises for no less than 3 years after the date of its delivery to customers.

### Subchapter E. PERMIT REQUIREMENTS

#### § 109.503. Public water system construction permits.

(a) *Permit application requirements.* An application for a public water system construction permit shall be submitted in writing on forms provided by the Department and shall be accompanied by plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the Public Water Supply Manual, available from the Bureau of Water Supply and Community Health, Post Office Box 8467, Harrisburg, Pennsylvania 17105 which contains acceptable design standards and technical guidance. Water quality analyses shall be conducted by a laboratory certified under this chapter.

(1) *General requirements.* An application shall include:

(i) *Permit application signatures.* A Department permit application signed as follows:

(A) In the case of corporations, by a principal executive officer of at least the level of vice president, or an authorized representative, if the representative is responsible for the overall operation of the facility.

(B) In the case of a partnership, by a general partner.

(C) In the case of a sole proprietorship, by the proprietor.

(D) In the case of a municipal, State or other public facility, by either a principal executive officer, ranking elected official or other authorized employee.

(ii) *Plans, specifications and engineer's report.* Plans, specifications and engineer's reports shall comply with the following:

(A) The drawings, specifications and engineer's report shall be prepared by or under the supervision of a professional engineer registered to practice in this Commonwealth or in the state in which the public water system is located.

(B) The front cover or flyleaf of each set of drawings, of each copy of the engineer's report, and of each copy of specifications shall bear the signature and imprint of the seal of the registered engineer. Drawings shall bear an imprint or a legible facsimile of the seal.

(iii) *Information describing new sources.* The Department may accept approval of an out-of-State source by the agency having jurisdiction over drinking water in that state if the supplier submits adequate proof of the approval and the agency's standards are at least as stringent as this chapter. Information describing sources shall include:

(A) A comprehensive sanitary survey of the physical surroundings of each new source of raw water and its proximity to potential sources of contamination. For

surface water, this information shall include a description of the watershed topography and land uses within the watershed. For systems using wells, springs or infiltration galleries, this information shall include a hydrogeological report prepared and signed by a professional geologist who has complied with the requirements of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) describing the geology of the area including the source aquifers, overlying formations, hydrogeologic boundaries, aquifer porosity estimates, water table contour or potentiometric surface maps depicting prepumping conditions and other information deemed necessary to evaluate the hydraulic characteristics of the aquifer and demonstrate the suitability of the proposed source. At the discretion of the Department, these requirements may be altered for a proposed well, wellfield, spring or infiltration gallery that will be pumping less than or yielding less than 100,000 gallons per day.

(B) An evaluation of the quality of the raw water from each new source. This subparagraph does not apply when the new source is finished water obtained from an existing permitted community water system unless the Department provides written notice that an evaluation is required. The evaluation shall include analysis of the following:

(I) For groundwater sources, VOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(a) (relating to maximum contaminant levels for organic contaminants). Vinyl chloride monitoring is required only if one or more of the two-carbon organic compounds specified under § 109.301(6)(i) (relating to general monitoring requirements) are detected. Samples for VOCs shall be collected in accordance with the provisions of § 109.303(e) (relating to sampling requirements).

(II) Except for asbestos, IOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.62 (relating to maximum contaminant levels for inorganic contaminants). The new source shall be monitored for asbestos if the Department has reason to believe the source water is vulnerable to asbestos contamination.

(III) Lead.

(IV) Copper.

(V) Total coliform concentration and, if total coliform-positive, analyze for fecal coliform concentration.

(VI) SOCs.

(-a-) Alachlor, atrazine, chlordane, dibromochloropropane (DBCP), ethylene dibromide (EDB), heptachlor, heptachlor epoxide, lindane, methoxychlor, toxaphene, endrin, hexachlorobenzene, hexachlorocyclopentadiene, polychlorinated biphenyls (PCBs) and simazine unless the Department determines in writing that monitoring for one or more of the substances specified in this item is not necessary.

(-b-) Other SOCs except for dioxin for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(c) except for those SOCs for which the source is not considered vulnerable based on a vulnerability assessment conducted by the public water supplier and approved by the Department unless the Department determines in writing that monitoring for one or more of the SOCs is not necessary.



(-c-) Dioxin where there is a source of dioxin contamination within 1,000 feet of a groundwater source or within 1 mile upstream of a surface water source.

(VII) Gross Alpha ( $\alpha$ ) and Gross Beta ( $\beta$ ).

(VIII) For surface water sources, total trihalomethanes.

(IX) Aluminum, chloride, color, foaming agents, iron, manganese, pH, silver, sulfate, total dissolved solids and zinc for which MCLs have been established by the EPA under the National Secondary Drinking Water Regulations in 40 CFR 143.3 (relating to secondary MCLs).

(X) Alkalinity.

(XI) Hardness.

(XII) Temperature.

(XIII) Other contaminants that the Department determines necessary to evaluate the potability of the source.

(C) An evaluation of the quantity of the raw water from each new source. Flow data shall be submitted for springs, infiltration galleries or surface water sources. Aquifer test data, including drawdown and recovery data and the derivation of hydraulic conductivity, transmissivity and storage coefficient of the aquifer, shall be submitted for wells. At the discretion of the Department, these requirements may be altered for wells or wellfields pumping less than 100,000 gallons per day. The Department may require that other information be submitted to evaluate the safe yield of the source. The safe yield is the amount of water that can be withdrawn from an aquifer without causing an undesired result, such as adverse dewatering of an aquifer, induced potential health threats or impacts upon stream uses.

(D) A Department approved delineation of the Zone I wellhead protection area for community water system wells, springs or infiltration galleries.

(iv) *Chapter 102 requirements.* An erosion and sedimentation control plan which meets the requirements contained in Chapter 102 (relating to erosion and sediment control) when earth-moving activities are involved.

(2) *Special requirements for public water suppliers proposing to use POE devices.* Permit applications which propose the use of POE devices shall, in addition to the information required in paragraph (1), include the following:

(i) Documentation that each POE device to be used meets the certification requirements of § 109.612 (relating to POE devices).

(ii) Manufacturer's design and engineering information, including blueprints or similar drawings, which provide detailed information about the construction and operation of the treatment device and its components.

(iii) A detailed monitoring plan, subject to the Department's approval, which includes a list of the contaminants to be monitored and the frequency of monitoring.

(iv) An operation and maintenance plan, as outlined in § 109.702 (relating to operation and maintenance plan), which includes a schedule of routine maintenance to be performed and the parameters to be monitored to determine the performance and condition of the devices.

(v) A drawing of the water supply distribution system showing each house, building or facility where POE devices are to be installed.

(vi) Proof of the right-of-access for every house, building or facility to be served by a POE device.

(3) *Business plan requirements for new community water systems.* Permit applications submitted to the Department on or after October 1, 1996, for new community water systems shall, in addition to the information required in paragraph (1), include a business plan. A new community water system is a proposed community water system or an existing system not otherwise subject to the act which becomes a community water system subject to the act as a result of an increase in the number of year-round residents or residences served. The business plan shall be submitted on forms approved by the Department. To be considered complete, the business plan shall conform to the guidelines contained in the Department's Public Water Supply Manual and shall consist of the following three parts:

(i) *Facilities plan.* The facilities plan shall identify the scope of the water service to be provided. In addition to the requirements of subsection (a)(1)(ii), the facilities plan shall include the following:

(A) An assessment of current and reasonably foreseeable compliance requirements that are applicable under the act based on monitoring data from the proposed sources of supply.

(B) A description of the alternatives considered and the rationale for the approach selected to providing water service. This description shall include the technical, managerial, financial, operational and local decision making rationale for the selected approach. Unless the new system is a consecutive water system, the plan shall include the rationale for creating a separate system.

(C) An engineering description of the facilities to be constructed, including the construction phases and future plans for expansion. This description shall include an estimate of the full cost of any required construction, operation and maintenance.

(ii) *Management plan.* The management plan shall specify the commitments that are needed to provide for effective management and operation of the system and shall include the following:

(A) Documentation that the applicant has the legal right and authority to take the measures necessary for the construction, operation and maintenance of the system. The evidence shall include, but is not limited to, indices of ownership where the applicant is the owner of the system or, where the applicant is not the owner, legally enforceable management contracts or agreements.

(B) An operating plan to define the tasks to be performed in managing and operating the system. The operating plan shall consist of the following:

(I) *Part 1.* A management and administrative plan.

(II) *Part 2.* An operation and maintenance plan which conforms with § 109.702.

(C) Assurances that the commitments needed for proper operation and management of the system will be carried out. These assurances can be given in the form of documentation of the credentials of management and operations personnel, cooperative agreements or service contracts.

(iii) *Financial plan.* The financial plan shall describe the system's revenues and cash flow for meeting the costs of construction and the costs of operation and maintenance for at least 5 full years from the date the applicant anticipates initiating system operation. At a minimum, the financial plan shall include pro forma statements for each of the 5 years including the following:

- (A) Balance sheet.
- (B) Income statement.
- (C) Statement of cash flow.

(b) *Amendments.* A water supplier operating under a public water system permit shall obtain an amended construction permit before making a substantial modification to the public water system.

(1) A water supplier shall submit an application for an amended construction permit under the application requirements in subsection (a), if the proposed modification constitutes a major change to the public water system. Typical modifications which may be considered major changes are proposed new sources, additions or deletions of treatment techniques or processes, pumping stations and storage reservoirs.

(2) A water supplier shall submit a written request to the Department if the proposed modification constitutes a relatively minor change to the public water system. A request for an amended construction permit under this paragraph shall describe the proposed change in sufficient detail to allow the Department to adequately evaluate the proposal. Typical modifications which may be considered minor changes are changes in treatment chemicals; replacement of tank or reservoir linings or similar materials in contact with the water supply; interconnections; covering of reservoirs; construction of covered storage tanks and standpipes designed to standard specifications; transmission mains; and changes in legal status, such as transfers of ownership, incorporation or mergers.

(3) The Department determines whether a particular modification is a substantial modification and requires the construction permit to be amended under paragraph (1) or (2). A substantial modification is a modification which may affect the quality or quantity of water served to the public or may be prejudicial to the public health or safety. The Department's determination of whether the substantial modification is a major or minor change will include consideration of the expected amount of staff time required to review and process the proposal, the magnitude and complexity of the proposed change and the compliance history of the public water system.

(c) *Permit fees.*

(1) An application for a permit or a major permit amendment under subsection (a)(1), except for an application for construction or modification of corrosion control treatment facilities under § 109.1105 (relating to permit requirements), shall be accompanied by a check in the amount of \$750, payable to the "Commonwealth of Pennsylvania," except a fee is not required for an application submitted by a State regulatory agency, or an application submitted for a public water system serving 100 or fewer individuals. The fees for permitting and related services under § 109.1105 for corrosion control treatment facilities are established under § 109.1108 (relating to fees).

(2) A fee is not required for an application for an emergency permit under § 109.506 (relating to emergency permits) or an amendment under subsection (b)(2).

(d) *Department's review.*

(1) The Department will publish a notice in the *Pennsylvania Bulletin* of the applications submitted under subsection (a) or (b)(1) or § 109.507 (relating to permits for innovative technology), providing at least 30 days for public comment from the date of publication.

(2) The Department will not accept an application for review until the application is determined to be complete. A complete application is one which includes all the information specified in this chapter and other relevant information the Department determines is necessary to enable the Department to undertake a technical review of the application.

(3) If the Department determines the permit application is incomplete, it will request the additional information in writing from the applicant within 90-calendar days of receipt of the application.

(4) The Department will grant or deny a permit within 120 calendar days of receipt of the application, or when an incomplete application was submitted, within 120-calendar days of receipt of the applicant's written response to the Department's request for additional information.

(5) Applications will be reviewed in accordance with accepted engineering and hydrogeological practices. The approval of plans, specifications, hydrogeological reports and engineer's reports is limited to the sanitary features of design and other features of public health significance.

(6) In reviewing a permit application under this chapter, the Department may consider the following:

(i) Adherence to standards in Subchapter F (relating to design and construction standards).

(ii) Compliance by the proposed project with applicable statutes administered by the Commonwealth, river basin commissions created by interstate compact or Federal environmental statutes or regulations.

(iii) Consistency with the environmental rights and values secured by PA. CONST. art. I, § 27 and with the Commonwealth's duties as trustee to conserve and maintain this Commonwealth's public natural resources.

(iv) Present conditions and the effects of reasonably foreseeable future development within the area of the project, including wellhead protection areas.

(e) *Issuance and conditions.*

(1) Issuance of a construction permit authorizes only the construction or modifications included in the permit. The permit's continuing validity is conditioned upon satisfaction of the provisions of the permit.

(2) The plans, specifications, reports and supporting documents submitted as part of the permit application become part of the permit.

(3) A permit authorizing construction or modification of water facilities shall expire within 2 years from the date of issuance unless substantial work is initiated. A permit may be renewed by the Department if the water supplier makes a written request for renewal prior to the expiration date.

### **Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES**

#### **§ 109.701. Reporting and recordkeeping.**

(a) *Reporting requirements for public water systems.* Public water systems shall comply with the following requirements:

(1) *General reporting requirements.* Unless a shorter period is specified in this section, the water supplier shall assure that the results of test measurements or analyses required by this chapter are reported to the Department within either the first 10 days following the month in which the result is received or the first 10 days following

the end of the required monitoring period as stipulated by the Department, whichever is shorter. The test results shall include the following at a minimum:

- (i) The name, address and public water system identification number (PWSID) of the public water system from which the sample was taken.
- (ii) The name, address and identification number of the laboratory performing the analysis unless the analysis is not required to be performed by a certified laboratory.
- (iii) The results of analytical methods, including negative results.
- (iv) Contaminants.
- (v) Analytical methods used.
- (vi) The date of sample.
- (vii) The date of analysis.
- (viii) Sample location.

(2) *Monthly reporting requirements for performance monitoring.*

(i) The test results of performance monitoring required under § 109.301(1) (relating to general monitoring requirements) for public water suppliers providing filtration and disinfection of surface water or GUDI sources shall include the following at a minimum:

- (A) For turbidity performance monitoring:
  - (I) The number of days of filtration operation.
  - (II) The number of filtered water turbidity measurements taken each month.
  - (III) The number of filtered water turbidity measurements that are less than or equal to .5 NTU for conventional, direct or other filtration technologies, or 1.0 NTU for slow sand or diatomaceous earth filtration technologies.
  - (IV) The date, time and values of any filtered water turbidity measurements exceeding 2.0 NTU.
  - (V) In lieu of clause (A)(III) and (IV), beginning January 1, 2002, for public water systems that serve 10,000 or more people and use conventional or direct filtration:

(-a-) The number of filtered water turbidity measurements that are less than or equal to 0.3 NTU.

(-b-) The date, time and values of any filtered water turbidity measurements that exceed 1 NTU for systems using conventional or direct filtration or that exceed the maximum level set under § 109.202(c)(1)(i)(A)(III) (relating to State MCLs, MRDLs and treatment technique requirements).

(B) For performance monitoring of the residual disinfectant concentration of the water being supplied to the distribution system:

- (I) The date, time and lowest value each day.
- (II) The date, duration and number of periods each day when the concentration is less than .2 mg/L for more than 4 hours.
- (III) The date, time and highest value each day the concentration is greater than the residual disinfectant concentration required under § 109.202(c)(1)(ii).

(IV) If the concentration does not rise above that required under § 109.202(c)(1)(ii), the date, time and highest value measured that month.

(C) For performance monitoring of the residual disinfectant concentration at representative points in the distribution system report the following:

- (I) The number of monthly routine samples required.
- (II) The number of monthly routine samples collected and analyzed.
- (III) The number of samples in which the residual disinfectant concentration was less than 0.02 mg/L.
- (IV) For samples in which the residual disinfectant concentration was less than 0.02 mg/L: the date, time and value of each sample.

(ii) The test results of performance monitoring required under § 109.301(2) for public water suppliers using unfiltered surface water or GUDI sources shall include the following, at a minimum:

- (A) For turbidity performance monitoring:
  - (I) The date, time and value of each sample that exceeds 1.0 NTU.
  - (II) The date, time and highest turbidity value, if the turbidity does not exceed 1.0 NTU in a sample.
- (B) For performance monitoring of the residual disinfectant concentration of the water being supplied to the distribution system:

(I) The date, time and lowest value each day the concentration is less than the residual disinfectant concentration required under § 109.202(c)(1)(iii).

(II) If the concentration does not fall below that required under § 109.202(c)(1)(iii) during the month, report the date, time and lowest value measured that month.

(C) For performance monitoring of the residual disinfectant concentration at representative points in the distribution system, report the following:

- (I) The number of monthly routine samples required.
- (II) The number of monthly routine samples collected and analyzed.
- (III) The number of samples in which the residual disinfectant concentration was less than 0.02 mg/L.
- (IV) For samples in which the residual disinfectant concentration was less than 0.02 mg/L: the date, time and value of each sample.

(D) For performance monitoring of the fecal coliform or total coliform density determinations on samples of the source water immediately prior to disinfection: the date, time and value of each sample.

(iii) The test results from performance monitoring required under § 109.301(7)(v) of the residual disinfectant concentration of the water in the distribution system shall include the date, time and value of each sample.

(iv) The test results of heterotrophic plate count measurements taken under § 109.710(b) (relating to disinfectant residual in the distribution system) shall include the date, time and value of each sample.

(3) *Compliance report.* A public water supplier shall report the circumstances to the Department within 1 hour of discovery for the following violations or situations:

- (i) A primary MCL or an MRDL has been exceeded or a treatment technique requirement has been violated under Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements; and lead and copper).
- (ii) A sample result requires the collection of check samples under § 109.301.

(iii) Circumstances exist which may adversely affect the quality or quantity of drinking water including, but not limited to, the occurrence of a waterborne disease outbreak, a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.

(4) *Notice.* The water supplier shall, within 10 days of completion of each public notification required under Subchapter D (relating to public notification) with the exception of a CCR, submit to the Department a certification that it has fully complied with the public notification requirements. The water supplier shall include with this certification a representative copy of each type of notice distributed, published, posted and made available to persons served by the system and to the media and a description of the means undertaken to make the notice available.

(5) *Siting plan.* The water supplier shall submit to the Department a written sample siting plan for routine coliform sampling as required by § 109.303(a)(2) (relating to sampling requirements) within 30 days of receipt of the Department's request for this information.

(i) A sample siting plan shall include at a minimum the following:

(A) A list of available sample site locations in the distribution system to be used for routine monitoring purposes, including the first service connection (or Department approved equivalent) and dead ends.

(B) The name of the company or individual collecting the samples.

(C) A time period by which available sites representative of the distribution system are to be sampled during each monitoring period.

(ii) The Department's approval of a sample siting plan will be based upon the following:

(A) The population served by the system.

(B) The accessibility of sample sites.

(C) The past monitoring history for the system.

(D) The completeness of the sample siting plan which includes the information specified in subparagraph (i) and other information relating to the criteria in this subparagraph necessary for evaluation of the sample siting plan.

(iii) A water supplier shall revise and resubmit its sample siting plan within 30 days of notification by the Department of a sample siting plan which fails to meet the criteria in subparagraphs (i) and (ii).

(iv) The water supplier shall notify the Department of subsequent revisions to an approved coliform sample siting plan for approval as they occur. Revisions to an approved coliform sample siting plan shall be submitted in written form to the Department within 30 days of notifying the Department of the revisions.

(6) *Records.* Upon request by the Department, the water supplier shall submit copies of records required to be maintained under this subchapter.

(7) *Form.* Reports required by this chapter shall be submitted in a manner or form acceptable to the Department.

(8) *Reporting requirements for disinfectant residuals.* Public water systems shall report MRDL monitoring data as follows:

(i) For systems monitoring for chlorine dioxide under § 109.301(13):

(A) The dates, results and locations of the samples that were taken during the previous month.

(B) Whether the MRDL was exceeded.

(C) Whether the MRDL was exceeded in any 2-consecutive daily samples and whether the resulting violation was acute or nonacute.

(ii) For systems monitoring for either chlorine or chloramines under § 109.301(13):

(A) The number of samples taken during each month of the previous quarter.

(B) The monthly arithmetic average of all samples taken in each month for the last 12 months.

(C) The arithmetic average of all monthly averages for the last 12 months.

(D) Whether the MRDL was exceeded.

(9) *Reporting requirements for disinfection byproducts.*

(i) Systems monitoring for TTHMs and HAA5 under § 109.301(12) shall report the following:

(A) Systems monitoring on a quarterly or more frequent basis shall report the following:

(I) The number of samples taken during the last quarter.

(II) The date, location and result of each sample taken during the last quarter.

(III) The arithmetic average of all samples taken in the last quarter.

(IV) The annual arithmetic average of the quarterly arithmetic averages for the last 4 quarters.

(V) Whether the annual arithmetic average exceeds the MCL for either TTHMs or HAA5.

(B) Systems monitoring less than quarterly but no less than annually shall report the following:

(I) The number of samples taken during the last year.

(II) The date, location and result of each sample taken during the last monitoring period.

(III) The arithmetic average of all samples taken in the last year.

(IV) Whether the annual arithmetic average exceeds the MCL for either TTHMs or HAA5.

(C) Systems monitoring less than annually shall report the following:

(I) The date, location and result of the last sample taken.

(II) Whether the sample exceeds the MCL for either TTHMs or HAA5.

(ii) Systems monitoring for chlorite under § 109.301(12) shall report the following:

(A) The number of samples taken each month for the last 3 months.

(B) The date, location and result of each entry point and distribution sample taken during the last quarter.

(C) The arithmetic average of each three-sample set of distribution samples taken in each month in the reporting period.

(D) Whether the monthly arithmetic average exceeds the MCL.

(iii) Systems monitoring for bromate under § 109.301(12) shall report the following:

(A) The number of samples taken during the last quarter.

(B) The date, location and result of each sample taken during the last quarter.

(C) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.

(D) Whether the annual arithmetic average exceeds the MCL.

(10) *Reporting requirements for disinfection byproduct precursors.* Systems monitoring for TOC under § 109.301(12) shall report in accordance with 40 CFR 141.134(d) (relating to reporting and recordkeeping requirements for disinfection byproduct precursors and enhanced coagulation or enhanced softening).

(b) *Reporting requirements for community water systems.* In addition to the reporting requirements for a public water system, a community water supplier shall comply with the following requirements:

(1) The water supplier shall prepare a monthly operational report on forms provided by the Department or in a form acceptable to the Department. The report shall be maintained on file by the operator for at least 2 years and submitted upon request of the Department. The report shall include at least the following:

- (i) The water produced daily.
- (ii) The chemical added daily.
- (iii) The physical and chemical determinations taken daily.
- (iv) Water-level monitoring data for supply and any associated monitoring wells.
- (v) The maintenance performed.
- (vi) Operational problems.

(2) The water supplier shall submit by March 31 an annual water supply report for the prior calendar year on forms provided by the Department or in a form acceptable to the Department. This report shall include information relating to water use, connections, distribution system and storage.

(3) The water supplier shall keep a record of complaints received from consumers related to the act or this chapter on forms provided by the Department or in a form acceptable to the Department. Water suppliers complying with the Pennsylvania Public Utility Commission (PUC) complaint recordkeeping requirements under 52 Pa. Code § 65.3 (relating to complaints) shall be in compliance with this subsection if the complaints related to the act or this chapter are cross referenced within the PUC required records in a manner to make them readily available. The records shall be maintained on file by the operator for at least 3 years and submitted upon request of the Department.

(c) *Reporting requirements for nontransient noncommunity water systems.* In addition to complying with the reporting requirements for public water systems under subsection (a), a nontransient noncommunity water sys-

tem shall comply with subsection (b)(1) except that records of water produced daily are not required.

(d) *Record maintenance.* The public water supplier shall retain on the premises of the public water system or at a convenient location near the premises the following:

(1) Records of bacteriological analyses which shall be kept for at least 5 years, and records of chemical analyses which shall be kept for at least 12 years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, if the following information is included:

- (i) The date, place and time of sampling, and the name of the person who collected the sample.
- (ii) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or finished water sample or other special purpose sample.
- (iii) The date of analysis.
- (iv) The laboratory, certification number and person responsible for performing the analysis.
- (v) The analytical technique and methods used.
- (vi) The results of the analysis.

(2) Records of performance monitoring required under § 109.301 which shall be kept for at least 3 years. At a minimum, these records shall contain the reporting requirements under subsection (a).

(3) Records of action taken by the public water supplier to correct violations of MCLs, MRDLs or treatment technique requirements, which shall be kept for at least 3 years after the last action taken with respect to the particular violation involved.

(4) Copies of written reports or communications relating to sanitary surveys conducted by a water supplier or his agent, which shall be kept for at least 12 years.

(5) Records concerning a variance or exemption granted to the system which shall be kept at least 5 years following the expiration of the variance or exemption.

(6) Plans, specifications and permits for water system facilities which shall be kept for the life of the facility.

(7) Records concerning the use of acrylamide and epichlorohydrin shall be kept for at least 12 years. These records shall include verification that the chemicals used were certified for conformance with ANSI/NSF Standard 60 in accordance with § 109.606 (relating to chemicals, materials and equipment) and that the combination—or product—of dose and monomer level did not exceed the following:

- (i) Acrylamide = 0.05% dosed at 1 ppm (or equivalent).
- (ii) Epichlorohydrin = 0.01% dosed at 20 ppm (or equivalent).

(8) Copies of public notifications issued under Subchapter D and certifications made to the Department under subsection (a)(4) shall be kept for 3 years after issuance.

(e) *Reporting requirements for public water systems required to perform individual filter monitoring under § 109.301(1)(iv).*

(1) Public water systems required to perform individual filter monitoring shall report that they have conducted individual filter monitoring within 10 days following the end of each month that the system serves water to the public.

(2) Public water systems required to perform individual monitoring shall report individual filter turbidity results if individual filter turbidity measurements demonstrate that one or more of the following conditions exist:

(i) An individual filter has a measured turbidity level greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart.

(ii) An individual filter has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first 4 hours of continuous filter operation after the filter has been backwashed or otherwise taken offline.

(iii) An individual filter has a measured turbidity level greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of 3-consecutive months.

(iv) An individual filter has a measured turbidity level greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of 2-consecutive months.

(3) Individual filter turbidity monitoring reported as required under paragraph (2) shall include the following at a minimum:

(i) Filter number.

(ii) Turbidity measurements.

(iii) The dates on which the exceedance occurred.

(iv) If an individual filter demonstrates a condition under paragraph (2)(i) or (ii), the date on which a filter profile was produced or the date on which the reason for a turbidity exceedance was determined.

(v) If an individual filter demonstrates a condition under paragraph (2)(iii), the date on which a filter self-assessment was conducted.

(vi) If an individual filter demonstrates a condition under paragraph (2)(iv), the date on which a comprehensive performance evaluation was conducted.

(f) *Alternative individual filter turbidity exceedance levels.* Public water systems using lime softening may apply to the Department for alternative individual filter turbidity exceedance levels if they demonstrate that the higher individual filter turbidity levels are due to lime carryover and not to degraded filter performance.

(g) *Monitoring plans for disinfectants, disinfection byproducts and disinfection byproduct precursors.* Systems required to monitor for disinfection byproducts or disinfection byproduct precursors under § 109.301(12) or disinfectant residuals under § 109.301(13) shall develop and implement a monitoring plan. The system shall maintain the plan and make it available for inspection by the Department and the general public no later than 30 days following the applicable compliance dates. All systems that use either surface water or GUDI sources shall submit a copy of the monitoring plan to the Department no later than 30 days prior to the date of the first report required under this subchapter. The Department may also require the plan to be submitted by any other system, regardless of size or source water type. After review, the Department may require changes in any of the plan components.

(1) The plan shall include the following components:

(i) Specific locations and schedules for collecting samples for any parameters included in § 109.301(12) or (13).

(ii) How the system will calculate compliance with the MCLs, MRDLs and treatment techniques.

(iii) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the sampling plan shall reflect the entire distribution system.

(iv) Systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required under § 109.301(12)(i).

(2) The system shall notify the Department of subsequent revisions to a monitoring plan as they occur. Revisions to a monitoring plan shall be submitted in written form to the Department within 30 days of notifying the Department of the revisions.

#### § 109.702. Operation and maintenance plan.

(a) A community water supplier shall develop an operation and maintenance plan for the community water system. The operation and maintenance plan shall conform to the guidelines contained in the Department's *Public Water Supply Manual* and shall contain at least the following information:

(1) A description of the facilities.

(2) An explanation of startup and normal operation procedures.

(3) A routine maintenance program.

(4) Records and reporting system.

(5) Sampling and analyses program.

(6) A public notification program including appropriate advance preparations, such as public notice templates, an explanation of appropriate methods of delivery and a designation of public notice recipients for each tier type.

(7) Staffing and training.

(8) Sanitary survey program including the wellhead protection program for any water system that develops one under § 109.713 (relating to wellhead protection programs).

(9) Safety program.

(10) Emergency plan and operating procedures.

(11) Manufacturer's manuals.

(12) An interconnect, valve and blowoff exercise and testing program.

(b) The community water supplier shall implement the operation and maintenance plan in accordance with accepted practices of the water supply industry.

(c) The operation and maintenance plan shall be reviewed and updated as necessary to reflect changes in the operation or maintenance of the water system. The plan shall be bound and placed in locations which are readily accessible to the water system's personnel, and shall be presented upon request to the Department.

(d) Noncommunity water suppliers may be directed by the Department to develop and implement an operation and maintenance plan as provided for in this section when the public health is threatened by inadequate operation and maintenance of the facilities.

#### § 109.707. Emergency response plan.

(a) A community water supplier shall develop a plan for the provision of safe and adequate drinking water under emergency circumstances, and submit the plan to the Department for approval by December 8, 1985. The emergency response plan shall conform to the guidelines

contained in the Department's Public Water Supply Manual and shall contain at least the following information:

(1) Identification of probable emergency situations, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), and alternative solutions to respond to situations including how the system will maintain its ability to provide service in the event of contamination or an outage of one or more of its sources of supply. Consideration shall be given to providing reserve capacity according to § 109.609 (relating to reserve capacity and finished water storage).

(2) Procedures for communications and coordination with the local emergency management organization.

(b) The plan shall be kept on file in a readily accessible location by the public water supplier.

(c) The plan shall be reviewed and updated at least annually.

**Subchapter H. LABORATORY CERTIFICATION**

**§ 109.805. Certification procedure.**

(a) After the Department receives a completed application accompanied by the applicable fee under § 109.803 (relating to fees), the Department may schedule an onsite inspection of the laboratory.

(b) The laboratory shall successfully complete at least one set of proficiency test samples required by the Department for the parameters in the category for which certification is sought. Acceptable tolerances of analyses of proficiency test evaluation samples shall be as stated by the EPA in 40 CFR Part 141 (relating to national primary drinking water regulations) or the "National Standards For Water Proficiency Testing, Criteria Document." For parameters not included in either document the acceptance limits shall be those established by the Department.

(c) The Department may grant administrative approval to a currently certified laboratory which has submitted a complete application for renewal of an existing certification, and the appropriate fee, and has successfully completed a performance sample for a previously uncertified subcategory before final certification is issued for that new subcategory. Analyses performed by a laboratory with administrative approval satisfy the requirements of this chapter. The Department may revoke an administrative approval at any time for just cause.

(d) The laboratory shall conspicuously display an administrative approval or certification issued to the laboratory by the Department under this subchapter.

(e) In addition to terms and conditions in the certification issued to a laboratory, the certified laboratory shall fulfill the following requirements to maintain certification:

(1) The laboratory shall notify the Department within 30 days of major changes in personnel, personnel assignments, equipment and facilities which affect accredited procedures. The Department may require additional information or proof of continued capability to perform the certified category of analyses. For the purposes of this subsection, personnel include laboratory supervisors and trained, experienced analysts.

(2) The laboratory shall have a satisfactory onsite inspection at least once every 3 years.

(3) The laboratory shall successfully complete at least one set of proficiency test samples required by the Department at least once every 12 months.

(4) The laboratory shall submit results of test measurements or analyses performed by the laboratory under this chapter in accordance with § 109.810 (relating to reporting and notification requirements).

**§ 109.806. Standards for certification.**

The certification will be based upon compliance with Departmental guidelines and the minimum criteria contained in the most current edition of the *Manual for the Certification of Laboratories Analyzing Drinking Water* published by the EPA. The evaluation for certification will include, but is not limited to, consideration of facilities, personnel, equipment, methodology, quality assurance, performance, recordkeeping, reporting and notification.

**§ 109.810. Reporting and notification requirements.**

(a) A laboratory certified under this subchapter shall submit to the Department, on forms provided by the Department, the results of test measurements or analyses performed by the laboratory under this chapter. These results shall be reported within either the first 10 days following the month in which the result is determined or the first 10 days following the end of the required monitoring period as stipulated by the Department, whichever is shorter.

(b) A laboratory certified under this subchapter shall whenever an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is violated, or a sample result requires the collection of check samples under § 109.301 (relating to general monitoring requirements):

(1) Notify the public water supplier by telephone within 1 hour of the laboratory's determination. If the supplier cannot be reached within that time, notify the Department by telephone within 2 hours of the determination. If it is necessary for the laboratory to contact the Department after the Department's routine business hours, the laboratory shall contact the appropriate Department regional office's after-hours emergency response telephone number and provide information regarding the occurrence, the name of a contact person and the telephone number where that individual may be reached in the event further information is needed. If the Department's appropriate emergency number cannot be reached, the laboratory shall notify the appropriate Department regional office by telephone within 1 hour of the beginning of the next business day. Each certified laboratory shall be responsible for the following:

(i) Obtaining and then maintaining the Department's current after-hours emergency response telephone numbers for each applicable regional office.

(ii) Establishing or updating a standard operating procedure by November 8, 2002, and at least annually thereafter to provide the information needed to report the occurrences to the Department. The information regarding the public water system shall include, but is not limited to, the PWSID number of the system, the system's name, the contaminant involved in the occurrence, the level of the contaminant found, where the sample was collected, the dates and times that the sample was collected and analyzed, the name and identification number of the certified laboratory, the name and telephone number of a contact person at the laboratory and what

steps the laboratory took to contact the public water system before calling the Department.

(2) Notify the appropriate Department district office in writing within 24 hours of the determination. For the purpose of determining compliance with this requirement, the postmark, if the notice is mailed, or the date the notice is received by the Department, whichever is earlier, will be used. Upon approval by the Department, the notice may be made electronically to the Department as long as the information is received within the 24-hour deadline.

(c) A laboratory certified under this subchapter shall notify the Department within 48 hours of termination of the laboratory certification from the EPA or another agency with primary enforcement responsibility.

(d) A laboratory shall notify the public water supplier served by the laboratory within 48 hours of the following:

(1) A failure to renew or Department denial of renewal of existing certification for a category of certification.

(2) Revocation of certification by the Department under this subchapter.

**Subchapter J. BOTTLED WATER AND VENDED WATER SYSTEMS, RETAIL WATER FACILITIES AND BULK WATER HAULING SYSTEMS**

**§ 109.1003. Monitoring requirements.**

(a) *General monitoring requirements.* Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall monitor for compliance with the MCLs and MRDLs in accordance with § 109.301 (relating to general monitoring requirements) and shall comply with § 109.302 (relating to special monitoring requirements). The monitoring requirements shall be applied as follows, except that systems which have installed treatment to comply with a primary MCL shall conduct quarterly operational monitoring for the contaminant which the facility is designed to remove:

(1) Bottled water systems, retail water facilities and bulk water hauling systems, for each entry point shall:

(i) Monitor for microbiological contaminants weekly.

(ii) Monitor for turbidity every 4 hours or continuously each day a surface water source is in use.

(iii) Monitor for compliance with the MCLs for VOCs in accordance with § 109.301(5) beginning during the quarter that begins January 1, 1995, except that:

(A) Systems that obtain finished water from another permitted public water system are exempt from conducting monitoring for the VOCs if the public water system supplying the finished water performs the required monitoring at least annually and a copy of the analytical reports are received by the Department.

(B) For systems in existence prior to January 1, 1995, that obtain raw water from only protected groundwater sources, initial monitoring for compliance with the MCLs for VOCs established by the EPA under 40 CFR 141.61(a) (relating to MCLs for organic contaminants) on January 30, 1991, and July 17, 1992, will be reduced to one sample for entry points or systems which meet the following conditions:

(I) The VOC monitoring required by the Department between January 1, 1988, and December 31, 1994, has been conducted and no VOCs were detected.

(II) The first quarter of VOC monitoring required by this subparagraph has been conducted during the first quarter of 1995 with no detection of a VOC.

(C) Initial monitoring of new entry points associated with new sources which are permitted in accordance with § 109.1005 (relating to permit requirements) to begin operation after December 31, 1994, shall be conducted as follows:

(I) Entry points at which a VOC is detected during new source monitoring shall be monitored quarterly beginning the first quarter the entry points begin serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with clause (D)(I).

(II) Entry points at which no VOC is detected during new source monitoring shall begin initial quarterly monitoring during the first calendar quarter of the year after the entry point begins serving the public.

(D) Repeat monitoring for entry points shall be conducted as follows:

(I) For an entry point at which a VOC is detected during initial monitoring or where a VOC is detected anytime at a level in excess of its MCL, compliance monitoring shall be repeated quarterly for the VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in § 109.301(5)(i). After analyses of four consecutive quarterly samples at an entry point, including initial quarterly monitoring samples, demonstrate that the VOC levels in each quarterly sample are less than the MCLs, the required compliance monitoring is reduced to one sample per year at that entry point for all 21 VOCs, except for vinyl chloride as provided in § 109.301(5)(i).

(II) For a groundwater or surface water entry point at which VOCs are not detected during the initial and subsequent repeat monitoring, repeat monitoring shall be one sample per year from that entry point.

(iv) Conduct initial and repeat monitoring for compliance with the MCLs for SOCs—pesticides and PCBs—in accordance with § 109.301(6) for four consecutive quarters beginning during the quarter that begins January 1, 1995, except that:

(A) Systems that obtain finished water from another permitted public water system are exempt from conducting compliance monitoring for the SOCs if one of the following applies:

(I) The public water system supplying the finished water performs the required monitoring annually and a copy of the analytical results are received by the Department.

(II) The public water system supplying the water has been granted a waiver from conducting the initial or repeat compliance monitoring, or both, for one or more SOCs under § 109.301(6)(v). This exemption from conducting compliance monitoring applies only to SOCs indicated in the waiver.

(B) Systems which are granted an initial monitoring waiver in accordance with § 109.301(6)(v) are exempt from conducting compliance monitoring for the SOCs indicated in the waiver.

(C) Initial monitoring of new entry points associated with new sources which are permitted in accordance with § 109.1005 (relating to permit requirements) to begin operation after December 31, 1994, shall be conducted as follows:

(I) Entry points at which an SOC is detected during new source monitoring shall be monitored quarterly beginning the first quarter the entry points begin serving



the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with clause (D)(I).

(II) Entry points at which no SOC is detected during new source monitoring and which begin operation before April 1, 1995, shall conduct initial quarterly monitoring beginning during the quarter beginning January 1, 1995.

(III) Entry points at which no SOC is detected during new source monitoring and which begin operation after March 31, 1995, shall conduct initial quarterly monitoring beginning during the first calendar quarter of the year after the entry point begins serving the public.

(D) Repeat monitoring for entry points shall be conducted as follows:

(I) For entry points at which an SOC is detected during initial monitoring or where an SOC is detected anytime in excess of its MCL, compliance monitoring shall be repeated quarterly for the detected SOC for which the EPA has an established MCL under 40 CFR 141.61(c). After analyses of four consecutive quarterly samples at an entry point, including initial quarterly monitoring samples, demonstrate that the SOC level in each quarterly sample is less than the MCL, the required compliance monitoring is reduced for each SOC below the MCL to one sample per year at that entry point.

(II) For a groundwater or surface water entry point at which SOCs are not detected during the initial and any subsequent repeat monitoring, repeat monitoring shall be one sample per year from that entry point.

(v) Beginning in 1995, monitor for the primary IOCs, including lead and copper annually, except that:

(A) Systems are granted a waiver from asbestos monitoring unless the Department determines that the system's finished water is vulnerable to asbestos contamination by means of an asbestos cement pipe or the system's source water is vulnerable to asbestos contamination.

(B) Systems that obtain finished water from another permitted public water system are exempt from conducting compliance monitoring for the IOCs, except lead, copper and asbestos if the supplying system has not optimized corrosion control, if the public water system supplying the finished water performs the required monitoring annually and a copy of the analytical results is received by the Department.

(C) Monitoring for compliance with the MCLs for nitrate and nitrite shall be conducted quarterly following a monitoring result which is equal to or greater than 50% of the MCL. After four consecutive quarterly samples, indicate nitrate and nitrite in each sample are less than 50% of the MCLs, required monitoring is reduced to one sample per year.

(vi) Conduct operational monitoring for fluoride at least once each day, if the system fluoridates its water.

(vii) Monitor for compliance with radiological MCLs once every 4 years.

(viii) Beginning January 1, 2004, monitor annually for TTHMs and HAA5 if the system uses a chemical disinfectant or oxidant, or uses a source that has been treated with a chemical disinfectant or oxidant. Bottled water systems are not required to monitor for TTHMs and HAA5 if the system does not use a chlorine-based disinfectant or oxidant and does not use a source that has been treated with a chlorine-based disinfectant or oxidant.

(A) *Routine monitoring.* Systems shall take at least one sample per year per entry point during the month of warmest water temperature. If the sample, or average of all samples, exceeds either a TTHM or HAA5 MCL, the system shall take at least one sample per quarter per entry point. The system may reduce the sampling frequency back to one sample per year per entry point in accordance with the reduced monitoring criteria of clause (B).

(B) *Reduced monitoring.* Systems that have monitored for TTHMs and HAA5 for at least 1 year may reduce monitoring according to this clause. Systems that use either a surface water or GUDI source shall monitor source water TOC monthly for at least 1 year prior to qualifying for reduced monitoring. The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

(I) Systems that are on increased monitoring as prescribed by clause (A) and that use either a surface water or GUDI source and that have a source water annual TOC that is no greater than 4.0 mg/L and an annual TTHM average that is no greater than 0.040 mg/L and an annual HAA5 average that is no greater than 0.030 mg/L may reduce monitoring to one sample per year per entry point. The sample shall be taken during the month of warmest water temperature. Systems that qualify for reduced monitoring may remain on reduced monitoring provided that the annual TTHM average is no greater than 0.060 mg/L and the annual HAA5 average is no greater than 0.045 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the quarter in which the system exceeds 0.060 mg/L for TTHMs or 0.045 mg/L for HAA5.

(II) Systems that use groundwater sources may reduce monitoring to one sample per 3-year cycle per entry point if the annual TTHM average is no greater than 0.040 mg/L and the annual HAA5 average is no greater than 0.030 mg/L for 2-consecutive years or the annual TTHM average is no greater than 0.020 mg/L and the annual HAA5 average is no greater than 0.015 mg/L for 1 year. The sample shall be taken during the month of warmest water temperature within the 3-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring. Systems that qualify for reduced monitoring may remain on reduced monitoring provided that the annual TTHM average is no greater than 0.080 mg/L and the annual HAA5 average is no greater than 0.060 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the quarter in which the system exceeds 0.080 mg/L for TTHMs or 0.060 mg/L for HAA5.

(ix) Beginning January 1, 2004, monitor daily for chlorite if the system uses chlorine dioxide for disinfection or oxidation, or uses a source that has been treated with chlorine dioxide. Systems shall take at least one daily sample at the entry point. If a daily sample exceeds the chlorite MCL, the system shall take 3 additional samples within 24 hours from the same lot, batch, machine, carrier vehicle or point of delivery. The chlorite MCL is based on the average of the required daily sample plus any additional samples.

(x) Beginning January 1, 2004, monitor monthly for bromate if the system uses ozone for disinfection or oxidation, or uses a source that has been treated with ozone.

(A) *Routine monitoring.* Systems shall take one sample per month for each entry point that uses ozone while the ozonation system is operating under normal conditions.

(B) *Reduced monitoring.* Systems may reduce monitoring for bromate from monthly to quarterly if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for 1 year. Systems on reduced monitoring shall continue monthly source water bromide monitoring. If the running annual average source water bromide concentration, computed quarterly, is equal to or exceeds 0.05 mg/L, the system shall revert to routine monitoring as prescribed by clause (A).

(2) Vended water systems shall monitor in accordance with paragraph (1) except that vended water systems qualifying for permit by rule under § 109.1005(b), for each entry point shall:

- (i) Monitor monthly for microbiological contaminants.
- (ii) Monitor annually for total dissolved solids, lead and cadmium.
- (iii) Conduct special monitoring as required by the Department.
- (b) *Sampling requirements.*

(1) For bottled water and vended water systems, retail water facilities and bulk water hauling systems, samples taken to determine compliance with MCLs, MRDLs, monitoring requirements, including special monitoring requirements for unregulated contaminants, and treatment techniques shall be taken from each entry point.

(i) For bottled water systems, each entry point means each finished bottled water product. If multiple sources are used for a product and are not blended prior to bottling, the bottled water product for each source shall be considered a different product for monitoring purposes.

(ii) For bulk water hauling systems, retail water facilities and vended water systems, each entry point shall mean a point of delivery to the consumer from each carrier vehicle, machine or dispenser representative of each source.

(2) For the purpose of determining compliance with the monitoring and analytical requirements established under this subchapter, the Department will consider only those samples analyzed by a laboratory certified by the Department, except that measurements of turbidity, fluoridation operation, residual disinfection concentration, temperature and pH may be performed by a person meeting the requirements of § 109.1008(c) (relating to systems management responsibilities).

(3) Public water suppliers shall assure that samples for laboratory analysis are properly collected and preserved, are collected in proper containers, do not exceed maximum holding times between collection and analysis and are handled in accordance with guidelines governing quality control which may be established by the Department. A public water supplier who utilizes a certified laboratory for sample collection as well as analysis satisfies the requirements of this subsection.

(4) Compliance monitoring samples for VOCs, as required under subsection (a)(1)(iii), shall be collected by a person properly trained by a laboratory certified by the Department to conduct VOC or vinyl chloride analysis.

(5) Compliance monitoring samples required under subsection (a)(1)(iii) may be composited in accordance

with 40 CFR 141.24(g)(7) (relating to organic chemicals other than total trihalomethanes, sampling and analytical requirements) except:

(i) Samples from groundwater entry points may not be composited with samples from surface water entry points.

(ii) Samples from one type of bottled water product or vended water product may not be composited with samples from another type of bottled water product or vended water product.

(iii) Samples used in compositing shall be collected in duplicate.

(iv) If a VOC listed under 40 CFR 141.61(a) is detected at an entry point, samples from that entry point may not be composited for subsequent compliance or repeat monitoring requirements.

(v) Samples obtained from an entry point which contains water treated by a community water supplier or nontransient noncommunity water supplier to specifically meet an MCL for a VOC listed under 40 CFR 141.61(a) may not be composited with other entry point samples.

(c) *Repeat monitoring for microbiological contaminants.*

(1) If a sample collected in accordance with subsection (a)(1)(i) is found to be total coliform-positive:

(i) The bottled water system shall collect a set of three additional samples (check) from the same lot or batch of the type of product.

(ii) The vended water, retail water facility or bulk water hauling systems shall collect a set of four additional samples (check) from the same entry point (machine, point of delivery or carrier vehicle).

(2) Samples shall be collected for analysis within 24 hours of being notified of the total coliform-positive sample. The Department may extend this 24-hour collection limit to a maximum of 72 hours if the system adequately demonstrates a logistical problem outside the system's control in having the check samples analyzed within 30 hours of collection. A logistical problem outside the system's control may include a coliform-positive result received over a holiday or weekend in which the services of a Department certified laboratory are not available within the prescribed sample holding time.

(3) If a check sample is total coliform-positive, the system shall be deemed to have violated the MCL for total coliforms established under § 109.1002 (relating to MCLs, MRDLs or treatment techniques).

#### § 109.1004. Public notification.

(a) *General public notification requirements.* A bottled water or retail water supplier shall give public notification in accordance with this section. A bulk water or vended water supplier shall give public notification in accordance with Subchapter D (relating to public notification requirements). For the purpose of establishing a bulk water or vended water supplier's responsibilities under Subchapter D, a bulk water supplier shall comply with the public notification requirements specified for a community water system and a vended water supplier shall comply with the public notification requirements specified for a noncommunity water system.

(1) A bottled water or retail water supplier who knows that a primary MCL or an MRDL has been exceeded or treatment technique performance standard has been violated or has reason to believe that circumstances exist which may adversely affect the quality of drinking water, including, but not limited to, source contamination, spills,

accidents, natural disasters or breakdowns in treatment, shall report the circumstances to the Department within 1 hour of discovery of the problem.

(2) If the Department determines, based upon information provided by the bottled water or retail water supplier or other information available to the Department, that the circumstances present an imminent hazard to the public health, the water supplier shall issue a water supply warning approved by the Department and, if applicable, initiate a program for product recall approved by the Department under this subsection. The water supplier shall be responsible for disseminating the notice in a manner designed to inform users who may be affected by the problem.

(i) Within 4 hours of the Department's determination that an imminent hazard is present, the water supplier shall provide the notice to newspapers, radio and television media serving the affected public, or directly notify affected users in a manner approved by the Department. The water supplier shall also notify key public officials as designated in the system's emergency response plan.

(ii) If the notice provided under subparagraph (i) does not ensure that the affected public is adequately notified, the Department may require the water supplier to further disseminate the notice in an appropriate manner which may include direct mailings, publication in newspapers or other paid advertising, or postings.

(iii) A water supply warning shall be followed by further notices designed to inform the public on a continuing basis as to the expected duration of the hazard, progress towards solving the problem, and measures that should be taken by users to reduce their risk. These notices shall be given at intervals and in a manner directed by the Department as long as the threat to public health continues.

(iv) The water supply warning shall continue until the Department is satisfied that no significant threat to the public health remains and approves a notice canceling the warning. The water supplier is responsible for disseminating the cancellation of the water supply warning in a manner similar to the issuance of the warning.

(b) *Description and content of notice.* Notice given under this section shall be written in a manner reasonably designed to fully inform the users of the system. When appropriate or as designated by the Department, additional notice in a foreign language shall be given.

(1) The notice shall be conspicuous and may not use technical language, small print or other methods which would frustrate the purpose of the notice.

(2) The notice shall disclose material facts regarding the subject, including the nature of the problem and, when appropriate, a clear statement that an MCL or MRDL has been violated and preventive measures that should be taken by the public.

(3) Notices shall include a balanced explanation of the significance or seriousness to the public health of the subject of the notice including potential adverse health effects, the population at risk, a clear explanation of steps taken by the supplier to correct the problem, necessity for seeking alternative supplies, guidance on safeguards and alternatives available to users, and the results of additional sampling. In addition, bottled water system and retail water facility notices shall describe a program for product recall, if applicable.

(4) The notice shall include the telephone number of the owner, operator or designee of the public water system as a source of additional information concerning the notice.

(5) In all notices, when providing the information on potential adverse health effects required by subsection (b)(3), the water supplier shall include language established by the EPA for the contaminant specified in 40 CFR Part 141, Subpart Q, Appendix B (relating to mandatory health effects language) and incorporated by reference, or language established by the Department by regulations or order. The health effects language for fluoride is not incorporated by reference. A public water system shall include the health effects language specified in § 109.411(d)(1) (relating to content of a public notice) in each public notice required for violation of the primary MCL of 2 mg/L for fluoride.

(c) *Notice by the Department.* If a water supplier fails to give notice to the public as required by this section, the Department may perform this notification on behalf of the supplier of water and may assess costs of notification on the responsible water supplier. Issuance of public notice by the Department under the section does not divest a public water supplier of legal responsibility for issuance of public notification otherwise required by the subchapter.

(d) *CCR requirements.* A bulk water supplier that is determined by the Department to serve at least 25 of the same persons year-round shall prepare and deliver a CCR to each bill-paying customer in accordance with § 109.416 (relating to CCR requirements).

**Subchapter K. LEAD AND COPPER**

**§ 109.1102. Action levels and treatment technique requirements.**

(a) *Action levels for lead and copper:*

- (1) The lead action level is 0.015 mg/L.
- (2) The copper action level is 1.3 mg/L.

(3) An action level is exceeded when the concentration of a contaminant in more than 10% of tap water samples collected during a monitoring period conducted in accordance with § 109.1103 (relating to monitoring requirements) is greater than the action level.

(b) *Treatment technique requirement for corrosion control.*

(1) *Optimal corrosion control treatment.* A community water system or nontransient noncommunity water system shall provide optimal corrosion control treatment which minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the system to violate a primary MCL. Water systems deemed to have optimized corrosion control treatment under this subsection shall operate in compliance with Department designated water quality parameters and continue to conduct lead and copper tap monitoring. A system may achieve optimal corrosion control treatment in one of the following ways:

(i) A small or medium water system is deemed to have optimized corrosion control if the system does not exceed either the lead or copper action level during each of two consecutive 6-month monitoring periods conducted in accordance with § 109.1103. If the system thereafter exceeds an action level during a monitoring period, the system shall complete applicable compliance activities under paragraph (2). The Department may require a system to repeat compliance activities previously com-

pleted when the Department determines that this is necessary for the system to achieve optimal corrosion control treatment.

(ii) A water system is deemed to have optimized corrosion control if the system demonstrates to the Department that for two consecutive 6-month monitoring periods conducted in accordance with § 109.1103 that the system does not exceed a lead or copper action level and the difference between the 90th percentile tap water lead level and the highest source water lead concentration is less than 0.005 mg/L, which is the Practical Quantitation Level for lead. To make this demonstration, the system shall collect one sample for lead from each entry point during a monitoring period prior to initiation of construction or modification of corrosion control treatment facilities. If the system thereafter exceeds an action level during a monitoring period, the system shall complete applicable compliance activities under paragraph (2). The Department may require a system to repeat compliance activities previously completed when the Department determines that this is necessary for the system to achieve optimal corrosion control treatment.

(iii) A system is deemed to have optimized corrosion control if the system installs new corrosion control treatment facilities or modifies existing treatment in accordance with paragraph (2) and operates in compliance with water quality parameter performance requirements specified by the Department in a permit issued under § 109.1105(c) (relating to permit requirements).

(iv) Any water system deemed to have optimized corrosion control in accordance with this subsection shall continue monitoring for lead and copper at the tap no less frequently than once every 3-calendar years using the reduced number of sites specified in § 109.1103(e), and collecting the samples at times and locations specified in § 109.1103(e)(iv).

(2) *Corrosion control treatment compliance schedule.* A system shall comply with the following schedule unless the system achieves optimal corrosion control treatment under paragraph (1)(i) or (ii) prior to initiation of construction or modification of corrosion control treatment facilities.

(i) An existing large water system shall:

(A) Submit a corrosion control treatment feasibility study that complies with paragraph (3) by June 30, 1994.

(B) Submit a permit application for construction or modification of corrosion control treatment facilities by March 31, 1995.

(C) Initiate construction or modification of corrosion control treatment facilities by December 31, 1995.

(D) Complete construction or modification of corrosion control treatment facilities and begin operation of these facilities by January 1, 1997.

(E) Submit a request for a Department designation of optimal corrosion control treatment performance requirements by January 31, 1998.

(ii) A large water system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under § 109.1102(b)(1) (relating to action levels and treatment technique requirements), or any medium or small water system that exceeds an action level shall:

(A) Submit a corrosion control treatment feasibility study that complies with paragraph (3) within 18 months of exceeding the action level.

(B) Submit a permit application or otherwise comply with the permit application requirements under § 109.1105(b) for construction or modification of corrosion control treatment facilities within 30 months of exceeding the action level.

(C) Initiate construction or modification of corrosion control treatment facilities within 48 months of exceeding the action level.

(D) Complete construction or modification of corrosion control treatment facilities and begin operation of these facilities within 60 months of exceeding the action level.

(E) Submit a request for Department designation of optimal corrosion control treatment performance requirements within 30 days of the end of the second follow-up monitoring period required under § 109.1103(c)(1)(ii) following completion of construction or modification of corrosion control treatment facilities.

(3) *Corrosion control treatment feasibility study.* The system shall prepare and submit a corrosion control treatment feasibility study to the Department by the applicable deadline established in paragraph (2). The purpose of this study is to identify corrosion control priorities, evaluate viable corrosion control approaches and select the optimal corrosion control treatment. As a minimum, the system shall include the information required in a basic study described in subparagraph (i). The Department may require a water supplier to conduct demonstration testing if the Department determines that a basic study is insufficient to determine optimal corrosion control treatment. Demonstration testing may also be required when a system continues to exceed an action level after corrosion control treatment has been installed.

(i) The basic study shall include the following information:

(A) A sample site location plan prepared in accordance with § 109.1103(g).

(B) A summary of lead and copper and water quality parameter monitoring results performed in accordance with § 109.1103. These results shall be evaluated considering the location of sample sites within the distribution system and used as the basis for considering corrosion control treatment options.

(C) An evaluation of source water contributions and the need for source water treatment.

(D) A desktop evaluation of alkalinity and pH adjustment, calcium hardness adjustment and corrosion inhibitor addition or a combination of these treatments. The evaluation shall include analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration. If source water treatment is needed to achieve optimal corrosion control, the water supplier shall evaluate the source water treatments specified in paragraph (4).

(E) An identification of chemical, physical or regulatory constraints on the use of a particular corrosion control treatment, such as its adverse effects on other treatment processes or the ability of wastewater facilities to comply with applicable statutes or regulations.

(F) A recommendation of optimal corrosion control treatment, including source water treatment, if applicable, for the system based on the supporting documentation specified in clauses (A)—(E). When a system has multiple sources, it may be necessary for the system to provide different corrosion control treatment for different sources.

(G) Recommended water quality parameter performance requirements for the selected corrosion control treatment.

(H) A proposed schedule for completion of the remaining corrosion control treatment compliance steps in accordance with paragraph (2), including, but not limited to, treatment design and permit application submittal, financing and construction, and initiation of operation.

(ii) A demonstration study shall include the evaluation of corrosion control treatments using pipe rig/loop tests, metal coupon tests or partial system tests.

(4) *Source water treatment.* A system that must reduce the concentration of lead or copper in its source water to achieve optimal corrosion control shall provide source water treatment.

(i) A system which exceeds either the lead or copper action level shall conduct initial source water monitoring in accordance with § 109.1103(a)(3). The water supplier shall use the results of this monitoring along with the results of lead and copper tap and water quality parameter monitoring to determine corrosion control treatment priorities including the need for source water treatment as part of the corrosion control feasibility study required under paragraph (3).

(ii) If source water treatment needs to be evaluated, the water supplier shall evaluate treatments including ion exchange, reverse osmosis, lime softening and coagulation/filtration. The water supplier shall recommend a source water treatment along with the recommendation for optimal corrosion control treatment. The water supplier shall include recommended source water treatment performance requirements for the selected treatment.

(iii) If, after review of the feasibility study, the Department determines that source water treatment is necessary as part of a system's overall approach to achieving optimal corrosion control, the water supplier shall provide source water treatment under the compliance schedule established in paragraph (2) for corrosion control treatment. The Department may require the water supplier to provide source water treatment for lead on an earlier schedule if the Department determines that lead in the source water presents an imminent hazard to the public health.

(iv) Following the installation of source water treatment, the water supplier shall conduct source water monitoring in accordance with § 109.1103(c)(3). Based on the results of this monitoring and lead and copper tap and water quality parameter monitoring, the Department will establish source water treatment performance requirements when water quality parameter performance requirements are established for the system under paragraph (5).

(5) *Water quality parameter performance requirements.* The Department will designate optimal corrosion control treatment water quality parameter performance requirements for large water systems by June 30, 1998, and for medium or small water systems within 18 months after the system completes construction or modification of corrosion control treatment, if the water supplier submits a request for Department designation of performance requirements within the time frames established in paragraph (2) and the request contains the information specified in § 109.1107(a)(3)(v) (relating to system management responsibilities). The performance requirements will be specified in the amended operation permit issued in accordance with § 109.1105(c). A system shall maintain

the designated water quality parameter performance requirements at or above minimum values or within specified ranges designated by the Department. The Department may designate values for additional water quality parameters if the Department determines these requirements are necessary to assure optimal corrosion control treatment. Depending on the type of corrosion control treatment, the performance requirements will be designated as follows:

(i) A minimum value or range of values for pH measured at each entry point to the distribution system.

(ii) A minimum pH value measured in distribution system samples.

(iii) If a corrosion inhibitor is used, a minimum concentration or range for the inhibitor necessary to form a passivating film on the interior walls of the distribution system pipes. The inhibitor concentration is measured at each entry point and in all distribution system samples.

(iv) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or range of concentrations for alkalinity measured at each entry point and in distribution system samples.

(v) If calcium carbonate stabilization is used as part of optimal corrosion control treatment, a minimum concentration or range of concentrations for calcium measured in distribution system samples.

**§ 109.1103. Monitoring requirements.**

(a) *Initial monitoring.*

(1) *Initial lead and copper tap monitoring.* The initial lead and copper tap monitoring for community and nontransient noncommunity water systems consists of two consecutive 6-month periods. Monitoring periods begin in January and July and end in June and December.

(i) In accordance with 40 CFR 141.86(d)(1) (relating to monitoring requirements for lead and copper in tap water), the first 6-month monitoring period for large, medium and small water systems shall begin on the following dates:

<i>1st monitoring</i>	<i>System size period begins on</i>
Large . . .	January 1, 1992
Medium . . .	July 1, 1992
Small . . .	July 1, 1993

(ii) The first 6-month monitoring period for a new water system created after June 26, 1995, shall begin with the next 6-month monitoring period following the issuance of an operations permit or following the system's provision of water to a sufficient number of sampling sites for the water supplier to comply with sample site requirements under subsection (g), whichever period is later.

(iii) A large water system shall monitor during two consecutive 6-month periods and shall comply with the corrosion control treatment compliance schedule under § 109.1102(b)(2) (relating to action levels and treatment technique requirements) or achieve optimal corrosion control treatment under § 109.1102(b)(1)(ii).

(iv) A small or medium water system shall monitor during each 6-month monitoring period until one of the following occurs:

(A) The system exceeds either the lead or copper action level and is therefore required to comply with the corrosion control treatment compliance schedule under § 109.1102(b)(2).

(B) The system meets both the lead and copper action levels during two consecutive 6-month monitoring periods, in which case the system qualifies for reduced monitoring in accordance with subsection (e)(1).

(v) A system shall collect at least one sample during each monitoring period from the number of sample sites listed in the following chart. The sample sites shall be selected in accordance with subsection (g).

<i>System size (# of people served)</i>	<i># of Sample Sites</i>
> 100,000 . . .	100
10,001 to 100,000 . . .	60
3,301 to 10,000 . . .	40
501 to 3,300 . . .	20
101 to 500 . . .	10
100 or fewer . . .	5

(2) *Initial water quality parameter monitoring.* A system shall measure the applicable water quality parameters in the distribution system and at each entry point. A large water system shall conduct initial water quality parameter monitoring during each initial monitoring period specified in paragraph (1). A small or medium water system shall conduct initial water quality parameter monitoring during the first monitoring period in which the system exceeds the lead or copper action level.

(i) The following water quality parameters shall be measured as applicable:

- (A) pH.
- (B) Alkalinity.
- (C) Orthophosphate, when an inhibitor containing a phosphate compound is used.
- (D) Silica, when an inhibitor containing a silicate compound is used.
- (E) Calcium.
- (F) Conductivity.
- (G) Water temperature.

(ii) A system shall collect two sets of water quality parameter distribution samples from the following number of sample sites. The sets of samples shall be collected from the same sample sites on different days and analyzed for the applicable water quality parameters.

<i>System size (# of people served)</i>	<i># of Sample Sites</i>
> 100,000 . . .	25
10,001 to 100,000 . . .	10
3,301 to 10,000 . . .	3
501 to 3,300 . . .	2
500 or fewer . . .	1

(iii) A system shall also collect two sets of water quality parameter samples at each entry point. The sets of samples shall be collected on different days and analyzed for the applicable water quality parameters.

(3) *Initial source water monitoring.* A system which exceeds either the lead or copper action level shall collect one source water sample from each entry point within 6 months after the exceedance. Monitoring is required only for the parameter for which the action level was exceeded.

(b) *Special lead and copper tap monitoring.*

(1) After completing initial monitoring and prior to initiation of construction or modification of corrosion

control treatment facilities, a system may collect special lead and copper tap samples at its option.

(2) Special lead and copper tap monitoring shall be conducted in accordance with subsection (a), including compliance with the requirements resulting from an action level exceedance.

(3) If a medium or small water system meets the lead and copper action levels during two consecutive 6-month special monitoring periods, the system is deemed to have optimized corrosion control and may discontinue the compliance activities under § 109.1102(b)(2) and proceed directly to reduced monitoring in accordance with subsection (e).

(4) If a medium or small water system exceeds an action level during a monitoring period after discontinuing compliance activities under paragraph (3), the system shall recommence completion of the applicable compliance activities under § 109.1102(b)(2). The Department may require a system to repeat compliance activities previously completed or undertake additional activities when the Department determines that the action is necessary to properly comply with corrosion control treatment requirements.

(5) If a system meets the lead action level during a special monitoring period, the system may discontinue public education in accordance with § 109.1104(a)(3) (relating to public education and notification).

(c) *Follow-up monitoring after construction or modification of corrosion control treatment facilities.* A system which completes construction or modification of corrosion control treatment facilities in accordance with § 109.1102(b)(2) shall conduct the applicable monitoring specified in this subsection. A system which exceeds the lead action level after construction or modification of corrosion control treatment facilities shall begin lead service line replacement in accordance with § 109.1107(d) (relating to system management responsibilities).

(1) *Lead and copper tap monitoring.* A system shall monitor for lead and copper at the tap during each specified monitoring period at the number of sample sites specified in subsection (a)(1)(v).

(i) A large water system shall monitor during each of two consecutive 6-month monitoring periods beginning no later than January 1, 1997. Following completion of this monitoring, but no later than January 31, 1998, the water supplier shall submit a request for the Department to designate optimal corrosion control treatment performance requirements for the system. Upon approval of the request, the Department will designate water quality parameter performance requirements in accordance with § 109.1102(b)(5) or source water treatment performance requirements in accordance with § 109.1102(b)(4), or both. The water supplier may request, and the Department may designate, performance requirements before the system completes the monitoring for both monitoring periods if the system has never exceeded an action level and the system demonstrates in its request that optimal corrosion control treatment has been achieved. After the Department has designated performance requirements, the system shall monitor in accordance with subsection (d)(1).

(ii) A small or medium water system shall monitor during each of two consecutive 6-month monitoring periods beginning no later than 60 months from the date an action level was exceeded. The water supplier shall submit within 30 days of the end of the second monitoring period a request for the Department to designate

optimal corrosion control treatment performance requirements for the system. Upon approval of the request, the Department will designate water quality parameter performance requirements in accordance with § 109.1102(b)(5) or source water treatment performance requirements in accordance with § 109.1102(b)(4). A small or medium water system that does not exceed the lead and copper action levels during each of two consecutive 6-month monitoring periods may reduce the number of sample sites and reduce the frequency of sampling to once per year in accordance with subsection (e)(1)(i). Systems not eligible for reduced monitoring under subsection (e)(1) shall monitor in accordance with subsection (d)(1).

(2) *Water quality parameter monitoring.* A system shall monitor for the applicable water quality parameters specified in subparagraph (iii) in the distribution system during each specified monitoring period at the number of sites specified in subsection (a)(2)(ii) and at each entry point at least once every 2 weeks.

(i) A large water system shall measure the water quality parameters during each of the two consecutive 6-month monitoring periods in which the system conducts lead and copper tap monitoring under paragraph (1)(i).

(ii) A small or medium water system which is conducting lead and copper tap monitoring in accordance with paragraph (1)(ii) shall measure the water quality parameters during each 6-month monitoring period in which the system exceeds either the lead or copper action level. Distribution system monitoring shall be conducted once during the monitoring period and biweekly entry point monitoring shall continue as long as the system exceeds the action level.

(iii) The water quality parameters shall be measured as follows:

(A) At sites within the distribution system, two sets of samples taken on different days from the same sample sites for:

(I) pH.

(II) Alkalinity.

(III) Orthophosphate, when an inhibitor containing a phosphate compound is used.

(IV) Silica, when an inhibitor containing a silicate compound is used.

(V) Calcium, when calcium carbonate stabilization is used as part of corrosion control.

(B) At each entry point, one set of samples every 2 weeks for:

(I) pH.

(II) When alkalinity is adjusted as part of corrosion control treatment, a reading of the dosage rate of the chemical used to adjust the alkalinity, and the alkalinity concentration.

(III) When a corrosion inhibitor is used as part of corrosion control treatment, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica, whichever is applicable.

(3) *Source water monitoring.* A system which installs source water treatment under § 109.1102(b)(4) shall monitor the source water at source water treatment entry points for the parameters for which the source water treatment was installed. The system shall monitor source water during the two consecutive 6-month monitoring periods specified in paragraph (1). Other systems which

exceed either the lead or copper action level while conducting lead and copper tap monitoring in accordance with paragraph (1) shall collect one source water sample from each entry point within 6 months after the exceedance for the parameters exceeding the action level.

(d) *Monitoring after performance requirements are established.* A system shall conduct the applicable monitoring under this subsection beginning no later than the next 6-month monitoring period following the Department's designation of optimal corrosion control treatment water quality parameter performance requirements under § 109.1102(b)(5) or source water performance requirements under § 109.1102(b)(4).

(1) *Lead and copper tap monitoring.* A system shall monitor for lead and copper at the tap during each monitoring period at the number of sample sites specified in subsection (a)(1)(v) until the system qualifies for reduced monitoring under subsection (e)(1).

(2) *Water quality parameter performance monitoring.* A system shall measure the applicable water quality parameters specified in subsection (c)(2)(iii) in the distribution system during each monitoring period at the number of sites specified in subsection (a)(2)(ii) and at each entry point at least once every 2 weeks. The results of this monitoring will be used by the Department in determining compliance with the water quality parameter performance requirements established under § 109.1102(b)(5). A system that is not in compliance with the water quality parameter performance requirements established under § 109.1102(b)(5) shall provide public notification in accordance with § 109.1104(b)(2).

(i) A large water system shall conduct the monitoring during each monitoring period until the system qualifies for reduced monitoring under subsection (e)(2).

(ii) A small or medium water system which is conducting lead and copper tap monitoring in accordance with paragraph (1), shall measure the water quality parameters during each 6-month monitoring period in which the system exceeds either the lead or copper action level. Distribution system monitoring shall be conducted at least once during the monitoring period and biweekly entry point monitoring shall continue as long as the system exceeds the action level.

(iii) A system is out of compliance with the requirements of § 109.1102(b)(5) for a 6-month period if it has excursions for any Department specified water quality parameter on more than any 9 days during the 6-month monitoring period. An excursion occurs whenever the daily value for one or more of the water quality parameters is below the minimum value or outside the range of values designated by the Department. The Department has the discretion to delete results of sampling errors from this calculation. Daily values are calculated as follows:

(A) On days when more than one sample for the water quality parameter is collected at a sampling location, the daily value shall be the average of all results collected during the day including continuous monitoring or grab samples, or both.

(B) On days when only one sample for the water quality parameter is collected at a sampling location, the daily value shall be the result of that sample.

(C) On days when no sample is collected for the water quality parameter at a sampling location, the daily value shall be the most recent calculated daily value for which a water quality parameter was sampled at a sample location.

(3) *Source water monitoring.* A system which is conducting lead and copper tap monitoring in accordance with paragraph (1) shall monitor for the parameters exceeding the action level at each entry point within 6 months of the action level exceedance. For systems which have installed source water treatment, the results of this monitoring will be used by the Department in determining compliance with source water treatment performance requirements established under § 109.1102(b)(4). The Department may require additional source water monitoring if the Department determines that the additional monitoring is necessary to assure compliance with the source water treatment performance requirements. A system that is not in compliance with the source water treatment performance requirements established under § 109.1102(b)(4) shall provide public notification in accordance with § 109.1104(b)(2).

(e) *Reduced monitoring.*

(1) *Reduced lead and copper tap monitoring.* A community water system conducting reduced lead and copper tap monitoring shall collect one sample from the number of sample sites listed in the following column. A nontransient noncommunity water system may reduce the number of sample sites to five, regardless of population served.

<i>System size (# of people served)</i>	<i># of Sample Sites (reduced monitoring)</i>
> 100,000 . . .	50
10,001 to 100,000 . . .	30
3,301 to 10,000 . . .	20
501 to 3,300 . . .	10
500 or fewer . . .	5

(i) *Annual lead and copper tap monitoring.*

(A) A small or medium water system that does not exceed the lead and copper action levels during each of two consecutive 6-month monitoring periods or a system which has optimized corrosion control treatment under § 109.1102(b)(1)(ii) may reduce the number of sample sites and reduce the frequency of sampling to once per year.

(B) A system that maintains the range of values for the optimal corrosion control treatment water quality parameter performance requirements specified by the Department under § 109.1102(b)(5) during each of two consecutive 6-month monitoring periods in accordance with subsection (d)(2) may request that the Department allow the system to reduce the frequency of monitoring to once per year and reduce the number of lead and copper sample sites.

(ii) *Triennial lead and copper tap monitoring.*

(A) A small or medium water system that does not exceed the lead and copper action levels during 3 consecutive years of monitoring, including initial monitoring, may reduce the frequency of monitoring for lead and copper to once every 3 years.

(B) A system that maintains the range of values for optimal corrosion control treatment water quality parameter performance requirements specified by the Department under § 109.1102(b)(5) during 3 consecutive years of monitoring may request that the Department allow the system to reduce the frequency of lead and copper tap monitoring from annually to once every 3 years.

(C) Triennial monitoring shall be conducted during the last year of each 3-year compliance period—for example 1998, 2001, 2004 and so forth.

(D) A system that demonstrates for two consecutive 6-month monitoring periods that the tap water lead level as determined under § 109.1102(a)(3) is less than or equal to 0.005 mg/L and the tap water copper level as determined under § 109.1102(a)(3) is less than 0.65 mg/L may reduce the number of samples in accordance with § 109.1103(e)(1) and reduce the frequency of sampling to once every 3 years.

(iii) *Request for reduced monitoring.* A system requesting reduced lead and copper tap monitoring under subparagraph (i)(B) or (ii)(B) shall submit that request on forms acceptable to the Department. The request shall include a summary of lead and copper tap and water quality parameter monitoring results and the results shall demonstrate that the system qualifies for reduced monitoring. The Department will review the information submitted and notify the water supplier of its decision and the basis for that decision.

(iv) *Sample sites and timing.* A system that reduces the number of sample sites and frequency of sampling shall collect samples from sample sites included in the pool of targeted sampling sites identified in subsection (g)(2). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling between June 1 and September 30. The Department may approve a different period for conducting lead and copper tap monitoring sampling for systems collecting a reduced number of samples. The period may be no longer than 4 consecutive months and shall represent a time of normal operation when the highest levels of lead are most likely to occur.

(v) *Reduced lead and copper tap monitoring revocation.*

(A) A large water system authorized to conduct reduced lead and copper tap monitoring that fails to operate within the range of performance requirements for the water quality parameters specified by the Department under § 109.1102(b)(5) on more than any 9 days in a 6-month period shall resume lead and copper tap sampling in accordance with subsection (d)(1).

(B) A small or medium water system authorized to conduct reduced lead and copper tap monitoring that exceeds either the lead or copper action level shall comply with the following:

(I) The water supplier shall conduct water quality parameter monitoring during the monitoring period in which the action level is exceeded.

(-a-) If the system has installed corrosion control treatment in compliance with § 109.1102(b)(2), water quality parameter monitoring shall be conducted in accordance with subsection (c)(2). If the results of this monitoring indicate that the system failed to operate within the range of performance requirements for the water quality parameters specified by the Department under § 109.1102(b)(5) on more than any 9 days in a 6-month period, the water supplier shall resume lead and copper tap sampling in accordance with subsection (d)(1).

(-b-) If the system has not installed corrosion control treatment, water quality parameter monitoring shall be conducted in accordance with subsection (a)(2) and the system shall conduct corrosion control treatment activities in accordance with § 109.1102(b)(1)(i).

(II) The water supplier shall conduct source water monitoring in accordance with subsection (a)(3).

(III) If the lead action level is exceeded, the water supplier shall conduct a public education program in accordance with § 109.1104(a).



(2) *Reduced water quality parameter monitoring for large water systems.* A large water system conducting reduced water quality parameter monitoring shall collect two sets of distribution samples from the following reduced number of sample sites. The sets of samples shall be collected from the same sample sites on different days and analyzed for the applicable water quality parameters.

<i>System size (# of people served)</i>	<i># of Sample sites</i>
> 100,000 . . .	10
50,001 to 100,000 . . .	7

(i) *Reduced sites.* A large water system that maintains the range of values for water quality parameter performance requirements reflecting optimal corrosion control treatment specified by the Department under § 109.1102(b)(5) during each of two consecutive 6-month monitoring periods conducted in accordance with subsection (d)(2) may collect distribution samples from the reduced number of sites during subsequent 6-month monitoring periods until the system qualifies for reduced frequency under subparagraph (ii). The system shall continue monitoring at each entry point as specified in subsection (c)(2)(iii)(B).

(ii) *Reduced water quality parameter monitoring.*

(A) A large water system that maintains the range of values for water quality parameter performance requirements reflecting optimal corrosion control treatment specified by the Department under § 109.1102(b)(5) during 3 consecutive years of monitoring at the reduced number of sites under subparagraph (i) may reduce the frequency with which it collects sets of water quality parameter distribution samples from every 6 months to annually. A system conducting annual sampling shall collect these sets of samples evenly throughout the year to reflect seasonal variability. The system shall continue monitoring at each entry point as specified in subsection (c)(2)(iii)(B).

(B) A large water system may reduce the frequency with which it collects tap water samples for applicable water quality parameters specified in § 109.1102(b)(5) to every 3 years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead of 0.005 mg/L, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under § 109.1102(b)(5).

(iii) *Reduced water quality parameter monitoring revocation.* A large water system subject to reduced water quality parameter monitoring that fails to operate within the range of performance requirements for the water quality parameters specified by the Department under § 109.1102(b)(5) on more than any 9 days in any 6-month period shall resume water quality parameter distribution sampling in accordance with the number and frequency requirements specified in subsection (d)(2).

(iv) A large system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified in subsection (e)(2) after it has completed two subsequent consecutive 6-month rounds of monitoring that meet the criteria of subsection (e)(2)(i).

(v) A large system may resume triennial monitoring for water quality parameters at the tap at the reduced number of sites specified in subsection (e)(2) after it

demonstrates through subsequent rounds of monitoring that it meets the criteria of subsection (e)(2)(ii).

(f) *Additional monitoring by systems.* The results of monitoring conducted at specified sites during specified monitoring periods in addition to the minimum requirements of this section shall be considered by the system and the Department in making determinations—such as calculating the 90th percentile lead or copper action level or determining concentrations of water quality parameters—under this subchapter.

(g) *Sample site location plan.* The water supplier shall complete a sample site location plan which includes a materials evaluation of the distribution system, lead and copper tap sample site locations, water quality parameter sample site locations, and certification that proper sampling procedures are used. The water supplier shall complete the steps in paragraphs (1)—(3) by the applicable date for commencement of lead and copper tap monitoring under subsection (a)(1) and the step in paragraph (4) following completion of the monitoring. The water supplier shall keep the sample site location plan on record in accordance with § 109.1107(a)(1). If the system is required to prepare a corrosion control treatment feasibility study in accordance with § 109.1102(b)(3)(i), the system shall include the sample site location plan as part of the study.

(1) *Materials evaluation.* A system shall review the following sources of information in order to identify a sufficient number of lead and copper tap sampling sites.

(i) Plumbing codes, permits and records in the files of the building departments of each municipality served by the system which indicate the plumbing materials that are installed within structures connected to the distribution system.

(ii) Inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system.

(iii) Existing water quality information, which includes the results of prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(2) *Lead and copper tap sample site selection.* Lead and copper tap sampling sites are classified as tier 1, tier 2 or tier 3. Tier 1 sites are the highest priority sample sites.

(i) *Site selection for community water systems.* The water supplier shall select all tier 1 sample site locations, if possible. A community water system with an insufficient number of tier 1 sampling sites shall complete its sampling pool with tier 2 sites. Tier 3 sites shall be used to complete the sampling pool if the number of tier 1 and tier 2 sites is insufficient. If the system has an insufficient number of tier 1, tier 2 and tier 3 sites, the water supplier shall sample from other representative sites throughout the distribution system in which the plumbing materials used at the site would be commonly found at other sites served by the system.

(A) Tier 1 sampling sites shall consist of single family structures that have one or more of the following:

- (I) Copper pipes with lead solder installed after 1982.
- (II) Lead pipes.
- (III) Lead service line.

(B) When multiple-family residences comprise at least 20% of the structures served by a water system, the

system may consider a representative number of these types of structures as tier 1 sites in its sampling pool, if they meet the other criteria in clause (A).

(C) Tier 2 sampling sites shall consist of buildings, including multifamily residences, that have one or more of the following:

- (I) Copper pipes with lead solder installed after 1982.
- (II) Lead pipes.
- (III) Lead service line.

(D) Tier 3 sampling sites shall consist of single family structures, constructed as a single family residence and currently used as either a residence or business, that contain copper pipes with lead solder installed before 1983.

(ii) *Site selection for nontransient noncommunity water systems.* The water supplier shall select all tier 1 sample site locations, if possible. A nontransient noncommunity water system with an insufficient number of tier 1 sampling sites shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete the sampling pool, the system shall use representative sites throughout the distribution system in which the plumbing materials used at the site would be commonly found at other sites served by the system.

(A) Tier 1 sampling sites shall consist of buildings that have one or more of the following:

- (I) Copper pipes with lead solder installed after 1982.
- (II) Lead pipes.
- (III) Lead service line.

(B) If a nontransient noncommunity water system or a community water system that meets the criteria of § 109.1104(a)(2)(i)(E) contains a fewer number of buildings than the required number of sampling sites, the water supplier shall sample from different taps within a representative number of buildings. The taps shall be those most commonly used for drinking and the samples shall be taken on different days. If the system has an insufficient number of these taps to take each sample from a different tap, the water supplier may apply to the Department, in writing, to substitute non-first-draw samples. Those systems shall collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. Non-first-draw samples must be 1-liter in volume and collected from an interior tap that is typically used to provide drinking water.

(iii) *Sample sites with lead service lines.* A system that has a distribution system containing lead service lines shall draw 50% of the samples it collects during each monitoring period from sites that contain lead pipes or copper pipes with lead solder, and 50% of those samples from sites served by a lead service line. If a water system cannot identify a sufficient number of sampling sites served by a lead service line, the system shall collect first draw samples from each site identified as being served by a lead service line.

(iv) *Sample sites with point-of-use or point-of-entry devices.* Samples may not be taken from taps that have point-of-use or sites that have point-of-entry treatment devices designed to remove inorganic contaminants.

- (3) *Water quality parameter sample site selection.*

(i) *Water quality parameter distribution samples.* Water quality parameter distribution samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system and seasonal variability. Distribution sampling is not required to be conducted at sites targeted for lead and copper tap sampling under § 109.1103(a)(1) (relating to monitoring requirements). Systems may find it convenient to conduct distribution sampling for water quality parameters at sites used for coliform sampling under § 109.303(a) (relating to sampling requirements).

(ii) *Water quality parameter entry point samples.* Samples collected at entry points shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system shall sample at an entry point during periods of normal operating conditions—that is, when water is representative of all sources being used.

(4) *Sample procedure certification.* A water supplier shall certify that sample collection methods identified in subsection (h)(1) were used to collect lead and copper tap samples. This certification shall be included in the sample site location plan. When a water supplier allows the residents to collect the samples, a copy of the material distributed to residents explaining the proper collection methods, and a list of the residents who performed sampling shall be included in the sample site location plan.

(h) *Sample collection methods.*

(1) *Lead and copper tap samples.* Tap samples for lead and copper collected in accordance with this subchapter, with the exception of lead service line samples collected under § 109.1107(d)(3) and tap monitoring samples collected under § 109.1103(g)(2)(ii)(B), shall be first-draw samples and the following sample collection methods shall be used:

(i) Each first-draw tap sample for lead and copper shall be 1 liter in volume and have stood motionless in the plumbing system of each sampling site for at least 6 hours.

(ii) First-draw samples from residential housing shall be collected from the cold water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be collected at an interior tap from which water is typically drawn for consumption.

(iii) First-draw samples may be collected by the water supplier or the water supplier may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph.

(iv) If a water supplier allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(v) Acidification of first-draw samples may be done up to 14 days after the sample is collected. After acidification, the sample shall stand in the original container for the time specified according to the approved EPA method before analyzing the sample.

(vi) For subsequent monitoring, the water supplier shall make every reasonable effort to collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If the water supplier is unable to use an original sampling site, the system may

collect the tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity to the original site.

(2) *Water quality parameter distribution samples.* Water quality parameter distribution samples shall be collected using the following methods:

- (i) Samples shall be fully flushed.
- (ii) If a water supplier collects the water quality parameter distribution samples from the same location as coliform and disinfectant residual samples, the water quality parameter samples shall be collected in the following manner:
  - (A) Fully flush the tap and collect the coliform sample.
  - (B) Collect a sample to measure disinfectant residual.
  - (C) Collect and analyze the sample for temperature and pH.
  - (D) Collect the samples for the other water quality parameters.
- (iii) Water quality parameter samples require two 500-ml samples to be collected. Two sample containers are required because calcium analysis shall be performed using a separate sample container in order to acidify the sample prior to measurement.
- (iv) Temperature analyses shall be conducted in the field to insure accuracy.
- (v) pH measurements shall be conducted in the field and made with a pH electrode and meter within 15 minutes of sample collection. The meter shall be capable of measuring to 1/10 of a unit.
- (vi) If silica analyses are required, the sample shall be collected in a plastic container.

(3) *Water quality parameter entry point samples.* Water quality parameter entry point samples shall be collected using the methods identified in paragraph (2), except subparagraphs (ii) and (iii).

(4) *Source water samples.* Lead and copper source water samples shall be collected in accordance with the requirements regarding sample location, number of samples and collection methods specified in 40 CFR 141.23(a)(1) (relating to inorganic chemical sampling and analytical requirements).

(5) *Lead service line samples.* Each lead service line sample shall be 1 liter in volume and have stood motionless in the lead service line for at least 6 hours. Lead service line samples shall be collected in one of the following ways:

- (i) At the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line.
- (ii) Tapping directly into the lead service line.
- (iii) If the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

(i) *Analytical methods.* Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica and temperature shall be conducted in accordance with 40 CFR 141.89 (relating to analytical methods) which is

incorporated by reference. The Department will only consider lead and copper samples analyzed by a laboratory certified by the Department. Measurements for water quality parameters may be performed by a person meeting the operator certification requirements of § 109.1107(c).

(j) *Invalidation of lead or copper tap water samples.* A sample invalidated under this paragraph does not count toward determining lead or copper 90th percentile levels under § 109.1102(a) or toward meeting the minimum monitoring requirements of this section. The Department's decision and rationale for invalidating a sample must be documented in writing.

(1) The Department may invalidate a lead or copper tap water sample if at least one of the following conditions is met:

- (i) The laboratory establishes that improper sample analysis caused erroneous results.
- (ii) The Department determines that the sample was taken from a site that did not meet the site selection criteria of this section.

(iii) The sample container was damaged in transit.

(iv) There is substantial reason to believe that the sample was subject to tampering.

(2) The system shall report to the Department the results of all samples, along with supporting documentation for samples the system believes should be invalidated.

(3) A system shall collect replacement samples for any samples invalidated under this subsection if, after the invalidation of one or more samples, the system has too few samples to meet the minimum monitoring requirements of this section.

(i) Replacement samples shall be taken as soon as possible but no later than 20 days after the Department invalidates the sample or by the end of the applicable monitoring period, whichever occurs later.

(ii) Replacement samples taken after the end of the applicable monitoring period shall not be used to meet the monitoring requirements of a subsequent monitoring period.

(iii) Replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(k) *Monitoring waivers for small systems.* Any small system that meets the criteria of this subsection may apply to the Department to reduce the frequency of monitoring for lead and copper under this section to once every 9 years if it meets all of the materials criteria specified in subsection (k)(1) and all of the monitoring criteria specified in subsection (k)(2). A system that meets the criteria in subsection (k)(1) and (2) only for lead, or only for copper, may apply to the Department for a waiver to reduce the frequency of tap water monitoring to once every 9 years for that contaminant only.

(1) *Materials criteria.* The system shall demonstrate that its distribution system, service lines and all drinking water plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials or copper-containing materials or both as follows:

(i) *Lead.* To qualify for a waiver of tap monitoring requirements for lead, the system shall provide certifica-

tion and supporting documentation to the Department that the system is free of all lead-containing materials as follows:

(A) It contains no plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers.

(B) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless the fittings and fixtures meet the specifications of any standard established under 42 U.S.C.A. 300g-6(e) (relating to plumbing fittings and fixtures).

(ii) *Copper*. To qualify for a waiver of the tap water monitoring requirements for copper, the system shall provide certification and supporting documentation to the Department that the system contains no copper pipes or copper service lines.

(2) *Monitoring criteria for waiver issuance*. The system shall have completed at least one 6-month round of routine tap water monitoring for lead and copper at sites approved by the Department and from the number of sites as required under subsection (a)(1)(v). The system shall demonstrate that the 90th percentile levels for all rounds of monitoring conducted since the system became free of all lead-containing or copper-containing materials, as appropriate, meet the following criteria:

(i) *Lead levels*. To qualify for a waiver of the lead tap monitoring, the system shall demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.

(ii) *Copper levels*. To qualify for a waiver of the copper tap monitoring, the system shall demonstrate that the 90th percentile copper level does not exceed 0.65 mg/L.

(3) *Department approval of waiver application*. The Department will notify the system of its waiver determination, in writing, setting forth the basis of the decision and any condition of the waiver. A system shall continue monitoring for lead and copper at the tap as required by this section until it receives written notification from the Department that the waiver has been approved.

(4) *Monitoring frequency for systems with waivers*.

(i) A system shall conduct tap water monitoring for the contaminant waived in accordance with subsection (e)(1)(iv) at the reduced number of sites identified in subsection (e) at least once every 9 years and provide the materials certification specified in paragraph (1) for the contaminants waived along with the monitoring results.

(ii) A system shall continue to monitor for any nonwaived contaminants in accordance with subsection (a)(1), as appropriate.

(iii) A system with a waiver shall notify the Department, in writing, within 60 days after becoming aware that it is no longer free of lead-containing or copper-containing materials, as appropriate, as a result of new construction or repair.

(5) *Continued eligibility*. If the system continues to satisfy the requirements of paragraph (4), the waiver will be renewed automatically unless any of the conditions listed in subparagraph (i)—(iii) occurs. A system whose waiver has been revoked may reapply for a waiver when it again meets the appropriate materials and monitoring criteria of paragraphs (1) and (2).

(i) A system with a lead waiver no longer satisfies the materials criteria of paragraph (1)(i) or has a 90th percentile lead level greater than 0.005 mg/L.

(ii) A system with a copper waiver no longer satisfies the materials criteria of subsection (k)(1)(ii) or has a 90th percentile copper level greater than 0.65 mg/L.

(iii) The Department notifies the system, in writing, that the waiver has been revoked.

(6) *Requirements following waiver revocation*. A water system whose waiver has been revoked is subject to the corrosion control treatment, and lead and copper tap water monitoring requirements as follows:

(i) If the system exceeds the lead or copper, or both, action level, the system shall implement corrosion control treatment in accordance with § 109.1102(b), and any other applicable requirements of this subchapter.

(ii) If the system meets both the lead and copper action levels, the system shall monitor for lead and copper at the tap no less frequently than once every 3 years using the reduced number of sample sites specified in subsection (e).

#### § 109.1104. Public education and notification.

(a) *Public education program*. The water supplier for a system that exceeds the lead action level based on tap monitoring conducted under § 109.1103 (relating to monitoring requirements) shall implement a public education program in accordance with this section. The public education program will remain in effect until the system qualifies for discontinuation under paragraph (3).

(1) *Content*. The water supplier shall include mandatory language established by the EPA under 40 CFR 141.85 (relating to public education and supplemental monitoring requirements), which is incorporated by reference, in all of the printed and broadcast materials distributed through the lead public education program. Additional information presented by a system shall be consistent with the information specified in this section and be in plain English that can be understood by laypersons. If appropriate or as designated by the Department, public education materials shall be bilingual or multilingual. Systems may delete information pertaining to lead service lines, upon approval by the Department, if no lead service lines exist in the system's service area.

(i) *Mandatory language for newspapers and water bill inserts*. The community water supplier shall include the information contained in 40 CFR 141.85(a) in all printed material submitted to newspapers and inserted with customers' water bills. In addition to the water bill insert, the water supplier shall provide the following alert on the water bill itself in large print:

"Some homes in this community have elevated lead levels in their drinking water. Lead can pose a significant risk to your health. Please read the enclosed notice for further information."

If a water supplier is unable to include the alert verbatim on the water bill because of insufficient space on the bill, the water supplier may request, and the Department may allow, a minor wording change so long as the content remains essentially unaffected. Public education language in 40 CFR 141.85(a)(1)(iv)(B)(5) and (D)(2) may be modified regarding building permit record availability and consumer access to these records, upon approval by the Department.

(ii) *Mandatory language for pamphlets and brochures*. The water supplier shall include the information contained in 40 CFR 141.85(a)(1)(ii) and (iv) in all pamphlets or brochures printed and distributed in accordance with this section.

(iii) *Mandatory language for public service announcements.* The water supplier shall include the information contained in 40 CFR 141.85(b) in public service announcements submitted for broadcast.

(iv) *Mandatory language for nontransient noncommunity water systems.* The water supplier for a nontransient noncommunity water system shall include either the information contained in 40 CFR 141.85(a)(1), or the information contained in 40 CFR 141.85(a)(2), in public education materials printed and distributed in accordance with this section.

(2) *Delivery.*

(i) *Community water system requirements.* Within 60 days after exceeding the lead action level, unless it is already repeating public education tasks under subsection (a), the water supplier for a community water system shall deliver the public education materials to its customers in accordance with clauses (A)—(D). The water supplier shall repeat the tasks contained in clauses (A)—(C) every 12 months, and in clause (D) every 6 months for as long as the system exceeds the lead action level.

(A) The water supplier shall insert notices with and include the alert on each customer's water bill containing the information in paragraph (1)(i). If the billing cycle or billing form prevents distribution of this notice within 60 days of the lead action level exceedance, the water supplier may deliver the information required in paragraph (1) within 60 days of the lead action level exceedance in one of the following ways:

- (I) A separate direct mailing.
- (II) Hand delivery.

(B) The water supplier shall submit the information in paragraph (1)(i) to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(C) The water supplier shall deliver pamphlets or brochures, or both, that contain the information in paragraph (1)(ii) to facilities and organizations, including the following:

- (I) Public schools or local school boards, or both.
- (II) City or county health department.
- (III) Women, Infants, and Children or Head Start Programs whenever available.
- (IV) Public and private hospitals and clinics.
- (V) Pediatricians.
- (VI) Family planning clinics.
- (VII) Local welfare agencies.

(D) The water supplier shall submit a public service announcement which includes the information in paragraph (1)(iii) to at least five of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

(E) A community water system may apply to the Department, in writing, to use the text specified in 40 CFR 141.185(a)(2) in lieu of the text in 40 CFR 141.185(a)(1), and to perform the tasks listed under subparagraph (ii)(A) in lieu of the tasks under clauses (A)—(D) if:

(I) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to the plumbing or installing point-of-use treatment devices.

(II) The system provides water as part of the cost of services provided and does not charge for water consumption.

(F) A community water system serving 3,300 or fewer persons may omit the task contained in clause (D) if notices containing the information required under paragraph (1) are distributed to every household served by the system at least once during each calendar year the system exceeds the lead action level.

(ii) *Nontransient noncommunity water system requirements.* Within 60 days after exceeding the lead action level, the water supplier for a nontransient noncommunity water system shall deliver the public education materials contained in paragraph (1)(iv) to its consumers, unless it is already repeating public education tasks under this subsection.

(A) The water supplier shall post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system and distribute informational pamphlets or brochures, or both, on lead in drinking water to each person routinely served by the nontransient noncommunity water system. Systems may use electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(B) The water supplier shall repeat the tasks contained in clause (A) at least once during each calendar year in which the system exceeds the lead action level.

(3) *Discontinuation of public education program.* A water supplier may discontinue implementation of its public education program if the system does not exceed the lead action level during the most recent 6-month monitoring period conducted under § 109.1103. The system shall resume public education in accordance with this section if it exceeds the lead action level at any time during a future monitoring period.

(4) *Notification of customer monitoring.* A water supplier that fails to meet the lead action level on the basis of tap monitoring conducted in accordance with § 109.1103 shall provide information regarding laboratories certified by the Department for lead and copper testing to any customer who requests it.

(b) *Public notification requirements.* A water supplier shall give public notification in accordance with Subchapter D (relating to public notification) when one of the following occurs:

(1) The water supplier fails to perform monitoring and analyses as required by § 109.1103.

(2) The water supplier is not in compliance with a treatment technique established under § 109.1102(b) (relating to action levels and treatment technique requirements).

**§ 109.1107. System management responsibilities.**

(a) *Reporting and recordkeeping.* Systems shall comply with the following requirements and otherwise comply with § 109.701 (relating to reporting and recordkeeping):

(1) *Sample site location plan.* The system shall prepare a sample site location plan in accordance with § 109.1103(g) (relating to monitoring requirements), maintain the plan on record and present or submit the plan upon request to the Department. The water supplier shall update the following information in the plan within the first 10 days following the end of each applicable monitoring period:

(i) Selection of different lead and copper tap sample sites from sites sampled during previous monitoring periods and corresponding site selection justification required under § 109.1103(g)(2)(v).

(ii) Changes in water quality parameter distribution or entry point site selection or source water entry point site selection from sites sampled during previous monitoring periods.

(iii) An update of the sample procedure certification required under § 109.1103(g)(4).

(2) *Reporting of monitoring results.* The water supplier shall assure that the results of analyses conducted in accordance with § 109.1103 are reported to the Department within the first 10 days following the end of each applicable monitoring period as stipulated by § 109.1103. Additional monitoring results beyond that required under § 109.1103 shall be kept on record by the water supplier and presented or submitted to the Department upon request.

(i) *Lead and copper tap monitoring results.* The following minimum information is required when reporting lead and copper tap monitoring results to the Department.

(A) The name, address and public water system identification number (PWSID) of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with this subchapter for lead and copper tap monitoring.

(I) The 90th percentile result.

(J) Whether an action level has been exceeded.

(K) The name, address and identification number of the certified laboratory performing the analysis.

(ii) *Water quality parameter monitoring results.* The following minimum information is required when reporting water quality parameter results to the Department:

(A) The name, address and PWSID of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with § 109.1103 for water quality parameters.

(I) Whether an excursion has occurred on more than any 9 days during a 6-month monitoring period for any Department specified water quality parameter.

(iii) *Source water monitoring results.* The following minimum information is required when reporting source water monitoring results to the Department:

(A) The name, address and PWSID of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with this subchapter for source water monitoring.

(I) The name, address and identification number of the certified laboratory performing the analysis.

(3) *Corrosion control treatment reporting requirements.*

(i) A water supplier demonstrating optimal corrosion control treatment under § 109.1102(b)(1)(ii) (relating to action levels and treatment technique requirements) shall submit information in writing sufficient for the Department to evaluate and determine whether optimal treatment has been achieved. 281961

(ii) The water supplier for a large water system shall complete a corrosion control treatment feasibility study in accordance with § 109.1102(b)(3) and submit the study to the Department by June 30, 1994.

(iii) The water supplier for a small or medium water system required to complete a corrosion control treatment feasibility study in accordance with § 109.1102(b)(3) shall submit the study to the Department within 18 months of exceeding an action level.

(iv) Upon completion of construction or modification of corrosion control treatment the water supplier shall submit to the Department a certification of construction as required under § 109.504(a) (relating to public water system operation permits).

(v) Upon completion of required monitoring under § 109.1103(c) following construction or modification of corrosion control treatment, the water supplier shall submit to the Department a request for designation of optimal corrosion control treatment performance requirements in accordance with § 109.1102(b)(5). The request shall include as a minimum a summary of analyses conducted under § 109.1103(c) and recommended performance requirements if different from those recommended by the water supplier as part of the construction permit application process.

(4) *Public education reporting requirements.* A water supplier required to implement a public education program in accordance with § 109.1104(a) (relating to public education and notification) shall submit a letter to the Department demonstrating that the system has complied with the public education program requirements of this subchapter within 10 days after the end of each period in which the system is required to perform public education tasks. The letter shall contain a list of newspapers, radio and television stations, facilities and organizations to which the system has delivered public education materials during the most recent period for which the system was required to perform public education tasks.

(5) *Lead service line replacement reporting.*

(i) A water system that is required to initiate lead service line replacement in accordance with subsection (d)

shall, within the first 3 months of the first year of lead service line replacement, submit to the Department the following:

(A) Evidence that a materials evaluation of the system has been conducted in accordance with § 109.1103(g)(1).

(B) A schedule for replacing at least 7% of the lead service lines identified in the materials evaluation.

(C) The initial number of lead service lines in its distribution system and the portions owned by the system based on a materials evaluation, including the evaluation required under § 109.1103(g) and relevant legal authorities regarding the portion owned by the system.

(ii) For a system which is conducting lead service line replacement, the water supplier shall notify the Department in writing that the system has replaced at least 7% of the lead service lines identified in the materials evaluation, or that the results of lead sampling from individual lines scheduled for replacement do not exceed 0.015 mg/L. The notification shall be given by the end of each year of lead service line replacement and contain the following information:

(A) The name, address and public water system identification number of the public water system.

(B) The number of lead service lines scheduled for replacement during the previous year.

(C) The number and location of lead service lines actually replaced during the year.

(D) The date, location, the results of this sampling and method of sampling used, if lead service line sampling is completed in individual lead service lines.

(6) *Record maintenance.* The water supplier shall retain on the premises of the system or at a convenient location near the premises the following:

(i) Records of all monitoring results, which shall be kept for at least 12 years.

(ii) A copy of a current sample site location plan, which shall be kept for the life of the facility.

(iii) Copies of written correspondence with the Department relating to lead service line replacement, which shall be kept for at least 12 years after the completion of the replacement of applicable lead service lines.

(iv) Copies of written correspondence with the Department relating to the implementation of a public education program, which shall be kept for at least 12 years after the completion of the public education program.

(v) Copies of written correspondence with the Department relating to permitting, construction and operation of corrosion control treatment, including source water treatment, if applicable, which shall be kept for at least 12 years.

(vi) Plans, specifications and permits for water system facilities, which shall be kept for the life of the facility.

(b) *Operation and maintenance plan.*

(1) A community water system which completes construction or modification of corrosion control treatment facilities in accordance with this subchapter shall include in its operation and maintenance plan required under § 109.702 (relating to operation and maintenance plan) information concerning the new or modified corrosion control treatment.

(2) A nontransient noncommunity water system which completes construction or modification of corrosion control

treatment facilities in accordance with this subchapter shall develop an operation and maintenance plan for the facilities.

(3) The operation and maintenance plan for corrosion control treatment facilities shall conform to the requirements of § 109.702(b) and (c) and shall also contain at least the following information:

(i) A description of the facilities.

(ii) An explanation of startup and normal operation procedures.

(iii) A routine maintenance program.

(iv) A records and reporting system.

(v) Sampling and analysis program.

(vi) Staffing and training.

(vii) A safety program.

(viii) An emergency plan and operating procedures.

(ix) Manufacturers' manuals.

(c) *Operator certification and training.* Community water systems and nontransient noncommunity water systems which are required to construct or modify corrosion control treatment facilities in compliance with this subchapter shall comply with the following requirements:

(1) Prior to initiation of operation of the corrosion control treatment facilities, have personnel who have successfully completed Department-sponsored training relating to corrosion control treatment for lead and copper. The Department will expressly designate which training courses meet the requirements of this subsection.

(2) Within 3 years of initiation of operation of the corrosion control treatment facilities, have personnel certified under the Sewage Treatment Plant and Waterworks Operators' Certification Act (63 P. S. §§ 1001—1015). The minimum certification to operate corrosion control treatment facilities shall be a certificate to operate plants not utilizing filtration, but with chemical treatment, according to § 303.2 (relating to waterworks operators certificates).

(d) *Lead service line replacement.*

(1) *Initiation of lead service line replacement.* A system that exceeds the lead action level when conducting lead and copper tap monitoring in accordance with § 109.1103(c)(1) or (d)(1) after construction or modification of corrosion control treatment facilities shall initiate lead service line replacement. The first year of lead service line replacement begins with the next 6-month monitoring period following the action level exceedance.

(2) *Replacement schedule.* The water supplier shall replace annually at least 7% of the initial number of lead service lines in place at the beginning of the first year of replacement. The number of lead service lines shall be based on the materials evaluation conducted in accordance with § 109.1103(g)(1). The Department may require a system to replace lead service lines on a shorter schedule where, because of the number of lead service lines in the system, a shorter replacement schedule is feasible. The Department will notify the water supplier in writing within 6 months of the initiation of lead service line replacement of its decision to require a shorter replacement schedule.

(3) *Lead service line sampling.* The water supplier may sample an individual lead service line to determine whether the line is contributing sufficient lead to warrant its replacement. Lead service lines shall be sampled in

accordance with § 109.1103(h)(5). The water supplier is not required to replace a lead service line if none of the lead concentrations in any service line samples from that line exceeds 0.015 mg/L.

(4) *Conditions of replacement.* The water supplier shall replace the portion of the lead service line that it owns. In cases where the system does not own the entire lead service line, the system shall notify the owner of the line, or the owner's authorized agent, that the system will replace the portion of the service line that the system owns and shall offer to replace the owner's portion of the line. A system is not required to replace the line if the owner refuses to pay for the cost of replacement of the privately owned portion of the line, or if any laws prohibit this replacement. A system that does not replace the entire length of service line shall complete the following tasks:

(i) The system shall provide notice to residents of all buildings served by the line at least 45 days prior to commencing partial line replacement. The Department may allow a shorter time period for notification in the case of emergency repairs. The notice shall explain that residents may experience a temporary increase of lead levels in their drinking water, along with information on measures consumers can take to minimize their exposure to lead. Residents shall be informed that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content in accordance with § 109.1103(h)(5) within 72 hours after the completion of the partial replacement of the service line.

(ii) The system shall collect the partial lead service line replacement sample and report the results of the analysis to the owner and the residents served by the line within 3 business days of receiving the results.

(iii) Information required under subparagraphs (i) and (ii) shall be provided by mail to the residents of individual dwellings. Systems have the option to post this information in a conspicuous location in those instances where multifamily dwellings are served by the line.

(5) *Discontinuation of lead service line replacement.* A water supplier may cease replacing lead service lines if the system meets the lead action level during two consecutive 6-month monitoring periods when conducting lead and copper tap monitoring. Thereafter, if the system exceeds the lead action level, the water supplier shall recommence replacing lead service lines in accordance with paragraph (2).

[Pa.B. Doc. No. 02-1372. Filed for public inspection August 9, 2002, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHYSICAL THERAPY

[49 PA. CODE CH. 40]

Sexual Misconduct

The State Board of Physical Therapy (Board) adopts regulations regarding sexual misconduct by adding §§ 40.301—40.304 to read as set forth in Annex A.

### A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

### B. *Statutory Authority*

The final-form rulemaking is adopted by the Board under the authority of section 3(a) of the Physical Therapy Practice Act (act) (63 P. S. § 1303(a)).

### C. *Background and Purpose*

The final-form rulemaking was proposed against a background of increasing complaints of sexual misconduct against health care professionals who are licensed by the Bureau of Professional and Occupational Affairs. This final-form rulemaking addresses issues concerning sexual misconduct in the context of the provision of physical therapy services.

The final-form rulemaking is intended to protect consumers of physical therapy services and to provide guidance to the profession by defining terms such as "patient," "professional relationship," "sexual impropriety" and "sexual violation." The final-form rulemaking guides licensees by informing them that conduct defined as a sexual violation or sexual impropriety with a patient during the course of a professional relationship violates standards of professional conduct for physical therapists (PT) and physical therapist assistants (PTA). The final-form rulemaking guides PTs and PTAs by informing them that their professional relationship with a patient exists for a time period beginning with the first professional contact or consultation and ends upon discharge from or discontinuance of services. The final-form rulemaking notifies PTs and PTAs that the consent of a patient to a sexual impropriety or violation cannot be a defense in a disciplinary proceeding before the Board and that a PT or PTA who engages in conduct prohibited by the final-form rulemaking will not be eligible for placement into an impaired professional program under the act.

### D. *Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 31 Pa.B. 1470 (March 17, 2001). The Board received comments from the Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC) and one public commentator, the Pennsylvania Physical Therapy Association (PPTA). The Senate Consumer Protection and Professional Licensure Committee did not submit comments. Responses to these comments are organized by subject as follows.

#### *Section 40.301. Definitions.*

Both the HPLC and IRRC recommended that the term "immediate family member" found in the definition of "patient" should also be defined. However, on further review, it appears that excluding the PT's other family members from the definition of "patient" seems unnecessary because the only family member with whom a PT may appropriately engage in sexual activities is the PT's spouse. To improve clarity, the Board has deleted the term "immediate family member" from the definition of "patient."

IRRC also commented that the definition of "sexual impropriety" contained the requirement that discussion of a patient's sexual practices and preferences must be fully documented in the patient's chart. IRRC noted that a substantive requirement should not be included in a definition and that furthermore, the sentence is unnecessary because the documentation requirement is contained



elsewhere in § 40.302(3) (relating to procedural matters). The Board agreed with IRRC's comment and deleted this sentence from the definition of "sexual impropriety" under subsection (iv).

The PPTA recommended that the definition of "professional relationship" be expanded to include language which clearly emphasizes the responsibility of the physical therapist to inform the patient of the purpose and nature of any examination or treatment technique, or both. The Board decided against adding this language for two reasons. First, it is a substantive requirement that does not belong in a definition. Second, § 40.302(3) already states that to apply the defense that the conduct complained of was necessary or appropriate to the treatment of any patient, it must be demonstrated that the conduct in question is relevant to the patient's condition or diagnosis. It is further required that appropriate discussions of sexual matters between a PT, a PTA and a patient shall be fully documented in patient records. Accordingly, the Board believes that this concern is adequately addressed under § 40.302(3).

On December 10, 2001, Governor Schweiker signed into law the act of December 10, 2001 (P. L. 859, No. 92) (Act 92) which gave the State Boards of Medicine and Osteopathic Medicine jurisdiction over certified athletic trainers (CATs) and repealed provisions of the act that were inconsistent with Act 92. Accordingly, since the Board no longer oversees CATs, it has deleted all references to CATs in the final-form rulemaking.

*Section 40.302. Procedural matters.*

IRRC questioned the intent of § 40.302(2) which permits the Board to consider sexual relationships between the PT or the PTA and the patient occurring prior to the professional relationship. IRRC questioned whether a sexual relationship occurring prior to the professional relationship could be used as a defense to sexual misconduct. IRRC also questioned whether this provision is in direct conflict with paragraph (1), which provides that consent is not a defense to any disciplinary charge for violation of the act or Chapter 40 (relating to State Board of Physical Therapy). The intent of the Board is that consent of a patient to any sexual impropriety or violation may not be used as a defense. However, evidence of a sexual relationship that occurred between the practitioner and the patient prior to the initiation of the professional relationship may be considered by the Board in mitigation of a sanction. The Board does not believe that these provisions are in conflict with each other. The Board believes the proposed amendments adequately reflect the Board's intent and, therefore, no change in this final-form rulemaking has been made.

*Section 40.304. Disciplinary action.*

Both the HPLC and IRRC recommended that the word "sexual" should be inserted before the word "violation" in the first sentence of § 40.304. The Board has adopted this recommendation by revising the final-form rulemaking. The Board has also inserted the word "sexual" in § 40.302(1).

*E. Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"*

The Board reviewed this final-form rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1.

*F. Fiscal Impact and Paperwork Requirements*

There should be no adverse fiscal impact or additional paperwork requirements incurred by the Board, political divisions or the private sector.

*G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 16, 2001, the Board submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 1470, to IRRC and to the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

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

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on May 21, 2002, this final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 30, 2002, and approved the final-form rulemaking.

*I. Contact Person*

Interested persons may obtain information regarding the final-form rulemaking by writing to Robert Kline, Board Administrator, State Board of Physical Therapy, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

*J. 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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 31 Pa.B. 1470.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this preamble.

*K. Order.*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by adding §§ 40.301—40.304 to read as set forth in Annex A.

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

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

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

JAMES J. IRRGANG,  
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2954 (June 15, 2002).)

**Fiscal Note:** Fiscal Note 16A-656 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

#### Subchapter E. SEXUAL MISCONDUCT

Sec.	
40.301.	Definitions.
40.302.	Procedural matters.
40.303.	Impaired professional program.
40.304.	Disciplinary action.

#### § 40.301. Definitions.

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

*Patient (includes resident and client)*—A person, other than the spouse of the physical therapist or physical therapist assistant, who receives professional services from the physical therapist or physical therapist assistant regardless of whether the services are provided for remuneration.

*Professional relationship*—For a physical therapist or physical therapist assistant, the relationship shall be deemed to exist for a period of time beginning with the first professional contact or consultation between a physical therapist or physical therapist assistant and a patient and ending upon discharge from or discontinuance of services provided by the physical therapist or physical therapist assistant.

*Sexual impropriety*—The term includes the following offenses:

(i) Making sexually demeaning or sexually suggestive comments about or to a patient, including comments about a patient's body or undergarments.

(ii) Unnecessarily exposing a patient's body or watching a patient dress or undress, unless for therapeutic purposes or the patient specifically requests assistance.

(iii) Examining or touching genitals without the use of gloves when performing an otherwise appropriate examination.

(iv) Discussing or commenting on a patient's potential sexual performance or requesting details of a patient's sexual history or preferences during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction or reproductive health care.

(v) Soliciting a date from a patient.

(vi) Volunteering information to a patient about one's sexual problems, preferences or fantasies.

*Sexual violation*—The term includes the following offenses:

(i) Sexual intercourse between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(ii) Genital to genital contact between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(iii) Oral to genital contact between a physical therapist or physical therapist assistant and a patient during the professional relationship.

(iv) Touching breasts, the genitals, or any other part of the body of a patient in a sexual, erotic or romantic manner. Touching for the purpose of an appropriate examination or treatment does not constitute a sexual violation.

(v) Encouraging a patient to masturbate in the presence of the physical therapist or physical therapist assistant or masturbating while a patient is present.

(vi) Providing or offering to provide treatment in exchange for sexual favors.

#### § 40.302. Procedural matters.

(a) The consent of the patient to any sexual impropriety or sexual violation is not a defense to any disciplinary charge for violation of the act or this chapter.

(b) Evidence of specific instances, opinion evidence or reputation evidence of a patient's past sexual conduct is not admissible in proceedings brought under §§ 40.52 and 40.181 (relating to unprofessional conduct; physical therapists; and refusal, suspension or revocation of registration). The Board may consider sexual relationships between the physical therapist or the physical therapist assistant and the patient occurring prior to the professional relationship.

(c) A physical therapist or the physical therapist assistant who attempts to raise as a defense an argument that conduct prohibited as a sexual violation or sexual impropriety was necessary or appropriate to the treatment of any patient shall be required to demonstrate the relevancy of the conduct in question to the patient's condition or diagnosis. Appropriate discussions of sexual matters between a physical therapist or the physical therapist assistant and a patient shall be fully documented in patient records.

#### § 40.303. Impaired professional program.

When the Board is empowered to take disciplinary or corrective action against a physical therapist or the physical therapist assistant for conduct defined as a sexual violation or sexual impropriety, the physical therapist or physical therapist assistant will not be eligible for placement into an impaired professional program under section 13 of the act (63 P. S. § 1313).

#### § 40.304. Disciplinary action.

A physical therapist or physical therapist assistant who engages in sexual impropriety or sexual violation as defined in § 40.301 (relating to definitions) will be subject to disciplinary action under §§ 40.52 and 40.181(a)(6) (relating to unprofessional conduct; physical therapists; and refusal, suspension or revocation of registration) and section 11 of the act (63 P. S. § 1311).

[Pa.B. Doc. No. 02-1373. Filed for public inspection August 9, 2002, 9:00 a.m.]

# Title 58—RECREATION

## GAME COMMISSION

[58 PA. CODE CHS. 131, 139, 141 AND 143]

### Seasons and Bag Limits; Hunting Hours; Small Game; Elk Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 9, 2002, meeting, adopted the following changes:

Amend § 131.2 (relating to definitions) by defining the terms “arrow,” “bow,” “broadhead” and “crossbow bolt” to help avoid confusion and misinterpretation.

Amend § 139.2 (relating to definitions) by redefining the terms “antlered deer,” defining “point” and “protected deer.”

Amend § 141.4 (relating to hunting hours) to specify when coyotes may be taken during deer or bear seasons; § 141.22(c) (relating to small game) to allow licensed furtakers to trap nuisance woodchucks for farmers; and § 141.48 (relating to elk management areas) by combining some of the elk management areas to provide fewer, but larger management areas.

Amend § 143.203 (relating to drawing) to eliminate reference to the 2001 license year and to establish that the number of licenses issued be set by the Commission.

This final-form rulemaking was adopted under 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

#### *Amendment to § 131.2*

##### 1. Introduction

Due to the many new technologies in the archery equipment field, the Commission believes it is necessary to define certain terms for regulatory purposes. The Commission, at its January 15, 2002, meeting proposed, and at its April 9, 2002, meeting finally adopted, adding definitions of “arrow,” “bow,” “broadhead” and “crossbow bolt” to § 131.2. This adoption is being made under section 2102 of the code (relating to regulations).

##### 2. Purpose and Authority

Advancements in technology and archery hunting techniques have made it apparent that certain terms need to be defined for regulatory purposes. The Commission has added the previously mentioned definitions to § 131.2. These definitions should help clarify regulatory requirements and avoid confusion.

Section 2102(a) of the code directs the Commission to “. . . promulgate such regulations as it deems necessary and appropriate concerning . . . the ways, manner, methods, and means of hunting or furtaking . . . .” Section 2102(d) of the code also directs the Commission to promulgate regulations stipulating “. . . the type of firearms and ammunition and other devices which may be used . . . .” The change was adopted under this authority.

##### 3. Regulatory Requirements

The additions merely define the terms “arrow,” “bow,” “broadhead” and “crossbow bolt.” These definitions may exclude the use of certain devices.

##### 4. Persons Affected

Individuals wishing to hunt using bows and arrows and crossbows will be affected by this final-form rulemaking.

##### 5. Comment and Response Summary

No official comments were received with regard to this final-form rulemaking.

#### *Amendment to § 139.2*

##### 1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 15, 2002, meeting proposed, and at its April 9, 2002, meeting finally adopted, changes to § 139.2 by adding the definitions of “protected deer” and “point” and amended the definition of “antlered deer.” These changes were proposed under section 322(c)(1) of the code (relating to powers and duties of the commission) and section 2102(b)(1) of the code.

##### 2. Purpose and Authority

The Commission is finally adopting that an antlered deer, legal for harvest, have four or more points to an antler in ten counties and three or more points to an antler in all other counties, except for the Special Regulations Areas and junior license holders, disabled person permit (to use a vehicle) holders and residents serving on active duty in the United States Armed Forces, or in the United States Coast Guard where it would have two or more points to one antler, or with one antler 3 inches or more in length. This requires changing the definition of “antlered deer” and defining the term “point.” This final-form rulemaking also creates a category of deer that do not meet the definition of “antlered deer” or “antlerless deer” and therefore must be defined as “protected deer” since they may not be legally taken in any deer season. The adopted additions to § 139.2 would accomplish this purpose.

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Section 322(c) of the code specifically empowers the Commission to “. . . fix seasons . . . and daily, seasons and possession limits for any species of game or wildlife.” Section 2102(b) of the code mandates that the Commission promulgates regulations relating to seasons and bag limits. These sections provide the authority for the adopted changes.

##### 3. Regulatory Requirements

The changes to “antlered deer” redefine what a legal antlered deer is. The addition of the definition of “point” will facilitate requiring deer hunters to identify points. The addition of the definition of “protected deer” provides for a deer that does not meet the definition of “antlered deer” or “antlerless deer.”

##### 4. Persons Affected

Individuals wishing to hunt deer will be affected by this adoption.

##### 5. Comment and Response Summary

A total of 7,049 official comments were received with regard to the definition of “antlered deer.” Those supporting cited several views including the opportunity to harvest deer in future seasons with larger antlers and improvement of overall health of this Commonwealth’s deer herd. Those opposing did so because they feared difficulty in identifying or counting points in forest conditions; that antler restrictions would lead to a trophy hunting mentality and results in closing of private land; that any buck they had harvested in the past was a unique trophy.

No official comments were received with regard to the remaining adopted changes.

*Amendments to §§ 141.4 and 141.22*1. *Introduction*

To effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 15, 2002, meeting proposed, and at its April 9, 2002, meeting finally adopted, changing § 141.4(1) by allowing coyotes to be taken during deer and bear season only by persons who are lawfully engaged in hunting deer or bear and who possess a valid tag, and by adding § 141.22(c) to allow licensed furtakers to trap nuisance woodchucks for farmers.

2. *Purpose and Authority*

The Commission has allowed hunters who possess a valid deer tag to hunt coyotes during deer season and to hunt coyotes during bear season regardless of tag. Coyote hunters taking advantage of this opportunity were not mandated to comply with fluorescent orange or hunting hour requirements. This change would allow hunters to take coyotes during the deer and bear season only while engaged in lawfully hunting deer and bear. Hunters would therefore have to possess a valid tag and comply with other restrictions pertaining to deer and bear hunting including wearing of fluorescent orange, or possess a valid furtaker's license and wear 250 square inches of daylight fluorescent orange-colored material on the head chest and back combined visible in a 360° arc from 2 hours before sunrise to 2 hours after sunset.

Woodchucks cause damage to farmer's fields, crops and equipment. Farmers have asked the Commission to allow furtakers to assist them in controlling nuisance woodchucks by allowing furtakers to trap woodchucks with the farmer's permission.

Section 2102(a) of the code authorizes the Commission to promulgate regulations relating to the hunting of game or wildlife in this Commonwealth. The changes were adopted under this authority.

3. *Regulatory Requirements*

The adopted changes would relax the requirements for taking woodchucks, and further restrict coyote hunters.

4. *Persons Affected*

Farmers, furtakers and coyote hunters would be affected.

5. *Comment and Response Summary*

No official comments were received with regard to these adopted changes.

*Amendments to §§ 141.48 and 143.203*1. *Introduction*

To effectively manage the Commonwealth's growing elk herd, the Commission, at its January 15, 2002, meeting proposed, and at its April 9, 2002, meeting finally adopted, changing § 141.48 by combining some of the elk management areas to provide fewer, but larger management areas and changing § 143.203 to eliminate the reference to the 2001 license year and to have the number of elk licenses issued set by the Commission.

2. *Purpose and Authority*

In the 2001-2002 license year, the Commission issued 30 licenses to allow hunters to harvest elk for the first time in this Commonwealth since 1932. After reviewing harvest data, biologists have determined that the Commission can more effectively manage the elk herd by creating fewer but larger management areas, which requires changing § 141.48.

Section 143.203(e) needs to be changed to eliminate the reference to the year 2001 and to establish that the number of licenses issued are set by the Commission. This section currently states the number shall be set by the Bureau of Wildlife Management with concurrence of the Executive Director.

Section 2102(a) of the code authorizes the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting..."

Section 2705(15) of the code (relating to classes of licenses) provides that: "To ensure sound management of the wild elk population of this Commonwealth, the Commission may promulgate regulations to establish a limited number of licenses."

These provisions provide the statutory authority for the adopted changes.

3. *Regulatory Requirements*

The amendments would create fewer, larger elk management areas and require that the Commission set the number of elk licenses issued.

4. *Persons Affected*

Individuals wishing to hunt elk will be affected.

5. *Comment and Response Summary*

No official comments were received with regard to these adopted changes.

*Cost and Paperwork Requirements*

The adopted changes should not result in any additional cost or paperwork.

*Effective Dates*

The adopted changes will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

*Contact Person*

For further information regarding these changes, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted 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 adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 131, 139, 141 and 143, are amended by amending §§ 131.2, 139.2, 141.4, 141.22, 141.48 and Appendix F and § 143.203 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-139 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 131. PRELIMINARY PROVISIONS**

**§ 131.2. Definitions.**

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

*Act*—Title 34 of the *Pennsylvania Consolidated Statutes* (relating to the Game and Wildlife Code).

*Arrow*—A projectile shot from a bow with an overall length exceeding the brace height of the bow with a fletching designed only for guidance at the aft end and a broadhead mounted on the fore end. No electronic device may be a part of or attached to the arrow. No device, material or system capable of causing damage or injury to the animal in excess of that inflicted by the cutting edges of the broadhead may be a part of or attached to any arrow.

*Beekeeper's agent*—A person who accepts the responsibility of bees, hives and related equipment in the absence of the owner, and who is willing and able to reset disrupted hives, maintain fencing where present and report damage done by bears to the nearest available Commission officer as soon as practical, but, in any event, within 10 days of the damage. The agent shall be domiciled within 300 yards of the beehives.

*Bow*—In addition to the definition in section 102 of the act, a device for launching an arrow, which derives its propulsive energy solely from the bending and recovery of two limbs. The energy used to propel the arrow may not be derived from another source. These limitations may not exclude the mechanical leverage advantage provided by eccentric wheels or cams so long as the available energy stored in the bent limbs of the bow is the sole result of a single, continuous and direct pulling effort by the shooter. A track, trough, channel or other device capable of mechanically holding the bow at full or partial draw may not be attached to the bow. The bowstring shall be drawn, held and released as a direct and conscious action of the shooter. Release shall be accomplished by either relaxing the tension of the fingers or triggering the release action of a manually held release aid. A bow shall have a peak draw weight not less than 35 pounds.

*Broadhead*—Shall have an outside diameter or width of at least 7/8 inch with no less than two cutting edges. Cutting edges shall be in the same plane throughout the length of the cutting surface. Broadheads may not exceed 3 inches in length measured from the tip of the broadhead to the point that fits against the arrow shaft.

*Commission*—The Game Commission of the Commonwealth.

*Crossbow*—A device consisting of a bow fixed transversely on a stock, the string of which is released by a trigger mechanism, has a mechanical safety and propels an arrow.

*Crossbow bolt*—An arrow propelled by a crossbow.

*Deputy Game Commission officer*—A deputy wildlife conservation officer.

*Director*—The Executive Director of the Commission.

*Driving*—An act accomplished when one or more persons chase or flush, or attempt to chase or flush, wildlife towards or in the general direction of other persons, or when two or more persons travel in the same general direction to chase or flush, or attempt to chase or flush, wildlife into view.

*Game Commission officer*—A wildlife conservation officer.

*Import*—To bring or have transported into this Commonwealth.

*Institutions of higher learning*—Colleges and universities accredited by the Department of Education.

*Protected birds*—See § 133.2 (relating to protected birds).

*Protected mammals*—See § 133.1 (relating to protected mammals).

*Sustained yield*—As used in section 546(b)(2) of the act (relating to limitation on expenditures for deterrent fencing), continuous and planned forest production through accepted forestry management practices.

**CHAPTER 139. SEASONS AND BAG LIMITS**

**§ 139.2. Definitions.**

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

*Antlered deer*—

(i) In the counties of Armstrong, Beaver, Butler, Crawford, Erie, Indiana, Lawrence, Mercer, Washington and Westmoreland a deer having four or more points to one antler.

(ii) In the counties of Allegheny, Bucks, Chester, Delaware, Montgomery and Philadelphia a deer having two or more points to one antler, or with one antler 3 inches or more in length.

(iii) In all other counties, a deer having three or more points to one antler.

(iv) In all counties, only junior license holders, disabled person permit (to use a vehicle) holders and residents serving on active duty in the United States Armed Forces, or in the United States Coast Guard, a deer having two or more points to one antler, or with one antler 3 inches or more in length.

*Antlered elk*—An elk having at least one spike visible above the hairline.

*Antlerless deer*—A deer without antlers, or a deer with antlers both of which are less than 3 inches in length.

*Antlerless elk*—An elk without antlers, or an elk with no visible spike above the hairline.

*Client*—A person who receives the services of a guide.

*Closed season*—Periods of the calendar year and hours during which it is unlawful to take game or wildlife.

*Daily limit*—The maximum number permitted to be taken by one person in 1 day during the open season.

*Early small game hunting season*—A designated period when only squirrels and grouse may be hunted and taken.

*Field possession limit*—The maximum number of legally taken wildlife of a species which a person may legally possess or transport between the place of taking and the person's permanent place of residence.

*Field possession limit—deer*—When multiple harvests of deer per day are authorized, only one deer at a time may be harvested. Before harvesting additional deer, the deer previously harvested shall be lawfully tagged.

*Guide*—A person who assists another person to hunt or take game by locating game, calling game or directing another to game.

*Hunting hours*—The period each day of the open season, Sundays excepted, when game and wildlife may be lawfully taken.

*Point*—An antler projection at least 1 inch in length from base to tip, the brow tine and main beam tip shall be counted as points regardless of length.

*Protected deer*—A deer not defined as an antlered deer or an antlerless deer.

*Regular firearms deer season*—The designated period of time when deer may be hunted and taken by a person who possesses a general hunting license or a general hunting license and antlerless license only.

*Regular small game hunting season*—The designated period of time when resident small game species may be hunted and taken.

*Season limits*—The maximum number of wildlife, which may be taken during a designated open season or license year.

*Special firearms deer season*—Any firearms deer season, except muzzleloader season, that precedes the regular firearms deer season.

## CHAPTER 141. HUNTING AND TRAPPING

### Subchapter A. GENERAL

#### § 141.4. Hunting hours.

During open hunting seasons, wild birds and animals may be taken 1/2 hour before sunrise to sunset unless further restricted.

(1) During the regular antlered and antlerless deer seasons, it is unlawful to take or attempt to take other wild birds or mammals from 1/2 hour before sunrise to sunset. Game birds on regulated hunting grounds and migratory waterfowl are excepted. Coyotes may be taken from the first day to the last day inclusive of any deer or bear season only by persons who possess a valid furtaker's license and wear 250 square inches of daylight fluorescent orange-colored material on the head, chest

and back combined visible in a 360° arc from 2 hours before sunrise to 2 hours after sunset or by persons lawfully engaged in hunting deer or bear who have a valid tag.

(2) Raccoon, fox, skunk, opossum, coyote, bobcat and weasel may be taken any hour, day or night, except during restricted periods in paragraph (1), and woodchuck, coyote, opossum, skunk and weasel may not be hunted prior to 12 noon during the spring gobbler season.

(3) Turkey hunting hours are 1/2 hour before sunrise to 12 noon during the spring gobbler season.

(4) Mourning doves may be hunted from 12 noon to sunset from the first season opening date through the first season closing date.

### Subchapter B. SMALL GAME

#### § 141.22. Small game.

(a) *Unlawful activities.* It is unlawful to:

(1) Take small game, protected mammals or protected birds using shot larger than #4 lead, #4 Bismuth/tin or #2 steel.

(2) Take furbearers using shot larger than size BB lead, size BB Bismuth/tin or size T steel.

(3) Possess a firearm while hunting with a raptor.

(4) Use or possess single projectile ammunition or use or possess single projectile designed for use in a firearm while hunting small game during the muzzleloading firearms deer or bear season, except for a .22 caliber rimfire rifle. This exception does not apply to the Southeast Special Regulations Area. See § 141.1(b)(2) (relating to special regulations areas).

(5) Hunt in a party of more than six persons.

(6) Hunt for groundhogs without a cap or hat made of a daylight fluorescent orange material as a part of the requirements in section 2524 of the act (relating to protective material required).

(7) Hunt for or assist to hunt for other small game, except waterfowl, mourning doves and crows without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material. The material shall be worn on the head, chest and back combined so it is visible in a 360° arc.

(b) *Definition.* For the purpose of enforcing section 2308(a)(4) of the act (relating to unlawful devices and methods), the term "plugged" means a magazine shotgun which is plugged with a one-piece filler, incapable of removal without disassembling the shotgun or magazine.

(c) *Permitted acts.* Woodchucks may be trapped by properly licensed furtakers with permission of the person in charge of the land from February 1 through September 30 and during the general furbearer trapping season. For the purposes of this subsection, a person means a person as defined in section 2121(c) of the act (relating to definition). Traps and methods shall comply with section 2361 of the act (relating to unlawful acts concerning taking of furbearers) except that traps shall be set within 5 feet of any woodchuck hole or den.

**Subchapter C. BIG GAME**

**§ 141.48. Elk management areas.**

(a) The divisional line between two or more elk management areas shall be the center of the highway, natural water course or other natural boundary.

(b) The outline map of Pennsylvania sets forth elk management areas. Elk management area 12 comprises all areas outside Areas 1-11 inclusive. See Appendix F.

*(Editor's Note: See map of Pennsylvania Elk Management Areas, 32 Pa.B. 3950 (August 10, 2002).)*

**CHAPTER 143. HUNTING AND FURTKER LICENSES**

**Subchapter K. ELK LICENSES**

**§ 143.203. Drawing.**

(a) The Executive Director will set the date and location for the random drawing of applications for the issuance of elk licenses. Incomplete, illegible or duplicate applications will not be included in the drawing.

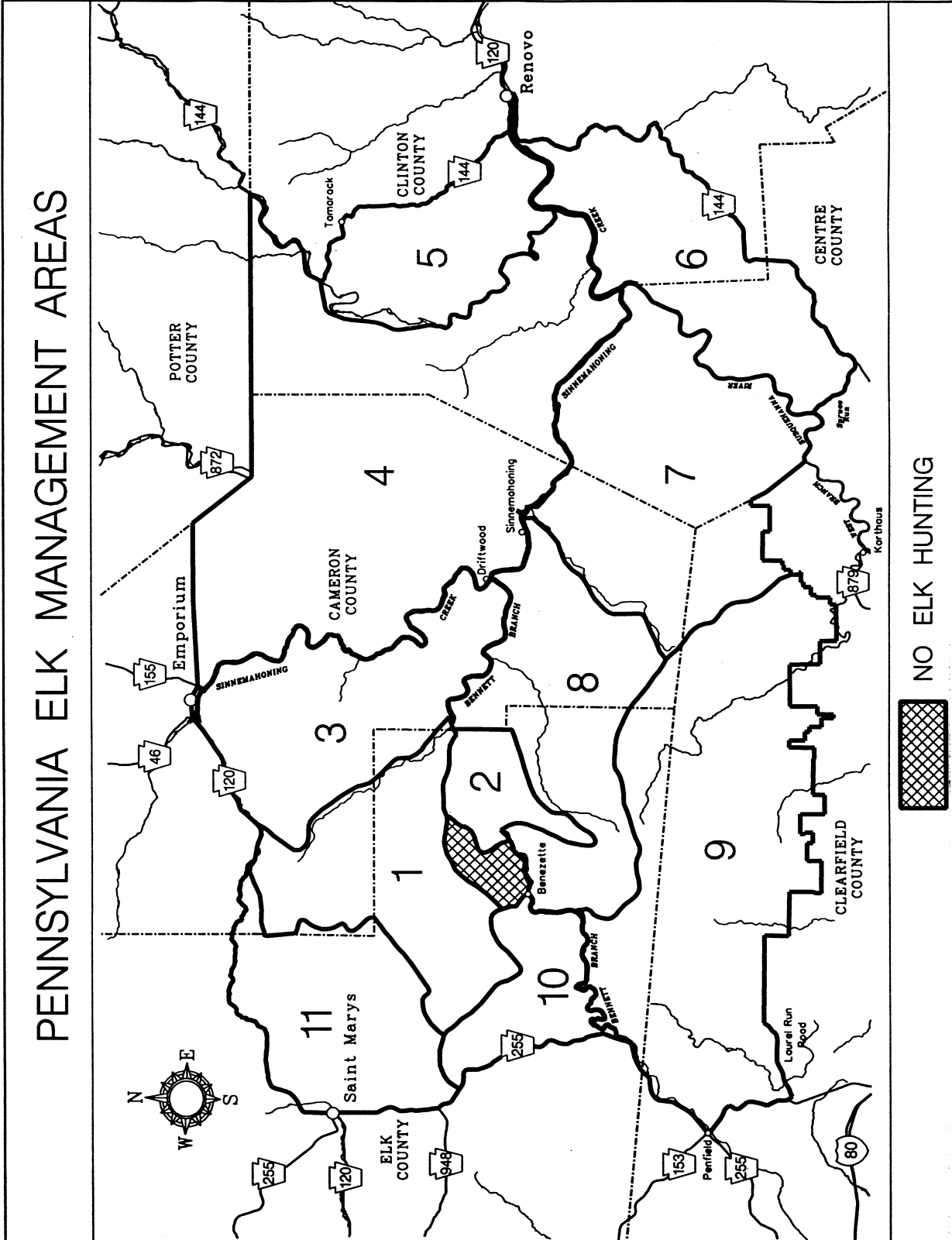
(b) In any given year, no more than 10% of the applications drawn and issued may be nonresident. A yearly cap on the number of nonresident applications that may be drawn and issued shall be based on the percentage of nonresident general hunting licenses issued the previous year.

(c) An applicant issued an antlered elk license is not permitted to apply for another elk license for 5 license years.

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting license prior to attending an orientation session sponsored by the Commission before the elk license is issued. Persons who are eligible for license and fee exemptions and meet the requirements in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.

(e) The number of licenses shall be limited to a number set by the Commission.

APPENDIX F



[Pa.B. Doc. No. 02-1374. Filed for public inspection August 9, 2002, 9:00 a.m.]



# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

### Boating; Horsepower Limits

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to horsepower limits at six State park lakes.

A. *Effective Date*

The proposed amendments, if approved on final-form rulemaking, will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed amendments, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

The proposed amendments to §§ 111.9—111.11, 111.32, 111.43 and 111.67 are published under section 5124 of the code (relating to particular areas of water).

D. *Purpose and Background*

The proposed amendments are designed to update, modify and improve the Commission's regulations pertaining to boating. The specific purpose of the proposed amendments is described in more detail under the summary of proposal. The Commission's Boating Advisory Board (BAB) has considered the proposal and has recommended that the Commission publish a notice of proposed rulemaking containing the proposed amendments.

E. *Summary of Proposal*

The Department of Conservation and Natural Resources (Department) announced on March 14, 2002, that boating horsepower limits at six State park lakes have been changed in a pilot program seeking better enforcement and the best protection of the environment. Under the pilot program, outboard motor limits have been increased from 10 horsepower to 18 horsepower at the following lakes: Lake Marburg, Codorus State Park, York County; Lake Wilhelm, Maurice K. Goddard State Park, Mercer County; Lake Arthur, Moraine State Park, Butler County; Lake Nockamixon, Nockamixon State Park, Bucks County; Glendale Lake, Prince Gallitzin State Park, Cambria County; and Yellow Creek Lake, Yellow Creek State Park, Indiana County. The pilot program went into effect immediately.

These changes, however, may not be permanent. Managers at each of the affected parks will closely monitor their lakes for signs of increased shoreline erosion or other adverse effects. The Department will continue to entertain public comments.

At the Department's request, the Commission has, in the past, adopted special boating regulations for State

park lakes. These regulations maintained unlimited horsepower at seven State park lakes; motors not larger than 10 horsepower at seven State park lakes (including the six where the test program has been implemented); and electric motors only at 35 State parks lakes.

With regard to the lakes included in the pilot program, staff of the Commission believe that the special regulations governing them should be rescinded until the Department has made a final determination as to horsepower limits. In the meantime, the Commission's Bureau of Law Enforcement will defer to the Department with regard to the enforcement of horsepower limits.

In this notice of proposed rulemaking, the Commission also is proposing an amendment to § 111.11(a) (relating to Cambria County) to add text that previously was inadvertently omitted.

F. *Paperwork*

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at [ra-pfbcregs@state.pa.us](mailto: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*

**Fiscal Note:** 48A-127. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

#### Subpart C. BOATING

#### CHAPTER 111. SPECIAL REGULATIONS COUNTIES

#### § 111.9. Bucks County.

\* \* \* \* \*

(c) [ *Nockamixon Lake—Nockamixon State Park*. The use of motors in excess of 10 horsepower is prohibited.

(d) ] *Tyler State Park*. \* \* \*

[ (e) ] (d) *Delaware River.* \* \* \*

§ 111.10. **Butler County.**

[ (a) ] *Lake Arthur—Moraine State Park.* **The use of motors in excess of 10 horsepower is prohibited.**

(b) ] *Glade Run Lake.* \* \* \*

§ 111.11. **Cambria County.**

[ (a) ] *Duman Lake.* **The operation of boats powered by internal combustion motors is prohibited.**

[ (b) ] *Glendale Lake—Prince Gallitzin State Park.* **The use of motors in excess of 10 horsepower is prohibited. ]**

§ 111.32. **Indiana County.**

\* \* \* \* \*

(b) [ *Yellow Creek Lake—Yellow Creek State Park.* **The use of motors in excess of 10 horsepower is prohibited.**

(c) ] *Conemaugh River Lake.* \* \* \*

§ 111.43. **Mercer County.**

[ (a) ] *Lake Wilhelm—M. K. Goddard State Park.* **The use of a motor in excess of 10 horsepower is prohibited.**

(b) ] *Shenango River Lake.* \* \* \*

§ 111.67. **York County**

\* \* \* \* \*

(b) [ *Lake Marburg—Codorus Sate Park.* **The use of motors in excess of 10 horsepower is prohibited.**

(c) ] *Lake Redman.* \* \* \*

[ (d) ] (c) *Lake Williams.* \* \* \*

[Pa.B. Doc. No. 02-1375. Filed for public inspection August 9, 2002, 9:00 a.m.]

# GAME COMMISSION

[58 PA. CODE CH. 143]

## Elk Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 11, 2002, meeting, proposed the following amendments:

Delete §§ 143.204 and 143.205 (relating to unlawful acts; and penalties) and add §§ 143.206—143.208 (relating to validity of license; unlawful acts; and penalties) to establish where elk licenses are valid and whether an elk license is valid for an antlered or antlerless elk. Also, to provide for allowing elk hunters to be moved from assigned area.

The proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendments is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed amendments were made public at the June 11, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 27, 2002.

1. *Introduction*

The Commission is proposing to delete §§ 143.204 and 143.205 and add §§ 143.206—143.208.

2. *Purpose and Authority*

There are currently no provisions in Subchapter K (relating to elk licenses) describing where elk licenses are valid or whether an elk license is valid for an antlered or antlerless elk. Additionally, to improve hunter success and obtain maximum utilization of limited elk licenses, the Bureau of Wildlife Management may need to move hunters from their originally designated elk management unit to another management unit. The proposed amendments will establish those options and establish a preference to licensed hunters within an elk management area in the order their applications were drawn.

Section 2102(a) of the code (relating to regulations) directs the Commission to promulgate regulations, as it deems necessary and appropriate, concerning game or wildlife and hunting or furtaking in this Commonwealth. In addition, section 2722(g)(2) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of activities relating to hunting licenses. These sections provide the regulatory authority for the proposed amendments.

3. *Regulatory Requirements*

The proposed amendments will establish limited validity of elk licenses, establish procedures relating to elk licenses and expand hunting opportunities within elk management areas.

4. *Persons Affected*

Licensed elk hunters will be affected by the proposed amendments.

5. *Cost and Paperwork Requirements*

The proposed amendments should not result in additional cost or paperwork.

6. *Effective Date*

The proposed amendments will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the proposed amendments, contact David E. Overcash, Director, Bureau of Law Enforcement, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-148. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 143. HUNTING AND FURTKAKER**  
**LICENSES**

**Subchapter K. ELK LICENSES**

§ 143.204. [ Unlawful acts ] (Reserved).

**[ It is unlawful for a person to:**

**(1) Submit more than one application for an elk license during any hunting license year.**

**(2) Apply for or to receive a license contrary to the act or this part. ]**

§ 143.205. [ Penalties ] (Reserved).

**[ A person violating this subchapter shall, upon conviction, be sentenced to pay the fine prescribed in the act. ]**

§ 143.206. **Validity of license.**

**(a) An elk license is valid for taking elk only in the elk management area designated on the elk license and is valid for an antlerless or antlered elk as designated on the elk license.**

**(b) The Commission may change the elk management area designated on an elk license. If the Commission changes the designated elk management area and there is more than one hunter with a valid elk license in the elk management area the Commission is moving hunters from, preference will be given to the licensed hunters in the order their applications were drawn.**

§ 143.207. **Unlawful acts.**

**It is unlawful for a person to:**

**(1) Submit more than one application for an elk license during any hunting license year.**

**(2) Apply for or to receive a license contrary to the act or this part.**

**(3) Hunt for elk in an elk management area other than the elk management area designated on the elk license.**

**(4) Hunt or take an elk other than the antlered or antlerless elk designated on the elk license.**

§ 143.208. **Penalties.**

**A person violating this subchapter shall, upon conviction, be sentenced to pay the fine prescribed in the act.**

[Pa.B. Doc. No. 02-1376. Filed for public inspection August 9, 2002, 9:00 a.m.]

**MILK MARKETING BOARD**

[7 PA. CODE CH. 150]

**Milk Marketing Fees**

The Milk Marketing Board (Board) proposes to amend Chapter 150 (relating to milk marketing fees) to read as set forth in Annex A.

*Purpose of Proposed Amendments*

The proposed amendments have three purposes: to adjust fees as necessary to reflect the administrative costs of issuing licenses; to meet the Board's budget requirements; and to achieve greater clarity and consistency.

Article XI of the Milk Marketing Law (law) (31 P. S. §§ 700j-1101—700j-1104) provides that all money collected by the Board from license fees and other sources shall be placed in a separate fund known as the Milk Marketing Fund (Fund), which is annually appropriated to the Board to pay its expenses. The Board is therefore self-supporting, receiving no revenues from the General Fund. Its chief source of revenue is license and certification fees. Monetary penalties paid by licensees in settlement of prosecution actions and miscellaneous income such as interest provide minor supplemental income. Of these sources, only license and certification fees are capable of meaningful adjustment to offset projected shortfalls.

Under current funding, the Board projects steadily declining balances in the Fund with an anticipated deficit of \$163,000 occurring in fiscal year 2005-2006 and a deficit of \$751,000 for fiscal year 2006-2007. To avoid the shortfalls projected to commence in fiscal year 2005-2006, the Board is proposing to increase license fees of milk dealers, subdealers and milk haulers beginning with the 2003-2004 license year (July 1, 2003—June 30, 2004) and the certification fees of milk weighers and samplers and milk testers beginning with the 2003 license year (January 1, 2003—December 31, 2003). These increases will result in the following projected balances: \$1.354 million for fiscal year 2003-2004; \$1.689 million for fiscal year 2004-2005; \$1.943 million for fiscal year 2005-2006; and \$2.113 million for fiscal year 2006-2007.

*Summary of Proposed Amendments*

*Section 150.2*

This new section identifies the time periods covered by, respectively, a license year and a certification year. References to these time periods occur throughout the regulations.

*Sections 150.11—150.13, 150.41 and 150.42*

The proposed amendments to the sections addressing license fees of milk dealers distinguish more clearly among the three fees imposed: a fixed fee for the initial license; a fixed fee for annual license renewal; and an annual hundredweight fee. Additional clarity has been provided with regard to what milk is subject to the hundredweight fee.

Section 150.12 (relating to additional annual fees) is subject to the higher fee and to milk for which the Board has not fixed a price is subject to the lower fee. Although that terminology tracks language in section 3(a)(2) and (3) of the Milk Marketing Fee Act (act) (31 P. S. § 700k-3(a)(2) and (3)), it is ambiguous. The Board fixes not only wholesale and retail prices but also prices for producer milk (raw milk sold by dairy farmers to milk dealers). Producer milk is not subject to the higher hundredweight fee. Therefore the Board has specified that the higher fee is imposed on milk subject to wholesale or retail prices fixed by the Board, thus eliminating producer milk. The lower fee is then imposed on all other milk handled within the State.

The Board proposes in § 150.11(b) (relating to annual fixed fee) to increase the initial application fee of milk dealers from \$50 to \$100 beginning with the 2003-2004 license year. The fee takes into account the staff time

required to review the application, contact the applicant to resolve discrepancies, prepare and present the application to the Board, generate the license, input the information into the computer system and create a file. Section 4(a) of the act (31 P. S. § 700k-4(a)) requires, however, that the Board prorate the "specific annual fee" for milk dealers "who are not engaged in the milk business at the commencement of the license period." Although the application fee is not paid annually, it is the only fee to which this directive could apply. Accordingly, the Board is compelled to lower the fee based on when the application is filed notwithstanding the fact that staff time is unaffected. Prorating will continue to be done on a quarterly basis.

The annual renewal fee for milk dealers under § 150.11(c) will remain \$50, which reflects the reduced amount of staff time required to process renewal applications.

In § 150.12, the Board is proposing modest increases in the hundredweight fees paid by milk dealers, namely, from \$.035 to \$.055 for milk subject to wholesale or retail prices fixed by the Board, and from \$.005 to \$.0064 on milk not subject to those prices. The increases will take effect commencing with the 2003-2004 license year.

The Board proposes to delete §§ 150.41 and 150.42 (relating to out-of-State sales; and exemptions). Section 150.41 recapitulates section 5 of the act (31 P. S. § 700k-5), which permits the Board to exclude certain categories of milk from the computation of license fees. The regulation does not, however, indicate what, if any, exclusions the Board has approved. The exclusions deemed appropriate now appear in § 150.12(d) of the proposed regulations. Section 150.12(d) excludes milk purchased by an in-State or out-of-State milk dealer from an out-of-State producer if the milk was diverted and never entered the purchasing dealer's plant. The Board has declined to exclude: (1) milk produced by an applicant but not sold by that applicant to stores or consumers; (2) milk sold in a state that also charges a hundredweight fee; and (3) an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11—150.13 and 150.21—150.23, having determined that the reporting and administrative burdens of tracking the milk would outweigh any financial benefits.

Section 5 of the act also directs the Board, in computing the license fee, to ascertain and fix the fluid milk equivalent of milk other than fluid milk. The Board has exercised this authority in § 150.12(c) of the proposed rulemaking, which sets out the formulas for converting creams and condensed and concentrated milk to their fluid milk equivalents. That provision also describes the treatment of farm-separated sour cream, as mandated by section 5 of the act.

The proposed amendment to § 150.13 (relating to time for payment of fees) reorganizes the provision and generally enhance clarity. The sole substantive change is deletion of the statement that a milk dealer failing to make a timely installment payment on a license fee shall be deemed to be unlicensed. The Board has decided that it is more prudent to address the lapses on a case-by-case basis.

#### *Sections 150.21—150.23*

Subdealers are referred to in the existing regulations as milk subdealers. The statutorily defined term is, however, subdealer (see section 103 of the law (31 P. S. § 700j-103)). The Board proposes first to delete milk whenever it

precedes subdealers. Second, the Board proposes in § 150.21 (relating to fixed fee) to establish a fee of \$50 for an initial subdealer license and a fee of \$25 for a renewed license beginning with the 2003-2004 license year. The current fee of \$5 bears no relationship to the administrative costs of processing subdealer licenses. As with milk dealers, however, the fee for an initial license would be prorated based on when the license was issued.

Section 150.22 (relating to per hundredweight fee) has been amended to make clear that subdealers pay not a hundredweight fee but a fee based on their average monthly purchases of milk for which the Board has set a wholesale price. The Board proposes to add language excluding from the calculation any month during which the subdealer did not engage in business.

The proposed amendments to § 150.23 (relating to time for payment of fees) distinguish between payment of the initial application fee and the renewal fees.

#### *Sections 150.51—150.53*

The Board has maintained in § 150.51 (relating to fixed fee) a \$30 fee for an initial and renewed milk hauler license. The Board has also maintained the \$.005 hundredweight fee imposed under § 150.52 (relating to per hundredweight fee). Language was changed for consistency with other changes made in the proposed rulemaking and to clarify what milk the hundredweight fee is imposed on.

#### *Sections 150.61 and 150.62*

Because milk testers are certified, not licensed (see section 602 of the law (31 P. S. § 700j-602)), the Board proposes first to correct language referring to the credential. The Board proposes no increase in the milk tester's examination fee, initial application fee or renewal fee.

#### *Sections 150.71 and 150.72*

Like milk testers, milk weighers and samplers are certified, not licensed (see section 603 of the law (31 P. S. § 700j-603)). The Board has therefore corrected language referring to their credential. The Board proposes to increase the milk weighers and samplers examination fee from \$15 to \$25 and to increase the application and renewal fee from \$15 to \$20. This change reflects the staff time required to administer the examination and issue the certificate to a milk weigher and sampler and brings the certification fees in line with those of the milk testers.

#### *Sections 150.81 and 150.82*

The Board proposes an increase in fees for transferring a license from \$10 for \$50 based on the amount of staff time spent reviewing the application for transfer and issuance of a new license. The Board proposes no increase in fees charged for copying or certifying Board documents.

#### *Statutory Authority*

The act authorizes the Board to establish license fees for milk dealers, subdealers and milk haulers; certification fees for milk testers and milk weighers and samplers; a fee for transferring a license; and fees for copying and providing certification of Board documents. Section 10.1 of the act (31 P. S. § 700k-10.1) provides that these fees are for the exclusive use of the Board in carrying out its statutory duties.

#### *Fiscal Impact*

The proposed fee increases will have a fiscal impact on milk dealers, subdealers and milk weighers and samplers by requiring them to pay greater initial application, license renewal or hundredweight fees.

*Paperwork Requirements*

There will be no additional paperwork requirements for milk dealers, subdealers, milk haulers, milk testers or milk weighers and samplers.

*Effective Date; Sunset Date*

The proposed amendments will become effective upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking. No sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 29, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees on Agriculture and Rural Affairs. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections concerning the proposed amendments to Beverly R. Minor, Chairperson, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the *Pennsylvania Bulletin*.

LYNDA J. BOWMAN,  
*Secretary*

**Fiscal Note:** 47-10. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART VI. MILK MARKETING BOARD**

**CHAPTER 150. MILK MARKETING BOARD FEES**

**GENERAL PROVISIONS**

**§ 150.1. Definitions.**

**[ The words ]** When used in this chapter, terms **[ and phrases ]** defined in section 103 of the act (31 P. S. § 700j-103) **[ are incorporated by reference ]** have the meanings given to them in that section, unless the context clearly indicates otherwise.

**§ 150.2. License year; certification year.**

**(a) The license year for milk dealers, subdealers and milk haulers is the period beginning on July 1 of a given year and ending on June 30 of the succeeding year.**

**(b) The certification year for milk testers and milk weighers and samplers is a calendar year.**

**LICENSE FEES OF MILK DEALERS**

**§ 150.11. [ Annual fixed fee ] Fixed fees.**

**(a) [ A milk dealer shall pay to the Board an annual fixed fee of \$50.**

**(b) A milk dealer who is not engaged in the milk business on July 1 ] A new applicant for a milk dealer's license shall pay a fee of \$100 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fixed annual fee as follows:**

**(1) [ For ] Seventy-five dollars for a license issued on or after October 1 [ , ] but [ prior to ] before January 1 [ , the fee is \$37.50 ] of the succeeding year.**

**(2) [ For ] Fifty dollars for a license issued on or after January 1 [ , ] but [ prior to ] before April 1 of the [ succeeding ] same year [ , the fee is \$25 ].**

**(3) [ For ] Twenty-five dollars for a license issued on or after April 1 [ , ] but [ prior to ] before July 1 [ , the fee is \$12.50 ] of the same year.**

**(b) An applicant for annual renewal of a milk dealer's license shall pay a fee of \$50.**

**§ 150.12. [ Additional annual ] Hundredweight fees.**

**(a) In addition to the annual [ fixed ] license renewal fee imposed under § 150.11(b) (relating to [ annual ] fixed [ fee ] fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay [ to the Board a ] an annual hundredweight fee [ equal to the sum of : ] as set forth in paragraphs (1) and (2).**

**(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is [ \$.035 ] \$.055 per hundredweight.**

**(2) For milk for which the Board has not fixed a minimum wholesale or retail price [ , ] that is not included under paragraph (1) and that the milk dealer received [ , produced ] or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is [ \$.005 ] \$.0064 per hundredweight.**

**(b) [ A ] In addition to the annual license renewal fee imposed under § 150.11(b), a milk dealer [ who did not hold a milk dealer's license ] that was not licensed for the [ complete preceding ] entire calendar year preceding license renewal shall pay [ on a monthly basis, in addition to the fee imposed under § 150.11, ] a monthly hundredweight fee [ equal to the sum of : ] as set forth in paragraphs (1) and (2). Monthly payments shall continue until the milk dealer has been licensed for an entire calendar year and for each month thereafter until the next license year begins. Annual payments shall then commence under subsection (a).**

**(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month for which the license was issued, the fee is [ \$.035 ] \$.055 per hundredweight.**

(2) For milk for which the Board has not fixed a minimum wholesale or retail price that is not included under paragraph (1) and that the milk dealer received [ , produced ] or brought into this Commonwealth during the preceding month for which the license is issued, the fee is [ \$.005 ] \$.0064 per hundredweight.

(c) [ The payments required under subsection (b) shall continue until the milk dealer has been engaged in the milk business for a full year, at which time the Board will establish a license fee based upon this section, § 150.11 and § 150.13 (relating to time for payment of fees). ] In computing hundredweight fees under subsections (a) and (b), the Board will ascertain and fix the fluid milk equivalent of milk other than fluid milk by dividing the pounds of butterfat in cream by 3.5 and the pounds of nonfat solids in condensed and concentrated milk by 8.8. For farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the Board will compute the total quantity of milk based on pounds of butterfat or sour cream rather than on the fluid milk equivalent.

(d) Milk purchased by a milk dealer located in or outside this Commonwealth from an out-of-State producer, which milk was diverted to an out-of-State milk dealer, is not subject to a hundredweight fee. As used in this subsection, "diverted" means that the purchasing milk dealer took possession of producer milk at the farm, from which location it was delivered to another milk dealer without entering the purchasing milk dealer's plant.

§ 150.13. Time for payment of fees.

(a) [ An ] A new applicant [ seeking ] for a milk dealer's license shall pay the fee imposed under § 150.11(a) (relating to [ annual ] fixed [ fee ] fees) [ at the time ] when the applicant submits the license application [ is filed with ] form provided by the Board.

(b) An applicant [ seeking ] for renewal of a milk dealer's license shall pay the [ fee ] fees imposed under § 150.11(b) and § 150.12(a) (relating to [ additional annual ] hundredweight fees) [ at the time ] when the applicant submits the license renewal application [ is filed with ] form provided by the Board. Fees exceeding \$2,000 may be paid in four substantially equal installments, the first to be submitted with the license renewal application form and the remaining three to be received in the Board office on or before September 15, December 15 and March 15, respectively, or the next business day if the 15th falls on a day when Commonwealth offices are closed.

(c) [ Notwithstanding the provisions of subsection (b), an applicant seeking renewal of a dealer's license may pay the fee imposed under §§ 150.11 and 150.12 in four equal payments if the total fee imposed exceeds \$2,000. The first payment shall be submitted at the time the renewal application is filed with the Board. The remaining three payments must be received by the Board on or before September 15, December 15 and March 15 respectively. A milk dealer who elects to pay the license fee in installments shall be deemed to be un-

censed if an installment is not received by the Board within the time specified. ] An applicant for renewal of a milk dealer's license subject to § 150.12(b) shall pay the fee imposed under § 150.11(b) when the applicant submits the license renewal application form provided by the Board and shall submit the monthly hundredweight fee with the report milk dealers shall file under § 147.10 (relating to monthly reports).

LICENSE FEES OF [ MILK ] SUBDEALERS

§ 150.21. Fixed [ fee ] fees.

[ A milk subdealer shall, as a condition of being issued a subdealer's license, or having a subdealer's license renewed, pay to the Board a fee of \$5. ] (a) A new applicant for a subdealer's license shall pay a fee of \$50 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fee as follows.

(1) Thirty-seven dollars and fifty cents for a license issued on or after October 1 but before January 1 of the succeeding year.

(2) Twenty-five dollars for a license issued on or after January 1 but before April 1 of the same year.

(3) Twelve dollars and fifty cents for a license issued on or after April 1 but before July 1 of the same year.

(b) An applicant for annual renewal of a subdealer's license shall pay a fee of \$25.

§ 150.22. [ Per hundredweight ] Quart-equivalent fee.

(a) In addition to the [ fixed ] annual license renewal fee [ in ] imposed under § 150.21(b) (relating to fixed [ fee ] fees), a subdealer shall pay [ , on ] an annual [ basis, a ] fee [ on milk on which the Board sets prices as set forth in § 150.12(a) (relating to additional annual fees) ] calculated by dividing the total quarts of milk purchased during the previous calendar year by the number of months in which the subdealer engaged in business. The [ additional ] Board will assess the fee [ shall be assessed ] in accordance with the following schedule:

	<i>[Per License]</i>	<i>[Per License]</i>
<i>[Ave] Avg. Qts. Purchased</i>	<i>[Per] per</i>	<i>Annual Fee</i>
<i>Month</i>		
* * * * *		

(b) [ In calculating the fees in this section ] As used in subsection (a), [ the term "quart" ] "quarts" means the total volume of milk [ purchased ] for which the Board sets a wholesale price expressed in quart equivalents.

§ 150.23. Time for payment of fees.

[ The fees in §§ 150.21 and 150.22 (relating to fixed fee; and per hundredweight fee) shall be paid to the Board at the same time the subdealer submits an application for a license, on or before June 15th of each year. ]

(a) A new applicant for a subdealer's license shall pay the fee imposed under § 150.21(a) (relating to

fixed fees) when the applicant submits the license application form provided by the Board.

(b) An applicant for renewal of a subdealer's license shall pay the fees imposed under § 150.21(b) and § 150.22 (relating to quart-equivalent fee) when the applicant submits the license renewal application form provided by the Board.

[ COMPUTATIONS OF LICENSE FEES ]

§ 150.41. [ Out-of-State sales ] (Reserved).

[ (a) Milk sold and distributed outside of this Commonwealth in a state which charges milk dealers or handlers a license fee may be deducted in the determination of the amount of the license fee required by this chapter, on the condition, that the quantity of milk is actually computed in determining the amount of the license fee in the other state.

(b) In computing the license fee to be charged by the Board, the fluid milk equivalent of milk other than fluid milk, shall be ascertained and fixed in a manner the Board prescribes. In the case of farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the total quantity of the milk shall be computed according to pounds of butterfat or sour cream rather than the fluid milk equivalent thereof.

(c) Nothing in this section requires, in the computation of the license fee, the inclusion of milk which is received by the applicant milk dealer or handler from another milk dealer or handler, subject to license under this chapter, which milk has been included in the computation of the other dealer's fee or milk which is produced by the applicant dealer or handler and not sold by him to stores or consumers. ]

§ 150.42. [ Exemptions ] (Reserved).

[ In the computation of a license fee, the fee will not include an amount of nonprice controlled products sold from one licensed dealer to another licensed dealer or subdealer on which the fees in §§ 150.11—150.13 and 150.21—150.23 (relating to license fees of milk dealers; and license fees of milk subdealers) have been paid by the selling dealer. ]

LICENSE FEES OF MILK HAULERS

§ 150.51. Fixed [ fee ] fees.

A [ milk hauler shall, as a condition of being issued a milk hauler's license, or having a milk hauler's license renewed, ] new applicant for a milk hauler's license and an applicant for annual renewal of a milk hauler's license shall pay [ to the Board ] a fee of \$30.

§ 150.52. [ Per hundredweight ] Hundredweight fee.

In addition to the [ fixed ] annual license fee [ in ] imposed under § 150.51 (relating to fixed [ fee ] fees), a [ licensed ] milk hauler shall pay [ the sum of \$.0025 per hundredweight on milk hauled, during the licensing year July 1, 1989 to June 30, 1990, and \$.005 per hundredweight on milk hauled during the licensing year July 1, 1990 to June 30, 1991 and each licensing year thereafter ] a fee of \$.005 per

hundredweight for milk hauled during the license year. [ These fees ] The fee shall [ be computed as follows ] apply to:

(1) [ Milk picked up at a producer's farm located outside of this Commonwealth and delivered to a dealer or handler located within this Commonwealth. ] Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(2) [ Milk picked up at a producer's farm located within this Commonwealth and delivered to a dealer or handler located within or outside this Commonwealth. ] Milk picked up at a producer's farm located outside this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(3) Milk picked up at a producer's farm located in this Commonwealth and delivered to a milk dealer located outside this Commonwealth.

§ 150.53. Time for and manner of payment of [ fee ] fees.

(a) [ The fee set forth in § 150.51 (relating to fixed fee) shall be paid to the Board at the same time the milk hauler submits his application for a license, on or before June 15th of each year. ] A new applicant for a milk hauler's license and an applicant for renewal of a milk hauler's license shall pay the fee imposed under § 150.51 (relating to fixed fees) when the applicant files the application form provided by the Board.

(b) Payment of the [ per ] hundredweight fee shall be remitted by a licensed milk hauler in full to be received in the office of the Board by the 30th day of the month immediately succeeding the month in which the milk was hauled or the nearest business day thereafter (March 1 for January reports). The payment shall accompany the milk hauler's monthly report, Form PMMB-79, which is also due on that date.

[ LICENSE ] CERTIFICATION FEES OF MILK TESTERS

§ 150.61. [ Fee for certificate of proficiency in milk testing ] Examination fee.

[ (a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk testing shall pay to the Board a fee of \$25. This fee shall be paid at the same time the examination is taken. ] The fee to take the Board-approved examination for a certificate of proficiency in milk testing is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.62 (relating to fixed fees for new and renewed certificates).

[ (b) This fee is not refundable and is not applied toward the payment of the annual milk tester's license fee. ]

§ 150.62. [ Annual fee ] Fixed fees for [ milk testers ] new and renewed certificates.

[ (a) A licensed milk tester shall, as a condition of being issued a milk tester's license, or having a milk tester's license renewed, pay to the Board a

fee of \$20.] A new applicant for a milk tester's certificate and an applicant for renewal of a milk tester's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) This fee shall be paid to the Board at the same time the milk tester submits his application for a license, on or before December 1st of each year.]

[ LICENSE ] CERTIFICATION FEES OF MILK  
WEIGHERS AND SAMPLERS

§ 150.71. [ Fee for certificate of proficiency in milk weighing and sampling ] Examination fee.

[(a) A person desiring to take the examination prescribed by the Board to obtain a certificate of proficiency in milk weighing and sampling shall pay to the Board a fee of \$15. The fee shall be paid at the same time the examination is taken.] The fee to take the Board-approved examination for a certificate of proficiency in milk weighing and sampling is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.72 (relating to fixed fees for new and renewed certificates).

[(b) This fee is not refundable and is not applied toward the payment of the annual milk weigher and sampler's license fee.]

§ 150.72. [ Annual fee ] Fixed fees for [ milk weighers and samplers ] new and renewed certificates.

[(a) A licensed weigher and sampler shall, as a condition of being issued a weigher and sampler's

license, or having a weigher and sampler's license renewed, pay to the Board a fee of \$15.] A new applicant for a milk weigher and sampler's certificate and an applicant for renewal of a milk weigher and sampler's certificate shall pay a fee of \$20, which shall accompany the application form provided by the Board.

[(b) The fee shall be paid to the Board at the same time the weigher and sampler submits his application for a license, on or before December 1st of each year.]

OTHER FEES

§ 150.81. Transfer [ fees ] fee.

The fee [ for the ] to transfer [ of ] a license [ from one licensed milk dealer to another licensed milk dealer ] under section 407 of the act (31 P. S. § 700j-407) is [ \$10 ] \$50[ , payable to the Board at the time of transfer ].

§ 150.82. [ Miscellaneous fees ] Fees for copying and certifying Board documents.

[ The Board shall charge and collect fees ] Fees for providing copies of, or for certification of, [ papers, testimony and records. The fee shall be collected from the persons requesting the documents or certification and shall ] Board documents will be in an amount that will fully offset the costs incurred by the Board in providing the documents or certification.

[Pa.B. Doc. No. 02-1377. Filed for public inspection August 9, 2002, 9:00 a.m.]



# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, 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 30, 2002.

#### BANKING INSTITUTIONS Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
7-24-02	Fidelity Bancorp, Inc., Pittsburgh, to acquire First Pennsylvania Savings Association, Pittsburgh	Pittsburgh	Filed

#### Conversions

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
7-29-02	First Pennsylvania Savings Association Pittsburgh Allegheny County	Pittsburgh	Filed

Application filed for voluntary supervisory conversion from a State-chartered mutual savings association to a Federal stock savings association to effect the merger of First Pennsylvania Savings Association with and into Fidelity Savings Bank, Pittsburgh.

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-24-02	Fidelity Savings Bank, Pittsburgh, and First Pennsylvania Savings Association, Pittsburgh— Surviving Institution— Fidelity Savings Bank, Pittsburgh	Pittsburgh	Filed

#### SAVINGS INSTITUTIONS

None.

#### CREDIT UNIONS

None.

FRANCES A. BEDEKOVIC,  
*Acting Secretary*

[Pa.B. Doc. No. 02-1378. Filed for public inspection August 9, 2002, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

**Professional Standards and Practices Commission; Application of John P. Robinson for Reinstatement of Teaching Certificates; Doc. No. RE-01-02**

### Notice of Opportunity for Hearing and Invitation to Protest

Under the Professional Educator Discipline Act (act), (24 P. S. §§ 2070.1—2070.18a), the Professional Stan-

dards and Practices Commission (Commission) will consider the application of John P. Robinson for reinstatement of his teaching certificates.

John P. Robinson filed an application for reinstatement of his teaching certificates under section 16 of the act (24 P. S. § 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications) and 22 Pa. Code § 233.14 (relating to reinstatements). By letter dated July 9, 2002, the Department of Education has indicated they will not oppose John P. Robinson's reinstatement.

In accordance with the act, 1 Pa. Code §§ 35.1 and 35.2 and 22 Pa. Code § 233.14(d), the Commission will act upon the application without hearing, unless within 30 days after the publication of this notice a written request

for public hearing is filed with the Commission, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protests and requests for hearing shall be filed with Carolyn Angelo, Executive Director, Professional Standards and Practices Commission, 333 Market Street, Harrisburg, PA 17126-0333, on or before 4 p.m. on the due date prescribed by this notice.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Suzanne B. Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

CAROLYN ANGELO,  
Executive Director

[Pa.B. Doc. No. 02-1379. Filed for public inspection August 9, 2002, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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#### APPLICATIONS

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### 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 the 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.

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#### I. NPDES Renewal Applications

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0083003	Dudley-Carbon-Coalmont Joint Municipal Authority P. O. Box 276 Dudley, PA 16634-0276	Huntingdon County Carbon Township	Shoup Run 11-D	Y

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*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PA0101745**, Sewage, **Clarview Rest Home, Inc. d/b/a Clarview Nursing & Rehabilitation Center**, 14663 Route 68, Sligo, PA 16255. This proposed facility is located in Piney Township, **Clarion County**.

Description of Proposed Activity: discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is The Parker City Water System and the Allegheny River located at Parker City, 21 miles below point of discharge.

The receiving stream, unnamed tributary to Licking Creek, is in watershed 17B and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0146 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	20		40
Total Suspended Solids	20		40
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	1.47		3.5
Dissolved Oxygen		minimum of 6 mg/l at all times	
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

The EPA Waiver is in effect.

**PA0034720**, Sewage, **Lakeview Manor Mobile Home Park**, 8775 Hemlock Street, Meadville, PA 16335. This proposed facility is located in Union Township, **Crawford County**.

Description of Proposed Activity: for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the General Authority of the City of Franklin intake on French Creek located at Franklin, approximately 24 miles below point of discharge.

The receiving stream, Kebort Run, is in watershed 16-D and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.016 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N (5-1 to 10-31)	7.5		15
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 12,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and Report

The EPA Waiver is in effect

**PA0103241**, Sewage, **Moniteau School District, Marion Elementary School**, 2370 West Sunbury Road (Rt. 308), Boyers, PA 16020. This proposed facility is located in Marion Township, **Butler County**.

Description of Proposed Activity: Renewal of a treated minor discharge from a privately owned sewage treatment works.

The receiving stream, unnamed tributary to Seaton Creek, is in watershed 20-C and classified for: CWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Slippery Rock Creek and Salvation Army Camp Allegheny located at River Mile 3.24, 41.0 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .00273 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
NH <sub>3</sub> -N (5-1 to 10-31)	17		34
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 14,400/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

**PA0035513**, Sewage, **Pennsylvania Department of Transportation**, Welcome Center Site E, I80 Eastbound, PA. This proposed facility is located in Shenango Township, **Mercer County**.

Description of Proposed Activity: renewal of a treated minor discharge from a Commonwealth owned sewage works.

The receiving stream, unnamed tributary to the Shenango River, is in watershed 20-A and classified for: WWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Shenango River and New Castle District Pennsylvania-American Water Company located at River Mile 4.66, 20.74 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.005 million gallons per day are:

<i>Parameter</i>	<i>Minimum (mg/l)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		25		50
Total Suspended Solids		30		60
Ammonia-Nitrogen			Monitor and Report	
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine		1.4		3.3
Dissolved Oxygen	3			
pH			6.0 to 9.0 standard units at all times	

The proposed effluent limits for Outfall 001.

The EPA Waiver is in effect.

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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

**Application No. PA 0083526 Amendment No. 2**, Industrial Waste, SIC Codes 3714 and 3321, **R. H. Sheppard Co., Inc.**, 101 Philadelphia Street, Hanover, PA 17331. This facility is located in Hanover Borough, **York County**.

Description of activity: The application is for an amendment of an NPDES permit for new discharges of noncontact cooling water (NCCW).

The receiving stream, an unnamed tributary of Oil Creek, is in Watershed 7-H and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Co. is located on the Susquehanna River, approximately 42 miles downstream. The discharge is not expected to affect the water supply.

The following final effluent limitations are proposed:

*Outfall 001* (existing NCCW discharge with new emergency NCCW discharge)

pH: from 6.0 to 9.0 S.U. at all times.

Temperature: January—49°F, February—49°F, March—69°F, April—62°F, May—75°F, June—98°F, July—98°F, August—97°F, September—84°F, October—72°F, November—54°F, December—43°F. If an emergency discharge of NCCW from two heat treat machines in Plant 1 occurs, the temperature limitations are: January—40°F, February—40°F, March—46°F, April—52°F, May—64°F, June—80°F, July—87°F, August—87°F, September—78°F, October—66°F, November—50°F, December—42°F.

Total copper: monitor and report.

*Outfall 002* (existing NCCW discharge)

pH: from 6.0 to 9.0 S.U. at all times.

Temperature: January—40°F, February—40°F, March—46°F, April—52°F, May—64°F, June—80°F, July—87°F, August—87°F, September—78°F, October—66°F, November—50°F, December—42°F.

Total copper: monitor and report.

*Outfall 003* (new NCCW discharge)

pH: from 6.0 to 9.0 S.U. at all times.

Temperature: January—54°F, February—55°F, March—82°F, April—68°F, May—81°F, June—108°F, July—104°F, August—103°F, September—87°F, October—75°F, November—57°F, December—44°F.

Total copper: monitor and report.

*Outfall 004* (new emergency NCCW discharge)

pH: from 6.0 to 9.0 S.U. at all times.

Temperature: January—42°F, February—42°F, March—51°F, April—54°F, May—66°F, June—84°F, July—89°F, August—89°F, September—79°F, October—67°F, November—51°F, December—42°F.

Total copper: monitor and report.

Two stormwater outfalls are identified in the permit, with proposed monitoring requirements for CBOD<sub>5</sub>, chemical oxygen demand, total suspended solids, total phosphorus, total kjeldahl nitrogen, total iron, oil and grease and pH.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PA0228567**, SIC 4952, **Louise McCarthy and Joyce Steele**, R. D. 2 Box 93, New Albany, PA 18833. This proposed action is for a new NPDES permit for discharge of treated sewage to an unnamed tributary to the North Branch of Mehoopany Creek in Colley Township, **Sullivan County**.

The receiving stream is in the Loyalsock Watershed (10-B) and is classified for the following uses: CWF, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply considered during the evaluation is the Danville Municipal Authority located at Danville.

*Outfall 001*: The proposed effluent limits, based on a design flow of 0.00108 MGD, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	20	40
Total Chlorine Residual	1.0	2.3
Fecal Coliform	200/100 ml as a geometric average	
pH	6.0—9.0 SU at all times	

The EPA waiver is in effect.

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

**PA0002054**, Industrial Waste, SIC, 4911, **Reliant Energy**, 1001 Broad Street, Johnstown, PA 15907. This application is for an amendment of an NPDES permit to discharge treated stormwater from the Seward Generating Station in East Wheatfield, **Indiana County**.

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

*Outfall 022*: existing discharge of stormwater runoff.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids			35.0		70.0
Iron			3.5		7.0
Manganese			2.0		4.0
Aluminum			5.0		10.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is not in effect.

**PA0092037**, Sewage, **James Bender**, 57 Woodland Drive, Apt. 101, Vero Beach, FL 32962. This application is for renewal of an NPDES permit to discharge treated sewage from the Woodlawn Mobile Home Court STP in Unity Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Crabtree Creek, which are classified as a WWF 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 Water Works.

*Outfall 001*: existing discharge, design flow of 0.00525 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Phosphorus	2			4
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	1.4			3.3
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

## WATER QUALITY MANAGEMENT PERMITS

### CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER

#### APPLICATIONS UNDER THE 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).

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. 4602409**, Sewerage, **Whitpain Township**, 960 Wentz Road, P. O. Box 800, Blue Bell, PA 19422. This proposed facility is located in Whitpain Township, **Montgomery County**.

Description of Proposed Action/Activity: Replacement of existing wastewater pumping station with new submersible pump station.

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

**WQM Permit No. 6702404**, Sewerage, **Red Lion Municipal Authority**, P. O. Box 190, Red Lion, PA 17356-0190. This proposed facility is located in Red Lion Borough, **York County**.

Description of Proposed Action/Activity: Replacement of the High Street Pump Station.

**WQM Permit No. 2102407**, Sewerage, **John D. Petersham**, 135 Fox Hill Road, Newburg, PA 17240. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of small flow sewage treatment system to serve a residence at 1128 Roxbury Road, Newburg, PA.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Application No. 3002402**, Sewerage, **Franklin Township Sewer Authority**, P. O. Box 752, Waynesburg, PA 15370. Application for the construction and operation of two pump stations and sewers to serve the Eastview and West Waynesburg areas located in Franklin Township, **Greene County**.

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**NPDES Stormwater Individual Permit**


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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 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 Department 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 who 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 PAS10D127**, Stormwater, **Korman Commercial Properties**, 2 Neshaminy Interplex, Trevose, PA 19053 has applied to discharge stormwater associated with a construction activity located in Nockamixon Township, **Bucks County** to Rapp Creek (EV).

**NPDES Permit PAS10G537**, Stormwater, **Christopher Catania Subdivision**, P. O. Box 2101, Media, PA 19063 has applied to discharge stormwater associated with a construction activity located in West Brandywine Township, **Chester County** to unnamed tributary to West Branch Brandywine Creek (HQ-TSF).

*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.*

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<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10U176	L. Anderson Daub and W. John Daub 819 Nazareth Pike P. O. Box 265 Nazareth, PA 18064	Northampton County East Allen Township	Monocacy Creek HQ-CWF
PAS10U177	Charles Tuskes CMC Development Corp. 4511 Falmer Road Bethlehem, PA 18017	Northampton County Upper Nazareth Township	Monocacy Creek HQ-CWF

*Luzerne County Conservation District: R485 Smith Pond Road, Lehman, PA 18627-0250, (570) 674-7991.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10R043	Reading Materials, Inc. P. O. Box 1467 Skippack, PA 19474	Luzerne County Lehman Township	Pikes Creek HQ-CWF

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Clearfield County Conservation District, 650 Leonard St., Clearfield, PA 16830, (814) 765-2629.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS101708R	The Clearfield Foundation P. O. Box 250 Clearfield, PA 16830	Lawrence Township Clearfield County	West Branch Susquehanna River WWF

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Jefferson Conservation District: R. R. 5 Box 51, Brookville, PA 15825, (814) 849-7463.*

**NPDES Permit PAS103314**, Stormwater, **McCauley Trucking & Warehousing**, P. O. Box 127, New Bethlehem, PA 16242 has applied to discharge stormwater associated with a construction activity located in Pinecreek Township, **Jefferson County** to Little Mill Creek.

**NPDES Permit PAS104117**, Stormwater, **Snyder Brothers, Inc.**, P. O. Box 1022, One Glade Park East, Kittanning, PA 16201 has applied to discharge stormwater associated with a construction activity located in Hamilton Township, **McKean County** to North Fork and unnamed tributaries to North Fork (HQ-CWF).

### **PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days 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. Comment responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. 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 permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### **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. 0102506**, Public Water Supply.

Applicant **Chesapeake Estates Mobile Home Park**  
Municipality **Mt. Pleasant**  
County **Adams**

Responsible Official **Adam Martin, Manager**  
585 Martin Road  
Gettysburg, PA 17325  
Type of Facility **PWS**  
Consulting Engineer **Janet R. McNally, P. E.**  
William F. Hill & Assoc., Inc.  
207 Baltimore St.  
Gettysburg, PA 17325  
Application Received Date **June 18, 2002**  
Description of Action **Construction permit application for a 50,000 gallon aboveground finished water storage tank and a 50 gpm finished water booster station.**

**Permit No. 3802503**, Public Water Supply.  
Applicant **Mt. Gretna Heights Assoc. Inc.**  
Municipality **West Cornwall Township**  
County **Lebanon**  
Responsible Official **William B. Care, Director of Public Works**  
P. O. Box 391  
Mt. Gretna, PA 17064

Type of Facility **PWS**  
Consulting Engineer **David J. Gettle**  
Kohl Bros., Inc.  
P. O. Box 350  
Myerstown, PA 17067  
Application Received Date **June 17, 2002**  
Description of Action **The construction of Well No. 3 and the installation of an inter-connection with the Mt. Gretna Authority.**

**Permit No. 0602507**, Public Water Supply.  
Applicant **Valley View Mobile Home Park**  
Municipality **Amity Township**  
County **Berks**  
Responsible Official **James K. Overstreet**  
One Valley View Road  
Birdsboro, PA 19508

Type of Facility **PWS**  
Consulting Engineer **Paul J. Opila, P. E.**  
Miller Pump Systems, Inc.  
P. O. Box 105  
Cedars, PA 19423  
Application Received Date **June 19, 2002**

Description of Action **Construction Permit Application for installation of a granular activated carbon adsorption system for removal of tetrachloroethene from raw water supplied to the Valley View Mobile Home Park.**



## 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, 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 Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**McHugh Brothers Equipment Corp. Properties**, Middletown Township, **Bucks County**. Mark Fortna, DelVal Soil & Environmental Consultants, Inc., 4050 Skyron Drive, Doylestown, PA 18901, on behalf of McHugh Brothers Equipment Corp., P. O. Box 7196, Penn del, PA 19047, has submitted a Notice of Intent to Remediate soil contaminated with lead. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Currier Times* on July 1, 2002.

**Stainless, Inc.**, Perkasio Borough, **Bucks County**. Donald A. Coleman, P. G., Penn Environmental & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Redevelopment Authority of the County of Bucks, One Wilson Ave., Bristol, PA 19007, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with solvents. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Perkasie News World* and *Souderton Independent* on July 10, 2002.

**Hilltown Orchard**, Hilltown Township, **Bucks County**. Walter Hungarter, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Heritage Building Group, 3326 Old York Rd., Furlong, PA 18925, has submitted a Notice of Intent to Remediate soil contaminated with pesticides. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Montgomery News* on July 10, 2002.

**Realen Homes, L. P., Price Property**, Falls Township, **Bucks County**. Joseph W. Standen, Jr., P. G., Leggette, Brashears & Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380, on behalf of H.C. Price Co., 15660 North Dallas Parkway, Suite 300, Dallas, TX 75428, has submitted a Notice of Intent to Remediate soil contaminated with heavy metals. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on July 2, 2002.

**309 Washington Street**, Conshohocken Borough, **Montgomery County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of Washington St. Associates, LP, 700 S. Henderson Rd., King of Prussia, PA 19406, has submitted an amended Notice of Intent to Remediate soil and groundwater contaminated with lead, heavy metals and PAHs. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Times Herald* on July 2, 2002.

**Anzon Facility**, City of Philadelphia, **Philadelphia County**. Eric Fretz, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Cookson America, Inc., 1 Cookson Pl., Providence, RI 02903, has submitted a Notice of Intent to Remediate soil contaminated with lead and heavy metals and groundwater contaminated with lead, PAHs, solvents and volatile organics. The applicant proposes to remediate the site to

meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Inquirer* on July 5, 2002.

**Former Dodge Steel Castings Facility**, City of Philadelphia, **Philadelphia County**. Erik W. Stephens, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of East-West Trade Partners, 19 W. 3rd St., Media, PA 19003, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PCBs, lead, heavy metals, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on June 29, 2002.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Transtar Facility**, Fairview Township, **York County**. Harding ESE, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462, on behalf of Total Recycling Services, 430 Victoria Terrace, Ridgefield, NJ 07657 and EC Barnes Company, P. O. Box 277, Saint Thomas, PA 17252, submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot News* on July 19, 2002.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

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 Department Regional Office within 30 days of the date of this notice and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or

operating permit and relevant facts, which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior 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—143, the Federal Clean Air Act and regulations adopted under the Act.

### PLAN APPROVALS

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**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.**

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*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager; (570) 327-3637.*

**17-0001B: Reliant Energy Mid-Atlantic Power Holdings, LLC** (1001 Broad Street, Johnstown, PA 15907) for construction of a cooling tower and associated air cleaning devices (high efficiency drift eliminators) and modification of four bituminous coal-fired electric utility boilers (by increasing boiler usage) at the Shawville Electric Generating in Bradford Township, **Clearfield County**. The cooling tower construction and boiler modification are subject to the Federal Prevention of Significant Deterioration requirements.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**26-00545A: HBC Barge LLC** (1800 Paul Thomas Boulevard, Brownsville, PA 15417) for reactivation of barge manufacturing and repair at Brownsville Facility in Brownsville Borough, **Fayette County**.

**26-00546A: Atlas America, Inc.** (101 McQuiston Drive, Jackson Center, PA 16133) for construction of compressor station at Prah Facility in German Township, **Fayette County**.

**04-00235C: Pennsylvania Power Co.** (P. O. Box 128, Shippingport, PA 15077) for seasonal selective catalytic reduction NOx reduction equipment to be installed on Unit #3 at Bruce Mansfield Plant in Shippingport, **Beaver County**.

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**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.**

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*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.*

**23-0017A: Exelon Corp.** (200 Exelon Way, Kennett Square, PA 19348) for installation of a selective

noncatalytic reduction system for their plant at No. 1 Industrial Highway in the Borough of Eddystone, **Delaware County**. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and the Department's own analysis, the two boilers, combined, will reduce the emissions of nitrogen oxides by 759 tons during the control period after the installation of the selective noncatalytic reduction (SNCR) system. Emissions of ammonia will increase by 83.3 tons of ammonia per control period. The control period is from May 1 of the calendar year to September 30 of the same year, inclusive.

To assure compliance with the applicable standards, the Department has placed the following conditions in the proposed Plan Approval:

#### *Operational Limitations*

A. The company shall operate the SNCR system during the control period (defined in 25 Pa. Code § 145.2).

B. The company shall install, operate and maintain the SNCR system on each boiler in accordance with the manufacturer's specifications as well as good air pollution control practices.

#### *Emission Limitations*

A. The company shall limit the emissions of nitrogen oxides during the control period (defined in 25 Pa. Code § 145.2) to 0.175 lb/mmBtu or less.

B. The company shall limit the emissions of ammonia to 10 ppmv, corrected to 3% oxygen.

#### *Testing Requirements*

A. Within 60 days after achieving the maximum production rate at which each of the boilers will be operated, but not later than 180 days after the initial start-up of the SNCR system, the owner or operator shall conduct performance tests as per 25 Pa. Code Chapter 139 to demonstrate compliance with this plan approval.

B. The initial stack shall be for nitrogen oxides and ammonia.

C. At least 30 days prior to the test, the Regional Air Quality Manager shall be informed of the date and time of the test.

D. At least 60 days prior to the test, the company shall submit to the Department for approval the procedures for the test and a sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples.

E. Within 30 days after the source tests, two copies of the complete test report, including all operating conditions, shall be submitted to the Regional Air Quality Manager for approval. All test reports shall be complete and include all operating conditions.

#### *Monitoring Requirements*

The company shall continuously monitor the amount of reagent being injected whenever the SNCR system is operating.

#### *Recordkeeping and Reporting Requirements*

Sufficient data shall be recorded so that compliance with the conditions in this Plan Approval can be deter-

mined. Records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

A. The company shall maintain a copy of the manufacturer's specifications for the SNCR system.

B. The company shall keep a record of all stack tests and stack test reports that are required by this plan approval.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.*

**40-323-013: Truth Hardware** (Valmont Industrial Park, 500 Jaycee Drive, West Hazleton, PA 18202-1186) for construction of a fluidized sand bed rack cleaning operation and associated air cleaning devices at their production facility in Hazle Township, **Luzerne County**. This facility is a non-Title V facility. The construction uses a combination of thermal and mechanical cleaning to refurbish metal tools, parts and fixtures, utilizing two cyclones to reduce particulate emissions. The construction will result in emissions of 4.82 tons per year of particulate matter and 2.19 tons per year of VOCs. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within 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.*

**ER-21-05023: The Quaker Oats Co.** (P. O. Box 049001, Suite 20-16, Chicago, IL 60604) for an Emission Reduction Credit approval of 60.46 tons of PM-10 and 4 tons of NOx resulting from the shutdown of the cereal manufacturing facility in Hampden Township, **Cumberland County**.

### OPERATING PERMITS

#### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**28-05012: Ingersoll-Rand Co.** (312 Ingersoll Drive, Shippensburg, PA 17257) for operation of a construction equipment manufacturing facility in Shippensburg Borough, **Franklin County**. This action is a renewal of the Title V Operating Permit that was issued in 1997.

**28-05028: York International Corp.** (100 CV Avenue, Waynesboro, PA 17268) for operation of the Frick Refrigeration Equipment Manufacturing Facility in Waynesboro Borough, **Franklin County**. This action is a renewal of the Title V Operating Permit that was issued in 1997.

**36-05019: Anvil International, Inc.** (1411 Lancaster Avenue, Columbia, PA 17512) for operation of an iron foundry in Columbia Borough, **Lancaster County**. This permit is a renewal of the Title V Operating Permit that was issued in 1997.

**67-05007: Adhesives Research, Inc.** (P. O. Box 100, Glen Rock, PA 17327) for operation of an adhesive coating facility in Springfield Township, **York County**. This permit action is a renewal of the Title V Operating Permit that was issued in 1998.

**67-05027: York Wallcoverings, Inc.** (750 Linden Avenue, York, PA 17404) for operation of a wallcovering printing facility in the City of York, **York County**. This permit action is a renewal of the Title V Operating Permit that was issued in 1998.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**25-00916: Ridg-U-Rak—North East Plant** (120 South Lake Street, North East, PA 16428) for a Title V Operating Permit Reissuance to operate a metal shelving manufacturing facility in North East Borough, **Erie County**.

**28-05028: York International Corp.** (100 CV Avenue, Waynesboro, PA 17268) for operation of the Frick refrigeration equipment manufacturing facility in Waynesboro Borough, **Franklin County**. This action is a renewal of the Title V Operating Permit that was issued in 1997.

**36-05019: Anvil International, Inc.** (1411 Lancaster Avenue, Columbia, PA 17512) for operation of an iron foundry in Columbia Borough, **Lancaster County**. This permit is a renewal of the Title V Operating Permit that was issued in 1997.

**67-05007: Adhesives Research, Inc.** (P. O. Box 100, Glen Rock, PA 17327) for operation of an adhesive coating facility in Springfield Township, **York County**. This permit action is a renewal of the Title V Operating Permit that was issued in 1998.

**67-05027: York Wallcoverings, Inc.** (750 Linden Avenue, York, PA 17404) for operation of a wallcovering printing facility in the City of York, **York County**. This permit action is a renewal of the Title V Operating Permit that was issued in 1998.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**21-03002: Hoffman Mills, Inc.** (35 Springhouse Road, P. O. Box 330, Shippensburg, PA 17257) for operation of a textile manufacturing facility in Shippensburg Borough, **Cumberland County**. The Natural Minor Operating Permit shall contain standard recordkeeping and operation restrictions designed to keep the facility operating within all applicable air quality requirements.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**63-00643: Ametek, Inc.** (P. O. Box 427, Eighty Four, PA 15330) for operation of a water atomization process at the Specialty Metal Products Division in North Strabane Township, **Washington County**.

**04-00684: Beaver Valley Aggregates, Inc.** (3468 Brodhead Road, Monaca, PA 15061) for operation of a slag processing plant at the Aliquippa Site in Hopewell Township, **Beaver County**.

**04-00695: Norfolk Southern Railway Co.** (425 Holiday Drive, Pittsburgh, PA 15220) for operation of a railroad maintenance facility at the Conway Yard in Conway Borough, **Beaver County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**10-00335: Penn United Technology, Inc.** (P. O. Box 399, 196 Alwine Road, Saxonburg, PA 16056) for operation of a machine tool accessories manufacturing facility in Jefferson Township, **Butler County**.

**42-00151: Werzalit of America, Inc.** (40 Holley Avenue, Bradford, PA 16701) for operation of a wood products manufacturing and a surface coating process in Bradford, **McKean County**.

**20-00034: Weyerhaeuser Choicewood—Titusville Yard** (11117 Skyline Drive, Titusville, PA 16354) for operation of woodworking operations, drying kilns and a wood-fired boiler in Oil Creek Township, **Crawford 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 certification.

Written comments, 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*

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17020107. Moravian Run Reclamation Co., Inc.**, 605 Sheridan Drive, Clearfield, PA 16830. Commencement, operation and restoration of a bituminous surface mine-auger permit in Lawrence Township, **Clearfield County** affecting 112 acres. Receiving streams: unnamed tributaries to West Branch Susquehanna River and the West Branch of the Susquehanna River, classified for the following uses: CWF, WWF. The first potable water supply intake from the point of discharge is: none. Application received July 22, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**65010102 and NPDES Permit No. PA0202967. V. P. Smith Company, Inc.** (P. O. Box 242, Ligonier, PA 15658). Revision application for additional acreage to an existing bituminous surface mine located in Fairfield Township, **Westmoreland County**, affecting 133.6 acres. Receiving streams: unnamed tributaries to Hypocrite Creek to Hypocrite Creek to Hendricks Creek to Tudmill Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received July 25, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**11920104 and NPDES Permit No. PA0599484. K & J Coal Company, Inc.**, P. O. Box 189, Westover, PA 16692, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine in Chest Township, Westover Borough, **Cambria and Clearfield Counties**, affecting 135.0 acres. Receiving streams: unnamed tributary to/and Chest Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 19, 2002.

**11920108 and NPDES Permit No. PA0212202. K & J Coal Company, Inc.**, P. O. Box 189, Westover, PA 16692, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Chest Township, **Cambria County**, affecting 103.0 acres. Receiving streams: an unnamed tributary to Chest Creek and an unnamed tributary to Rock Run classified for the following uses: CWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 19, 2002.

*McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.*

**11733701. NPDES Permit N/A, Robindale Energy Services, Inc.** (1001 Broad St., Suite 130, Johnstown, PA 15906), to transfer the permit for the Cambria Slope Mine

33 in Cambria Township, **Cambria County** to transfer from BethEnergy Mines, Inc., Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received June 28, 2002.

**32841312. NPDES Permit PA0037087, Keystone Coal Mining Corp.** (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Urling No. 1 and No. 3 Mine in Armstrong Township, **Indiana County**, renewal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received July 24, 2002.

*Noncoal Applications Received*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**7775SM8C2 and NPDES Permit PA0595748. Dyer Quarry, Inc.** (P. O. Box 188, 1275 Rock Hollow Road, Birdsboro, PA 19508), renewal of NPDES Permit in Robeson Township, **Berks County**, receiving streams: Indian Corn Creek (CWF) and Seidel Creek (WWF). First potable water supply intakes from the point of discharge are Borough of Pottstown Water Treatment Plant and Birdsboro Slag Products Co. Application received July 18, 2002.

**77731A2C4 and NPDES Permit PA0595322. Reading Materials, Inc.** (P. O. Box 1467, Skippack, PA 19474), renewal of NPDES Permit in Douglass Township, **Berks County**, receiving stream: unnamed tributary to Schuylkill River. Classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is The Pottstown Water Authority. Application received July 23, 2002.

**7974SM5A1C3 and NPDES Permit PA612243. Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit in Hilltown Township, **Bucks County**, receiving stream: North Branch Neshaminy Creek. Classified for the following uses: TSF and MF. The first downstream potable water supply intake from the point of discharge is North Penn and North Wales Water Authority. Application received July 23, 2002.

**36820301C3 and NPDES Permit PA0612171. Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit in Brecknock Township, **Lancaster County**, receiving stream: unnamed tributary to Black Creek. Classified for the following use: WWF. Application received July 23, 2002.

**48870301C4 and NPDES Permit PA0593893. Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit in Lower Mt. Bethel Township, **Northampton County**, receiving stream: Delaware River. Classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Easton Water Treatment Plant. Application received July 23, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**07020301 and NPDES Permit No. PA0249289. Grannas Brothers Stone & Asphalt Company, Inc.,** P. O. Box 488, Hollidaysburg, PA 16648, commencement, operation and restoration of a noncoal surface mine in Catharine Township, **Blair County**, affecting 171.0 acres. Receiving streams: unnamed tributaries to Frankstown Branch of the Juniata River and Frankstown Branch of Juniata River classified for the following uses: WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 23, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**33020303 and NPDES Permit No. PA 0242144. Glen Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19619). Commencement, operation and restoration of a shale and clay operation in Oliver Township, **Jefferson County** affecting 129.6 acres. Receiving streams: unnamed tributaries to Little Sandy Creek, classified for the following uses: Statewide water uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received July 19, 2002.

## 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 (Department). 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.*

**E15-692. Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425, Upper Uwchlan Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain approximately 1.01 miles of three-lane loop road through the Village of Eagle and to extend approximately 0.23 mile of Park Road to direct traffic around the Village of Eagle. The loop road will intersect with Pottstown Pike (SR 100) to the south of the vicinity of the Wolfington Tract, traverse east of and parallel to Pottstown Pike and intersect again with Pottstown Pike north of Park Road. The limit of work will begin in the Downingtown, PA Quadrangle (N: 13.3 inches; W: 8.3 inches) and will end in the Downingtown, PA Quadrangle (N: 16.2 inches; W: 9.5 inches) in Upper Uwchlan Township, Chester County.

Work will consist of the following activities:

1. To place and maintain fill in 0.17 acre of wetlands (PFO) for the construction of the proposed loop road at station 19+50 to 21+50 (Downingtown, PA Quadrangle N: 14.2 inches; W: 8.5 inches).

2. To relocate 450 linear feet of a drainage channel to Pickering Creek (HQ-TSF) by construction of twin 29-inch by 42-inch CMP Arch culverts under the proposed pedestrian trail. The discharge from the twin CMP Arch will travel approximately 125 linear feet in the proposed drainage channel and discharge through a proposed 54 RCP under the Eagle Loop Road (Downingtown, PA Quadrangle N: 14.5 inches; W: 8.5 inches).

3. To relocate and modify approximately 1,170 LF of drainage channel to Pickering Creek (HQ-TSF) for the construction of the proposed Park Road Extension and associated proposed drainage channel (Downingtown, PA Quadrangle N: 14.7 inches; W: 8.5 inches).

The applicant is required to provide a minimum of 0.17 acre of replacement wetlands.

**E51-201. Philadelphia Water Department, Aramark Tower**, 1101 Market Street, 4th Floor, Philadelphia, PA 19107-2934, City and County of Philadelphia, Upper Darby Township, **Delaware County**, ACOE Philadelphia District.

To perform the following activities associated with the Cobbs Creek Marshall Road Stream Restoration Project:

1. To remove an abandoned bridge abutment and a variety of debris in and along Cobbs Creek (WWF) and the 100-year floodway. Work will also include the removal of invasive/non-native vegetation and to revegetate with native species in accordance with a management plan.

2. To regrade and maintain approximately 900 linear feet of Cobbs Creek into a more stable configuration utilizing fluvial geomorphology and bioengineering principles. Work includes the placement of root wads, rock J-hook vanes, rock cross vanes and approximately 180 linear feet of boulder bank stabilization to protect the location of an exposed sanitary sewer line.

The upstream portion of the project begins near Marshall Road just west of the intersection of Spruce Street and Cobbs Creek Parkway (Philadelphia USGS Quadrangle N: 15.0 inches; W: 17.5 inches) and terminates in the vicinity of Catherine Street (Lansdowne USGS Quadrangle N: 15.0 inches; W: 0 inch).

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E35-361. City of Scranton**, 340 North Washington Avenue, Scranton, PA 18503, in City of Scranton, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain a stream enclosure consisting of 3,500 feet of 60-inch diameter reinforced concrete pipe and to construct and maintain a stream enclosure consisting of a 135-foot long concrete box, having cell dimensions of 10 feet by 3.5 feet in a tributary to Stafford Meadow Brook (HQ-CWF) for the purpose of constructing the Meadow Avenue flood control project. The project begins at a point on the east side of Interstate 81, immediately south of the River Street exit (Exit #184) (Scranton, PA Quadrangle N: 3.0 inches; W: 3.9 inches) and end at the confluence of the tributary and Stafford Meadow Brook (Scranton, PA Quadrangle N: 2.5 inches; W: 5.4 inches) and (Scranton, PA Quadrangle N: 3.0 inches; W: 3.9 inches).

**E52-180. The Forest Lake Club**, R. R. 1, Box 333, Hawley, PA 18428-9718, in Lackawaxen Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a 25-foot by 40-foot boathouse, extending approximately 19 feet lakeward from the shoreline, in Corilla Lake. The boathouse will be supported by a 40-foot by 6-foot concrete pad along the shore and pressure treated piers. The project is located along the western shore of Corilla Lake (Narrowsburg, NY-PA Quadrangle N: 5.2 inches; W: 11.9 inches).

**E54-298. Eagle Rock Resort Company**, 1031 Valley of Lakes, Hazleton, PA 18201-9717, in East Union Township, **Schuylkill County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain a 112-inch by 75-inch CMP arch culvert in Tomhicken Creek (CWF) for the purpose of providing access to a new phase of development within Eagle Rock Resort. The project is located at the end of West Players Way in the "Western Summit" section of the existing residential development, approximately 1.8 miles north of SR 0924 (Nuremberg, PA Quadrangle N: 7.3 inches; W: 0.1 inch).

**E54-299. Eagle Rock Resort Company**, 1031 Valley of Lakes, Hazleton, PA 18201-9717, in East Union Township, **Schuylkill County**, U. S. Army Corps of Engineers, Baltimore District.

To maintain fill that was placed during the construction of Maverick Way in the floodway of Tomhicken Creek (CWF). The project is located in the "Western Summit" section of Eagle Rock Resort, approximately 1.8 miles north of SR 0924 (Nuremberg, PA Quadrangle N: 7.5 inches; W: 0.5 inch).

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

**E21-343. Thomas Kelly, United States Army Carlisle Barracks**, Headquarters, ATTN: ATZE-DPW-SE,

Carlisle, PA 17013 in North Middleton Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain approximately 5,700 linear feet of chain link fences in the floodplain of Letort Spring Run (HQ-CWF) for the purpose of providing security on the north and northeast boundary of the United States Military Reservation, Carlisle Barracks (Carlisle, PA Quadrangle N: 15.75 inches; W: 7.5 inches) in North Middleton Township, Cumberland County.

**E31-183. Michael Stover, Game Commission**, 2001 Elmerton Avenue, Harrisburg, PA 17110 in Carbon Township, **Huntingdon County**, ACOE Baltimore District.

To remove an existing structure and to construct and maintain an 18-foot by 10-foot reinforced concrete box culvert in the channel of Shoup Run (WWF) at a point adjacent to Route 913 approximately 1 mile upstream of Coalment (Saxton, PA Quadrangle N: 16.65 inches; W: 8.10 inches) in Carbon Township, Huntingdon County.

**E67-723. Lehman Poultry Farm**, 6141 Lincoln Highway, Wrightsville, PA 17368 in Hellam Township, **York County**, ACOE Baltimore District.

To excavate a 100-foot by 100-foot nonjurisdictional farm pond with a 10-foot berm along an unnamed tributary to Kreutz Creek (WWF) (Columbia West, PA Quadrangle N: 3.95 inches; W: 8.0 inches) in Hellam Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E14-428. John Bzdil, Jr.**, 520 North Eighth Street, Sunbury, PA 17801. Woodward Bridge and ford, in Haines Township, **Centre County**, ACOE Baltimore District (Woodward, PA Quadrangle N: 5.5 inches; W: 13.5 inches).

To rehabilitate and maintain: (1) a private 111-foot long by 13-foot wide ford with 6 to 8 inches of clean stone base; and (2) a 12-foot wide wooden deck bridge with a clear span of 21 feet and an underclearance of 8 feet, in Pine Creek located on Sugar Shack Lane 0.25 mile from its intersection with Cemetery Road. This project proposes to permanently impact 25 linear feet of Pine Creek, which is classified as a wild trout HQ-CWF.

**E14-429. Pennsylvania Department of Transportation**, 1924-30 Daisy Street, Clearfield, PA 16830. Fillmore Road fill slope, in Benner Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 0.0 inch; W: 13.4 inches).

To construct and maintain: (1) 175 linear feet of earthen fill benching in the right floodplain of Buffalo Run; and (2) 450 linear feet of R-3 rock filled gabion basket bank protection on the right bank of Buffalo Run, to accommodate widening on either side of the SR 0550 and SR 3008 intersection. This project proposes to permanently impact 625 linear feet of the right floodplain of Buffalo Run, which is classified as a HQ-CWF.

**E59-434. Pennsylvania Department of Transportation**, 715 Jordan Avenue, Montoursville, PA 17754. Culvert replacement, in Delmar Township, **Tioga County**, ACOE Baltimore District (Antrim, PA Quadrangle N: 6.75 inches; W: 1.6 inches).

The applicant proposes to remove the existing 85-inch by 54-inch corrugated metal pipe arch and construct, operate and maintain a reinforced precast box culvert, having a clear normal span of 15 feet and height of 5.5 feet. The proposed structure is intended to be constructed

in an unnamed tributary to Stony Fork (CWF). This project intends to impact 150 linear feet of stream and does not intend to impact any wetlands.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E27-068, Fish Commission**, 450 Robison Lane, Bellefonte, PA 16823-9620. Tionesta Fish Culture Station effluent relocation, in Tionesta Borough and Township, **Forest County**, ACOE Pittsburgh District (West Hickory, PA Quadrangle N: 1.4 inches; W: 9.8 inches).

To construct and maintain a gravity effluent pipeline having an approximately 1,400-foot long, 12-inch diameter pipe in series with an approximately 330-foot long, 18-inch diameter welded steel pipe from the Tionesta Fish Culture station running adjacent to and in portions of the floodway and stream channel on south side of Tubb's Run (HQ-CWF) to an outfall located within 50 feet of the top of the bank of the Allegheny River (CWF). The purpose of the construction is to combine hatchery effluent flows and eliminate the existing discharge to Tubb's Run.

## ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**EA46-034CO. Wyeth-Ayerst Pharmaceuticals, Inc.**, 2100 Renaissance Boulevard, King of Prussia, PA 19406. Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

Project proposes to breach and remove an unnamed dam across Doe Run (TSF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 300 feet northeast of the intersection of Arcola Road (T402) and Troutman Road (T405) (Collegeville, PA Quadrangle N: 5.9 inches; W: 12.5 inches).

**EA40-006CO. Presidential Land Company, Inc.**, 433 Centre Street, Mahanoy City, PA 17948. Dallas Township, **Luzerne County**, ACOE Baltimore District.

To modify an existing nonjurisdictional dam across a tributary to Toby Creek (CWF) impacting a de minimis area of wetland equal to 0.05 acre for stormwater management at the proposed Overbrook Road Subdivision. The dam is located approximately 2,400 feet southwest of the intersection of Overbrook Avenue (SR 1014) and Pioneer Avenue (SR 1043) (Kingston, PA Quadrangle, N: 12.8 inches, W: 11.0 inches).

## ACTIONS

### FINAL ACTIONS TAKEN UNDER THE 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 has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

#### 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. PA0057002**, Industrial Waste, **Township of Haverford**, 2325 Darby Road, Haverford, PA 19083-2251. This proposed facility is located in Haverford Township, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into Darby Creek-3G.

**NPDES Permit No. PA0030571**, Sewage, **New Life Youth and Family Services**, 585 Freeman School Road, Harleysville, PA 19438. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to East Branch Perkiomen Creek-3E Watershed.

**NPDES Permit No. PA0043966**, Sewage, **Valley Forge Terrace MHP**, 1311 Catfish Lane, Norristown, PA 19403. This proposed facility is located in Lower Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Schuylkill River-3F Watershed.

**NPDES Permit No. PA0052434**, Sewage, **Pantos Corporation**, 202 Black Matt Road, Douglassville, PA 19518. This proposed facility is located in Chester Heights Borough, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge from Coventry Crossing Apartments STP into an unnamed tributary to West Branch of Chester Creek-3G Watershed.

**NPDES Permit No. PA0058548**, Sewage, **Keelersville Club**, 2522 Ridge Road, Perkasio, PA 18944. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Issuance to discharge into a tributary to Three Mile Run-2D.



**WQM Permit No. 4602201**, Industrial Waste, **Sunoco, Inc (R & M)**, 20/10 Penn Center, 1801 Market Street, Philadelphia, PA 19103. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for construction and operation of groundwater remediation system to reinject treated groundwater at the former Sunoco Station No. 0013-0476.

**WQM Permit No. 1502201**, Industrial Waste, **Sunoco, Inc. (R & M)**, 20/10 Penn Center, 1801 Market Street, Philadelphia, PA 19103. This proposed facility is located in East Marlborough Township, **Chester County**.

Description of Proposed Action/Activity: Approval for construction and operation of a groundwater remediation system to reinject the treated groundwater.

**WQM Permit No. 1502402**, Sewerage, **Chatham Acres Nursing Home**, East London Grove Avenue, Chatham, PA 19318-0001. This proposed facility is located in London Grove Township, **Chester County**.

Description of Proposed Action/Activity: Approval to install a dechlorination system at the sewage treatment plant.

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

**NPDES Permit No. PA0084395**, Industrial Waste, **Department of Corrections, Camp Hill Correctional Institution**, P. O. Box 598, Camp Hill, PA 17001-8837. This proposed facility is located in Lower Allen Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to Cedar Run in Watershed 7-E.

**NPDES Permit No. PA0043486**, Industrial Waste, **Lancaster County Solid Waste Management Authority**, 1299 Harrisburg Pike, P. O. Box 4425, Lancaster, PA 17603-4425. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Manns Run in Watershed 7-J.

**NPDES Permit No. PA0035092**, Industrial Waste, **Tyson Foods, Inc.**, 403 South Custer Avenue, P. O. Box 1156, New Holland, PA 17557-0901. This proposed facility is located in Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Mill Creek in Watershed 7-J.

**NPDES Permit No. PA0110850**, Sewage, **Meda Nipple Convalescent Home**, R. R. 1, Box 109, Thompsontown, PA 17094. This proposed facility is located in Delaware Township, **Juniata County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Cocolamus Creek in Watershed 12-B.

**NPDES Permit No. PA0070424**, Sewage, **Caernarvon Township Municipal Authority**, P. O. Box 291, Morgantown, PA 19543. This proposed facility is located in Caernarvon Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Conestoga River in Watershed 7-J.

**NPDES Permit No. PA0083569**, Sewage, **Riverview Estates Homeowners Association**, 1812 Timberland Road, Altoona, PA 16601. This proposed facility is located in West Providence Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to Raystown Branch Juniata River in Watershed 11-C.

**NPDES Permit No. PA0024040**, Borough of **Highspire**, 640 Eshelman Street, Highspire, PA 17034-1698. This proposed facility is located in Highspire Borough, **Dauphin County**.

Description of Proposed Action/Activity: Permit amendment.

**NPDES Permit No. PA0026735**, **Swatara Township Authority**, 8675 Paxton Street, Hummelstown, PA 17036-8601. This proposed facility is located in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Permit amendment.

**WQM Permit No. 3602411**, Sewerage, **West Earl Sewer Authority**, 157 West Metzler Road, P. O. Box 725, Brownstown, PA 17508. This proposed facility is located in West Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization for construction/operation of the Brownstown Wastewater Treatment Plant.

*Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701.*

**PA0115312**, Sewage, SIC 4952, **Loyalsock Township Supervisors**, 2501 East Third Street, Williamsport, PA 17701. This existing facility is located in Loyalsock Township, **Lycoming County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit for a small flow treatment facility.

**PA0209473**, Sewage, SIC 4952, **North Center Township Supervisors**, R. R. 2, Box 2605, Berwick, PA 18603. This existing facility is located in North Center Township, **Columbia County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit for a small flow treatment facility.

**NPDES Permit No. PA0114057**, Sewerage SIC 4952, **White Deer Run Inc.**, Devitt Camp Road P. O. Box 97, Allenwood, PA 17810-0097. This proposed facility is located in Gregg Township, **Union County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

*Southwest Region: Water Management Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0218952**, Industrial, **Conectiv Mid-Merit, Inc., Hinckston Run Power Plant Project**, 113 Pencader Drive, Suite 100, Newark, DE 19714-6066 is authorized to discharge from a facility located at Hinckston Run Power Plant, Jackson Township, **Cambria County** to receiving waters named Hinckston Run (Outfall 001) and unnamed tributary to Laurel Run (Outfall 002).

#### **NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)**

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the

Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10T101	Spring Mountain Home Builders, Inc. 439 Main Street Harylesville, PA 19438	Montgomery	Upper Salford Township	Stone Hill Run HQ-TSF

*Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F104	Reed McCormick 919 University Dr. State College, PA 16801	Centre	Patton Township	Buffalo Run HQ-CWF
PAS101207	National Fuel Gas Supply Corp. 1100 State St. Erie, PA 16501	Cameron Elk	Shippen Township Benezette	West Branch Hick Run UNT Dents Run EV

#### APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent 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 this Commonwealth; (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 Nonexceptional 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 Nonexceptional 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 and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Jefferson County Oliver Township	PAR103346	Robert H. Beatty, Jr. Box 14, Star Route Coolspring, PA 15730	Unnamed tributary to Hadden Run CWF	Jefferson County Conservation District (814) 849-7463
West Whiteland Township Chester County	PAR10G477	Ken Moss Raymour & Flanigan 7284 Morgan Road Liverpool, NY 13088	Valley Creek CWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Londonderry Township Chester County	PAR10G461	Brian Campbell Honeycroft Village 401 Bayard Road, Suite 100 Kennett Square, PA 19348	UNT to Doe Run TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Valley Township Chester County	PAR10G487	Paul McMinn Chester County Airport 1 Earhart Drive, Suite 2 Coatesville, PA 19320	Sucker Run WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Londonderry Township Chester County	PAR10G482	Eric Pearson ESNG 2002 Expansion 417 Bank Lane Dover, DE 19001	Doe Run TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
London Grove Township Chester County	PAR10G463	William Webb P. O. Box 367 Avondale, PA 19311	East Branch White Clay Creek WF-TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Hanover Township Montgomery County	PAR10T835	Macoby Run, LP 404 Sumneytown Pike North Wales, PA 19454	Macoby Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Philadelphia Philadelphia County	PAR105344	Giuliano Verna 5220 Umbria Street Philadelphia, PA 19128-4234	Schuylkill River Watershed WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Greene Township Franklin County	PAR10268	Linka Dev. Co. LLC P. O. Box 213 Chambersburg, PA 17201	Rowe Run CWF Conococheague Creek CWF	Franklin County Conservation District Admin. Annex 218 N. 2nd Street Chambersburg, PA 17201 (717) 264-8074

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Union Township Berks County	PAR10C430	Monsignor Nevin Klinger Immaculate Conception Church 640 E. Main St. Birdsboro, PA 19508	Unnamed Tributary to Schuylkill River WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Penn Township Berks County	PAR10C432	Sharon Harrison, Manager Penn Township P. O. Box 130 Bernville, PA 19506	Tributary to Blue Marsh Lake WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Ontelaunee Township Berks County	PAR10C381-1	Redners Dev. Corp. R. D. 2 Box 2430 Reading, PA 19605	Schuylkill River WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
<i>General Permit Type—PAG-3</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lehigh County Allentown Whitehall Township	PAR602220	E. Schneider & Sons, Inc. P. O. Box 908 Allentown, PA 18105-0908	Jordon Creek TSF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Wellsboro Borough Tioga County	PAR214802	Osram Sylvania Products Inc. One Jackson Street Wellsboro, PA 17842	Charleston Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Sandy Township Clearfield County	PAR704804	Glenn O. Hawbaker, Inc. 711 East College Avenue Bellefonte, PA 16823	UNT to Sandy Lick Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
<i>General Permit Type—PAG-4</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Cumberland County Upper Mifflin Township	PAG043692	John D. Petersheim 1128 Roxbury Road Newburg, PA 17240	UNT to Three Square Hollow Run WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Liberty Township Montour County	PAG045007	Martin J. Ruk 40 Starner Road Danville, PA 17821	UNT to Beaver Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

*General Permit Type—PAG-8*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Telephone No.</i>
Chester County North Coventry Township	PAG080004	Mobile Dredging & Pumping 3100 Bethel Road Chester, PA 19013-1488	Laurel Locks Farm North Coventry Township Chester County	DEP—SERO Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130

*General Permit Type—PAG-9*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Contact Office &amp; Telephone No.</i>
Cook Township Westmoreland County	PAG096111	AA Septic Tank Service R. D. 4 Box 139A Latrobe, PA 15650	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

**PUBLIC WATER SUPPLY PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

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

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER****Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Operations Permit** issued to **Paradise Springs Vended Water System**, 7 Spruce Street, Pine Grove, PA 17963, PWS ID 3546484, Pine Grove Township, **Schuylkill County** on July 5, 2002, for the operation of facilities approved under Construction Permit #5400501.

**Operations Permit** issued to **Joan Birdsall d/b/a Four Seasons Village**, R. R. 1, Box 153-B, New Ring-

gold, PA 17960, PWS ID 3130035, Mahoning Township, **Carbon County** on July 23, 2002, for the operation of facilities approved under Construction Permit #1398502.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. Minor Amendment.** Public Water Supply.

Applicant	<b>United Water Pennsylvania</b> 4211 East Park Circle Harrisburg, PA 17111-0151
Town	Town of Bloomsburg
County	<b>Columbia</b>
Type of Facility	PWS—approval to paint the Hill Tank
Consulting Engineer	R. Michael Gephart, P. E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111-0151
Permit to Construct Issued	July 25, 2002

**Permit No. Minor Amendment.** Public Water Supply.

Applicant	<b>Department of Corrections</b> <b>Quehanna Motivational Boot Camp</b> P. O. Box 598 Camp Hill, PA 17001-0598
Township	Karthaus Township
County	<b>Clearfield</b>
Type of Facility	PWS—approval to operate new system booster pumps
Permit to Operate Issued	July 25, 2002

**Permit No. 5500502,** Public Water Supply.

Applicant	<b>Adams Township Municipal Auth.</b> P. O. Box 1 Troxelville, PA 17882
Township	Adams Township
County	<b>Snyder</b>

Type of Facility PWS—permit approves operation of Well #1 with sodium hypochlorite and caustic soda treatment, a 16,000 gallon storage tank and distribution and transmission mains

Permit to Operate Issued July 29, 2002

### WATER ALLOCATIONS

#### Actions taken on 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 this Commonwealth.

*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WA 37-213A**, Water Allocation Permit Modification Order. The Department grants Modification Order in response to **Pennsylvania American Water Company—Ellwood District** request to expand service area into Franklin Township, **Beaver County**. This action does not increase allocation quantity and is granted due to the installation of a water line between Pennsylvania American Water Company—Ellwood District connecting to Pennsylvania American Water Company—Butler District. Modification Order issued July 29, 2002.

### SEWAGE FACILITIES ACT PLAN DISAPPROVAL

#### Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1–750.20a).

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

#### Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Towamensing Township	595 Hahns Dairy Road Palmerton, PA 18071	Carbon

Plan Description: The Department has disapproved the Official Sewage Facilities Plan Update Revision (Revision) for Lower Towamensing Township, Carbon County dated December 2001. The Revision was received by the Department on January 28, 2002, with additional documentation dated July 18, 2002 (received on July 22, 2002).

During the review of a revision, the Department must ensure that various, relevant issues are addressed in an adequate and comprehensive manner. The Township has failed to properly address all relevant issues. The reasons for the disapproval are described in the Department's letter addressed to the Township dated July 24, 2002.

The Township has a continuing obligation, under section 5 of the Pennsylvania Sewage Facilities Act and the regulations promulgated thereunder, to revise the Official Sewage Facilities Plan of the Township to address existing and future sewage disposal needs and provide for adequate sewage disposal facilities. The Department requests that the Township immediately take all actions necessary to revise the Township's Official Sewage Facilities Plan.

## 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 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:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Ashland Chemical (Formerly American National Can)**, Falls Township, **Bucks County**. Brian I. Fitzpatrick, P. G., Harding ESE, Inc., 5205 Militia Hill Rd., Plymouth Meeting, PA 19462, has submitted a revised combined Remedial Investigation/ Final Report concerning remediation of site groundwater contaminated with solvents. The report is intended to document remediation of the site to meet Site-Specific Standards.

**Sunoco, Inc., Ship Road Leak Site #9000-0170**, West Whiteland Township, **Chester County**. Lisa M. Holderbach, Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Exton, PA 19341, on behalf of Philadelphia Suburban Water Co., 762 W. Lancaster Ave., Bryn Mawr, PA 19010, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and PAHs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Sunoco, Inc., Old Pennell Road Leak Site #9000-0500**, Aston Township, **Delaware County**. Lisa M. Holderbach, Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Exton, PA 19341, on behalf of Earl R. Sr. and Marie H. Evans, 202 Barren Rd., Media, PA 19014, Glenn Gualtieri, 102 Old Pennell Rd., Aston, PA 19014, Kirk and Hope McGowan, 100 Old Pennell Rd., Aston, PA 19014 and Dean and Anna Fountain, 460 Old Pennell Rd., Aston, PA 19014, has submitted a Final

Report concerning remediation of site soil contaminated with BTEX and PAHs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Rahns Specialty Metals, Inc.**, Perkiomen Township, **Montgomery County**. Andrew P. Foster, Drinker, Biddle & Reath, LLP, One Logan Square, 18th and Cherry Sts., Philadelphia, PA 19103, on behalf of Rahns Specialty Metals, Inc. Route 113, Rahns, PA 19426, has submitted a Remedial Investigation/Final Report concerning remediation of site soil and groundwater contaminated with solvents. The report is intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

**Swedeland Road Substation Property—PECO Energy**, Upper Merion Township, **Montgomery County**. Jennifer Sowers, PECO Energy Co., 300 Front Street, Building #1, West Conshohocken, PA 19428, on behalf of PECO/Exelon, 2301 Market St., Philadelphia, PA 19101, has submitted a Remedial Investigation/Cleanup Plan concerning remediation of site soil and groundwater contaminated with heavy metals, BTEX, PAHs, VOCs and SVOCs.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**United States Postal Service, Milroy Office**, Armagh Township, **Mifflin County**. SAIC, 6310 Allentown Boulevard, Harrisburg, PA 17112, on behalf of United States Postal Service, Eastern Facilities Office, P. O. Box 27497, Greensboro, NC 27498-1103, submitted a combined remedial investigation and final report concerning remediation of site soil and groundwater contaminated with BTEX and PHCs. The report is intended to document remediation of the site to a combination of the Statewide Health and Site Specific standards.

## 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 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 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:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Shipley Oil Company**, Washington Township, **York County**. Laird Geoenvironmental Sciences, Inc., 3223 Market Street, Camp Hill, PA 17070, on behalf of Grace A. Harbold, 1900 Baltimore Pike, East Berlin, PA 17316 and James Robinson, 1880 Baltimore Pike, East Berlin, PA 17316, submitted a final report concerning the remediation of site soils contaminated with BTEX and PHCs. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 24, 2002.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Former Philipsburg Sunoco (Petrolec)**, Philipsburg Borough, **Centre County**. Environmental Remediation & Recover, Inc. (ER&R), on behalf of Russell Real Estate, R. D. 1, Box 179, Curwensville, PA 16833, has submitted a Baseline Environmental Report concerning soil contaminated with lead, BTEX and PAHs. The Baseline Environmental Report was approved by the Department on June 21, 2002.

**International Paper—Lock Haven Mill**, Castanea Township, **Clinton County**. International Paper Company, 555 S. Highland Street, Lock Haven, PA 17745 has submitted a Remedial Investigation Report and a Cleanup Plan concerning site soil in the CL courtyard contaminated with lead. The Remedial Investigation Report and the Cleanup Plan have been approved by the Department on June 25, 2002.

#### 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*

**Cousins Waste Control Corporation**, 1701 E. Matzner Road, Toledo, OH 43612. License No. **PA-AH 0344**. Effective July 29, 2002.

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**RESIDUAL WASTE GENERAL PERMITS**


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**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR074, Clean Earth of Philadelphia**, 3201 South 61st Street, Philadelphia, PA 19153-3592.

General Permit numbered WMGR074 is for the processing and beneficial use of soil amendments (that is, biosolids, water treatment plant sludge, paper pulp sludge and lime neutralized industrial water sludge) to be blended with processed soil, which has been processed under the existing individual permit (301220), to create landscaping soil materials. The general permit was issued by Central Office on July 30, 2002.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**


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**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

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

**Permit No. 301220. Clean Earth of Philadelphia Inc.**, 3201 S. 61st St., Philadelphia, PA 19153-3502, City and **County of Philadelphia**. Permit amended to reflect the corporate name change from Soil Remediation of Philadelphia to Clean Earth of Philadelphia. The permit was issued by the Southeast Regional Office on July 18, 2002.

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301197. Reliant Energy Northeast Management Company**, 1001 Broad Street, Johnstown, PA 15907, for the Shawville Ash Disposal Facility located in Bradford Township, **Clearfield County**. Major permit modification for captive coal ash landfill expansion. The permit modification was issued by the Williamsport Regional Office on July 19, 2002.

Persons interested in reviewing the permit may contact John C. Hamilton, P. E., Facilities 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.

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**Permits 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.**

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

**Permit No. 400432. Philadelphia Gear Corporation**, 181 South Gulph Rd., King of Prussia, PA 19406-3103, Upper Merion Township, **Montgomery County**. The captive solid waste incinerator has ceased operation and has been closed. The waste permit is being revoked at the permittee's request. Upon this action becoming final, the bond associated with the permit will be released. The permit was revoked by the Southeast Regional Office on July 24, 2002.

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**AIR QUALITY**


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**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.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**GP-32-00324: Power Gas Marketing and Transmission, Inc.** (Gulf Tower, 32nd Floor, 707 Grant Street, Pittsburgh, PA 15219) on July 30, 2002, for operation of one Caterpillar, Model No. G342TA, Natural Gas-Fired Compressor Engine rated at 330 bhp at the Myers Compressor Station in Montgomery Township, **Indiana County**.

**GP-32-00325: Power Gas Marketing and Transmission, Inc.** (Gulf Tower, 32nd Floor, 707 Grant Street, Pittsburgh, PA 15219) on July 30, 2002, for operation of one Caterpillar, Model No. G342NA Natural Gas-Fired Compressor Engine rated at 220 bhp and one Natco, Model No. A76344, Glycol Dehydrator, rated at 0.175 mmBtu/hr at the Wandin Compressor Station I in Green Township, **Indiana County**.

**GP-32-00326: Power Gas Marketing and Transmission, Inc.** (Gulf Tower, 32nd Floor, 707 Grant Street, Pittsburgh, PA 15219) on July 30, 2002, for operation of one Ajax, Model No. DPC-360 natural gas-fired compressor engine rated at 360 bhp and one Natco, Model No. A76127, Glycol Dehydrator, rated at 0.2 mmBtu/hr at the Rhea Compressor Station in Cherryhill Township, **Indiana County**.

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**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.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05014A: Garden State Tanning, Inc.** (16 South Franklin Street, Fleetwood, PA 19522) on July 19, 2002,



for construction of a leather coating line controlled by a water wash curtain and drying oven in the Borough of Fleetwood, **Berks County**. This facility is subject to 40 CFR Part 63, Subpart TTTT—National Emission Standards for Hazardous Air Pollutants for Source Categories.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**03-219A: TDK Coal Sales, Inc.** (P. O. Box 259, Brockway, PA 15824) on July 26, 2002, for operation of a diesel engine and coal crusher at the Kesco Mine coal preparation facility in East Franklin Township, **Armstrong County**.

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**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.**

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*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.*

**46-0191B: Merck and Co., Inc.** (351 North Summeytown Pike, North Wales, PA 19454) on July 23, 2002, for operation of a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

**46-0060A: Department of Public Welfare—Norristown State Hospital** (1001 East Sterigere Street, Norristown, PA 19401) on July 23, 2002, for operation of two natural gas #2 oil fired boilers in Norristown Borough, **Montgomery County**.

**46-0191A: Merck and Co., Inc.** (351 North Summeytown Pike, North Wales, PA 19454) on July 23, 2002, for operation of a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

**46-0025E: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) on July 29, 2002, for operation of additional process equipment in Upper Merion Township, **Montgomery County**.

**46-0025A: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) on July 29, 2002, for operation of four prescrubbers in Upper Merion Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**22-03037: Consolidated Scrap Resources, Inc.** (P. O. Box 1761, Harrisburg, PA 17105) on June 29, 2002, for a metal scrap shredder controlled by a cyclone in the City of Harrisburg, **Dauphin County**. This plan approval was extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**08-318-027: Mill's Pride—Pennsylvania** (100 Lamoka Road, Sayre, PA 18840) on July 23, 2002, for operation of a wood kitchen cabinet finishing line and associated air cleaning device (a thermal oxidizer), vari-

ous pieces of woodworking equipment and associated air cleaning devices (fabric collectors) and various other pieces of equipment on a temporary basis until November 20, 2002, in Athens Township, **Bradford County**. The plan approval was extended.

**08-318-027A: Mill's Pride—Pennsylvania** (100 Lamoka Road, Sayre, PA 18840) on July 23, 2002, for operation of a wood kitchen cabinet glazing line, the air contaminant emissions from which are controlled by a regenerative thermal oxidizer, on a temporary basis until November 20, 2002, in Athens Township, **Bradford County**. The plan approval was extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**26-00534A: Fayette Thermal, LLC** (755 Opossum Lake Road, Carlisle, PA 17013) on July 16, 2002, for construction of boilers at the East Millsboro Steam Plant in Luzerne Township, **Fayette County**. This plan approval was extended.

**03-207A: Hanson Aggregates PMA** (400 Industrial Boulevard, New Kensington, PA 15068) on July 16, 2002, for installation of a catalytic oxidation unit at the Allegheny II Dredge Plant in Gilpin Township, **Armstrong County**. This plan approval was extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**10-001D: AK Steel Corp.** (Route 8 South, P. O. Box 832, Butler, PA 16003) on July 31, 2002, for a No. 23 continuous shotblast, anneal and pickle line in Butler, **Butler County**.

**25-930A: Metro Machine Corp.** (Foot of Holland Street, Erie, PA 16505) on July 30, 2002, for a paint booth in Erie, **Erie County**.

**42-176E: Temple Inland Forest Products Corp.—Mt. Jewett** (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on July 31, 2002, for wood chip refiner in Sergeant Township, **McKean County**.

**42-399-015A: Temple Inland Forest Products Corp.—Mt. Jewett** (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on July 31, 2002, for wood particle dryers in Sergeant Township, **McKean County**.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**65-00016: Timken Latrobe Steel Co.** (2626 Ligonier Drive, P. O. Box 31, Latrobe, PA 15650-0031) on July 26, 2002, for operation of a facility Title V Operating Permit in Latrobe Borough, **Westmoreland County**. The facility's major sources of emissions include two electric arc furnaces and AOD vessel, numerous annealing and heat treating furnaces, a natural gas-fired boiler, a pickle tank, slag handling, vehicle travel and various grinding, sawing, shot blasting and grinding operations.

**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.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**59-00012: Dietrich's Milk Products, LLC** (P. O. Box 102, Middlebury Center, PA 16935) on July 24, 2002, for operation of their food product manufacturing facility, which includes a natural gas/#2 fuel oil fired boiler, a natural gas fired boiler, powdered milk drying system and lactose drying system in Middlebury Township, **Tioga County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**37-00126: Hickman Manufacturing Inc.** (R. D. 2, Industrial Park Boulevard, New Beaver, PA 16141) on July 22, 2002, for operation of a roof coating manufacturing operation in New Beaver Borough, **Lawrence County**.

**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: Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**46-00035: SmithKline Beecham d/b/a GlaxoSmithKline** (709 Swedeland Road, King of Prussia, PA 19406) for an administrative amendment to their Title V Operating Permit to incorporate changes based on the appeal of the Title V Operating Permit as well as to incorporate changes approved under Operating Permit Nos. 46-399-093, 46-313-114, 46-313-113 and 46-0035 in Upper Merion Township, **Montgomery County**. The facility's major emission points include boilers, incinerators, generators and various laboratories. The amended Title V Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

**46-00031: SmithKline Beecham d/b/a GlaxoSmithKline** (1250 South Collegeville Road, Collegeville, PA 19426) for an administrative amendment to their Title V Operating Permit to incorporate changes based on the appeal of the Title V Operating Permit in Upper Providence Township, **Montgomery County**. The facility's major emission points include boilers, generators and research laboratories. The amended Title V Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05092: Greiner Industries, Inc.** (1650 Steel Way, Mount Joy, PA 17552) on July 25, 2002, for operation of paint booths in Mount Joy Township, **Lancaster County**. This is revision No. 1 of the operating permit.

**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 and the NPDES permit application. 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 Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**54970204R. Jeddo-Highland Coal Company** (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing coal refuse reprocessing operation in Frailey and Reilly Townships, **Schuylkill County** affecting 265.0 acres, receiving stream: none. Application received April 10, 2002. Renewal issued July 23, 2002.

**54960201. Northeastern Power Company** (P. O. Box 7, McAdoo, PA 18237), renewal of an existing coal refuse reprocessing operation in Kline, Banks and Hazle Townships, **Schuylkill, Carbon and Luzerne Counties**, affecting 429.7 acres, receiving stream: none. Application received January 18, 2002. Renewal issued July 23, 2002.

**54020101. Summit Anthracite, Inc.** (R. R. 1 Box 12A, Klingerstown, PA 17941), commencement, operation and restoration of an anthracite surface mine operation in Porter Township, **Schuylkill County** affecting 300.0 acres, receiving stream: East Branch Rausch Creek. Application received January 30, 2002. Permit issued July 25, 2002.

**49970202R. Susquehanna Coal Company** (P. O. Box 27, Nanticoke, PA 18634), renewal of an existing coal refuse reprocessing operation in Mt. Camel Township, **Northumberland County** affecting 808.0 acres, receiving stream: none. Application received May 31, 2002. Renewal issued July 26, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17980103 and NPDES Permit No. PA 0237914. Falls Creek Energy Co., Inc.**, R. D. 6, Box 231, Kittanning, PA 16201. Revision to an existing bituminous surface mine permit for a change in land use on the properties of Valverine M. Joseph from forestland and pastureland to the restoration of unmanaged natural habitat. The permit is located in Brady Township, **Clearfield County** and affects 64.2 acres. Application received April 29, 2002. Permit issued July 11, 2002.

**17010107 and NPDES Permit No. PA 0243094. Hepburnia Coal Company**, P. O. Box I, Grampian, PA 16838. Commencement, operation and restoration of a bituminous surface mine permit in Pike Township,

**Clearfield County** affecting 21.1 acres. Receiving streams: unnamed tributary to Welch Run and Welch Run to the West Branch of the Susquehanna River. Application received June 28, 2001. Permit issued July 12, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03020103 and NPDES Permit No. PA0250074. Alverda Enterprises, Inc.** (P. O. Box 87, Alverda, PA 15710). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in South Bend Township, **Armstrong County**, affecting 20.3 acres. Receiving streams: unnamed tributaries to Big Run and unnamed tributary to Whiskey Run. Application received January 30, 2002. Permit issued July 25, 2002.

**03020104 and NPDES Permit No. PA0250091. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mining site located in Valley and Kittanning Townships, **Armstrong County**, affecting 261.5 acres. Receiving streams: unnamed tributary to Cowanshannock Creek, to Allegheny River. Application received March 1, 2002. Permit issued July 26, 2002.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32000103 and NPDES Permit No. PA0235300. S & M Mining, Inc.**, 15 Rayne Run Road, Marion Center, PA 15759 from S & M Mining, 15 Rayne Run Road, Marion Center, PA 15759. Permit transfer for continued operation of a bituminous surface and auger mine and for existing discharge of treated mine drainage in Cherryhill Township, **Indiana County**, affecting 64.0 acres. Receiving streams: unnamed tributaries of Allen Run and Penn Run and Allen Run classified for the following uses: CWF, CWF and CWF. The first downstream potable water supply intake from the point of discharge is Pennsylvania American Water Company. Application received May 6, 2002. Permit issued July 23, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**10970102 and NPDES No. PA0227366. Aspen Minerals, Inc.** (P. O. Box 269, Shipperville, PA 16254). Renewal of an existing bituminous strip operation in Oakland Township, **Butler County** affecting 76.0 acres. This renewal is issued for reclamation only. Receiving streams: three unnamed tributaries to Lake Oneida. Application received March 21, 2002. Permit Issued July 22, 2002.

**33010103 and NPDES No. PA0241954. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849). Commencement, operation and restoration of a bituminous strip operation in Winslow Township, **Jefferson County** affecting 103.0 acres. Receiving streams: unnamed tributary to Sandy Lick Creek. Application received July 31, 2001. Permit issued July 10, 2002.

**1370-33010103-E-1. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849). Application for a stream encroachment to upgrade and maintain an existing haul road crossing over unnamed tributary B to Sandy Lick Creek in Winslow Township, **Jefferson County**. Receiving streams: unnamed tributary to Sandy Lick Creek. Application received July 31, 2001. Permit issued July 10, 2002.

#### *Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**8275SM2A3C4 and NPDES Permit PA0593885. Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506), renewal of NPDES Permit in Earl and Ephrata Townships, **Lancaster County**, receiving stream: Conestoga Creek. Application received May 30, 2002. Renewal issued July 23, 2002.

**66012801. South Branch Enterprises, LLC** (947 Jessup Avenue, Dunmore, PA 18512), commencement, operation and restoration of a quarry operation in Tunkhannock Township, **Wyoming County** affecting 5.0 acres, receiving stream: Tunkhannock Creek. Application received November 26, 2001. Permit issued July 24, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**59020301 and NPDES Permit No. PA 0243213. Clifford Cross, Jr.**, P. O. Box 240, Mainsburg, PA 16932-0240. Commencement, operation and restoration of a Large Industrial Minerals (Gravel) permit in Lawrence Township, **Tioga County** affecting 13.8 acres. Receiving streams: none. Application received March 22, 2002. Permit issued July 16, 2002.

**18022802. Harger Utility Contractors, Inc.**, 108 W. Clinton Avenue, Lock Haven, PA 17745. Commencement, operation and restoration of a Small Industrial Minerals (Topsoil) permit in Castanea Township, **Clinton County** affecting 1.5 acres. Receiving streams: West Branch Susquehanna River, tributary to Susquehanna River. Application received March 8, 2002. Permit issued July 19, 2002.

**41020801. Steinbacher Enterprises, Inc.**, 8130 South Route 44 Highway, Williamsport, PA 17702. Commencement, operation and restoration of a Small Industrial Minerals (Shale) permit in Limestone Township, **Lycoming County** affecting 3.0 acres. Receiving streams: unnamed tributary, tributary to Nigert Run. Application received April 25, 2002. Permit issued July 24, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**26980601. Better Materials Corporation** (2200 Springfield Pike, Connellsville, PA 15425-9503). Revision application received requesting that a portion of an existing noncoal underground mining operation be approved for surface mining operations located in Bullskin Township, **Fayette County**, affecting 49.8 acres. Receiving streams: unnamed tributaries to Polecat Hollow Run to Breakneck Run to Mounts Creek. Revision application received February 22, 2002. Permit issued July 24, 2002.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151-161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**35024016. Double M** (P. O. Box 186, Waverly, PA 18471), construction blasting in Dunmore Borough, **Lackawanna County** with an expiration date of December 31, 2002. Permit issued July 22, 2002.

**66024003. Jim Benson, Nature's Creations** (R. D. 2 Box 69, Mehoopany, PA 18629), construction blasting in Tunkhannock Township, **Wyoming County** with an expiration date of September 30, 2002. Permit issued July 22, 2002.

**66024004. Robert Shupp** (Lindley Avenue, Factoryville, PA 18419), construction blasting in Overfield Township, **Wyoming County** with an expiration date of September 30, 2002. Permit issued July 22, 2002.

**52024018. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Westfall Township, **Pike County** with an expiration date of June 27, 2003. Permit issued July 22, 2002.

**45024048. F & F Paving** (HC 1 Box 5, Route 611, Bartsville, PA 18321), construction blasting in Tunkhannock Township, **Monroe County** with an expiration date of August 31, 2002. Permit issued July 22, 2002.

**35024017. Florey Homes** (1190 Winola Road, Clarks Summit, PA 18411), construction blasting in Clarks Summit Borough, **Lackawanna County** with an expiration date of December 31, 2006. Permit issued July 22, 2002.

**46024038. Schlouch Incorporated** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Skippack Township, **Montgomery County** with an expiration date of August 10, 2003. Permit issued July 22, 2002.

**46024039. Reading Site Contractors** (392 Sanatoga Road, Pottstown, PA 19464) and **Explo-Tech/AEEI** (401 West High Street, Suite 102, Pottstown, PA 19464), construction blasting in Upper Providence Township, **Montgomery County** with an expiration date of October 11, 2002. Permit issued July 22, 2002.

**15024023. Horst Drilling & Blasting, Inc. (Lonny Horst)** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting in West Bradford Township, **Chester County** with an expiration date of August 14, 2004. Permit issued July 23, 2002.

**21024038. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting in West Pennsboro Township, **Cumberland County** with an expiration date of February 15, 2003. Permit issued July 23, 2002.

**39024015. Clair Stahley** (P. O. Box 526, Orefield, PA 18069-0526), construction blasting in Upper Saucon Township, **Lehigh County** with an expiration date of November 11, 2002. Permit issued July 23, 2002.

**15024022. Brubacher Excavating, Inc.** (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Willistown Township, **Chester County** with an expiration date of August 11, 2003. Permit issued July 23, 2002.

**36024080. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Ephrata Township, **Lancaster County** with an expiration date of July 15, 2007. Permit issued July 23, 2002.

**36024081. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Ephrata Township, **Lancaster County** with an expiration date of July 15, 2007. Permit issued July 23, 2002.

**38024020. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Heidelberg Township, **Lebanon County** with an expiration date of October 15, 2002. Permit issued July 23, 2002.

**40024016. Holbert Explosives, Inc.** (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting in Bear Creek Township, **Luzerne County** with an expiration date of August 31, 2002. Permit issued July 23, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**02024007. Janod Contractors** (Rt. 78, P. O. Box 717, Swanson, VT 05488). Blasting activity permit was issued for construction, located in Harmar Township, **Allegheny County**, with an expected duration of 14 days. Permit issued July 24, 2002.

**65024004. New Enterprise Stone & Lime Co.** (New Enterprise, PA 16664). Blasting activity permit was issued for construction, located in Donegal Township, **Westmoreland County**, with an expected duration of 140 days. Permit issued July 24, 2002.

**30204001. Carl E. Smith, Inc.** (P. O. Box 4, Sandyville, WV 25275). Blasting activity permit was issued for construction with a pipeline project for Equitable Gas constructing 12 miles of 12-inch pipe, located in Jefferson, Cumberland, Franklin and Monongahela Townships, **Greene County**, with an expected duration of 40 days. Permit issued July 24, 2002.

**65024002. Penn Transportation Services, Inc.** (P. O. Box 110, Uniontown, PA 15401). Blasting activity permit was issued for construction, located in Murrysville and Salem Townships, **Westmoreland County**, with an expected duration of 3 months. Permit issued July 26, 2002.

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

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) 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 certifies that the construction and operation herein described will comply with the applicable 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.

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

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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**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 P.S. §§ 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.)

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*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.*

**E46-906. Pennsylvania Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Upper Frederick Township, Montgomery County, ACOE Philadelphia District.**

To maintain and rehabilitate an existing three span stone masonry arch bridge over West Swamp Creek (TSF, MF) on Eaglesville Road (SR 4023, Section 96S). Work also includes minor approach roadway work and installation of a temporary causeway. This work is located (Sassamsville, PA Quadrangle N: 6 inches; W: 6.5 inches).

**E51-200. Delaware River Port Authority, One Port Center, 2 Riverside Drive, P. O. Box 1949, Camden, NJ 08101-1949, Philadelphia City and Philadelphia County, ACOE Philadelphia District.**

To repair, modify and maintain an existing pier in the Delaware River (WWF-MF) to facilitate the proposed Cruise Line Terminal Project. The existing pier is a 900-foot long by 74-foot wide pile supported structure and associated mooring area.

The repairs consist of installation of 8 18-inch concrete filled plumb pipe piles, 20 18-inch concrete filled battered pipe piles and 6 12-inch concrete filled fender piles which will be driven into the upriver and offshore end of Pier 2 to provide support. Also associated with the repairs is a 30-foot by 7-foot thick concrete pile cap, two mooring bollards and the removal and replacement of 40 linear feet of existing 12-inch barefoot pile caps.

The modifications consist of constructing a 30-foot by 20-foot pile supported concrete deck mooring dolphin along with a 140-foot pile supported walkway extending from the nose of the pier. A proposed elevated pedestrian walkway that runs the length of the pier will be constructed and the placement of two 6-foot by 8-foot foam filled fenders will be installed along the east side of the existing pier.

The purpose of this project is to provide the ability to dock larger vessels. The project site is located 600 feet south of the intersection of 1st Street and Philip Avenue (Philadelphia, PA Quadrangle N: 2.0 inches; W: 7.3 inches) located within the United States Naval Base in the City and County of Philadelphia.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E64-230. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. Preston Township, Wayne County, Army Corps of Engineers Philadelphia District.**

To remove the existing structure and to construct and maintain an 11-foot by 8-foot reinforced concrete box culvert, depressed 1 foot below lake bed elevation, in Lake Como. The project is located on the causeway formed by SR 4033 (Como Road), approximately 0.9 mile west of its intersection with SR 0247 (Lake Como, PA-NY Quadrangle N: 18.6 inches; W: 14.0 inches).

**E64-226. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. Lake Township, Wayne County, Army Corps of Engineers Philadelphia District.**

To remove the existing structure and to construct and maintain a road crossing of a tributary to Ariel Creek, consisting of a 91-inch by 58-inch reinforced concrete elliptical culvert, with its invert depressed 12 inches below streambed elevation. The project is located along SR 3011, segment 0130, offset 1600, approximately 0.3 mile downstream of the outlet of Lake Ariel (Lakeville, PA Quadrangle N: 11.5 inches; W: 15.9 inches).

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

**E21-339. Pennsylvania Department of Transportation**, 2140 Herr Street, Harrisburg, PA 17103 in Southampton Township, **Cumberland County**, ACOE Baltimore District.

To remove the existing structure and to construct and maintain a 14-foot by 6-foot concrete box culvert at the channel of an unnamed tributary to Burd Run (Reservoir Hollow) (CWF) on SR 3001, Section 015, Segment 0110, Offset 0325 (Baltimore Road) located 0.7 mile south of Cleversburg Village (Walnut Bottom, PA Quadrangle N: 4.78 inches; W: 12.8 inches) in Southampton Township, Cumberland County.

**E38-133. Lebanon County Commissioners**, 400 S. 8th Street, Lebanon, PA 17042 in Jackson Township, **Lebanon County**, ACOE Baltimore District.

To repair and maintain an existing two span earth filled concrete and cut stone arch bridge at a point along T-409 spanning Tulpehocken Creek (TSF) (Bethel, PA Quadrangle N: 1.25 inches; W: 1.5 inches) in Jackson Township, Lebanon County.

**E44-114. Pennsylvania Department of Transportation, Engineering District 2-0**, P. O. Box 342, Clearfield, PA 16830 in Fermanagh Township, **Juniata County** and Derry Township, **Mifflin County**, ACOE Baltimore District.

To: (1) remove an existing structure and to construct and maintain a box stream enclosure with a span of 8 feet and an underclearance of 7.5 feet in a tributary to the Juniata River (CWF) (Mifflintown, PA Quadrangle N: 18.6 inches; W: 14.9 inches); (2) remove an existing structure and to construct and maintain a box culvert with a 17-foot span and a 7-5-foot clearance in Roaring Run (CWF) (Mifflin, PA Quadrangle N: 19.0 inches; W: 11.0 inches); (3) remove an existing structure and to construct and maintain a bridge with a span of 49.9 feet and an underclearance of 8.0 feet and a bridge with two spans of 144.0 feet each and an underclearance of 33 feet across the channel of Macedonia Run (HQ-CWF) (Mifflintown, PA Quadrangle N: 20.0 inches; W: 9.6 inches); (4) replace 143.25 feet of an existing 305-foot long, 8-foot by 6-foot box culvert with an 8-foot by 7-foot box culvert and add a 61-foot extension of 8-foot by 7-foot box culvert in the channel of a tributary to the Juniata River (CWF) (Mifflintown, PA Quadrangle N: 19.5 inches; W: 8.5 inches); and (5) place fill in the floodplain of the Juniata River and to impact 2.29 acres of wetlands adjacent to the Juniata River (CWF) for the purpose of reconstructing 6.8 miles of SR 0022 in Fermanagh Township, Juniata County and Derry Township, Mifflin County. The permittee agrees to provide 2.29 acres of replacement wetlands.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**E08-390. David DeCristo**, R. R. 1, Box 108A, Canton, PA 17724. Fill in floodway, in Leroy Township, **Bradford County**, ACOE Baltimore District (Leroy, PA Quadrangle N: 8.0 inches; W: 13.9 inches).

To maintain fill in an area 290 feet by 5 feet and to place riprap and geotextile for stream bank stabilization for a distance of approximately 290 feet in the floodway of an unnamed tributary to Towanda Creek off SR 0414 approximately 7 miles east of the traffic light in Canton in Leroy Township, Bradford County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E19-230. Ideal Park Campground**, R. R. 1, Box 71, Catawissa, PA 17821. Lower half of campground, in

Locust Township, **Columbia County**, ACOE Baltimore District (Catawissa, PA Quadrangle N: 5.29 inches; W: 3.5 inches).

To maintain: (1) two recreational trailer porches and two decks with their associated new tie downs in the 100-year floodway; (2) an 18-foot by 36-foot roofed but unwallied picnic pavilion; (3) a 6-foot by 8-foot wooden pump house; (4) a 25-foot by 32-foot masonry pool house; (5) a 72-foot by 20-foot wood and masonry office building; (6) a 11-foot by 13-foot pool pump house; (7) a 20-foot by 12-foot wooden storage shed; (8) a 6.5-foot by 6.5-foot block pump house; (9) a 20-foot by 12-foot roofed by unwallied pavilion; (10) two below ground swimming pools; (11) a 35-foot long wooden privacy fence (35-foot perpendicular to the flow of the stream flow); (12) 78 feet of rail fence (24-foot perpendicular to the flow of the stream); and (13) 714 feet of chain link fence in Locust Township, Columbia County. This permit was issued under section 105.13(e) "Small Projects."

**E49-261. Pennsylvania Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit Application, in Rush Township, **Northumberland County**, ACOE Susquehanna River Basin District (Danville, PA Quadrangle N: 6.3 inches; W: 15.2 inches).

To extend an existing 84-inch corrugated metal culvert pipe approximately 10 additional feet as well as place 50 tons of R-6 rock in an unnamed tributary to Logan Run along SR 2004 Seg. 0010. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E60-155. Pennsylvania Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. SR 3004, Segment 140, Offset 2349 UNT to Penns Creek culvert replacement, in Lewis Township, **Union County**, ACOE Susquehanna River Basin District (Hartleton, PA Quadrangle N: 3.6 inches; W: 0.7 inch).

To: (1) remove existing culvert; and (2) construct and maintain 41 linear feet of 64-inch by 42-inch corrugated metal arch culvert in an unnamed tributary to Penns Creek located along SR 3004 Segment 0140, Offset 2349, in Lewis Township, **Union County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

## SPECIAL NOTICES

### Plan Revision Approval under the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

*Northeast Region: Waste Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711.*

The Department of Environmental Protection (Department) approved revisions to the following County Municipal Waste Management Plans on July 19, 2002: Carbon County, Pike County, Susquehanna County and Wayne County.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing

Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472; or Chris Fritz, Regional Planning and Recycling Coordinator, Bureau of Land Recycling and Waste Management at the Regional Office previously noted.

**Request for Comments on the Proposed Total Maximum Daily Loads (TMDLs) Developed for Hospital Creek, Little Cacoosing Creek, Owl Creek and an Unnamed Tributary to Tulpehocken Creek Watersheds in Lebanon and Berks Counties**

The Department of Environmental Protection (Department) will accept comments on the proposed TMDLs

developed for the Hospital Creek, Little Cacoosing Creek, Owl Creek and an unnamed tributary to Tulpehocken Creek watersheds in Lebanon and Berks Counties. These TMDLs were established in accordance with the requirements of section 303(d) of the Clean Water Act. The Commonwealth's 1996 and 1998 Section 303(d) lists included stream segments in all four of these watersheds. The listings of these waterbodies were due to use impairments caused by excessive siltation, suspended solids and/or nutrients emanating from agricultural land uses. Residential development has also been identified as a source of impairment in the Hospital Creek watershed.

There currently are no State or Federal instream numerical water quality criteria for siltation, suspended solids or nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. These proposed TMDLs set allowable loadings of sediment and phosphorus in the Hospital Creek, Little Cacoosing Creek, Owl Creek and unnamed tributary to Tulpehocken Creek watersheds. Phosphorus was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in these watersheds. The sediment and phosphorus loadings were allocated among all land use categories present in the watersheds. Data used in establishing these TMDLs was generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current sediment and phosphorus loadings for the four watersheds. Overall load reductions necessary to meet the TMDLs are also identified.

**Summary of TMDL Based Load Reductions in the Hospital Creek, Little Cacoosing Creek, Owl Creek and unnamed tributary to Tulpehocken Creek Watersheds**

<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs./yr.)</i>	<i>TMDL (lbs./yr.)</i>	<i>% Reduction</i>
Hospital Creek	Sediment	862,927	559,291	35%
	Phosphorus	1,510	1,113	26%
Little Cacoosing Creek	Sediment	1,406,126	1,015,970	28%
	Phosphorus	3,411	1,886	45%
Owl Creek	Sediment	1,006,015	588,102	42%
	Phosphorus	2,372	1,757	26%
UNT to Tulpehocken Creek	Sediment	856,758	665,938	22%
	Phosphorus	2,720	1,639	40%

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDLs and information on the TMDL program can be viewed on the Department's website ([www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/)). To request a copy of the proposed TMDLs, contact Joseph P. Hepp, Water Pollution Biologist 2, Water Management Program, Southcentral Regional Office, Department of Environmental Protection, 909 Elmerton Avenue,

Harrisburg, PA 17110, (717) 705-4788, e-mail: [jhepp@state.pa.us](mailto:jhepp@state.pa.us).

The Department will consider all comments in developing the final TMDLs, which will be submitted to the EPA for approval. Written comments will be accepted at the previous address and must be postmarked by 60 days after publication in the *Pennsylvania Bulletin*.

A public meeting to discuss the technical merits of the TMDLs will be held on August 26, 2002, at 7 p.m. in the

1st Floor Auditorium, Berks County Ag. Center, 1238  
County Welfare Road, Leesport, PA.

<i>Watershed</i>	<i>Municipality</i>	<i>County</i>
Hospital Creek	Wernersville Borough Lower Heidelberg Township South Heidelberg Township West Cocalico Township	Berks Berks Berks Lancaster
Little Cacoosing Creek	Wernersville Borough Lower Heidelberg Township South Heidelberg Township	Berks Berks Berks
Owl Creek	Myerstown Borough Jackson Township Marion Township	Lebanon Lebanon Berks
UNT to Tulpehocken Creek	Richland Borough Jackson Township Mill Creek Township Heidelberg Township	Lebanon Lebanon Lebanon Lebanon

[Pa.B. Doc. No. 02-1380. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website ([www.dep.state.pa.us](http://www.dep.state.pa.us)) at the Public Participation Center page. The "July 2002 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2002.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department 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 the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department 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 each document.

#### *Draft Technical Guidance—Substantive Revision*

DEP ID: 383-2129-001. Title: Enhanced Coagulation Calculator Spreadsheet. Description: This document's spreadsheet and instructions will assist those working with public water systems in understanding and implementing the "Enhanced Coagulation" requirements under the Stage 1 Disinfection Byproduct Rule. Comment Period Ends: September 9, 2002. Anticipated Effective Date: September 28, 2002. Contact: Donald Greenfield at (717) 772-4018 or e-mail [dgreenfiel@state.pa.us](mailto:dgreenfiel@state.pa.us).

#### *Draft Technical Guidance*

DEP ID: 254-5900-001. Title: Guidelines for the Development and Implementation of Preparedness, Prevention, and Contingency Plans for Generators and Burners of Waste Oil. Description: The pending waste oil regulations contain a requirement for generators and burners of waste oil to develop a preparedness, prevention and contingency (PPC) plan for addressing spills and other emergencies involving waste oil. In response to various concerns and comments submitted to the Department, this draft guidance was prepared to assist in developing much simpler, streamlined PPC plans for generators of waste oil. Anticipated Effective Date: September 28, 2002. Comment Period Ends: September 9, 2002. Contact: Scott Walters at (717) 787-7564 or e-mail [scwalters@state.pa.us](mailto:scwalters@state.pa.us).

#### *Notice of Intent to Add Technical Guidance*

DEP ID: 253-4500-601. Title: Closure Requirements for Underground Storage Tank Systems. Description: The original version of this document (originally effective on April 1, 1998) was developed as a publication in the Department. Its purpose was to establish minimum standards that must be met in order to comply with the closure requirements for regulated storage tanks. These procedures include closure notification, tank handling and waste management and disposal, site assessment, sampling requirements, analytical requirements, release reporting and recordkeeping. The Department is removing this document from its publications inventory and has entered it into the inventory of technical guidance documents. Contact: John Stephenson, Bureau of Land Recycling and Waste Management at (717) 783-7816 or e-mail [jstephenson@state.pa.us](mailto:jstephenson@state.pa.us).

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-1381. Filed for public inspection August 9, 2002, 9:00 a.m.]

### General NPDES Small Construction Permit (PAG-14)

The Department of Environmental Protection (Department) is proposing to issue a General National Pollutant Discharge Elimination System (NPDES) Small Construction Permit (PAG-14) for construction activities involving 1 to 5 acres of earth disturbance with a point source discharge of stormwater.

On December 8, 1999, the Environmental Protection Agency (EPA) published the final Phase II NPDES Storm Water Regulations (Phase II) in 40 CFR Part 122 and 123 (64 Fed. Reg. 68722). In addition to the Municipal Separate Storm Sewer System (MS4) Permit Program, the Phase II regulations identify an additional class of earth disturbance activities that will be subject to the requirements of the NPDES permit program: stormwater discharges associated with small construction activities that disturb 1 acre but less than 5 acres of land and that have a point source discharge. Further, construction activities disturbing less than 1 acre will also require a permit under Phase II if they are part of a larger common plan of development or sale that will disturb 1 acre but not more than 5 acres over the life of the project or when the activity is otherwise designated for permit coverage by the NPDES permitting authority. The Department



must implement the Phase II requirements for NPDES permit coverage of construction activities between 1 and 5 acres by December 8, 2002.

PAG-14 applies to persons proposing new or conducting existing small construction activities, including clearing and grading, and excavation activities involving 1 to 5 acres of earth disturbance or an earth disturbance on any portion, part or during any stage of, a larger common plan of development or sale that involves 1 to 5 acres of earth disturbance over the life of the project and that has a point source discharge to surface waters of this Commonwealth (small construction activities). This notice on the proposed general permit authorization relates to Phase II permit requirements only. Phase I permit requirements (PAG-2) apply to earth disturbances of 5 acres or more and are not impacted by this notice.

The final Phase II stormwater requirements will be met through a risk-based permit approach that requires compliance with 25 Pa. Code Chapter 102 (relating to erosion and sediment control). Specifically, PAG-14 will require operators to submit a notice of intent identifying that they have developed an Erosion and Sediment Control (E&S) Plan under 25 Pa. Code Chapter 102, and that performance-based best management practices (BMPs) as described in the E&S Plan will be implemented and maintained to effectively control erosion and sedimentation to protect water quality. The BMPs must be set forth in a written plan meeting the requirements found in 25 Pa. Code § 102.4(b)(5) (relating to erosion and sediment control requirements), and the E&S Plan must be available at the site of the construction activity at all times. PAG-14 requires submission of a Notice of Intent (NOI) that includes general operator and site information, and a certification that a written E&S Plan, Preparedness, Prevention and Contingency Plan and Post Construction Stormwater Management Plan have been developed and BMPs will be implemented to protect the water quality of the receiving surface waters of this Commonwealth. In addition, a Notice of Termination will be required to be submitted when final stabilization of the site has been achieved as defined in PAG-14, or stormwater construction runoff is no longer being discharged from the small construction activity or when another operator has assumed control of the site. Some small construction activities will not be eligible for coverage under this general permit including, but not limited to: discharges from construction activities located in special protection watersheds; discharges to waters for which an NPDES general permit coverage is prohibited under 25 Pa. Code Chapter 92 (relating to National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance); discharges associated with coal or noncoal mining activity; or discharges which contain any substance which may pose a substantial present or future hazard to human health or the environment when discharged into surface waters of this Commonwealth. Small construction activities that are not eligible for general permit coverage must utilize an application for Individual NPDES Permit for Stormwater Discharges Associated with Construction Activities.

Administratively, the PAG-14 NOI consists of a three copy snap set application. Persons required to obtain coverage under PAG-14 will complete information on the form and submit it to the local County Conservation

District Office, if delegated NPDES registration authority or the Department Regional Office. Upon receipt, the office will register the permit, forward one copy for *Pennsylvania Bulletin* publication, return one to the permit registrant and retain the third copy for filing. Persons may not commence work until they have received a confirmation of registration. This proposed process is built upon existing 25 Pa. Code Chapter 102 requirements, minimizes permit registration processing time for the County Conservation Districts and the Department, expedites the registration process for applicants, and meets the Federal requirements for NPDES permitting.

An NPDES permit will not be required if a small construction activity will not have a point source discharge to a surface water of this Commonwealth. However, compliance with 25 Pa. Code Chapter 102, including the development of E&S Plans and the implementation and maintenance of BMPs, is still required.

The Department has determined that the two waiver provisions identified by the EPA in the Phase II will not be applicable in this Commonwealth. The first waiver of predicted rainfall potential will not be applicable because the allowable average expected rainfall distribution and erosivity factors do not provide any exemptions for activities conducted in this Commonwealth. As for the second waiver, TMDLs for stormwater discharges associated with construction activities have not been developed for this Commonwealth.

The proposed PAG-14 has been sent to the EPA Region III Administrator for review and comment.

Small construction activities within MS4 jurisdictions in certain "urbanized areas" will be subject to additional requirements. These are described in 40 CFR Parts 122 and 123 and in the Department's recently proposed NPDES Stormwater Discharges from Small MS4 General Permit (PAG-13) published at 32 Pa.B. 3444 (July 13, 2002).

Persons wishing to comment on the proposed PAG-14 are invited to obtain a copy of the revised permit from Kenneth Murin, Chief, Technical Support Section, Department of Environmental Protection, Bureau of Watershed Management, Division of Waterways, Wetlands and Erosion Control, 10th Floor, Rachel Carson State Office Building, P. O. Box 8775, Harrisburg, PA 17105-8775 or e-mail kmurin@state.pa.us.

Comments must be submitted within 30 days from the date of this notice. The period for comments may be extended at the discretion of the Department for one additional 15-day period. Comments received within this 30-day period will be considered in the formulation of the Final Notice of Availability of Amendments to PAG-14. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if there is significant public interest and request identified by the comments.

Following the 30-day comment period, the Department will make a final determination regarding the proposed PAG-14. Notice of this determination will be published in the *Pennsylvania Bulletin*.

A draft of PAG-14 and related documents is on file at the Department's Central Office of the Bureau of Watershed Management at the location noted previously. In addition, a copy can be viewed at <http://www.dep.state.pa.us/dep/deputate/watermgt/wc/wc.htm>. Persons wishing to review or receive further information should contact the office previously noted or call (717) 787-6827. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

DAVID E. HESS,  
Secretary

[Pa.B. Doc. No. 02-1382. Filed for public inspection August 9, 2002, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Diamond Mine 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 Diamond Mine.

2. *Price:* The price of a Pennsylvania Diamond Mine instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Diamond Mine instant lottery game ticket will contain one play area featuring a "Winning Numbers" area and a "Your Numbers" area. The play symbols and their captions located in the "Winning 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 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "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 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and a Pick Symbol (PICK).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$2.<sup>00</sup> (TWO DOL), \$5.<sup>00</sup> (FIV DOL), \$6.<sup>00</sup> (SIX DOL), \$8.<sup>00</sup> (EGT DOL), \$10.<sup>00</sup> (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$75\$ (SVY FIV), \$150 (ONEHUNFTY), \$500 (FIV HUN) and \$75,000 (SVYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are \$2, \$5, \$6, \$8, \$10, \$12, \$15, \$25, \$50, \$75, \$150, \$500 and \$75,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania Diamond Mine instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a

prize play symbol of \$75,000 (SVYFIVTHO) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$75,000.

(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 \$75,000 (SVYFIVTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$75,000.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$500 (FIV HUN) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$500.

(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 \$500 (FIV HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$150 (ONEHUNFTY) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$150.

(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 \$150 (ONEHUNFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$150.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$75\$ (SVY FIV) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$75.

(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 \$75\$ (SVY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$75.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$50\$ (FIFTY) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$50.

(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 \$50\$ (FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$25\$ (TWY FIV) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$25.

(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 \$25\$ (TWY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$15\$ (FIFTN) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$15.

(n) 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.

(o) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$12\$ (TWELV) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$12.

(p) 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.

(q) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$10<sup>00</sup> (TEN DOL) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$10.

(r) 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 \$10<sup>00</sup> (TEN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK), and a prize play symbol of \$8<sup>00</sup> (EGT DOL) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$8.

(t) 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 \$8<sup>00</sup> (EGT DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(u) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK) and a prize play symbol of \$6<sup>00</sup> (SIX DOL) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$6.

(v) 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 \$6<sup>00</sup> (SIX DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(w) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Pick Symbol (PICK) and a prize play symbol of \$5<sup>00</sup> (FIV DOL) appears under the Pick Symbol (PICK) on a single ticket, shall be entitled to a prize of \$5.

(x) 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 \$5<sup>00</sup> (FIV DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(y) 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 \$2<sup>00</sup> (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:

*When Any of Your Numbers Match Any of the Winning Numbers, Win With Prize(s) of:*

<i>Prize(s) of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 3,600,000 Tickets</i>
\$5	\$5	1:27.27	132,000
\$5 w/Pick	\$5	1:9.09	396,000
\$6	\$6	1:120	30,000
\$6 w/Pick	\$6	1:85.71	42,000
\$8	\$8	1:300	12,000
\$8 w/Pick	\$8	1:300	12,000
\$2 x 5	\$10	1:120	30,000
\$5 x 2	\$10	1:600	6,000
\$10	\$10	1:600	6,000
\$10 w/Pick	\$10	1:120	30,000
\$6 x 2	\$12	1:300	12,000
\$12	\$12	1:600	6,000
\$12 w/Pick	\$12	1:120	30,000
\$5 x 3	\$15	1:600	6,000
\$10 + \$5	\$15	1:300	12,000
\$15	\$15	1:600	6,000
\$15 w/Pick	\$15	1:150	24,000
\$15 + \$5 x 2	\$25	1:200	18,000
\$5 x 5	\$25	1:100	36,000
\$5 x 3 + \$10	\$25	1:300	12,000
\$10 + \$15	\$25	1:600	6,000
\$25	\$25	1:600	6,000

When Any of Your Numbers  
Match Any of the Winning  
Numbers, Win With  
Prize(s) of:

Prize(s) of:	Win	Approximate Odds	Approximate No. of Winners Per 3,600,000 Tickets
\$25 w/Pick	\$25	1:85.71	42,000
\$25 × 2	\$50	1:12,000	300
\$15 × 3 + \$5	\$50	1:6,000	600
\$5 × 10	\$50	1:6,000	600
\$10 × 5	\$50	1:6,000	600
\$50	\$50	1:12,000	300
\$50 w/Pick	\$50	1:6,000	600
\$15 × 5	\$75	1:400	9,000
\$25 × 3	\$75	1:480	7,500
\$75	\$75	1:400	9,000
\$75 w/Pick	\$75	1:240	15,000
\$15 × 10	\$150	1:450,000	8
\$150	\$150	1:900,000	4
\$150 w/Pick	\$150	1:450,000	8
\$50 × 10	\$500	1:900,000	4
\$500	\$500	1:1,800,000	2
\$500 w/Pick	\$500	1:900,000	4
\$75,000	\$75,000	1:1,800,000	2
\$75,000 w/Pick	\$75,000	1:3,600,000	1

Pick = Win that prize automatically

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Diamond Mine 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 Diamond Mine, prize money from winning Pennsylvania Diamond Mine 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 Diamond Mine 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 Diamond Mine or through normal communications methods.

LARRY P. WILLIAMS,  
Secretary

[Pa.B. Doc. No. 02-1383. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Pennsylvania Fast 5's 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 Fast 5's.

2. *Price:* The price of a Pennsylvania Fast 5's instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Fast 5's instant lottery game ticket will contain one "Play Area." The play symbols and their captions located in the "Play Area" are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Play Area" are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$3<sup>00</sup> (THR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$15\$ (FIFTN), \$25\$ (TWY FIV), \$50\$ (FIFTY) and \$500 (FIV HUN).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$5, \$10, \$15, \$25, \$50 and \$500. A player can win up to five times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 12,240,000 tickets will be printed for the Pennsylvania Fast 5's instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$500 (FIV HUN) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$500.

(b) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$50\$ (FIFTY) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$50.

(c) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$25\$ (TWY FIV) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$25.

(d) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$15\$ (FIFTN) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$15.

(e) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$10<sup>.00</sup> (TEN DOL) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$10.

(f) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$5<sup>.00</sup> (FIV DOL) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$5.

(g) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$3<sup>.00</sup> (THR DOL) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$3.

(h) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$2<sup>.00</sup> (TWO DOL) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$2.

(i) Holders of tickets with a play symbol of 5 (FIVE) and a prize play symbol of \$1<sup>.00</sup> (ONE DOL) appearing under it in the "Play Area," on a single ticket, shall be entitled to a prize of \$1.

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>Find A "5" Win With Prize(s) of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 12,240,000 Tickets</i>
\$1	\$1	1:11.11	1,101,600
\$1 × 2	\$2	1:37.50	326,400
\$2	\$2	1:37.50	326,400
\$1 × 3	\$3	1:300	40,800
\$1 + \$2	\$3	1:300	40,800
\$3	\$3	1:300	40,800
\$1 × 5	\$5	1:75	163,200
\$2 + \$3	\$5	1:75	163,200
\$5	\$5	1:75	163,200
\$2 × 5	\$10	1:750	16,320
\$5 × 2	\$10	1:750	16,320
\$10	\$10	1:1,500	8,160
\$3 × 5	\$15	1:300	40,800
\$5 × 3	\$15	1:750	16,320
\$10 + \$5	\$15	1:750	16,320
\$15	\$15	1:1,500	8,160
\$5 × 5	\$25	1:1,500	8,160
\$10 + \$15	\$25	1:3,000	4,080
\$25	\$25	1:3,000	4,080
\$10 × 5	\$50	1:120,000	102
\$50	\$50	1:120,000	102
\$500	\$500	1:120,000	102

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fast 5's 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 Fast 5's, prize money from winning Pennsylvania Fast 5's 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 Fast 5's 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 Fast 5's or through normal communications methods.

LARRY P. WILLIAMS,  
*Secretary*

[Pa.B. Doc. No. 02-1384. Filed for public inspection August 9, 2002, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Berks County

Under the provisions of section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation (Department) plans to realign Reedy Road (T-392) and to extend Evans Hill Road (T-515) to intersect with realigned Reedy Road in Berks County. The project will require the acquisition of land from the Cacoosing Valley Agricultural Historic District and the Cacoosing Meadows Recreational Area.

Impacts to historic and recreational resources will be mitigated by the following measures:

1. The park entrance will be upgraded without affecting current uses of the park or closing effective parkland.
2. Project materials and construction equipment will be stored outside the Cacoosing Meadows Recreational Area during construction.
3. Access to the park and parking will remain open at all times. To locate park facilities, signing will be added at the new park entrance.
4. Aesthetic value of the adjacent historic district will be maintained by adding aesthetic treatments for the bridge replacement of Bridge No. 2.
5. An approved Erosion and Sediment Pollution Control Plan will be implemented during construction of the replacement bridge and the removal of the existing bridge to minimize the minor impacts that may temporarily affect the creek.
6. The contractor will be required to comply with air pollution control measures in 25 Pa. Code (relating to environmental protection). Construction activities will be limited to normal working hours, and equipment will be outfitted with appropriate noise muffling devices to minimize noise level impacts.
7. A tree located at Station 30+090, 4.2 meters to the left, which adds to the overall eligible historic district, will be saved.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize any effect.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 02-1385. Filed for public inspection August 9, 2002, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Cancellation of August Meeting

The August 20, 2002, Environmental Quality Board (Board) meeting has been canceled. The next meeting of the Board is scheduled for Tuesday, September 17, 2002, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg PA.

DAVID E. HESS,  
*Chairperson*

[Pa.B. Doc. No. 02-1386. Filed for public inspection August 9, 2002, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Designation of Water Subject to Special Fishing Regulations

The Fish and Boat Commission (Commission) has designated the following stream section as a water subject to 58 Pa. Code Chapter 65 (relating to special fishing regulations), effective upon publication of this notice in the *Pennsylvania Bulletin*.

*58 Pa. Code § 65.6. Delayed harvest artificial lures only area.*

The Commission has revised the limits of the delayed harvest artificial lures only area on Fishing Creek, Columbia County, by extending the downstream area approximately 100 yards and reducing the upstream area approximately 0.2 mile. The revised section is as follows: from 180 yards upstream of the upstream Benton Borough line to the upstream Richard Kriebel property line, a distance of approximately 0.5 mile.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 02-1387. Filed for public inspection August 9, 2002, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Capital Blue Cross; Individual Basic Blue Cross Program; Filing No. 02-F

On July 26, 2002, Capital Blue Cross submitted adjusted rates for the Individual Basic Blue Cross Program, filing No. 02-F (Department ID A62062001). This filing requests an increase of 9.45% with a proposed effective date of January 1, 2003.

This filing is available for public inspection during normal working hours at the Insurance Department's regional office in Harrisburg, PA.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1388. Filed for public inspection August 9, 2002, 9:00 a.m.]

**Capital Blue Cross; Special Care Hospitalization Program Rate Increase; Filing No. 02-H**

Capital Blue Cross has filed for review and approval to increase rates for its Special Care Hospitalization Program. The requested increase is 18.63%. An effective date of January 1, 2003, has been requested.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1389. Filed for public inspection August 9, 2002, 9:00 a.m.]

**Donegal Mutual Insurance Company; Private Passenger Automobile; Rates and Rules Filing**

On July 19, 2002, the Insurance Department (Department) received from Donegal Mutual Insurance Company

a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 8.2% increase amounting to \$3.072 million annually, to be effective October 1, 2002.

Unless formal administrative action is taken prior to September 17, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1390. Filed for public inspection August 9, 2002, 9:00 a.m.]

**Eligible Surplus Lines Insurer List**

In accordance with section 1605(b) of the Insurance Company Law of 1921 (40 P. S. § 991.1605(b)), the Insurance Department hereby publishes the most recent Eligible Surplus Lines Insurer List. This list replaces in its entirety the Eligible Surplus Lines Insurer List as of January 7, 2002, published at 32 Pa. B. 394 (January 19, 2002).

Persons who have questions concerning this notice should contact Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

As of July 25, 2002

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
10517	4001	Acceptance Insurance Company	301 South 13th Street, Suite 500 Lincoln, NE 68508
10512	4002	Admiral Insurance Company	1209 Orange Street Wilmington, DE 19801
10513	4005	Adriatic Insurance Company	314 East Thayer Avenue Bismarck, ND 58501
39908	4011	Alea London Limited	The Corn Exchange 55 Mark Lane London, England EC3R 7NE
10516	4017	Allianz Underwriters Insurance Company	3400 Riverside Drive Suite 300 Burbank, CA 91505-4669
10519	4050	American Empire Surplus Lines Insurance Company	1209 Orange Street Wilmington, DE 19801
10520	4052	American Equity Insurance Company	7676 East Pinnacle Peak Road Scottsdale, AZ 85255
36855	4054	American Healthcare Specialty Insurance Company	425 W. Capitol Avenue Suite 1800 Little Rock, AR 72201
10521	4055	American International Specialty Lines Insurance Company	1400 West Benson Blvd., Suite 315 Anchorage, AK 99503
18146	4881	American Safety Indemnity Company	600 Bank of Oklahoma Plaza 201 Robert S. Kerr Avenue Oklahoma City, OK 73102

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
10522	4062	American Western Home Insurance Company	600 Fidelity Plaza Oklahoma City, OK 73102
10524	4081	Appalachian Insurance Company	Allendale Park P. O. Box 7500 Johnston, RI 02919-0500
22348	4085	Assicurazioni Generali Di Trieste	Piazza Duca Degli Abruzzi, 2 Trieste, Italy 34132
22349	4090	Associated Electric & Gas Insurance Services Limited	Liberty International 73 Front Street, 3rd Floor Hamilton, Bermuda HM11
10525	4095	Associated International Insurance Company	21820 Burbank Boulevard, #330 Woodland Hills, CA 91367
41586	4097	Atlantic Casualty Insurance Company	400 Commerce Court Goldsboro, NC 27534
10526	4100	Audubon Indemnity Company	795 Woodways Parkway Suite 310 Ridgeland, MS 39157
41562	4120	AXA Corporate Solutions Assurance	4 Rue Jules Lefebvre Paris, France 75009
22369	4135	British Aviation Insurance Company Limited	Fitzwilliam House 10 St. Mary's Axe London, England EC3A 8EQ
10527	4145	Caliber One Indemnity Company	1209 Orange Street Wilmington, DE 19801
10528	4150	Canal Indemnity Company	400 East Stone Avenue Greenville, SC 29601
10529	4158	Centennial Casualty Company	2200 Woodcrest Place Suite 200 Birmingham, AL 35209
10531	4160	Century Surety Company	2400 Corporate Exchange Drive Columbus, OH 43231
22371	4200	CGU International Insurance plc	St. Helen's 1 Undershaft London, England EC3P 3DQ
10532	4170	Chubb Custom Insurance Company	32 Loockeman Square Dover, DE 19901
18617	4175	Clarendon America Insurance Company	224 West State Street Trenton, NJ 08608
10533	4180	Colony Insurance Company	9201 Forest Hill Avenue Suite 200 Richmond, VA 23235-6865
10582	4730	Colony National Insurance Company	9201 Forest Hill Avenue Suite 200 Richmond, VA 23235-6865
10534	4193	Columbia Casualty Company	CNA Plaza Chicago, IL 60685
10535	4196	Commercial Underwriters Insurance Company	200 Corporate Pointe Suite 300 Culver City, CA 90230
22388	4210	Commonwealth Insurance Company	595 Burrard Street, Suite 1500 Box 49115 Bentall Tower Three Vancouver, B.C., Canada V7X 1G4
10536	4213	Connecticut Specialty Insurance Company	9 Farm Springs Road Farmington, CT 06032
33748	4222	Cross River Insurance Company	10306 Regency Parkway Drive Omaha, NE 68113



<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
37372	4879	Crum & Forster Specialty Insurance Company	One Commercial Plaza Hartford, CT 06103
10538	4225	Crusader Insurance Company	23251 Mulholland Drive Woodland Hills, CA 91364
35611	4230	Dakota Specialty Insurance Company	316 North Fifth Street Bismarck, ND 58502
37001	4240	Discover Specialty Insurance Company	500 West Madison, Suite 2600 Chicago, IL 60661
10541	4255	Empire Indemnity Insurance Company	809 Northwest 36th Street Oklahoma City, OK 73118
10542	4268	Essex Insurance Company	1209 Orange Street Wilmington, DE 19801
10543	4270	Evanston Insurance Company	Ten Parkway North Deerfield, IL 60015
10544	4275	Everest Indemnity Insurance Company	Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
10545	4280	Executive Risk Specialty Insurance Company	82 Hopmeadow Street Simsbury, CT 06070-7683
10546	4315	Fidelity Excess and Surplus Insurance Company	515 Main Street Cincinnati, OH 45202
10547	4317	Fireman's Fund Insurance Company of Ohio	312 Walnut Street Suite 1100 Cincinnati, OH 45202
10548	4319	First Financial Insurance Company	528 South Fifth Street Suite 210 Springfield, IL 62701-1822
10657	4320	First Mercury Insurance Company	One South Wacker Drive Suite 2740 Chicago, IL 60606
10550	4321	First Specialty Insurance Corporation	237 East High Street Jefferson City, MO 65102
18477	4333	Gemini Insurance Company	Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
10553	4335	General Agents Insurance Company of America, Inc.	5623 North Western, Suite B Oklahoma City, OK 73118
37373	4337	General Security Indemnity Company	199 Water Street 21st Floor New York, NY 10038
10552	4331	General Security Indemnity Company of America	3636 North Central Avenue Phoenix, AZ 85012
10554	4338	General Star Indemnity Company	695 East Main Street P. O. Box 10354 Stamford, CT 06904-2354
22411	4345	Generali-France Assurances	5, rue de Londres Paris, France 75009
34991	4350	Genesis Indemnity Insurance Company	316 North Fifth Street Bismarck, ND 58501
10556	4360	Gotham Insurance Company	330 Madison Avenue New York, NY 10017
10514	4010	Great American E & S Insurance Company	The Corporation Trust Company 1209 Orange Street Wilmington, DE 19801
10518	4047	Great American Fidelity Insurance Company	The Corporation Trust Company 1209 Orange Street Wilmington, DE 19801

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
10540	4245	Great American Protection Insurance Company	One Indiana Square Suite 1800 Indianapolis, IN 46204
22412	4370	Great Lakes Reinsurance (UK) PLC	Upper Ground Floor, 1 Minster Court Mincing Lane London, England EC3R 7AA
36489	4380	Guilford Insurance Company	528 South Fifth Street Suite 210 Springfield, IL 62701-1822
36490	4385	Gulf Insurance Company U.K. Limited	Suite 616, The Lloyds Bldg. 1 Lime Street London, England EC3M 7DQ
10557	4390	Gulf Underwriters Insurance Company	One Tower Square Hartford, CT 06183
10559	4420	Houston Casualty Company	13403 Northwest Freeway Houston, TX 77040-6094
10560	4427	Illinois Emcasco Insurance Company	717 Mulberry Street Des Moines, IA 50309
10561	4432	Illinois Union Insurance Company	525 West Monroe Street Chicago, IL 60631
22413	4438	Indemnity Marine Assurance Company Limited	St. Helen's 1 Undershaft London, England EC3P 3DQ
10562	4441	Indian Harbor Insurance Company	Seaview House 70 Seaview Avenue Stamford, CT 06902-6040
10563	4430	INEX Insurance Exchange	1 South Wacker Drive Suite 2720 Chicago, IL 60606-4617
28076	4448	International Insurance Company of Hannover Limited	Hannover House Virginia Water London, England GU 25 4AA
10564	4451	Interstate Fire & Casualty Company	55 East Monroe Street Chicago, IL 60603
10566	4425	ITT Pacific Insurance Company, Limited	Hartford Plaza Hartford, CT 06115
26714	4460	Kemper Indemnity Insurance Company	1 Kemper Drive Long Grove, IL 60049-0001
38900	4465	Kemper Surplus Lines Insurance Company	1 Kemper Drive Long Grove, IL 60049-0001
8967	4471	Landmark American Insurance Company	115 S.W. 89th Street Oklahoma City, OK 73139-8511
10567	4472	Landmark Insurance Company	777 South Figueroa Street Los Angeles, CA 90017
10568	4475	Legion Indemnity Company	190 S. LaSalle Street Chicago, IL 60603
10569	4478	Lexington Insurance Company	1209 Orange Street Wilmington, DE 19801
22415	4482	Liberty Mutual Insurance Company (UK) Limited	4th Floor, One Minster Court Mincing Lane London, England EC3R 7AA
18457	4480	Liberty Surplus Insurance Corporation	175 Berkeley Street Boston, MA 02117
22416	4492	Lloyd's (Underwriters at)	One Lime Street London, England EC3M 7HA
22417	4510	London and Edinburgh Insurance Company Limited	8 Surrey Street Norwich, England NR1 3NG

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
22418	4530	Marine Insurance Company Limited	34/36 Lime Street London, England EC3M 7JE
22419	4540	Maritime Insurance Company Limited	P. O. Box 6 Surrey Street Norfolk, England NR1 3NS
10570	4565	Monticello Insurance Company	1209 Orange Street Wilmington, DE 19801
10571	4575	Mt. Hawley Insurance Company	9025 N. Lindbergh Drive Peoria, IL 61615
10572	4590	NAMIC Insurance Company, Inc.	3601 Vincennes Road Indianapolis, IN 46268
10573	4598	National Fire & Marine Insurance Company	3024 Harney Street Omaha, NE 68131-3580
10574	4605	Nautilus Insurance Company	7273 East Butherus Drive Scottsdale, AZ 85260
10575	4595	NIC Insurance Company	One Penn Plaza New York, NY 10119-0002
10537	4220	Noetic Specialty Insurance Company	1111 Plaza Drive Suite 500 Schaumburg, IL 60173
10576	4637	North American Capacity Insurance Company	650 Elm Street Manchester, NH 03101-2524
22420	4645	Northern Assurance Company Limited	St. Helen's 1 Undershaft London, England EC3P 3DQ
10577	4652	Northfield Insurance Company	7117 Hickman Road Des Moines, IA 50322
10578	4665	Nutmeg Insurance Company	Hartford Plaza Hartford, CT 06115
22421	4667	Ocean Marine Insurance Company Limited	St. Helen's 1 Undershaft London, England EC3P 3DQ
10579	4668	Old Republic Union Insurance Company	307 North Michigan Avenue Chicago, IL 60601
10580	4700	Pacific Insurance Company	c/o CT Corp 818 West 7th Street Los Angeles, CA 90017
23150	4735	Princeton Excess and Surplus Lines Insurance Company	2711 Centerville Road Suite 400 Wilmington, DE 19808
10583	4740	Professional Underwriters Liability Insurance Company	50 West Broadway Salt Lake City, UT 84101
22449	4755	QBE International Insurance Limited	Corn Exchange, Mark Lane London, England EC3R 7NE
10584	4756	Queensway International Indemnity Company	10199 Southside Boulevard, Bldg 1 Suite 200 Jacksonville, FL 32256
10587	4787	Rock River Insurance Company	1800 North Point Drive Stevens Point, WI 54481
10588	4793	Royal Surplus Lines Insurance Company	500 Winding Brook Drive Glastonbury, CT 06033
10589	4802	SAFECO Surplus Lines Insurance Company	SAFECO Plaza Seattle, WA 98185
26788	4445	Sampo Industrial Insurance Company Limited	Vattuniemenkuja 8 A Helsinki, Finland FIN-00035
10590	4810	Savers Property & Casualty Insurance Company	700 West 47th Street Kansas City, MO 64112-1802

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
10591	4816	Scottsdale Insurance Company	One Nationwide Plaza Columbus, OH 43215
10592	4819	Sheffield Insurance Corporation	One South Wacker Drive, Suite 2700 Chicago, IL 60606
33514	4821	Sirius International Insurance Corporation	Birger Jarlsgatan 57B Stockholm, Sweden SE-113 93
10565	4453	Specialty Surplus Insurance Company	1 Kemper Drive Long Grove, IL 60049-0001
22453	4804	SR International Business Insurance Company Limited	71-77 Leadenhall Street London, England EC3A 2PQ
22454	4806	St. Paul Reinsurance Company Limited	52 Lime Street London, England EC3M 7BS
10593	4807	St. Paul Surplus Lines Insurance Company	32 Lookerman Square Dover, DE 19901
38980	4835	Starr Excess Liability Insurance Company, Ltd.	1010 Centre Road Wilmington, DE 19850
10594	4845	Steadfast Insurance Company	Suite 202 32 Lookerman Square Dover, DE 19901
10595	4849	Stonewall Insurance Company	580 Walnut Street Cincinnati, OH 45202
22455	4875	Terra Nova Insurance Company Limited	The Markel Building 49 Leadenhall Street London, England EC3A 2EA
22456	4880	Through Transport Mutual Insurance Association Limited	Windsor Place, Queen Street P. O. Box HM655 Hamilton, Bermuda HMCX
10596	4870	TIG Specialty Insurance Company	777 Arnold Drive, Suite 200 Martinez, CA 94553
10597	4882	Travelers Excess and Surplus Lines Company	One Tower Square Hartford, CT 06183
10598	4884	Tudor Insurance Company	91 Court Street Keene, NH 03431
10599	4893	U.S. Underwriters Insurance Company	316 North Fifth Street Sixth Floor Bismarck, ND 58501
10600	4887	ULICO Indemnity Company	320 West Capital Street Suite 1000 Little Rock, AR 72201-3525
10603	4900	United Coastal Insurance Company	40 North Central Avenue Phoenix, AZ 85004
10558	4395	United National Specialty Insurance Company	411 E. Wisconsin Avenue, Suite 700 Milwaukee, WI 53202
10605	4935	Voyager Indemnity Insurance Company	3237 Satellite Boulevard, Suite 400 Duluth, GA 30096
10606	4955	Wausau General Insurance Company	2000 Westwood Drive Wausau, WI 54401
10607	4957	Westchester Surplus Lines Insurance Company	Six Concourse Parkway Suite 2500 Atlanta, GA 30328-5346
10608	4962	Western Heritage Insurance Company	6263 N. Scottsdale Road Suite 240 Scottsdale, AZ 85250
10610	4966	Western World Insurance Company	91 Court Street Keene, NH 03431

<b>New Key Number</b>	<b>Old Key Number</b>	<b>Company Name</b>	<b>Statutory Home Address</b>
10604	4925	Winterthur International America Underwriters Insurance Company	5810 East Skelly Drive Suite 700 Tulsa, OK 74135
22460	4980	Yorkshire Insurance Company Limited	Pitheavlis Perth, Scotland PH2 0NH
10611	4985	ZC Specialty Insurance Company	400 West 15th Street Suite 7 Austin, TX 78701
22461	4990	Zurich International (Bermuda) Ltd.	The Zurich Centre 90 Pitt's Bay Road P. O. Box HM 2268 Hamilton, Bermuda HMJX
22462	4995	Zurich Specialties London Limited	The Zurich Building 90 Fenchurch Street London, England EC3M 4JX

Since publication of the January 7, 2002, Eligible Surplus Lines Insurer List, the following significant changes have occurred:

	(Company Name)	(Date)
Deletions:	CNA Reinsurance Company Limited	2/25/02
	Copenhagen Reinsurance Company Limited	2/25/02
	Unionamerica Insurance Company Limited	2/13/02

**Name Changes:**

From: Preferred National Insurance Company	4/01/02
To: Colony National Insurance Company	
From: Fulcrum Insurance Company	5/03/02
To: General Security Indemnity Company of Arizona	

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1391. Filed for public inspection August 9, 2002, 9:00 a.m.]

**HealthGuard of Lancaster; Community Rating by Class for Groups with Two or More Contracts; Filing ID A62061001**

On July 26, 2002, HealthGuard submitted a Community Rating By Class (CRC) methodology for new and renewal rates for employer groups with two or more eligible employees. The filing submission proposes the use of age/gender, rate slope and industry factors. This CRC methodology would become effective as soon as this filing is approved by the Insurance Department (Department).

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg, PA.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1392. Filed for public inspection August 9, 2002, 9:00 a.m.]

**Independence Blue Cross; Blue Cross Non-Group Hospital Program Rate Increase; Blue Cross Forms 5090, 5009, 5100, 5008, 5007; Filing No. 4-P-02**

Independence Blue Cross submitted a proposal to increase the premium rates for its Non-Group Basic Blue Cross line of business. A January 1, 2003, effective date is proposed.

The proposed rate increase would affect approximately 8,100 contracts and produce additional annual premium income of \$1.6 million.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg and Philadelphia, PA.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1393. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have 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 offices in Philadelphia, PA. Failure by an appellant to appear at a 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 Richard and Helen Hull; file no. 02-280-02758; Farmers New Century Insurance Company; doc. no. PH02-07-029; September 27, 2002, 2 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 representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1394. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insured's policy. The administrative

hearing will be held in the Insurance Department's regional offices in Philadelphia, PA. Failure by an appellant to appear at a 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 the Estate of Thomas Edwards; file no. 02-215-03448; State Farm Fire and Casualty Insurance Company; doc. no. PH02-07-030; September 27, 2002, 12:30 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like necessary, to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1395. Filed for public inspection August 9, 2002, 9:00 a.m.]

### State Farm Fire and Casualty Company; Revised Private Passenger Automobile Rates and Rules

On July 25, 2002, the Insurance Department (Department) received from State Farm Fire and Casualty Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 8% increase amounting to \$4 million annually, to be effective December 1, 2002.

Unless formal administrative action is taken prior to September 23, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates

and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1396. Filed for public inspection August 9, 2002, 9:00 a.m.]

### State Farm Mutual Automobile Insurance Company; Revised Private Passenger Automobile Rates and Rules

On July 25, 2002, the Insurance Department (Department) received from State Farm Mutual Automobile Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 5.1% increase amounting to \$59 million annually, to be effective December 1, 2002.

Unless formal administrative action is taken prior to September 23, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-1397. Filed for public inspection August 9, 2002, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before September 3, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for the transportation of property, household goods in use and persons). The protest 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-00119028. City Lights, LLC** (443 Kathleen Street, Pittsburgh, Allegheny County, PA 15211)—persons in limousine service, (1) between points in Allegheny County, and from points in said county, to points in Pennsylvania, and return; (2) between points in the Counties of Beaver, Butler, Fayette, Lawrence, Mercer, Washington and Westmoreland, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Brad N. Sommer, 1801 Lawyers Building, 428 Forbes Avenue, Pittsburgh, PA 15219-1603.

### Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.*

**A-00119122, Folder 2. Safecare Ambulance Services, Inc. t/d/b/a Network Ambulance Services** (4730 Market Street, Philadelphia, PA 19139), a corporation of the State of New Jersey—(1) persons in paratransit service, from their home or place of business in the Counties of Philadelphia and Delaware, to medical facilities in said counties and return; subject to the following restriction: provided that no right, power or privilege is granted to provide service to or from the facilities of the Saint Joseph's Hospital at 16th Street and Girard Avenue, Philadelphia, PA; and (2) persons in paratransit service, between points in the City and County of Philadelphia, and from points in said city and county, to points in that part of Pennsylvania in and east of the Counties of Adams, Cumberland, Perry, Juniata, Mifflin, Union, Lycoming and Tioga, and vice versa, subject to the following condition: That no right, power or privilege is granted to applicant to provide service either to or from the Philadelphia International Airport, in the City and County of Philadelphia, and the Township of Tinicum, Delaware County, which is to be a transfer of the rights authorized under the certificate of public convenience at A-00104964, F.2, issued to HSS-Paratransit, Inc., subject to the same limitations and conditions.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-1398. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Telecommunications

**A-310597F7001. Verizon North Inc. and Sygnet Communications, Inc.** Joint Petition of Verizon North Inc. and Sygnet Communications, Inc. for approval of Amendment No. 1 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Sygnet Communications, Inc., by its counsel, filed on July 20, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of Amendment No. 1 to 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 Sygnet Communications, 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. 02-1399. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Telecommunications

**A-310581F7001. Verizon North Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue.** Joint Petition of Verizon North Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue for approval of Amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue, by its counsel, filed on July 22, 2002, 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 VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue 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. 02-1400. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Telecommunications

**A-310448F7000. Verizon Pennsylvania Inc. and A.R.C. Networks, Inc. d/b/a InfoHighway.** Joint Petition of Verizon Pennsylvania Inc. and A.R.C. Networks, Inc. d/b/a InfoHighway for approval of Amendment No. 3 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and A.R.C. Networks, Inc. d/b/a InfoHighway, by its counsel, filed on July 20, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of Amendment No. 3 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and A.R.C. Networks, Inc. d/b/a InfoHighway 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. 02-1401. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Telecommunications

**A-310597F7000. Verizon Pennsylvania, Inc. and Sygnet Communications, Inc.** Joint Petition of Verizon Pennsylvania, Inc. and Sygnet Communications, Inc. for approval of Amendment No. 1 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Sygnet Communications, Inc., by its counsel, filed on July 20, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of Amendment No. 1 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Sygnet Communications, 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. 02-1402. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Telecommunications

**A-310581F7000. Verizon Pennsylvania Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue.** Joint Petition of Verizon Pennsylvania Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue for approval of Amendment No. 1 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue, by its counsel, filed on July 22, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of Amendment No. 1 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue 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. 02-1403. Filed for public inspection August 9, 2002, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0219.4, Electrical Underground Wiring for High Mast Lights, Pier 98 South Annex until 2 p.m. on Thursday, August 29, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 13, 2002. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held August 22, 2002, 11 a.m. at Pier 98 S. Annex, Columbus Blvd. and Oregon Ave., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.  
*Executive Director*

[Pa.B. Doc. No. 02-1404. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0218.6, Repairs to Fire Alarm System at Pier 80 South until 2 p.m. on Thursday, August 29, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available August 13, 2002. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held August 22, 2002, 10 a.m. at Pier 80 South, Columbus Blvd. and Snyder Ave., Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 02-1405. Filed for public inspection August 9, 2002, 9:00 a.m.]

## STATE REAL ESTATE COMMISSION

### Bureau of Professional and Occupational Affairs v. Renee Y. Jefferson; Doc. No. 0519-56-1999

On July 23, 2002, the State Real Estate Commission (Commission) issued a final order in which it revoked the real estate broker's license, No. RB-060712-L, of Renee Y. Jefferson.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

GEORGE MEAGHER, III,  
*Chairperson*

[Pa.B. Doc. No. 02-1406. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Bureau of Professional and Occupational Affairs v. Ellen Marie Johnson; Doc. No. 00834-56-2000

On March 15, 2002, the State Real Estate Commission (Commission) issued an adjudication and order in which it indefinitely suspended the real estate salesperson's license, No. RS-194636-L, of Ellen Marie Johnson.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

GEORGE MEAGHER, III,  
*Chairperson*

[Pa.B. Doc. No. 02-1407. Filed for public inspection August 9, 2002, 9:00 a.m.]

# TURNPIKE COMMISSION

## Retention of an Engineering Firm

### Mon/Fayette Expressway Project PA Route 51 to Pittsburgh

#### Section 53B Camp Hollow Road to Homeville Road Allegheny County, PA

#### Reference No. E-024

The Turnpike Commission (Commission) will retain an engineering firm to provide preliminary and final design services for the development of a section of limited access highway on new alignment between PA 51 and I-376.

This section is located in the municipalities of West Mifflin and Dravosburg and includes an interchange with a new road connecting Camp Hollow Road and Pittsburgh-McKeesport Boulevard. Toll plazas are located on two of the interchange ramps. A possible Park-n-Ride lot will be adjacent to the interchange. There will be retaining walls adjacent to Lebanon Church Road. Mainline structures over the new connecting road, Richland Avenue, Bettis Road, Homestead Duquesne Road and Homeville Road are included in this section. A structure over the mainline at Camp Hollow Road and a structure on Richland Avenue over the Union Railroad are also included. Relocation of electric transmission lines, a sanitary sewer pumping station, sanitary sewer lines (with residential tap-ins) and a landfill waste water line will be required. This section is rural with some residential areas. The length of this section is approximately 18,700 feet.

Tasks required include, but are not limited to: project management; scheduling; project status, design review and special purpose meetings; coordination with consultants involved in other design sections; public involvement; coordination with various agencies and special interest groups; mapping; field surveys; preparation of type, size and location plans; seismic analysis and structural foundation reports; interchange schematics; service roads; soils and geological investigations and engineering; signing; E&S/storm water management; environmental tracking; defining environmental impacts; preparation of permit applications; development of environmental impact mitigation plans; roadway design; line and grade; typical sections; interchange geometrics; cross sections; drainage-hydraulic computations; contour grading and drainage plan; pavement design; pavement marking and delineator plans; roadside development plan; structural design; utility coordination; utility relocation design; lighting; noise barrier analysis; noise barrier design; traffic signal plans; traffic control plan; right-of-way plans; value engineering; assemble final bridge plans and roadway plans and final drafting; quantities; tabulations; construction cost estimates; special provisions; contract document preparation; and permits.

The Commission will consider the following factors during the evaluation of the Statements of Interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate experience and competence on design of large-scale public works projects.
- b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on design projects. The consultant

should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.

- c. The specific experience and number of individuals who constitute the firm.
- d. Location of consultant's office where the work will be performed.
- e. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.
- f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the Statement of Interest.

Firms expressing interest in this project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st Century (act) and currently certified by the Department shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of DBE. The goal of DBE participation in this contract will be established prior to the submission of technical proposals from the shortlisted firms for this project. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act), WBEs or combinations thereof. Proposed DBE firms must be certified at the time of submission of the Statement of Interest. If the selected firm fails to meet the established goal, it shall be required to demonstrate its good faith efforts to attain the goal. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Contracts Administration Department, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address), (717) 939-9551 ext. 4241. The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

Direct inquiries to P. Gregory Bednar at (724) 755-5182 or by e-mail at gbednar@paturndpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturndpike.com.

### General Requirements and Information

Firms interested in providing the work and services are invited to submit a Statement of Interest with the required information for each reference number listed. The Statements of Interest must include the following:

1. One-page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)
2. A three-page Statement of Interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for the project and provide explanation of the technical approach, stressing the team has successfully completed similar type projects of the same magnitude.
3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any

deviation from the subconsultants listed in the Statement of Interest will require written approval from the Commission. The organization chart is not limited to an 8 1/2" x 11" page size.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and is to be attached to the back of the Statement of Interest (subs to follow primes). The Consultant Qualification Packages should be kept as brief as possible. Only include pertinent information as it relates to the following:

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (Limit to two 8 1/2" x 11" pages, per person.) Only resumes of key personnel need to be included. Do not include resumes of all employees.
- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate Statements of Interest from joint venture constituents. A firm will not be permitted to submit a Statement of Interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit one copy of a Statement of Interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission's mailing address is P.O. Box 67676, Harrisburg, PA 17106-7676.

The Statement of Interest and required information must be received by 12 p.m., Friday, August 30, 2002. Statements of Interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Statements of Interest received in response to these solicitations, a minimum of three firms will be shortlisted for each project advertisement. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement

with the highest ranked firm established by the technical review committee and approved by the Commission.

The Commission reserves the right to reject all Statements of Interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 02-1408. Filed for public inspection August 9, 2002, 9:00 a.m.]

## Retention of an Engineering Firm

### Mon/Fayette Expressway Project PA Route 51 to Pittsburgh

#### Section 53F Turtle Creek to Business RT. 22 Allegheny County, PA

#### Reference No. E-025

The Turnpike Commission (Commission) will retain an engineering firm to provide preliminary and final design services for the development of a section of limited access highway on new alignment between PA 51 and I-376.

This section is located in the municipalities of North Versailles, Turtle Creek and Wilkins and includes a dual structure/viaduct crossing over Norfolk Southern Railroad, Turtle Creek, the central business district of Turtle Creek, Thompson Run and Union Railroad. The viaduct is approximately 4,400 feet long. Study of alternate structure types, that is segmental and other types, is expected. The viaduct may require the relocation of Penn Plaza, a local shopping center building. This section includes a mainline toll plaza (to be designed by others) and relocation of approximately 8,600 feet of a Union Railroad track. There is relocation of approximately 800 feet of Thompson Run and four structures crossing the relocation. Most of this section is urban with traffic and pedestrian movements to be maintained. Participation on a Turtle Creek Design Advisory Team will be required to identify enhancements for the Turtle Creek community. The total length of this section is approximately 10,500 feet.

Tasks required include, but are not limited to: project management; scheduling; project status, design review and special purpose meetings; coordination with consultants involved in other design sections; public involvement; coordination with various agencies and special interest groups; mapping; field surveys; preparation of type, size and location plans; seismic analysis, structural foundation reports; interchange schematics; service roads; soils and geological investigations and engineering; signing; E&S/storm water management; environmental tracking; defining environmental impacts; preparation of permit applications; development of environmental impact mitigation plans; roadway design; line and grade; typical sections; interchange geometrics; cross sections; drainage-hydraulic computations; contour grading and drainage plan; pavement design; pavement marking and delineator plans; roadside development plan; structural design; utility coordination; utility relocation design; lighting; noise barrier analysis; noise barrier design; traffic signal plans; traffic control plan; right-of-way plans; value engineering; assemble final bridge plans, roadway plans and final

drafting; quantities; tabulations; construction cost estimates; special provisions; contract document preparation; and permits.

The Commission will consider the following factors during the evaluation of the Statements of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate experience and competence on design of large-scale public works projects.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on large-scale bridge projects. The consultant should identify similar bridge projects that have been completed by that firm as the prime, the magnitude of the project and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the Statement of Interest.

Firms expressing interest in this project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st Century (act) and currently certified by the Department shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of DBE. The goal of DBE participation in this contract will be established prior to the submission of technical proposals from the shortlisted firms for this project. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act), WBEs or combinations thereof. Proposed DBE firms must be certified at the time of submission of the Statement of Interest. If the selected firm fails to meet the established goal, it shall be required to demonstrate its good faith efforts to attain the goal. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Contracts Administration Department, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address), (717) 939-9551 ext. 4241. The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

Direct inquiries to P. Gregory Bednar at (724) 755-5182 or by e-mail at gbednar@paturndike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturndike.com.

#### General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Statement of Interest with the required information for each reference number listed. The Statements of Interest must include the following:

1. One-page transmittal letter clearly identifying the project reference number, brief description of the project

from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)

2. A three-page Statement of Interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for the project and provide explanation of the technical approach, stressing the team has successfully completed similar type projects of the same magnitude.

3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultants listed in the Statement of Interest will require written approval from the Commission. The organization chart is not limited to an 8 1/2" x 11" page size.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and is to be attached to the back of the Statement of Interest (subs to follow primes). The Consultant Qualification Packages should be kept as brief as possible. Only include pertinent information as it relates to the following:

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (Limit to two 8 1/2" x 11" pages, per person.) Only resumes of key personnel need to be included. Do not include resumes of all employees.
- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate Statements of Interest from joint venture constituents. A firm will not be permitted to submit a Statement of Interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit one copy of a Statement of Interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard,

Middletown, PA 17057 (street address). The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The Statement of Interest and required information must be received by 12 p.m., Friday, August 30, 2002. Statements of Interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Statements of Interest received in response to these solicitations, a minimum of three firms will be shortlisted for each project advertisement. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the technical review committee and approved by the Commission.

The Commission reserves the right to reject all Statements of Interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 02-1409. Filed for public inspection August 9, 2002, 9:00 a.m.]

## Retention of an Engineering Firm

### Mon/Fayette Expressway Project PA Route 51 to Pittsburgh

#### Section 53G Business Rt. 22 to I-376 (Monroeville) Allegheny County, PA

#### Reference No. E-026

The Turnpike Commission (Commission) will retain an engineering firm to provide preliminary and final design services for the development of a section of limited access highway on new alignment between PA 51 and I-376.

This section is located in the municipalities of Wilkins, Monroeville and Penn Hills and includes a half interchange with Thompson Run Road, a half interchange with Business Route 22 and a mainline closed directional interchange with I-376. Much of this section parallels the Union Railroad in the Thompson Run Valley. Thompson Run Road will be relocated for approximately 4,800 feet and will include a new structure over Union Railroad and Thompson Run. Business Route 22 will be reconstructed for approximately 2,100 feet with new intersections and structures connecting the interchange. The closed interchange with I-376 will have three flyover ramps on curved structures. Study of alternate structure types, that is segmental and other types, is expected. Retaining walls will be required within the Business Route 22 interchange and the I-376 interchange. Old William Penn Highway will be relocated for approximately 1,700 feet. Culverts and relocation of Thompson Run will also be required. This section is rural with some residential and commercial areas near Business Route 22 and I-376. The total length of this section is approximately 10,800 feet.

Tasks required include, but are not limited to: project management; scheduling; project status, design review and special purpose meetings; coordination with consultants involved in other design sections; public involvement; coordination with various agencies and special interest groups; mapping; field surveys; preparation of

type, size and location plans; seismic analysis and structural foundation reports; interchange schematics; service roads; soils and geological investigations and engineering; signing; E&S/storm water management; environmental tracking; defining environmental impacts; preparation of permit applications; development of environmental impact mitigation plans; roadway design; line and grade; typical sections; interchange geometrics; cross sections; drainage-hydraulic computations; contour grading and drainage plan; pavement design; pavement marking and delineator plans; roadside development plan; structural design; utility coordination; utility relocation design; lighting; noise barrier analysis; noise barrier design; traffic signal plans; traffic control plan; right-of-way plans; value engineering; assemble final bridge plans, roadway plans and final drafting; quantities; tabulations; construction cost estimates; special provisions; contract document preparation; and permits.

The Commission will consider the following factors during the evaluation of the Statements of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate experience and competence on design of large-scale public works projects and multi-span, high-level bridge projects.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on design projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the Statement of Interest.

Firms expressing interest in this project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st Century (act) and currently certified by the Department shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of DBE. The goal of DBE participation in this contract will be established prior to the submission of technical proposals from the shortlisted firms for this project. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act), WBEs or combinations thereof. Proposed DBE firms must be certified at the time of submission of the Statement of Interest. If the selected firm fails to meet the established goal, it shall be required to demonstrate its good faith efforts to attain the goal. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Contracts Administration Department, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA

17057 (street address), (717) 939-9551 ext. 4241. The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

Direct inquiries to P. Gregory Bednar at (724) 755-5182 or by e-mail at gbednar@paturndpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturndpike.com.

#### General Requirements and Information

Firms interested in providing the work and services are invited to submit a Statement of Interest with the required information for each reference number listed. The Statements of Interest must include the following:

1. One-page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)

2. A three-page Statement of Interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for the project and provide explanation of the technical approach, stressing the team has successfully completed similar type projects of the same magnitude.

3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultants listed in the Statement of Interest will require written approval from the Commission. The organization chart is not limited to an 8 1/2" x 11" page size.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and is to be attached to the back of the Statement of Interest (subs to follow primes). The Consultant Qualification Packages should be kept as brief as possible. Only include pertinent information as it relates to the following:

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (Limit to two 8 1/2" x 11" pages, per person.) Only resumes of key personnel need to be included. Do not include resumes of all employees.
- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate Statements of

Interest from joint venture constituents. A firm will not be permitted to submit a Statement of Interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit one copy of a Statement of Interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The Statement of Interest and required information must be received by 12 p.m., Friday, August 30, 2002. Statements of Interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Statements of Interest received in response to these solicitations, a minimum of three firms will be shortlisted for each project advertisement. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the technical review committee and approved by the Commission.

The Commission reserves the right to reject all Statements of Interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 02-1410. Filed for public inspection August 9, 2002, 9:00 a.m.]

### Retention of an Engineering Firm

#### Mon/Fayette Expressway Project PA Route 51 to Pittsburgh

#### Section 53K Swissvale-Pittsburgh Line to Glenwood Bridge Allegheny County, PA

#### Reference No. E-027

The Turnpike Commission (Commission) will retain an engineering firm to provide preliminary and final design services for the development of a section of limited access highway on new alignment between PA 51 and I-376.

This section is located within the City of Pittsburgh in Swisshelm Park, Squirrel Hill South and Glen Hazel and includes dual mainline structures parallel and adjacent to the CSX Railroad for approximately 10,700 feet. Study of alternate structure types, that is segmental and other types, is expected. Coordination with CSX Railroad will be necessary. Also new bike/hike trails may be included. Participation on the Nine Mile Run Design Advisory Team will be required to identify enhancements for the

Duck Hollow community. This section is rural along a CSX Railroad corridor. The total length of this section is approximately 10,700 feet.

Tasks required include, but are not limited to: project management; scheduling; project status, design review and special purpose meetings; coordination with consultants involved in other design sections; public involvement; coordination with various agencies and special interest groups; mapping; field surveys; preparation of type, size and location plans; seismic analysis, structural foundation reports; interchange schematics; service roads; soils and geological investigations and engineering; signing; E&S/storm water management; environmental tracking; defining environmental impacts; preparation of permit applications; development of environmental impact mitigation plans; roadway design; line and grade; typical sections; interchange geometrics; cross sections; drainage-hydraulic computations; contour grading and drainage plan; pavement design; pavement marking and delineator plans; roadside development plan; structural design; utility coordination; utility relocation design; lighting; noise barrier analysis; noise barrier design; traffic signal plans; traffic control plan; right-of-way plans; value engineering; assemble final bridge plans, roadway plans and final drafting; quantities; tabulations; construction cost estimates; special provisions; contract document preparation; and permits.

The Commission will consider the following factors during the evaluation of the Statements of Interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate experience and competence on design of large-scale public works projects.
- b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on design projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.
- c. The specific experience and number of individuals who constitute the firm.
- d. Location of consultant's office where the work will be performed.
- e. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.
- f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the Statement of Interest.

Firms expressing interest in this project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st Century (act) and currently certified by the Department shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of DBE. The goal of DBE participation in this contract will be established prior to the submission of technical proposals from the shortlisted firms for this project. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act), WBEs or combinations thereof. Proposed DBE

firms must be certified at the time of submission of the Statement of Interest. If the selected firm fails to meet the established goal, it shall be required to demonstrate its good faith efforts to attain the goal. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Contracts Administration Department, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address), (717) 939-9551 ext. 4241. The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

Direct inquiries to P. Gregory Bednar at (724) 755-5182 or by e-mail at gbednar@paturpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturpike.com.

#### General Requirements and Information

Firms interested in providing the work and services are invited to submit a Statement of Interest with the required information for each reference number listed. The Statements of Interest must include the following:

1. One-page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)
2. A three-page Statement of Interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for the project and provide explanation of the technical approach, stressing the team has successfully completed similar type projects of the same magnitude.
3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultants listed in the Statement of Interest will require written approval from the Commission. The organization chart is not limited to an 8 1/2" x 11" page size.
4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.
5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and is to be attached to the back of the Statement of Interest (subs to follow primes). The Consultant Qualification Packages should be kept as brief as possible. Only include pertinent information as it relates to the following:

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (Limit to two 8 1/2" x 11" pages, per person.) Only resumes of key personnel need to be included. Do not include resumes of all employees.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate Statements of Interest from joint venture constituents. A firm will not be permitted to submit a Statement of Interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit one copy of a Statement of Interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The Statement of Interest and required information must be received by 12 p.m., Friday, August 30, 2002. Statements of Interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Statements of Interest received in response to these solicitations, a minimum of three firms will be shortlisted for each project advertisement. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the technical review committee and approved by the Commission.

The Commission reserves the right to reject all Statements of Interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 02-1411. Filed for public inspection August 9, 2002, 9:00 a.m.]

## Retention of an Engineering Firm

### Replacement of Tunnel Roadway Lighting and Electrical Systems at the Blue Mountain and Kittatinny Tunnels in Franklin County, PA

#### Reference No. 2-062

The Turnpike Commission (Commission) will retain an engineering firm for the design of the Replacement of Tunnel Lighting and Electrical Systems Project at the Blue Mountain and Kittatinny Tunnels between Mileposts 197.48 and 199.32 in Franklin County.

The required engineering services include field surveys; utility coordination; complete tunnel lighting/controls design, including research and evaluation of lighting sources; electric power and distribution design; emergency power system design; accurate cost estimating; and other related tasks.

The design firm should have demonstrated expertise in current lighting design especially as relates to the special requirements and conditions of motor vehicle long tunnel lighting and IESNA RP-22-96.

The following factors will be considered by the Commission during the evaluation of the firms submitting Statements of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate an ability to analyze available data to make decisions and develop documents to complete the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm either as the prime or subconsultant, the magnitude of the project and the client.

c. The specific relevant experience and number of individuals who constitute the firm.

d. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.

e. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the Statement of Interest.

Questions and inquiries should be directed to Charles M. Holupka, (717) 939-9551, ext. 5520 or by e-mail at cholupka@paturnpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturnpike.com.

### General Requirements and Information

Firms interested in providing the work and services are invited to submit a Statement of Interest with the required information for each reference number listed. The Statements of Interest must include the following:

1. One-page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified.)

2. A three-page Statement of Interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated from the project and provide explanation of the technical approach, stressing the team has successfully completed similar type projects of the same magnitude.

3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultants listed in the Statement of Interest will require written approval from the Commission. The organization chart is not limited to an 8 1/2" x 11" page size.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the



Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and is to be attached to the back of the Statement of Interest (subs to follow primes). The Consultant Qualification Packages should be kept as brief as possible. Only include pertinent information as it relates to the following:

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire, not more than 1 year old as of the date of the advertisement.
- Resumes of key personnel expected to be involved in the project. (Limit to two 8 1/2" x 11" pages, per person.) Only resumes of key personnel need to be included. Do not include resumes of all employees.
- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.
- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate Statements of Interest from joint venture constituents. A firm will not be permitted to submit a Statement of Interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth

as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit one copy of a Statement of Interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission's mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The Statement of Interest and required information must be received by 12 p.m., Friday, August 30, 2002. Statements of Interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable Statements of Interest received in response to these solicitations, a minimum of three firms will be shortlisted for each project advertisement. Technical proposals will be requested from the shortlisted firms prior to the establishment of the final ranking. An order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the technical review committee and approved by the Commission.

The Commission reserves the right to reject all Statements of Interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 02-1412. Filed for public inspection August 9, 2002, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

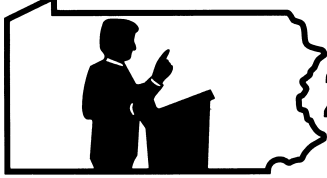
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:  
 The payment date specified in the contract.  
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.  
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

### Reader's Guide



**Legal Services & Consultation**

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦ (For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

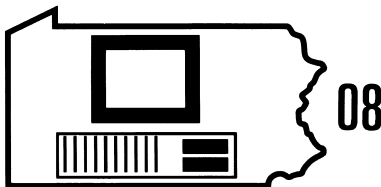
## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

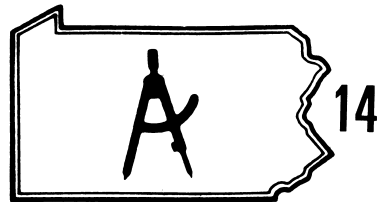
## SERVICES



### Computer Related Services

**RFP 1R-16** "Geographic Information Division Support and Development" - the contractor will satisfy a need for conception, design, evaluation, testing, documentation, development, and support and maintenance of geospatial products, processes and applications. For information on this project, fax to Kathy Joy-Brosius at (717) 783-7971 the following information: your name, organization name, address, phone number, fax number and e-mail address.

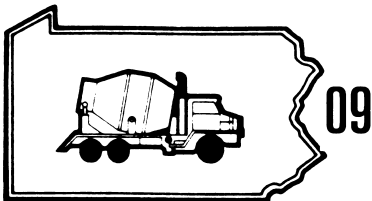
**Department:** Transportation  
**Location:** Statewide  
**Duration:** 5 years  
**Contact:** Kathy Joy-Brosius (717) 705-4665



### 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](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



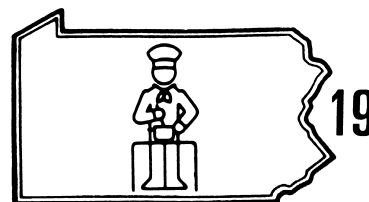
### Construction & Construction Maintenance

**ME 020781007** Upgrade two elevators to meet ADA requirements. For bid specifications, please contact the Purchasing Office at (610) 670-4129.

**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Route 422 West, P. O. Box 300, Wernersville, PA 19565-0300  
**Duration:** Anticipated Start Date: December 1, 2002  
**Contact:** Nancy Deininger, Purchasing Agent (610) 670-4129

**939564** Lumber and materials for an equipment shed.

**Department:** Transportation  
**Location:** PennDOT Stocksite, 7869 National Pike, Addison, PA 15411  
**Duration:** Thirty days from receipt of approved purchase order  
**Contact:** Mike Knepper (814) 445-7905



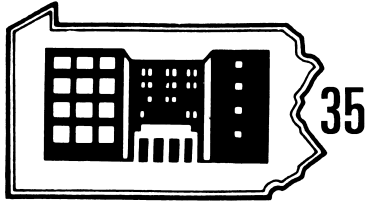
### Food

**M-887** Fresh/frozen/chilled meat & meat products; poultry & poultry products; fish; and, cheeses to be delivered only at request of facility.

**Department:** Labor and Industry  
**Location:** Hiram G. Andrews Center (FOB Shipping Platform), 727 Goucher St., Johnstown, PA 15905  
**Duration:** October, November, December, 2002  
**Contact:** Christine A. Sloan, Pur. Agt. (814) 255-8228

**7956** Dairy Products, Miscellaneous Foods, Meat & Meat Products, and Poultry

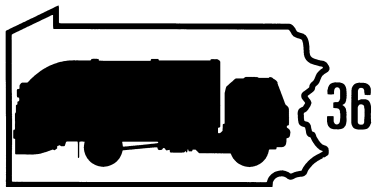
**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** October 1, 2002—December 31, 2002  
**Contact:** Kristina Robbins (570) 271-4578



### Real Estate Services

**93474 HAVERFORD STATE HOSPITAL** This "draft" RFP #93474 is available to interested parties merely for informational purposes. This is a "draft" document and the Department of General Services does not guarantee the accuracy of the information contained herein. To obtain a copy of this "draft" RFP please visit the Department of General Services' website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click under "Doing Business with DGS," "Bid Opportunities," "Real Estate."

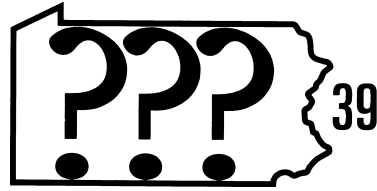
**Department:** General Services  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** Bradley J. Swartz (717) 705-5764



### Sanitation

**030001** Garbage/trash removal from District Office building twice weekly for a contract period of one year with possible renewals. Awarded vendor to furnish 2 each 4 cubic yard dumpsters to be located at rear of 715 Jordan Avenue, Montoursville, PA 17754

**Department:** Transportation  
**Location:** 715 Jordan Avenue, Montoursville, PA 17754  
**Duration:** One year with possibility of 3 one year renewals  
**Contact:** Kay E. Wolfe (570) 368-4211



### Miscellaneous

**RFP #PBPP-25-01-08** The PA Board of Probation & Parole (PBPP) is soliciting proposals to provide contracted inpatient and outpatient drug and alcohol therapy and other services to offenders who will be paroled or reparaoled from a County Correctional Facility or offenders as a result of parole violation in lieu of incarceration. These services are to be provided immediately upon release from incarceration or, in the case of parole violation, within 24 hours of referral by PBPP staff. Offenders who are eligible and diverted to the County SAVE Program are entered into treatment that covers a one-year period (three months of inpatient care and nine months of outpatient care). Services are needed within three, geographical regions of the Commonwealth of Pennsylvania: Western, Central and Eastern. Vendors may submit proposals for one or multiple regions.

**Department:** Probation and Parole Board  
**Location:** Western, Central and Eastern Regions of the Commonwealth of Pennsylvania  
**Duration:** Contract(s) will be awarded for a period of three years with renewal options and are contingent upon the receipt of federal grant funds.  
**Contact:** Michelle L. Flynn (717) 787-8879

**08-087S20** To provide preventative maintenance service and repair to eight (8) existing overhead doors and related operating hardware.

**Department:** Transportation  
**Location:** Pa. Dept of Transportation, 2105 Lincoln Hwy. East, Lancaster, PA 17604  
**Duration:** Five year contract with no renewals  
**Contact:** Jeralyn Rettew (717) 299-7621

**BFM2002-2** The Commonwealth is seeking a contractor to provide all services necessary to continue to process electronic payments for the Commonwealth of Pennsylvania. Electronic payments include, but are not limited to: Electronic payments currently in use: Bank and non-bank Credit Cards (Visa, MasterCard, Amex, Discover) by Point of Sale (POS), Phone, Mail, Fax, Internet and Interactive Voice Response (IVR). On-line (PIN number must be entered) and Offline (no PIN number entered, signature required) Debit Cards and combination debit/credit cards by POS Electronic payments that may be used in the future: Gift Cards, E-Checks by Internet, POS, Mail, IVR, and Telephone. The Commonwealth wishes to acquire the most cost-effective and reliable services without interruption to the current system. The contractor must provide functionality that operates with our the current system. It is the intent that the contractor will provide the highest level of service to all Commonwealth agencies while maintaining a great deal of flexibility and autonomy for each Commonwealth agency.

**Department:** Office of Administration/Executive Offices  
**Location:** 207 Finance Building, Commonwealth Avenue and North Street, Harrisburg, PA 17120  
**Duration:** The term of the contract shall be three (3) years. The Commonwealth, at its option, may extend the contract for additional terms of one (1) year each for two consecutive years.  
**Contact:** Harvey C. Eckert, Deputy Secretary (717) 783-3368

**RFP-02-113-2504** The Pennsylvania Turnpike Commission is seeking qualified organizations to provide health coverage to Commission employees. Types of coverage include: Medical, Prescription Drug, Dental, and Vision. Prospective vendors may submit proposals for one or all of the areas of coverage. Distribution of the RFP, presented by Marsh, Inc. for the Commission, will begin on August 5, 2002. A mandatory pre-proposal conference will be held on August 19, 2002 at 1 p.m. in the Pennsylvania Turnpike Commission Administration Building, 700 Eisenhower Blvd., Middletown, PA. Written questions pertaining to the RFP must be submitted by August 16, 2002 to Marsh, Inc., Two North Second Street, Harrisburg, PA 17101. Copies of the RFP may be obtained by contacting Deb Strynkowski by telephone or email at [deb.strynkowski@marsh.com](mailto:deb.strynkowski@marsh.com). Closing date for receipt of proposals is September 16, 2002.

**Department:** Turnpike Commission  
**Location:** PTC Central Office, Middletown, PA  
**Duration:** March 1, 2003—February 29, 2004  
**Contact:** Deb Strynkowski (717) 720-4528

[Pa.B. Doc. No. 02-1413. Filed for public inspection August 9, 2002, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,  
*Secretary*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
5805-03 sup#3	07/25/02	Comfort Tele- communications	\$10,000.00
5820-02 sup#3	07/25/02	Centre Busi- ness Prod- ucts	10,000.00
5820-02 sup#3	07/25/02	Sage Technol- ogy Solu- tions	10,000.00
5820-02 sup#3	07/25/02	Troxell Com- munications	85,000.00
9110-06	07/29/02	Direnzo Coal	6,200.00
9110-06	07/29/02	F. M. Brown's Sons	11,580.00
9110-06	07/29/02	Rawlee Fuels	9,750.00
8057710-01	07/29/02	Frank Parsons	41,753.00
8254200-01	07/29/02	Rogers Broth- ers	25,195.00

KELLY POWELL LOGAN,  
*Secretary*

[Pa.B. Doc. No. 02-1414. Filed for public inspection August 9, 2002, 9:00 a.m.]



