

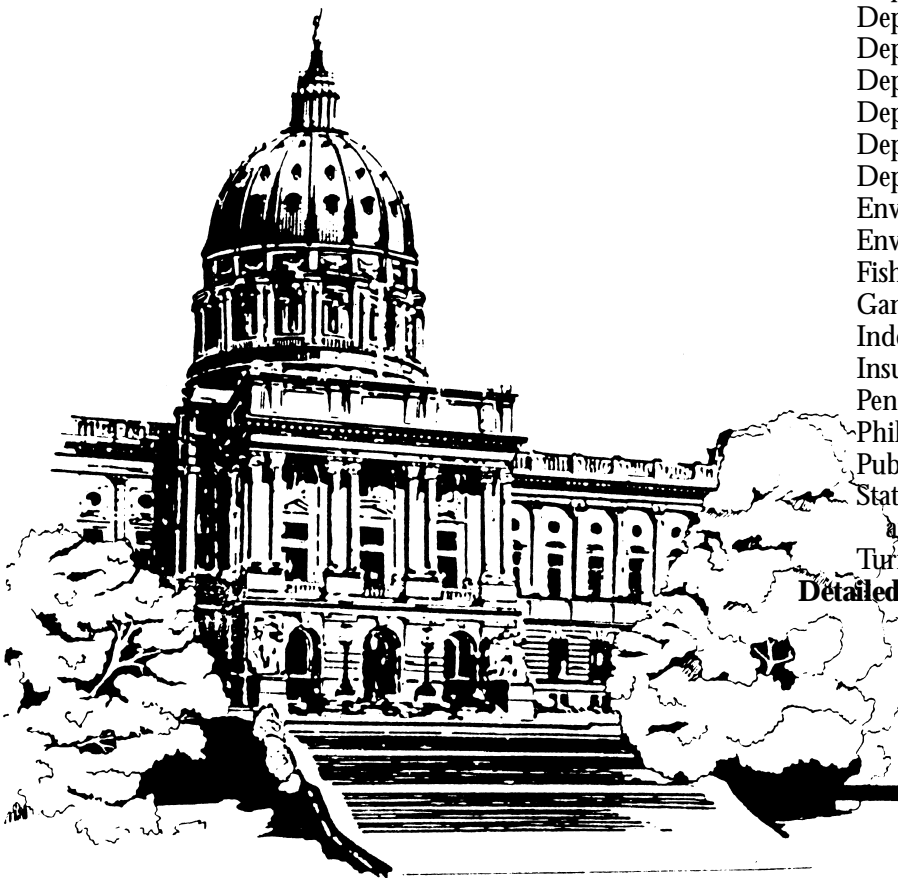
PENNSYLVANIA BULLETIN

Volume 32
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Department of Health
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Public School Employees' Retirement Board
State Board of Vehicle Manufacturers, Dealers
and Salespersons
Turnpike Commission

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No. 337, December 2002

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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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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

Amendment to Proclamation of Disaster Emergency

December 3, 2002

Whereas, on September 4, 2002, I extended the Proclamation of Disaster Emergency that was issued on September 11, 2001, in response to the acts of terrorism in New York City, New York, Arlington, Virginia, and Somerset County, Pennsylvania; and

Whereas, there continues to be a need for the Commonwealth to provide supplementary personnel and other resources at critical facilities in Pennsylvania, including nuclear power plants, in order to provide additional security, monitoring and other measures to protect the safety and well-being of the citizens of Pennsylvania; and

Whereas, the Federal government, through the Office of Homeland Security and the Department of Justice, has asked all state and municipal governments to commit additional resources, in the form of National Guard and law enforcement personnel, emergency management, urban search and rescue and hazardous materials response teams and other resources in order to provide additional emergency response, security and law enforcement resources in the ongoing fight against terrorism; and

Whereas, in response to the request from the Federal government to provide law enforcement, security and other forms of assistance at critical facilities and other locations in Pennsylvania and because there is a need to provide such assistance in order to protect the health, safety and welfare of the citizens of Pennsylvania from possible future acts of terrorism;

Now Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution, the Emergency Management Services Code, 35 P. S. Section 7101 et seq., as amended, and other laws of the Commonwealth, do hereby amend the Proclamation of September 11, 2001, as follows;

1. The period of the state of disaster emergency is extended from December 4, 2002, through March 4, 2003;

2. I hereby transfer an additional \$300,000.00 in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses incurred by various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 P. S. Section 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516; and

3. I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency such individuals and units of the Pennsylvania National Guard as may be needed to provide security and other public safety measures at critical facilities in Pennsylvania and to alleviate the danger to public health and safety caused by the aforementioned emergency; and

4. I hereby authorize the Commissioner of the Pennsylvania State Police to use all available equipment, resources and personnel of the Department, in whatever manner he deems necessary, to ensure that the public health, safety, and welfare of the Commonwealth's citizens are protected at this time of emergency; and

5. I hereby direct that the other operational provisions of the September 11, 2001 Proclamation that remain applicable to the current emergency circumstances in Pennsylvania shall continue in full force and effect.

THE GOVERNOR

6. This Proclamation amendment shall take effect immediately from the date of this amendment.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this third day of December 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. 02-2210. Filed for public inspection December 13, 2002, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS [204 PA. CODE CH. 211]

Promulgation of Consumer Price Index and Judicial Salaries pursuant to Act 51 of 1995; No. 247 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 27th day of November, 2002, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 2003, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 2003, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 247 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending October 2002, was 1.6 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Tuesday, November 19, 2002).

The Court Administrator of Pennsylvania also reports that the following judicial salaries are adopted to implement Act 51 of 1995:

§ 211.2. Judicial salaries effective January 1, 2003.

(a) *Supreme Court.*—The annual salary of the Chief Justice of the Supreme Court shall be \$143,372 and the annual salary of each of the other justices of the Supreme Court shall be \$139,585.

(b) *Superior Court.*—The annual salary of the President Judge of the Superior Court shall be \$137,254 and the annual salary of the other judges of the Superior Court shall be \$135,213.

(c) *Commonwealth Court.*—The annual salary of the President Judge of the Commonwealth Court shall be \$137,254. The annual salary of each of the other judges of the Commonwealth Court shall be \$135,213.

(d) *Courts of common pleas.*—

(1) The annual salary of a president judge of a court of common pleas shall be fixed in accordance with the following schedule:

(i) Allegheny County, \$123,557.

(ii) Philadelphia County, \$124,140.

(iii) Judicial districts having six or more judges, \$122,392.

(iv) Judicial districts having three to five judges, \$121,809.

(v) Judicial districts having one or two judges, \$121,225.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$122,392.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$121,809.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$122,392.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$121,809.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$121,225.

(e) *Philadelphia Municipal Court.*—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$120,060. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$118,021.

(f) *Philadelphia Traffic Court.*—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$64,111. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$63,529.

(g) *District justices.*—A district justice shall receive an annual salary payable by the Commonwealth of \$60,031.

(h) *Senior judges.*—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$371 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 02-2211. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 7]

Post-Sentence Motions: Time for Appeal; Court Order; Reconsideration

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa.R.Crim.P. 720 (Post-Sentence Procedures; Appeal) to further clarify that (1) the time for an appeal when a post-sentence motion is not timely filed is the date of the imposition of sentence; (2) the judge's order denying a post-sentence motion must be entered promptly and must contain the notice information required by the rule; and (3) the judge may not vacate sentence. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report 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.

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

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 800
Mechanicsburg, PA 17055
fax: (717) 795-2106
e-mail: criminal.rules@supreme.court.state.pa.us

no later than Tuesday, January 21, 2003.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART B. Post-Sentence Procedures

Rule 720. Post-Sentence Procedures; Appeal.

(A) TIMING.

* * * * *

(3) If the defendant does not file a **timely** post-sentence motion, the defendant's notice of appeal shall be filed within 30 days of imposition of sentence, except as provided in paragraph (A)(4).

(4) If the Commonwealth files a **timely** motion to modify sentence pursuant to Rule 721, the defendant's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion.

(B) OPTIONAL POST-SENTENCE MOTION.

* * * * *

(3) Time Limits for Decision on Motion.

* * * * *

(c) When a post-sentence motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and [**shall**], as provided in **Rule 114**, forthwith [**furnish**] **shall serve** a copy of the order [**by mail or personal delivery to**] on the attorney for the Commonwealth, the defendant(s), and defense counsel that the post-sentence motion is deemed denied. This order is not subject to reconsideration.

(d) If the judge denies the post-sentence motion, the judge promptly shall enter an order that shall include the information required by paragraph (B)(4), and the order shall be filed and served as provided in Rule 114.

[(d)] (e) * * *

Comment

* * * * *

TIMING

* * * * *

If no timely post-sentence motion is filed, the defendant's appeal period runs from the date sentence is imposed. See paragraph (A)(3). Under paragraph (A)(4), however, when the defendant has not filed a post-sentence motion but the Commonwealth files a **timely** motion to modify sentence under Rule 721, it is the entry of the order disposing of the Commonwealth's motion that commences the 30-day period during which the defendant's notice of appeal must be filed. See Rule 721(B)(2)(b).

* * * * *

DISPOSITION

* * * * *

If the trial judge decides the motion within the time limits of this rule, the judge may [**reconsider that decision**] **grant reconsideration on the post-sentence motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.1**, but the judge may not vacate the sentence pending reconsideration. Rule 720(B)(3). The reconsideration period may not be used to extend the timing requirements set forth in paragraph (B)(3) for decision on the post-sentence motion: the time limits imposed by paragraphs (B)(3)(a) and (B)(3)(b) continue to run from the date the post-sentence motion was originally filed. The trial judge's reconsideration must therefore be resolved within the 120-day decision period of paragraph (B)(3)(a) or the 30-day extension period of paragraph (B)(3)(b), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-sentence motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (B)(3)(c).

* * * * *

Official Note: Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993 and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996. *Comment* revised Septem-

ber 26, 1996, effective January 1, 1997; amended August 22, 1997, effective January 1, 1998; *Comment* revised October 15, 1997, effective January 1, 1998; amended July 9, 1999, effective January 1, 2000; renumbered Rule 720 and amended March 1, 2000, effective April 1, 2001; amended _____, 2003, effective _____, 2003.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed clarifying changes to Rule 720 published at 32 Pa.B. 6077 (December 14, 2002).

REPORT

Proposed amendments to Rule 720

Post-Sentence Motions: Time For Appeal; Court Order; Reconsideration

INTRODUCTION

The Committee has continued to monitor Rule 720 (Post-Sentence Procedures; Appeals) since its adoption in 1993. As a result of this monitoring, on several occasions while reaffirming the Rule 720 procedures as adopted, the Committee has recommended a few changes to clarify the intent and purpose of the rule.¹ Since the Court's most recent changes in 1999, two additional issues have been raised with the Committee that we concluded necessitate further clarification in Rule 720.²

First, there continues to be some confusion about the time for appeal when a defendant files an untimely post-sentence motion. Second, there is some confusion about the content of the judge's order denying a post-sentence motion.

The Committee considered these issues and concluded the post-sentence procedures in Rule 720 are meeting the needs of the criminal justice system without unduly burdening the courts. However, in an exercise of caution and as an aid to the trial and appellate courts, as explained below, the Committee is proposing a few additional changes to provide further clarification in the rule and Comment with regard to the time for appeal and the content of the judge's order.

DISCUSSION

1. Untimely Post-Sentence Motions

An issue that has come up from time to time in the case law concerns the time for appeal when a defendant files a post-sentence motion beyond the 10-day time limit of Rule 720(A)(1) and, notwithstanding the untimeliness of the motion, the trial court disposes of the motion. Although the appellate courts have determined in these cases the time for appeal runs from the imposition of sentence and quashed the appeals, in dicta and in some concurring and dissenting opinions, some appellate court

¹ For example, in 1997, the Court amended Rule 720, inter alia, to make it clear that the judge may not vacate sentence, see Committee's explanatory Final Report at 27 Pa.B. 4553 (9/6/97), and in 1999, amended the rule to clarify the procedures when a defendant withdraws a post-sentence motion, see Committee's explanatory Final Report at 29 Pa.B. 3836 (7/24/99).

² One issue the Committee declined to address concerns the ongoing problem with obtaining trial transcripts in a timely manner, particularly when new counsel enters the case after trial but before post-sentence motions or a notice of appeal are filed. The Committee recognizes that there continues to be problems for the members of the bar in obtaining trial transcripts and meeting the time requirements of the Rules of Criminal and Appellate Procedure, but we do not think these are problems that can be resolved by the Criminal Rules. See discussion in section (3)(b) (Transcript Preparation), 23 Pa.B. 1701, 1704 (4/10/93).

judges have suggested Rule 720 should provide a mechanism for the trial judge to decide these untimely motions.³

The Committee reviewed the case law and the Committee's Rule 720 history,⁴ and concluded Rule 720 should not be amended to permit the trial judge to dispose of the untimely filed post-sentence motion. Post-sentence motions are optional, and the defendant has not lost the opportunity for post-sentence review if the trial judge is not authorized to dispose of untimely filed post-sentence motions. The review just will occur in the Superior Court. Furthermore, to permit the trial judge to vacate sentence within the 30-day time period permitted by 42 Pa.C.S. § 5505 would be completely contrary to the purpose of the rule, and would open the door for the potential recurrence of the types of abuses the Court eliminated with the adoption of Rule 720.

The Committee agreed, however, as an aid to the bench and bar, that Rule 720(A)(3) and (A)(4) should be amended by the addition of "timely" before "post-sentence motion." Although we believe the rule is clear without these proposed changes, adding "timely" will remove any doubt about the intent of these provisions.

The Committee also is proposing a correlative revision to the fourth paragraph of the "Disposition" section of the Comment. We reviewed the rule and *Comment*, and the Rule 720 history, in view of the suggestions by some Superior Court judges that pursuant to 42 Pa.C.S. § 5505 the trial judge should be able to vacate sentence to decide an untimely filed post-sentence motion, and the fact that some trial judges have been using 42 Pa.C.S. § 5505 to vacate sentence to extend the time for decision on the post-sentence motion. We noted as part of the 1997 changes to Rule 720, which had been intended to provide further clarification that the trial judge may not vacate sentence under Rule 720, that the specific references to 42 Pa.C.S. § 5505 and Pa.R.A.P. 1701 were deleted. The Committee agreed the rule would be clearer if these references were again included in the Comment.

2. Judge's Order

The other issue addressed by the Committee concerns the content of the judge's order denying a post-sentence motion. Apparently, because Rule 720(B)(3) does not address the trial judge issuing an order, there is some confusion about the procedures for the entry, filing, and service of the judges' orders and the contents of the orders. The Committee recognized that, in this area, it is important to ensure the defendant receives notice of the denial of the post-sentence motion as soon as possible in view of the 30-day appeal period.⁵ We therefore agreed to propose an amendment to Rule 720, adding a new paragraph (B)(3)(d) that will make it clear that (1) the trial judge must promptly enter his or her order, (2) the order must include all the information required by paragraph (B)(4), and (3) the order must be filed and served as provided in Rule 114 (Notice and Docketing of Orders). We also are proposing a correlative amendment to para-

³ See, for example, Judge Popovich's opinion in *Commonwealth v. Felmlee*, 2002 PA Super 179 (June 7, 2002), footnote 2, and Judge Klein's concurring and dissenting opinion in *Felmlee*. (The Superior Court has withdrawn *Felmlee* and granted en banc reconsideration.)

⁴ See Committee Final Reports explaining the provisions of new Rule 1410 (now Rule 720) and the 1997 amendments, in particular the explanation of the optional nature of the post-sentence motion and the interplay of Rule 720 with 42 Pa.C.S. § 5505 and Pa.R.A.P. 1701, at 23 Pa.B. 1699 (4/10/93), 24 Pa.B. 334 (1/15/94), and 27 Pa.B. 4553 (9/6/97).

⁵ The appeal period runs from the entry of the order, whether it is the judge's order denying the motion or the order entered by the clerk of courts denying the motion by operation of law. See 24 Pa.B. 334 (1/15/94). The Comment refers to Pa.R.A.P. 108 (Date of Entry of Orders) that provides "in computing any period of time under these rules involving the date of entry of an order . . . , the day of entry shall be the day the clerk of court . . . mails or delivers copies of the order to the parties. . . ."

graph (B)(3)(c) to reference Rule 114 for the service requirements for the order entered on behalf of the court by the clerk of courts when a post-sentence motion is denied by operation of law.

[Pa.B. Doc. No. 02-2212. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Amending Rule 206 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices; No. 138; Magisterial Doc. No. 1; Book No. 2

The Minor Court Rules Committee has prepared a Final Report explaining the amendments to Rule 206 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices, effective January 1, 2003. These rule changes clarify that a party who has been allowed to proceed in forma pauperis pursuant to Rule 206 is not required to pay service costs. The changes also provide for minor technical or "housekeeping" amendments to the rule. The Final Report follows the Court's Order.

Order

Per Curiam:

And Now, this 25th day of November, 2002, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 31 Pa.B. 5793 (October 20, 2001), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 206 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2003.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 206. [Fees.] Costs; Proceedings In Forma Pauperis.

A. Except as otherwise provided by law, the [fees] costs for filing and service of the complaint shall be paid at the time of filing.

B. Except as otherwise provided by subdivision C of this rule, the prevailing party in district justice proceedings shall be entitled to recover [his] taxable costs from the unsuccessful [litigant] party. Such costs shall consist of all filing, personal service, witness, and execution costs [or fees] authorized by [law] Act of Assembly or general rule and paid by the prevailing party.

C. Taxable costs on appeal or certiorari shall be paid by the unsuccessful party, and a plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that [which he] obtained in the district justice proceeding. A defendant who prevails on certiorari proceedings brought by [him] the defendant or who obtains a favorable judgment [in his favor] upon appeal by either party shall not be liable for costs incurred by the plaintiff in the preceding district justice proceeding and may recover [his] taxable costs in that proceeding from the plaintiff. A plaintiff who is unsuccessful in the district justice proceeding may recover [his] taxable costs in that proceeding from the defendant if [he] the plaintiff is successful on appeal, and in that event the defendant may not recover [his] costs in the district justice proceeding from the plaintiff.

* * * * *

Official Note: "Execution" costs [or fees] include those for executing an order for possession. The items constituting taxable costs in appeal or certiorari proceedings will be governed by law or general rule applicable in the court of common pleas.

["Service] Under subdivision B, "personal service . . . [costs or fees] refer] costs" refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.

This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed in forma pauperis and who remains indigent. See *Brady v. Ford*, 451 Pa. Super. 363, 679 A.2d 837 (1996).

For special provisions governing [proceedings in forma pauperis, see Section] actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. [Section] §§ 6106(b) and (c).

E. Proceedings In Forma Pauperis

* * * * *

(ii) Except as provided by [subdivision] subparagraph (iii), the party shall file a petition and affidavit in the form prescribed by [subdivision] subparagraph (vi). The petition may not be filed prior to the commencement of the action, which action shall be accepted in the first instance, without the payment of [a] filing [fee] costs.

Except as prescribed by [subdivision] subparagraph (iii), the District Justice shall act promptly upon the petition and shall enter [an order] a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the District Justice shall briefly state the reasons therefor. [In this case the] The unsuccessful petitioner may proceed no further so long as such [fee remains] costs remain unpaid.

(iii) If the party is represented by an attorney, the District Justice shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that [he] the attorney is

providing free legal service to the party and [that he] believes the party is unable to pay the costs.

(iv) A party permitted to proceed in forma pauperis shall not be required to pay [the filing fee] any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.

[Such] The district justice shall inform a party [shall be informed] permitted to proceed in forma pauperis of the option to serve the complaint by mail in the manner permitted by [the Rules of Civil Procedure Governing Actions And Proceedings Before District Justices] these rules.

A party permitted to proceed in forma pauperis has a continuing obligation to inform the court of improvement in the party's financial circumstances which will enable the party to pay costs.

(v) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed in forma pauperis, the exonerated [fees] costs shall be taxed as costs and paid to the District Justice by the party paying the monetary recovery. In no event shall the exonerated [fee] costs be paid to the indigent party.

(vi) The petition for leave to proceed in forma pauperis and affidavit shall be substantially in the following form:

[Caption]

Petition

I hereby request that I be permitted to proceed in forma pauperis (without payment of the filing [fee] and service costs). In support of this I state the following:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the [fee] costs for filing and service of this action.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the information below relating to my ability to pay the [fees and] costs is true and correct:

* * * * *

[Comment]

Official Note: This Rule substantially follows Pa.R.C.P. No. 240. Under subparagraph E(iv), "any costs" includes all filing, service, witness, and execution costs.

Adopted April 25, 1979, effective in 30 days. Amended June 30, 1982, effective 30 days after July 17, 1982; amended effective Sept. 18, 1990; amended March 27, 1992, effective June 25, 1992 [**The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line."]**; amended November 25, 2002, effective January 1, 2003.

FINAL REPORT¹

¹ The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

Amendment to Pa. R.C.P.D.J. No. 206

AMENDMENT TO RULE 206 TO CLARIFY THAT A PARTY WHO HAS BEEN ALLOWED TO PROCEED IN FORMA PAUPERIS PURSUANT TO RULE 206 IS NOT REQUIRED TO PAY SERVICE COSTS

On November 25, 2002, effective January 1, 2003, upon the recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rule 206 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.³

I. Background

The Committee undertook a review of Rule 206 in response to an inquiry from the Administrative Office of Pennsylvania Courts (AOPC). The AOPC asked the Committee to review the issue of whether a party who has been allowed to proceed in forma pauperis as provided by Rule 206 is required to pay constable (service) costs. The AOPC noted that Rule 206E provides that a party who is unable to pay the costs of litigation shall be entitled to proceed in forma pauperis, and that the rule further provides that a party permitted to proceed in forma pauperis shall not be required to pay the filing fee imposed or authorized by Act of Assembly or general rule. The AOPC further noted that Rule 206 is silent as to whether payment of service costs is required by a party proceeding in forma pauperis. Upon review of the rule, the Committee noted that the Note to Rule 206 states that the rule "substantially follows Pa.R.C.P. No. 240," which appears to specifically exempt all costs. Pa.R.C.P. No. 240(f)(1) provides that "a party permitted to proceed in forma pauperis shall not be required to pay any costs or fee imposed or authorized by Act of Assembly or general rule which is payable to any court or prothonotary or any public officer or employee."

After review and discussion, the Committee agreed that Rule 206 is inconsistent with Pa.R.C.P. No. 240 in that Rule 206 refers only to filing fees and is silent as to the payment of service costs by parties who are permitted to proceed in forma pauperis. Further, the Committee agreed that it is well settled that such parties should not be required to pay service costs. Accordingly, the Committee recommended that Rule 206 be amended to make this clarification and to more closely mirror Pa.R.C.P. No. 240.

In conjunction with the amendment to the rule described above, the Committee also recognized the need for several technical or "housekeeping" amendments to this rule.

II. Discussion of Rule Changes

First, as noted above, the Committee recommended that Rule 206E(iv) be amended to closely resemble Pa.R.C.P. No. 240(f)(1), thereby clarifying that a party permitted to proceed in forma pauperis shall not be required to pay "any costs" including filing, service, witness, and execution costs.

Also, the Committee recommended a further amendment to Rule 206E(iv) to include a provision similar to Pa.R.C.P. No. 240(e) to make clear that a party permitted to proceed in forma pauperis has a continuing obligation to inform the court of improvement in the party's financial circumstances which would enable the party to pay costs. The Committee noted that such a provision is included in the in forma pauperis petition form (Rule 206E(vi)), but is not specified in the rule itself.

² Recommendation No. 3 Minor Court Rules 2002.

³ Supreme Court of Pennsylvania Order No. 138, Magisterial Docket No. 1, Book No. 2 (November 25, 2002).

The Committee also recommended a revision to the Note to clarify that the rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed in forma pauperis and who remains indigent. As authority for this, the Committee recommended that a reference to *Brady v. Ford*, 679 A.2d 837 (Pa. Super. Ct. 1996), be added to the Note.

Finally, in conjunction with the amendments and revisions described above, the Committee also recognized the need for minor changes to the rule and its Note to make other minor clarifications, to address gender neutrality issues, to correct citation form, and to conform with modern drafting style.

[Pa.B. Doc. No. 02-2213. Filed for public inspection December 13, 2002, 9:00 a.m.]

PART I. GENERAL

[246 PA. CODE CH. 200]

Order Adopting New Rule 212 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices; No. 139; Magisterial Doc. No. 1; Book No. 2

The Minor Court Rules Committee has prepared a Final Report explaining the new Rule 212 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices, effective January 1, 2003. This new rule provides for the design of forms. The Final Report follows the Court's Order.

Order

Per Curiam:

And Now, this 25th day of November, 2002, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 31 Pa.B. 7028 (December 29, 2001), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that new Rule 212 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective January 1, 2003.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 212. Design of Forms.

The Court Administrator of Pennsylvania, in consultation with the Minor Court Rules Committee, shall design and publish forms necessary to implement these rules.

Adopted November 25, 2002, effective January 1, 2003.

FINAL REPORT¹

New Pa. R.C.P.D.J. No. 212

DESIGN OF FORMS

On November 25, 2002, effective January 1, 2003, upon the recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania adopted new Rule 212 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.³

Proceedings in district justice courts, more so than in other courts, rely heavily on the use of preprinted standard forms. Forms are used for basic pleadings, notices, and virtually all other case-related documents. Most forms used in district justice proceedings are computer generated, produced by the District Justice Automated System (DJS). Traditionally, when individual rules have specified that a form is to be used for a certain document, the rules have made reference to "a form prescribed by the State Court Administrator." In drafting proposed new rules and amendments to existing rules, the Committee has decided that the use of this language in individual rules is cumbersome and unnecessary.

As an alternative, the Committee recommended an entirely new Pa.R.C.P.D.J. No. 212 to be a general rule regarding the design of forms. In recommending such a rule, the Committee contemplated that references to forms in individual rules could be eliminated, except where the content of a form is to be expressly dictated by the rule.

The new rule, which is modeled after Pa.R.Crim.P. 104, provides that "[t]he Court Administrator of Pennsylvania, in consultation with the Minor Court Rules Committee, shall design and publish forms necessary to implement these rules."

[Pa.B. Doc. No. 02-2214. Filed for public inspection December 13, 2002, 9:00 a.m.]

PART I. GENERAL

[246 PA. CODE CH. 500]

Order Amending Rule 512 and Revising the Note to Rule 514 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices; No. 140; Magisterial Doc. No. 1; Book No. 2

The Minor Court Rules Committee has prepared a Final Report explaining the amendments and revisions to the Notes to Rules 512 and 514 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices, effective July 1, 2003. These rule changes clarify that the plaintiff/landlord in a landlord and tenant case must appear at the hearing and give testimony, and that a district justice may not enter a default judgment in a landlord and tenant case. The changes also provide for minor technical or "housekeeping" amendments to these rules. The Final Report follows the Court's Order.

Order

Per Curiam:

¹ The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

² Recommendation No. 2 Minor Court Rules 2002.

³ Supreme Court of Pennsylvania Order No. 139, Magisterial Docket No. 1, Book No. 2 (November 25, 2002).

And Now, this 25th day of November, 2002, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 30 Pa.B. 6547 (December 23, 2000), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 512 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is amended, and the Note to Rule 514 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is revised, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2003.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 512. Hearings and Evidence.

A. The plaintiff must appear at the hearing and present testimony in an action for the recovery of possession of real property.

B. The district justice shall be bound by the rules of evidence, except that a bill, estimate, receipt or statement of account which appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

Official Note: Subdivision A of this rule is intended to make clear that the district justice may not enter a default judgment in a possessory action, including a judgment for money only. The plaintiff must appear and give testimony to prove the complaint even when the defendant fails to appear for the hearing. See Rule 514A and Note. See also Section 503(a) of The Landlord and Tenant Act of 1951, 68 P. S. § 250.503(a). When the plaintiff fails to appear at the hearing, the district justice may continue the hearing for cause or dismiss the complaint without prejudice.

[This] Subdivision B of this rule is the same as Rule 321 of the [trespass and assumpsit] civil action rules.

Amended June 30, 1982, effective 30 days after July 17, 1982; amended November 25, 2002, effective July 1, 2003.

Rule 514. Judgment.

* * * * *

Official Note: Subdivision A of this rule requires that the plaintiff appear and give testimony to prove the complaint before the district justice can enter judgment against the defendant, even when the defendant fails to appear for the hearing. The district justice may not enter a default judgment in a possessory action, including a judgment for money only. See Rule 512A and Note. The various issues that the district justice must determine at the hearing include: whether notice to quit was given to the defendant in accordance with law or that no notice was required under the terms of the lease; the amount of rent due, if any; damages to the leasehold premises, if any; the amount found to

constitute the monthly rental, and; the amount of the security deposit held by the landlord, if any.

As to the notice to quit requirement, see Section 501 of The Landlord and Tenant Act of 1951, 68 P. S. § 250.501. See also *Patrycia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966).

The separate entries provided in Subdivision A are made necessary as a result of the rental deposit provisions for appeal or certiorari contained in [Pa.R.C.P.D.J. Nos. 1008.B. and 1013.B.] Rules 1008B and 1013B, as well as the wage attachment provisions contained in [Act 5 of 1996] Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.

* * * * *

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line."]; March 28, 1996, effective March 29, 1996; Note revised November 25, 2002, effective July 1, 2003.

FINAL REPORT¹

Amendments and Revisions to the Notes to Pa. R.C.P.D.J. Nos. 512 and 514

DEFAULT JUDGMENT PROHIBITED IN ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY ("LANDLORD/TENANT" ACTIONS)

On November 25, 2002, effective July 1, 2003, upon the recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended or revised the Notes to Rules 512 and 514 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.³

I. Background

The Committee undertook a review of the issue of the entry of default judgments in landlord/tenant actions on its own initiative, recognizing a need for clarification in the rules that default judgments should be prohibited in these cases. The prohibition against default judgments in landlord/tenant cases has for some time been referred to in the Note to Rule 504, but the Committee felt that the prohibition should be more prominently announced in the rules. The Committee noted that the statewide district justice computer system (DJS) does permit the entry of a disposition of default judgment in landlord/tenant actions, and that many district courts routinely enter this disposition when a defendant fails to appear for a landlord/tenant hearing. The Committee learned that many such dispositions are entered in the DJS every year. Accordingly, the Committee recommended amendments or revisions to the Notes to Rules 512 and 514 as described below.

In considering how to clarify the prohibition of default judgments in landlord/tenant actions, the Committee first

¹ The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

² Recommendation No. 1 Minor Court Rules 2002.

³ Supreme Court of Pennsylvania Order No. 140, Magisterial Docket No. 1, Book No. 2 (November 25, 2002).

considered whether such a prohibition is necessary and whether it is appropriately pronounced by procedural rule. The question was raised as to why it is necessary to hold a perfunctory hearing when the defendant fails to appear. The Committee acknowledged that if a plaintiff/landlord seeks a only money judgment the matter would be filed as a regular civil action, and not as a landlord/tenant action. As such, if the defendant fails to appear, there would be no need for a hearing, the plaintiff/landlord need not appear, and the district justice may enter judgment by default against the defendant/tenant. It is the Committee's opinion, however, that where the landlord seeks possession of real property there are certain determinations that the district justice must make, as discussed below, requiring a hearing and the presence of the landlord, regardless of whether or not the tenant appears. The Committee wishes to stress that such a hearing is often informal in nature, and can be held even if the tenant does not appear. In stating that there may be no default judgment in landlord/tenant cases, it is not the Committee's intent to suggest that the defendant must be present before judgment may be entered; rather, only that the landlord must appear and give testimony before judgment may be entered.

In its analysis, the Committee reviewed the Landlord and Tenant Act of 1951 and the existing rules to conclude that a hearing is necessary. First, the Committee looked to the statutory language of the Landlord and Tenant Act of 1951, 68 P. S. § 250.101 et seq. Section 503(a) of the Act states, *inter alia*:

(a) On the day and at the time appointed or on a day to which the case may be adjourned, *the justice of the peace shall proceed to hear the case. If it appears that the complaint has been sufficiently proven, the justice of the peace shall enter judgment against the tenant:*

68 P. S. § 250.503(a) (emphasis added). This statutory language suggests that a hearing is necessary for the plaintiff to sufficiently prove the landlord/tenant complaint.

Secondly, Rule 514 contains language similar to that found in 68 P. S. § 250.503(a). Rule 514A states, *inter alia*:

A. *If it appears at the hearing that the complaint has been proven, the district justice shall enter judgment against the defendant that the real property be delivered up to the plaintiff and shall enter judgment by separate entries:*

Pa. R.C.P.D.J. No. 514 (emphasis added). The language of this rule, like that in the statute, suggests that a hearing is necessary for the plaintiff to sufficiently prove the landlord/tenant complaint.

As mentioned above, when a landlord seeks possession of real property, existing Rule 514 requires that the district justice make and record certain determinations on the transcript or the notice of judgment. These determinations include:

- a determination of the amount of rent due, if any, as of the date of the hearing;
- a determination of the amount of damages for unjust detention and physical damages to the property, if any, and;
- the monthly rent amount, as is needed by the common pleas prothonotary to properly process an appeal.

Also, the district justice must determine:

- whether notice to quit was given to the tenant in accordance with law or that no notice was required under the terms of the lease, because without proper notice to quit or waiver thereof the district justice lacks jurisdiction over the landlord/tenant action;⁴
- whether possession is sought because of non-payment of rent or because of some other breach of the lease, so as to determine whether the provisions of Pa.R.C.P.D.J. No. 518⁵ apply to the case, and;
- a determination of the security deposit amount, as is needed to properly establish the money portion of the judgment.

The determinations listed above cannot necessarily be ascertained from the face of the complaint, and therefore can be made only after hearing testimony from the landlord. The Committee notes that if the district justice does not hold a hearing to take testimony from the landlord as needed to make these determinations, court staff may be preparing notices of judgment with no judicial determination of these issues.

Further, the Committee notes that landlords are required to appear for all landlord/tenant hearings anyway, since there is no requirement that tenants give notice of their intention to defend as in regular civil actions.⁶ As such, these amendments do not place any additional burden on the landlord.

Finally, the Committee noted that the recommended amendments are intended to simply clarify and insert existing practice into the rules. Again, the Committee notes that the Note to Rule 504 already states "there can be no default judgment in these possessory actions . . ." Pa. R.C.P.D.J. No. 504, Note.

II. Discussion of Rule Changes

A. Default Judgments in Landlord/Tenant Actions

Having concluded that a hearing is required before a district justice can enter judgment for the plaintiff in a possessory action, and therefore that default judgment should be prohibited, the Committee went on to discuss the most appropriate way in which to incorporate this into the rules. As previously stated, the Note to Rule 504 already states that ". . . there can be no default judgment in these possessory actions . . ." Pa. R.C.P.D.J. No. 504, Note. The Committee considered an amendment to Rule 504, but ultimately focused its attention on Rule 512, relating to hearings and evidence. The Committee decided that Rule 512 should be divided into two parts. Subdivision A will now read, "The plaintiff must appear at the hearing and present testimony in an action for the recovery of possession of real property." Subdivision B will contain the existing language of the rule. A sentence has also been added to the Note to clarify that the district justice may not enter a default judgment, including a judgment for money only.

The Committee also decided that the Note to Rule 514, relating to judgment, should be revised to make clear that

⁴ In support of this, the Committee recommended that Section 501 of the Landlord and Tenant Act of 1951, 68 P. S. § 250.501, and *Patricia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966), be cited in the Note to Rule 514.

⁵ Rule 518 provides, "[a]t any time before actual delivery of the real property is made in execution of the order for possession, the defendant may, in a case for the recovery of possession solely because of failure to pay rent, satisfy the order for possession by paying to the executing officer the rent actually in arrears and the costs of the proceedings." Pa.R.C.P.D.J. No. 518 (Emphasis added).

⁶ Pa.R.C.P.D.J. No. 305(4), relating to regular civil actions, provides for a notice to the defendant that states, *inter alia*, "(a) If you [the defendant] intend to enter a defense to the complaint, you should so notify this office immediately. . . . (c) YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT." Rule 504, relating to landlord/tenant actions, also provides for a notice to the defendant, but requires no notice of intent to defend, and does not expressly refer to judgment by default.

default judgments are not permitted, and to cross reference Rule 512 with regard to this prohibition. Also, in the Note to Rule 514, the Committee recommended a new first paragraph to not only clarify that the plaintiff must appear and give testimony, but also to clarify the various issues that the district justice must determine, at the hearing, before the district justice can enter judgment for the plaintiff. With regard to the notice to quit requirement, the Committee recommended that a cross reference to Section 501 of the Landlord and Tenant Act, and a reference to *Patrycia Bros., Inc. v. McKeefrey*, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966), be added.

B. Clarification Regarding Failure of Plaintiff to Appear for Landlord/Tenant Hearing

In the Note to Rule 512, the Committee recommended a revision to clarify the proper procedure when the plaintiff fails to appear at a landlord/tenant hearing. While this procedure is made clear in civil actions by Rule 319, relating to failure of a party to appear at the hearing, there is no analogous rule in the 500 Series, nor did the Committee believe that such a rule would be necessary. The recommended revision to the Note, however, would simply clarify that when the plaintiff fails to appear at the hearing, the district justice may continue the hearing for cause or dismiss the complaint without prejudice.

C. Technical and "Housekeeping" Amendments

In conjunction with the substantive changes discussed above, the Committee identified a number of technical and "housekeeping" amendments needed in Rules 512 and 514. In the notes to both rules, the Committee recommended minor changes to correct citation form and to make references to other rules more consistent.

[Pa.B. Doc. No. 02-2215. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Amendment of Local Rules of Civil Procedure L1915.3, L1915.4 and L1915.4-1; No. 01-1115

Administrative Order 15-2002

And Now, this 26th day of November, 2002, in order to streamline the procedure and provide efficient and consistent filing procedures, it is hereby

Ordered and Decreed that effective January 1, 2003, the Carbon County Court of Common Pleas hereby Amends Local Rules of Civil Procedure L1915.3 governing the procedure for Prosecution of Action, L1915.4 governing the procedure for Prompt Disposition of Custody Cases and Mandatory Education Program for Parents in Custody Cases, and L1915.4-1 governing Alternative Hearing Procedures for Partial Custody or Visitation Cases.

The Carbon County District Court Administrator is Ordered and Directed to do the following:

- 1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
- 2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection a copy of the Order in the Prothonotary's Office.

By the Court

RICHARD W. WEBB,
President Judge

Rule L1915.3—Prosecution of Action.

When a claim for custody, partial custody or visitation is made in a complaint, petition, or counterclaim, such pleading shall comply with Pa.R.C.P. 1915.15(a) or (b) and shall have attached an Order of the Court referring the claim to the Hearing Officer for an initial conference and a Pre-trial Conciliation Information Form which will be substantially in the same form as "Form A" and "Form B" following this rule. A second order shall be attached to the front of the complaint/petition as required by Local Rule L1915.4 Exhibit—"1" and L1915.4-1—Exhibit "1." The moving party shall follow the Motion practice as set forth in L206.1(2) in the filing and service of the custody pleading.

"FORM A"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

:
:
vs. : NO.
: CUSTODY
:

ORDER OF COURT

You, _____, Defendant, have been sued in Court to obtain custody, partial custody or visitation of the child(ren), _____.

Pursuant to Carbon County Rule L1915.4 and L1915.4-1, you are ordered to appear in person at the First Floor Conference Room, Carbon County Courthouse, Jim Thorpe, Pennsylvania, 18229, on _____, 20__, at 8:30 A.M./1:00 P.M., prevailing time, for an INITIAL CONCILIATION or MEDIATION CONFERENCE before Carbon County Custody Conference Officer _____.

If you fail to appear as provided by this Order, the Court or Custody Conference Officer may grant leave to the party who appears to present testimony and the Court may proceed to enter an Order for Custody, Partial Custody or Visitation based solely upon such testimony or the Court may issue a warrant for your arrest. No stenographic record shall be made of this conference.

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.

North Penn Legal Services
122-124 Iron Street
Lehighton, PA 18235
(610) 377-5400

BY THE COURT:

DATED: _____ J.

“FORM B”

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CIVIL ACTION—LAW

vs.

: NO. : CUSTODY

PRE-TRIAL CONCILIATION INFORMATION

(To be submitted at conciliation conference)

GENERAL INFORMATION:

1. Names, addresses, ages and employment of parents: FATHER MOTHER

Blank lines for parent information

2. Names and ages of all children involved; state with whom living:

Blank lines for children information

3. Names and addresses of other parties involved (if any—children’s services, grandparents, foster parents, etc.)

Blank lines for other parties

4. Status of current custody orders or custody arrangements:

Blank lines for custody status

5. Addresses of children for past 5 years; state who had custody at each location:

Blank lines for addresses

Position of Party Submitting Memorandum:

1. State what living arrangements you consider to be in child(ren)’s best interests (i.e. where children should spend weekdays, weekends, holidays, vacation, attend school, matters of that sort):

Blank lines for living arrangements

2. State kind of environment you can provide under above arrangement (home, school, other children in neighborhood, your availability at various times):

Blank lines for environment

3. Other factors you consider relevant to resolution of dispute:

Blank lines for other factors

4. Efforts at mediation, conciliation, counseling:

Blank lines for mediation efforts

TRIAL INFORMATION:

1. List of witnesses you would intend to call:

Fact Witnesses:

Blank lines for fact witnesses

Experts: (attach copies of any reports currently available to the memorandum):

Blank lines for experts

2. Issues for resolution: (e.g., suitability of physical environment, suitability of parent, unusual opportunities for enrichment, particular skills of availability of one parent as opposed to another):

Blank lines for issues

3. Remarks:

Blank lines for remarks

Counsel for _____

COPIES TO BE SENT TO: Court Opposing Counsel

Rule L1915.4—Prompt Disposition of Custody Cases. Mandatory Education Program for Parents in Custody Matters.

1. Upon the filing of any claim for custody, the moving party shall deposit with the Prothonotary the sum of \$300.00 unless excused by the Court.

2. All actions commenced under these rules shall be scheduled for an initial conference. The initial conference shall be held to focus on issues of fact and law and to explore the possibility of a negotiated settlement and consent order.

3. A continuance of the initial conference may be granted by the Court upon good cause shown.

4. If the parties agree on a custodial arrangement, two hundred dollars shall be refunded to the depositing party and a consent order shall be entered in substantially the same form as set forth in "Form A" following Carbon County Local Rule L1915.7.

5. If the parties are unable to agree, the hearing officer shall immediately schedule a hearing.

6. At the conclusion of the pre-hearing conference, the hearing officer shall prepare a recommended Interim Order which said officer believes is in the best interest of the child(ren) and forward it to the Court within 10 days of the pre-hearing conference. The Interim Order shall require the parties to file a Pre-Trial Memorandum with the Prothonotary's Office within five (5) days prior to hearing, and shall contain the following:

- (A) A clear concise statement of the principal custody issues to be resolved by the Court;
- (B) Principles of law to be applied;
- (C) List of witnesses to be called and exhibits;
- (D) Listing of any evidentiary disputes; and Legal Argument.
- (E) Proposed Findings of Fact
- (F) Proposed Custody Order.

7. In all custody proceedings where the interests of children under the age of eighteen (18) are involved, the parties shall attend and complete one 4-hour session entitled "Education Program for Divided Families," referred to in these local rules as "Program."

8. In all custody proceedings, each complaint or petition shall be in compliance with Local Rule L206.1 or Local Rule L205.3.

9. At the time of the filing of the Complaint/Petition, the Attorney or unrepresented party shall attach the Court Order requiring attendance at the Program as set forth in Exhibit "1," a registration form, and Program description.

10. The parties shall register BY MAIL for the Program within fifteen (15) days after he or she is served with the Court Order. NO RESERVATIONS WILL BE TAKEN OVER THE TELEPHONE.

11. Every party shall attend the Program within sixty (60) days from the date of the Order requiring attendance. Any request for an extension of time to complete the Program shall be made to the Court.

12. The fee for the Program is \$35.00 per party and must be submitted with the registration form. Certified check or money order will be accepted for payment. Checks and money orders shall be made payable to the Kathryn James. NOTE: NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED. NO REFUNDS GIVEN.

13. No final hearing shall be held or final order entered until all parties have attended and completed the Program, unless the Court waives the requirement upon petition filed for good cause shown. Refusal of the non-moving party to attend the Program shall be considered good cause by the Court. Failure to comply with the Order may result in the dismissal of the action, striking of pleadings, or other appropriate action, including sanctions for contempt.

14. Upon filing of the Certificate of Completion, the Prothonotary shall provide a copy to Court Administration.

15. Copies of this Rule, Program Registration Form, and Program Description shall be available in the Prothonotary's Office of the Court of Common Pleas of Carbon County.

Exhibit "1"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

vs. NO. CUSTODY

ORDER OF COURT

You are ORDERED to attend a program entitled "Education Program for Divided Families" in connection with the above-captioned custody action. You must register for the Program using the registration form attached within fifteen (15) days of the date that you receive this Order. Further, you must attend and complete the Program within sixty (60) days from the date of this Order.

FAILURE TO ATTEND AND COMPLETE THE PROGRAM IN ACCORDANCE WITH THE INSTRUCTIONS ATTACHED TO THIS ORDER WILL BE BROUGHT TO THE ATTENTION OF THE COURT AND MAY RESULT IN A FINDING OF CONTEMPT AND THE IMPOSITION OF SANCTIONS BY THE COURT.

No final hearing shall be held or final order entered where there are children under the age of eighteen (18) until all parties have attended the Program or by leave of Court.

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.

North Penn Legal Services
122-124 Iron Street
Lehighton, PA 18235
(610) 377-5400
www.northpennlegal.org

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Carbon County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact the District Court Administrator's Office at (570) 325-8556. All arrangements must be made at least seventy-two (72) hours prior to any hearing or business before the Court. You must attend the scheduled Program.

BY THE COURT:

DATED: _____ J.

EDUCATION PROGRAM FOR DIVIDED FAMILIES

In cases involving custody of minor children, mandatory attendance at one 4-hour session entitled "Education

Program for Divided Families" is required. MINOR CHILDREN SHALL NOT BE BROUGHT TO THE PROGRAM.

PROGRAM CONTENT

The Program focuses on the impact of divorce on parents and children, with an emphasis on fostering a child's emotional health and well being during the periods of stress. The program is informative, supportive, and directs people desiring additional information or help to appropriate resources.

The Program addresses the following items:

A. Impact of Divorce on Parents and Children: tasks adults face; tasks children face; common reactions of children of different ages; and do's and don'ts of parenting.

B. Identifying and dealing with feelings such as anger toward your children, from your children, and toward your ex-spouse, as well as the healing process.

C. Open Discussion: explaining divorce, visitation problems, new relationships, parents at war with co-parent, etc.

WHO

Kathryn M. James
Masters In Education
Family Living Educator
P. O. Box 184
Brodheadsville, PA 18322
Telephone: (570) 992-2027

WHEN

The Program is offered every month on one (1) Saturday from 9:00 A.M. until 1:00 P.M.

WHERE

The Program will be presented at the Carbon County Conservation District building located at 5664 Interchange Road, Lehigh, PA 18235 (located next to the Pennsylvania State Police Barracks on Route 209 North—building is between Gensis Day Care and the PA State Police Barracks). Directions: From the south (Palmerton, Lehigh), take 209 North (about 5 miles past the Turnpike entrance); From the northwest (Jim Thorpe, Lansford, Summit Hill) take 209 North; and from the north (Weatherly, Beaver Meadows) take 93 South to 209 North.

ATTENDANCE

Attendance at the Program is required of parties in a custody case where the interests of children under the age of eighteen (18) years are involved and is ordered by the Court. Additional interested persons may attend the seminar upon prior approval of the provider with the payment of ten (\$10.00) dollars.

PRESENTERS

A qualified counselor selected by the Court of Common Pleas of Carbon County will present the program.

NOTIFICATION

A copy of the Order requiring the parties to attend the Program, a Registration Form, and Program Description will be provided to the parties by the Attorney or unrepresented party upon filing of a custody action.

FEES

A fee of \$35.00 per party is required and will be used to cover all program costs. The fee must be submitted with

the registration form directly to the Provider. Certified check or money order will be accepted as payment. NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED. NO REFUNDS GIVEN.

REGISTRATION

Register by MAIL, only. The provider must receive the registration form and program fee at least seven (7) days prior to the selected date. Each party shall attend the Program without further notification by the Court. Any changes in scheduling must be arranged through the provider.

VERIFICATION OF ATTENDANCE

Upon presentation of photo identification, the provider will record the party as "present" and shall provide to the Prothonotary of Carbon County a Certificate of Completion, which shall be filed of record. The Provider will give a Certificate of Attendance to each person who successfully completes the Program.

EVALUATION

Each participant shall complete a written evaluation of the Program upon the conclusion of the session. Said evaluation forms shall be presented to the Court upon request.

Kathryn M. James
Masters In Education
Family Living Educator
P. O. Box 184
Brodheadsville, PA 18322
Telephone: (570) 992-2027

REGISTER BY MAIL, ONLY: Choose the date you want to attend, complete the attached form, and send it with your certified check or bank money order payable to Kathryn James to:

Kathryn M. James
P. O. Box 184
Brodheadsville, PA 18322

If you have any questions regarding the program or scheduling, call: (570) 992-2027.

2001 Registration Form—Education Program for Divided Families Carbon County, Pennsylvania

The Program is held at the Carbon County Conservation District building located at 5664 Interchange Road, Lehigh, PA 18235 (located next to the Pennsylvania State Police Barracks on Route 209 North—building is between Gensis Day Care and the PA State Police Barracks).

You are required to attend one 4-hour Saturday session. The cost of the Program is \$35.00 per party.

Other guests can attend for an additional \$10.00 fee.

Photo identification is required.

Parking is available on site.

Register at least seven (7) days prior to the date you want. IF TEN (10) PARTICIPANTS ARE NOT REGISTERED, THE CLASS WILL BE CANCELLED AND YOU WILL NEED TO RE-SCHEDULE. CONFIRMATIONS ARE NOT SENT. Come to the program you choose, unless notified that the class is full. Class may be cancelled due to bad weather. You will be informed of this cancellation by telephone and given a new class date. Class dates are subject to change.

If you cannot attend the class you registered and paid for, you must call Kathryn James at (570) 992-2027 to let her know of the change in plans. If the cancellation is made a week prior to the scheduled date, you may attend the next scheduled class at no additional charge. IF NO NOTICE OF CANCELLATION IS GIVEN OR IT IS NOT MADE ONE WEEK PRIOR TO CLASS, YOU MUST PAY AN ADDITIONAL \$10.00 TO TAKE THE NEXT CLASS.

Children SHALL NOT be brought to the Program.

Please be prompt. Latecomers are not admitted and must reschedule.

In case of a snowstorm, listen to the radio and/or television for cancellations—WYNS 11.60 A.M., WLSH 14.10 A.M., or TV WYOU-News 22. Call (570) 992-2027 to reschedule.

Docket Number: of custody case _____ Docket Number MUST be filled in for attendance credit. Please indicate County of jurisdiction: _____

Your Name: _____

Guest: _____
(Name and Relationship to Child)

Your Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: _____ (Home) _____ (Work)

SATURDAYS—9:00 A.M.
TO 1:00 P.M.

- Jan. 4, 2003 _____
- Feb. 1, 2003 _____
- March 1, 2003 _____
- April 5, 2003 _____
- May 3, 2003 _____
- June 7, 2003 _____
- July 5, 2003 _____
- August 2, 2003 _____
- Sept. 6, 2003 _____
- Oct. 4, 2003 _____
- Nov. 1, 2003 _____
- Dec. 6, 2003 _____

Send completed registration form and fee by certified check or money order payable to Kathryn James to:

Kathryn M. James
P. O. Box 184
Brodheads ville, PA 18322
Telephone: (570) 992-2027

NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED. NO REFUNDS GIVEN.

Rule L1915.4-1—Alternative Hearing Procedures for Partial Custody or Visitation Cases.

1. Upon the filing of any claim for partial custody or visitation, the moving party shall deposit with the Prothonotary the sum of \$300.00 unless excused by the Court.

2. All actions commenced under these rules shall be scheduled for an initial conference. The initial conference shall be held to focus on issues of fact and law and to explore the possibility of a negotiated settlement and consent order.

3. A continuance of the initial conference may be granted by the Court upon good cause shown.

4. If the parties agree on a custodial arrangement, two hundred dollars shall be refunded to the depositing party and a consent order shall be entered in substantially the same form as set forth in "Form A" following Carbon County Local Rule L1915.7.

5. If the parties are unable to agree, the hearing officer shall immediately schedule a hearing.

6. The moving party shall be responsible to secure the services/attendance of an outside court reporter for said hearing and shall be responsible for the payment of said outside court reporter unless the Court places the payment responsibility on the other party.

7. Within 10 days of the conclusion of the hearing, the hearing officer shall file and serve a copy upon all parties a report stating the reasons for the recommendation along with a proposed order including a specific schedule of partial custody or visitation.

8. If exceptions are filed, no exceptions shall be argued before the Court unless written briefs have been filed. The moving party shall file three (3) copies of a brief and exceptions with the Prothonotary's Office no later than ten (10) days after filing of the hearing officer's report, and forthwith serve one (1) copy of the brief upon each adverse party or counsel of record. Each adverse party or his counsel of record shall file in the appropriate filing office three (3) copies of a brief in answer, not later than five (5) days after receipt of moving party's brief and forthwith serve a copy thereof upon all opposing parties or their counsel of record. All briefs shall be prepared in conformity with Local Rule L210. Transcription of the proceedings shall be filed of record by the party raising the objections. The cost of transcription shall be borne by the party filing the original exceptions unless otherwise ordered by the Court.

9. Argument shall be held within 45 days of the date that the last party files exceptions.

10. In all custody proceedings where the interests of children under the age of eighteen (18) are involved, the parties shall attend and complete one 4-hour session entitled "Education Program for Divided Families," referred to in these local rules as "Program."

11. In all custody proceedings, each complaint or petition shall be in compliance with Local Rule L206.1 or Local Rule L205.3.

12. At the time of the filing of the Complaint/Petition, the attorney and/or unrepresented party shall attached to the Complaint/Petition and provide all parties with the Court Order requiring attendance at the Program as set forth in Exhibit "1," a registration form, and Program description.

13. The parties shall register BY MAIL for the Program within fifteen (15) days after he or she is served with the Court Order. NO RESERVATIONS WILL BE TAKEN OVER THE TELEPHONE.

14. Every party shall attend the Program within sixty (60) days from the date of the Order requiring attendance. Any request for an extension of time to complete the Program shall be made to the Court.

15. The fee for the Program is \$35.00 per party and must be submitted with the registration form. Certified check or money order will be accepted for payment. Checks and money orders shall be made payable to the Kathryn James. NOTE: NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED. NO REFUNDS GIVEN.

16. No final hearing shall be held or final order entered until all parties have attended and completed the Program, except by leave of Court. Refusal of the non-moving party to attend the Program shall be considered good cause by the Court. Failure to comply with the Order may result in the dismissal of the action, striking of pleadings, or other appropriate action, including sanctions for contempt.

17. Upon filing of the Certificate of Completion, the Prothonotary shall provide a copy to Court Administration.

18. Copies of this Rule, Program Registration Form, and Program Description shall be available in the Prothonotary's Office of the Court of Common Pleas of Carbon County.

Exhibit "1"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

vs. :
: NO.
: CUSTODY
:
:
:

ORDER OF COURT

You are ORDERED to attend a program entitled "Education Program for Divided Families" in connection with the above-captioned custody action. You must register for the Program using the registration form attached within fifteen (15) days of the date that you receive this Order. Further, you must attend and complete the Program within sixty (60) days from the date of this Order.

FAILURE TO ATTEND AND COMPLETE THE PROGRAM IN ACCORDANCE WITH THE INSTRUCTIONS ATTACHED TO THIS ORDER WILL BE BROUGHT TO THE ATTENTION OF THE COURT AND MAY RESULT IN A FINDING OF CONTEMPT AND THE IMPOSITION OF SANCTIONS BY THE COURT.

No final hearing shall be held or final order entered where there are children under the age of eighteen (18) until all parties have attended the Program or by leave of Court.

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.

North Penn Legal Services
122-124 Iron Street
Lehighton, PA 18235
(610) 377-5400
www.northpennlegal.org

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Carbon County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact the District Court Administrator's Office at (570) 325-8556. All arrangements must be made at least seventy-two (72) hours prior to any hearing or business before the Court. You must attend the scheduled Program.

BY THE COURT:

DATED: _____ J.

EDUCATION PROGRAM FOR DIVIDED FAMILIES

In cases involving custody of minor children, mandatory attendance at one 4-hour session entitled "Education Program for Divided Families" is required. MINOR CHILDREN SHALL NOT BE BROUGHT TO THE PROGRAM.

PROGRAM CONTENT

The Program focuses on the impact of divorce on parents and children, with an emphasis on fostering a child's emotional health and well being during the periods of stress. The program is informative, supportive, and directs people desiring additional information or help to appropriate resources.

The Program addresses the following items:

A. Impact of Divorce on Parents and Children: tasks adults face; tasks children face; common reactions of children of different ages; and do's and don'ts of parenting.

B. Identifying and dealing with feelings such as anger toward your children, from your children, and toward your ex-spouse, as well as the healing process.

C. Open Discussion: explaining divorce, visitation problems, new relationships, parents at war with co-parent, etc.

WHO

Kathryn M. James
Masters In Education
Family Living Educator
P. O. Box 184
Brodheads ville, PA 18322
Telephone: (570) 992-2027

WHEN

The Program is offered every month on one (1) Saturday from 9:00 A.M. until 1:00 P.M.

WHERE

The Program will be presented at the Carbon County Conservation District building located at 5664 Interchange Road, Lehighton, PA 18235 (located next to the Pennsylvania State Police Barracks on Route 209 North—building is between Gensis Day Care and the PA State Police Barracks). Directions: From the south (Palmerton, Lehighton), take 209 North (about 5 miles past the Turnpike entrance); From the northwest (Jim Thorpe, Lansford, Summit Hill) take 209 North; and from the north (Weatherly, Beaver Meadows) take 93 South to 209 North.

ATTENDANCE

Attendance at the Program is required of parties in a custody case where the interests of children under the age of eighteen (18) years are involved and is ordered by the Court. Additional interested persons may attend the seminar upon prior approval of the provider with the payment of ten (\$10.00) dollars.

PRESENTERS

A qualified counselor selected by the Court of Common Pleas of Carbon County will present the program.

NOTIFICATION

A copy of the Order requiring the parties to attend the Program, a Registration Form, and Program Description will be provided to the parties by the Attorney or unrepresented party upon filing of a custody action.

FEES

A fee of \$35.00 per party is required and will be used to cover all program costs. The fee must be submitted with the registration form directly to the Provider. Certified check or money order will be accepted as payment. NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED. NO REFUNDS GIVEN.

REGISTRATION

Register by MAIL, only. The provider must receive the registration form and program fee at least seven (7) days prior to the selected date. Each party shall attend the Program without further notification by the Court. Any changes in scheduling must be arranged through the provider.

VERIFICATION OF ATTENDANCE

Upon presentation of photo identification, the provider will record the party as "present" and shall provide to the Prothonotary of Carbon County a Certificate of Completion, which shall be filed of record. The Provider will give a Certificate of Attendance to each person who successfully completes the Program.

EVALUATION

Each participant shall complete a written evaluation of the Program upon the conclusion of the session. Said evaluation forms shall be presented to the Court upon request.

Kathryn M. James
Masters In Education
Family Living Educator
P. O. Box 184
Brodheadsville, PA 18322
Telephone: (570) 992-2027

REGISTER BY MAIL, ONLY: Choose the date you want to attend, complete the attached form, and send it with your certified check or bank money order payable to Kathryn James to:

Kathryn M. James
P. O. Box 184
Brodheadsville, PA 18322

If you have any questions regarding the program or scheduling, call: (570) 992-2027.

2001 Registration Form—Education Program for Divided Families Carbon County, Pennsylvania

The Program is held at the Carbon County Conservation District building located at 5664 Interchange Road, Lehighton, PA 18235 (located next to the Pennsylvania State Police Barracks on Route 209 North- building is between Gensis Day Care and the PA State Police Barracks).

You are required to attend one 4-hour Saturday session. The cost of the Program is \$35.00 per party.

Other guests can attend for an additional \$10.00 fee.

Photo identification is required.

Parking is available on site.

Register at least seven (7) days prior to the date you want. IF TEN (10) PARTICIPANTS ARE NOT REGIS-

TERED, THE CLASS WILL BE CANCELLED AND YOU WILL NEED TO RE-SCHEDULE. CONFIRMATIONS ARE NOT SENT. Come to the program you choose, unless notified that the class is full. Class may be cancelled due to bad weather. You will be informed of this cancellation by telephone and given a new class date. Class dates are subject to change.

If you cannot attend the class you registered and paid for, you must call Kathryn James at (570) 992-2027 to let her know of the change in plans. If the cancellation is made a week prior to the scheduled date, you may attend the next scheduled class at no additional charge. IF NO NOTICE OF CANCELLATION IS GIVEN OR IT IS NOT MADE ONE WEEK PRIOR TO CLASS, YOU MUST PAY AN ADDITIONAL \$10.00 TO TAKE THE NEXT CLASS.

Children SHALL NOT be brought to the Program.

Please be prompt. Latecomers are not admitted and must reschedule.

In case of a snowstorm, listen to the radio and/or television for cancellations—WYNS 11.60 A.M., WLSH 14.10 A.M., or TV WYOU-News 22. Call (570) 992-2027 to reschedule.

Docket Number: of custody case _____ Docket Number MUST be filled in for attendance credit. Please indicate County of jurisdiction: _____

Your Name: _____

Guest: _____
(Name and Relationship to Child)

Your Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: _____ (Home) _____ (Work)

SATURDAYS—9:00 A.M. TO 1:00 P.M.

- Jan. 4, 2003 _____
Feb. 1, 2003 _____
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[Pa.B. Doc. No. 02-2216. Filed for public inspection December 13, 2002, 9:00 a.m.]

SOMERSET COUNTY**Consolidated Rules of Court; No. 76 Misc. 2002****Adopting Order**

And Now, this 21st day of November, 2002, it is hereby *Ordered*:

1. Somerset County Rule of Civil Procedure 1910.12 (Som.R.C.P. 1910.12), Office Conference. Hearing. Exceptions, is amended to read in its entirety, as reflected in revised Som.R.C.P. 1910.12, following hereto, 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 attached Rule with the Administrative Office of Pennsylvania Courts.

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

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

RULES OF COURT

Support.

Som. R.C.P. 1910.12. Office Conference. Hearing. Exceptions.

A. Promptly upon the filing of any complaint or request for modification or termination, the Domestic Relations Section shall schedule a conference, issue a scheduling order, and distribute a copy thereof to all counsel of record, and to all parties, whether or not represented by counsel of record.

B. The Domestic Relations Section may continue and reschedule the conference as may be necessary or convenient according to the needs and available facilities of the Section and as may be fair and reasonable to the parties, provided, however, that no more than two continuances for each party and no more than three continuances in the aggregate, shall be granted, unless Court approval is first obtained. If Court approval is required, a written Motion for Continuance, specifying the reasons therefor, shall be presented to the Motions Judge. Continuances requiring Court approval will be granted only in extraordinary circumstances.

C. With the approval of the Domestic Relations Section, the parties or counsel may waive notice and agree to a date and time for conference.

D. If an agreement for support is reached at the conference, the written Order and recommendation referred to in Som. R.C.P. 1910.11(d) shall be transmitted to the Court in accordance with established assignment and Motions Judge practice. Upon receipt of the written Order and recommendation, the Judge shall either approve the recommendation and enter the Order, or disapprove the

recommendation. Upon approval, the Domestic Relations Section shall promptly distribute a copy of the Order to each party and counsel.

E. If the parties do not reach agreement at the conference, or if the responding party does not appear at the conference, the Conference Officer shall submit to the Court, in accordance with established assignment and Motions Judge practice, a recommended Interim Order, to be entered by the Court as required by Pa.R.C.P. 1910.12, and if a party confirms that hearing is desired, and if the fee is paid as required by subparagraph F. of this Rule, the case shall be scheduled for a hearing before the Hearing Officer.

F. The hearing before the Hearing Officer will be scheduled only upon payment by the party desiring a hearing of a fee of \$25.00 within ten (10) days after the date of mailing of the Interim Order, as provided for in subparagraphs 1. and 2., unless excused for cause by further court order. If the fee is not paid or waived within the required ten (10) day period, hearing will not be scheduled and the Interim Order will become the final order.

1. After the conference is completed, the Conference Officer will advise the parties present that a hearing before the Hearing Officer will be scheduled, if desired, upon payment of a fee of \$25.00 by the party desiring the hearing, that the fee must be paid within ten (10) days after the date of mailing of the Interim Order, and that if not paid within the required ten (10) day period, hearing will not be scheduled and the Interim Order will become the final order.

2. If a responding party does not appear at the conference, the Conference Officer will mail with the Interim Order, a notice to the absent party that a hearing before the Hearing Officer will be scheduled, if desired, upon the payment of a \$25.00 fee by the party desiring the hearing, that the fee must be paid within ten (10) days of the date of mailing of the Interim Order and notice, and that if the fee is not paid within the required ten (10) day period, a hearing will not be scheduled and the Interim Order will become the final order.

3. Payment shall be made to the Somerset County Domestic Relations Section and shall be clearly identified as "HEARING FEE."

G. When a hearing is to be scheduled before the Hearing Officer, the Domestic Relations Section shall schedule the hearing, issue a scheduling order, and distribute a copy thereof to all parties and counsel.

H. The Hearing Officer shall conduct the hearing and proceed otherwise as provided in Pa.R.C.P. 1910.12.

I. If exceptions are filed pursuant to the provisions of Pa.R.C.P. 1910.12(f), the Domestic Relations Section shall provide a copy of the exceptions to opposing counsel and unrepresented parties.

1. In addition to any other required fee, and unless otherwise ordered, a party filing exceptions shall pay a filing fee of \$30.00 to the Domestic Relations Section at the time the exceptions are filed.

2. Unless otherwise ordered, or unless certification is submitted pursuant to subparagraph H.4.(ii) of this Rule, a party filing exceptions shall also present to the Domestic Relations Section, at the time the exceptions are filed, a check or money order in the amount of \$25.00, made payable to the stenographer, as a non-refundable advance payment toward record transcription.

3. Upon presentation of the check or money order pursuant to the requirements of the foregoing subparagraph H.1. of this Rule, or timely presentation of Order excusing payment, the Domestic Relations Section will transmit to the stenographer, the check or money order, if any, or a copy of the Order excusing payment.

a. If payment has been excused, the stenographer will immediately commence transcribing the record.

b. If payment has not been excused, upon receipt of the advance payment, the stenographer shall provide to the excepting party or parties a statement of the balance due for transcription. Within ten (10) days of the mailing of the stenographer's statement, the excepting party shall pay the balance due directly to the stenographer. Where both parties have filed exceptions, each party shall pay an amount equal to one-half of the balance of the costs due. If the stenographer does not receive payment of the balance due within the time limit required by this Rule, the stenographer shall immediately notify the Domestic Relations Section.

c. If only one party has filed exceptions and that party has failed to make the advance payment or other amounts due for the cost of transcription within the required time limit, no transcript will be prepared.

d. If both parties file exceptions and one of the parties fails to make a required payment within the time limits required by this Rule, the transcript shall be prepared, with the total cost to be paid by the non-defaulting party prior to the date set for argument. A party who fails to make payment within the time limits required by this Rule will not be permitted to rely on the transcript in support of the exceptions.

4. A party filing exceptions will be excused from paying for a transcript only if (i) a Motion To Proceed In Forma Pauperis is presented to, and approved by, the Court within the ten (10) day period allowed for filing of exceptions; or (ii) a certification is filed within the ten (10) day period allowed for filing of exceptions, certifying that the record is not necessary for disposition of the exceptions.

5. Exceptions, when filed, shall contain, or have attached, a written certification that the required deposit has been paid, or that payment is not required by Court Order or because a transcript is not necessary for disposition of the exceptions. A copy of the Court Order or certification shall be attached to the exceptions. If the certification and attachments are not filed as required, no transcript will be prepared.

6. Any party requesting reallocation of the cost of transcription shall raise the matter specifically before the Court at argument on the exceptions, or the issue of reallocation shall be deemed waived by that party.

7. Advance payment of the transcript costs within the time limits required by this Rule shall be mandatory, unless a party is permitted to proceed in forma pauperis after petition to the Court, or unless otherwise excused by the provisions of this Rule. If the costs are not paid within the time limits required by this Rule, no transcript will be prepared.

J. Upon filing of exceptions, the Domestic Relations Section shall notify the Court Administrator, who shall schedule the same for argument, sec. reg. Upon issuance of the order listing the case for argument, the Domestic Relations Section shall notify counsel and parties of the date, time, and place of the argument.

K. Following argument on the exceptions, the Court will enter an appropriate final order in the case, copy of which shall be distributed by the Domestic Relations Section to counsel and unrepresented parties.

[Pa.B. Doc. No. 02-2217. Filed for public inspection December 13, 2002, 9:00 a.m.]

YORK COUNTY

Amendment of Local Civil Rules of the Court of Common Pleas Concerning Divorce, Filing Fees, Procedures Before a Master, Exceptions from Master's Report and Mediation Fees; No. 2002 M.I. 00424

Administrative Order

And Now, this 19th day of November, 2002, *It Is Ordered* that the following Local Rules of Civil Procedure for the Court of Common Pleas of York County are added, deleted, or amended as noted.

Additionally, *It Is Hereby Ordered* that the fee for mediation conducted pursuant to custody pre-trial proceedings shall be increased to a total of \$180, the amount to be shared proportionally among the litigants as directed.

The additions, deletions and amendments to rules, and the other procedures in this order shall become effective thirty (30) days after the date of publication in the Pennsylvania Bulletin, or on January 1, 2003, whichever occurs later, and shall apply to all cases pending on that date and to all new cases filed thereafter.

It Is Further Ordered, that in accordance with Pa.R.Civ.P. 239, the District Court Administrator shall:

1. File seven certified copies hereof with the Administrative Office of the Pennsylvania Courts;
2. Distribute two certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. File one certified copy hereof with the Domestic Relations Procedural Rules Committee;
4. Cause a copy hereof to be published in the *York Legal Record* at the expense of the County of York; and
5. Supervise the distribution hereof to the Prothonotary of York County, who shall maintain a copy continuously available for public inspection and copying upon payment of reasonable costs, to all Judges, Divorce Masters, and custody mediators, the current list of which shall be supplied to the Court.

By the Court,

JOHN H. CHRONISTER,
President Judge

Changes to Local Rules of Civil Procedure on Divorce and Annulment; Rule 1920.1. et seq.

The following Local Rules shall be deleted:

Rule 1920.31 Income and Expense Statement—Sanctions.

Rule 1920.33 Inventory and Appraisal—Sanctions.

Rule 1920.45 Counseling.

The following Local Rules shall be amended to read as set forth as follows:

Rule 1920.51 Divorce Hearing Masters Proceedings

(a) *Qualifications and duties of divorce masters.* The Divorce Masters Office shall be responsible for scheduling and conducting all proceedings involving a master appointed pursuant to Pa.R.C.P. 1920.51, et seq. The court shall employ permanent salaried masters who shall not engage in any private domestic relation matters and who shall serve at the pleasure of the court. Their qualifications and duties shall be as follows:

(1) *The Director of the Divorce Masters Office.* The Director shall be a full-time salaried employee of the County of York and shall serve at the pleasure of the court. The Director shall be a member of the Bar of York County and shall have at least five (5) years experience of practice in the field of Divorce and Family Law. The Director shall be responsible for the operation of the Divorce Masters Office, including supervision of the employees of the office and the other masters employed by the court. The Director shall assign cases to other masters employed by the court and shall conduct proceedings in cases not assigned to other masters. The Director shall report directly to the judge presiding over the Family Court Division.

(2) *Masters.* The court may also employ part-time or full-time masters to work under the supervision of the Director. Such additional masters shall be members of the Bar of York County, shall be employees of the County of York, and shall serve at the pleasure of the court. The part-time masters shall be available at least twenty (20) hours per week to fulfill their assigned duties.

(3) *Special Masters.* In cases where the Divorce Masters Office is not able to conduct proceedings pursuant to Pa.R.C.P. 1920.51, et seq. due to a conflict or extraordinary circumstance, the court may appoint a member of the Bar of York County to sit as a special master in any particular case. Such special master shall serve at the pleasure of the court and shall be an independent contractor of the County of York, with compensation set by the court on a case-by-case basis.

(4) *General Duties.* In each case in which a master is appointed, the master shall preside over all conferences and hearings necessary for the preparation of a final or interim report and recommendation, as appropriate. The master may schedule conferences with counsel, with or without the parties present.

(b) *Appointment of a master.*

(1) *Fee certification.* The Motion for the Appointment of a Master for divorce, annulment or any related claim shall be made on the form prescribed by the Divorce Masters Office. The Motion shall be presented first to the Prothonotary, who shall certify thereon that the fees have been paid. The moving party shall serve a copy of the Motion upon the opposing party or counsel.

(2) *Counsel to present Motion to Divorce Masters Office.* The original Motion and three copies shall then be presented at the Divorce Masters Office for the issuance of an order appointing a master and scheduling such further proceedings as may be necessary.

(3) *Divorce Masters Office to file and to serve.* The Divorce Masters Office shall file the original Motion and scheduling Order with the Prothonotary and provide a copy of each to both the moving party and the responding party.

(c) *Filing fees.* The designated parties shall pay to the Prothonotary the following fees, at the times indicated.

(1) *Prothonotary's fees.* In every action of divorce or annulment initiated by a party, the moving party shall pay to the Prothonotary's Office the required filing fees, as published in the Prothonotary's Office fee schedule.

(2) *Fees to appoint a master.* Upon the presentation of a Motion to Appoint a Master, the moving party shall pay to the Prothonotary, in addition to the fees set forth in subsection (1) of this provision, the following fees, to bring these claims before the master:

[a] *Divorce or annulment, equitable distribution, alimony, counsel fees, costs and/or expenses.* The moving party shall pay a fee of three hundred dollars (\$300.00) for a Motion to Appoint a Master including all or one of the following: divorce, annulment, equitable distribution of marital property, alimony, counsel fees, costs and expenses. A moving party filing an Amended Motion to add one or more of these issues to the Appointment shall not be required to pay an additional fee. For additional provisions concerning alimony, see subsection [c], below.

[b] *Alimony pendente lite.* The moving party shall pay a fee of fifty dollars (\$50.00) for a Motion to Appoint a Master for alimony pendente lite. For additional provisions, see subsection (e) Alimony pendente lite—additional provisions, below.

[c] *Modification of alimony.* The moving party shall pay a fee of two hundred dollars (\$200.00) for a Motion to Appoint a Master for the modification of a final alimony order.

[d] *Modification of alimony pendente lite.* The moving party shall pay a fee of fifty dollars (\$50.00) for a Motion to Appoint a Master for the modification of a prior award of alimony pendente lite.

[e] *Additional fees.* If more than two full days of hearings are necessary to resolve the case, then the parties shall pay an additional fee of one hundred fifty dollars (\$150) for each additional day of testimony or part thereof. The master shall not proceed beyond the second full day of hearings until these additional fees have been paid.

(3) *Fee changes.* The fees stated in this subsection are subject to change by publication.

(4) *Award of costs.* The fees set forth in subsection (c)(2) shall be regarded as costs of the case, and the master may recommend that either party bear those costs or reimburse the other party in full or in part for those costs.

(5) *Request for return of appointment fees.* In any action where the appointment of a master is withdrawn after the appointment has been made by the court, the party who paid the fees specified in subsection (c)(2) may petition the court for the return of part of the fees in accordance with the following provisions:

[a] *Refund of appointment fees.* Only in those cases where no preliminary hearing or conference has been held and written notice of discontinuance or revocation of the appointment of a master has been delivered to the Divorce Masters Office no less than fifteen (15) days in advance of the first originally scheduled proceeding, the fees may be remitted in full, less fifty dollars (\$50.00).

[b] *Master's consent.* The petition for remission of fees will not be approved by the court unless endorsed by the master appointed to hear the case in question.

(d) *Filing of income and expense statements and inventories.*

(1) *Moving party's filing of Income and Expense Statement.* When a Motion for the Appointment of a Master for any claim, set forth in Pa.R.C.P. 1920.31, is presented to the Divorce Masters Office as set forth in subsection (b)(2), above, it shall be accompanied by a copy of the moving party's Income and Expense Statement that has been filed with the Prothonotary. The Income and Expense Statement shall be in the form required by Pa.R.C.P. 1910.27, and shall be substantially complete.

(2) *Moving party's filing of Inventory.* When a Motion for the Appointment of a Master for equitable distribution is presented to the Divorce Masters Office as set forth in subsection (b)(2) above, it shall be accompanied by a copy of the moving party's Inventory that has been filed with the Prothonotary. The Inventory, as required by Pa.R.C.P. 1920.33, shall be substantially complete.

(3) *Respondent's Income and Expense Statement.* Within thirty (30) days after receiving notice that a master has been appointed to hear any claim, other than divorce or annulment, the responding party shall present to the Divorce Masters Office a copy of that party's Income and Expense Statement that has been filed with the Prothonotary. The Income and Expense Statement shall be in the form required by Pa.R.C.P. 1910.27, and shall be substantially complete.

(4) *Respondent's Inventory.* Within thirty (30) days after receiving notice that a master has been appointed to hear a claim for equitable distribution, the responding party shall present to the Divorce Masters Office a copy of that party's Inventory that has been filed with the Prothonotary. The Inventory, as required by Pa.R.C.P. 1920.33, shall be substantially complete.

(5) *Sanctions for failure to file.* Parties failing to comply with the requirements of this subsection (d) shall be subject to Court Ordered sanctions and may be subject to sanctions imposed by the master, sua sponte, as permitted by subsection (f)(9), below.

(e) *Alimony pendente lite—additional provisions.*

(1) *Additional documents required.* When a Motion for Appointment of a Master is presented to the Divorce Masters Office with respect to a claim for alimony pendente lite, the moving party shall also present the following additional documents to the Divorce Masters Office:

[a] A time stamped copy of the initial pleading, filed with the Prothonotary, in which the claim for alimony pendente lite was raised.

[b] The original and two copies of the "Background for APL" form as prescribed by the Divorce Masters Office.

[c] The original and two copies of the "Petition for Alimony Pendente Lite" form as prescribed by the Divorce Masters Office.

[d] The Prothonotary's payment receipt.

(2) *APL referred to DRO.* A Motion for the Appointment of a Master solely on the issue of alimony pendente lite may be referred by the Divorce Masters Office to the Domestic Relations Office for a conference pursuant to Pa.R.C.P. 1910.11. Any party aggrieved by the order entered as the result of such conference may request a hearing de novo which may be conducted by a judge. However, the court, in its sole discretion, may refer it back to the Divorce Masters Office for a hearing of record pursuant to Pa.R.C.P. 1920.54.

(f) *Preliminary proceedings.*

(1) *Notice of preliminary conference.* Upon appointment, the Divorce Masters Office shall give counsel or the parties not less than ten (10) days written notice of a preliminary conference to be conducted by the master.

(2) *Scheduling of additional proceedings.* At the close of the preliminary conference, the master may schedule additional proceedings, including one or more settlement conferences.

(3) *Notice of other conferences and hearings.* The Divorce Masters Office shall give counsel or the parties not less than ten (10) days written notice of any subsequent conference or hearing.

(4) *Continuance requests.* All requests for continuances are to be submitted on the Court's "Application for Continuance" form and shall include the response of opposing counsel. Requests for continuances shall be submitted to the Divorce Masters Office. The master shall rule on all requests for continuances. Any party aggrieved by the master's ruling may seek relief by filing a Motion for Continuance in Current Business Court.

(5) *Attendance at conferences.* Both parties and their counsel shall attend all conferences unless excused in advance by the master. Parties may participate by speaker telephone, but only with the prior consent of the master and the adverse party or by order of court. A request for a party to be excused or for a party to participate by speaker telephone must be made in writing and delivered to opposing counsel and to the Divorce Masters Office no less five (5) days in advance of the scheduled conference.

(6) *Failure to appear.* If any party fails to appear at any conference or hearing, either in person or by counsel, the master may proceed with the conference or hearing without the participation of that party provided that written notice of the conference or hearing has been given as set forth above.

(7) *Good faith effort to settle.* The parties, with the aid of their counsel and the appropriate assistance of the master, should make a good faith effort to resolve contested matters, including the marital property division, and shall determine those items which are contested and upon which testimony shall be taken at a scheduled hearing.

(8) *Master's conference memoranda.* During the initial conference or any subsequent conference, the master shall determine what discovery shall be provided by the parties and shall include a description of this discovery in a conference memorandum, which shall be provided to the parties shortly after the conference. In addition to other matters contained within it, the conference memorandum shall set a date by which all of the identified discovery shall be produced.

(9) *Sanctions by masters.* If either party fails to comply with the discovery deadlines established by the master in the prehearing statement or otherwise, the master, on motion of the adverse party or sua sponte, may impose any or all of the following sanctions:

[a] The matter may be continued until discovery is complete.

[b] The master, in his or her discretion may apply any of the sanctions set out in Pa.R.C.P. 4019(c)(1), (2), (3), or (5).

(10) *Actions to compel discovery.* If either party fails to comply with the discovery deadlines established by the

master, the adverse party may elect to file a motion in current business court to compel discovery in accordance with the master's directive.

(11) *Notice of Master's hearings.* When the case is ready to proceed, the master shall establish the time and place for the formal hearing and shall give no less than ten (10) days notice thereof by mail to counsel. If either party does not have counsel, then the ten (10) day notice shall be mailed directly to that party at the address noted on the records of the Prothonotary or such other address as the party may have provided in writing to the Divorce Masters Office after service of the Complaint.

(g) *Stenographic record.*

(1) *Hearings of record.* All hearings before a master shall be conducted on the record. Transcripts may be produced by either an official reporter or by electronic recording devices, in the Court's sole discretion.

(2) *Preparation of transcript.* At the conclusion of the hearing or any portion thereof, the master may direct that a transcript be prepared for use by the master in preparing the master's report and recommendation. Such transcript may be on paper or may be reproduced electronically by the reporter.

[a] In the case of paper transcripts or electronic media containing the full text of paper transcripts, the parties or their counsel may obtain copies at their own expense from the court reporter.

[b] In the case of electronic transcripts, the master may request a "real time" copy of the court reporter's notes. "Real time" copies of the court reporter's notes are not available to the parties or their counsel, but are only available for use by the court at a reduced cost to the parties. Therefore, if the parties or their counsel wish to have a transcript of the proceedings, they must request a paper transcript or electronic media containing the full text of the paper transcript from the court reporter and must pay the fees imposed by the court reporter.

(3) *Master's report without transcript.* The master may elect to prepare a report and recommendation without the benefit of a transcript of the proceedings.

(4) *Parties to pay transcript costs.* The master shall direct the manner in which the costs of the transcript shall be paid. If the master orders the transcript, then both parties shall pay the assessed transcript costs within fifteen (15) days of the notice sent by the court reporter(s) of the amount due.

(5) *Assessment of costs.* These costs shall be treated in the same manner as those set forth in subsection (c)(4), above.

(6) *Sanctions for failure to pay.* In the event a party fails to pay the transcript cost, as directed by the master, the compliant party may file a motion with the Court to compel payment. The Court shall order that a judgement be entered against the non-compliant party for the sum of their portion of the transcript cost plus counsel fees in an amount not less than two hundred fifty dollars (\$250.00).

Rule 1920.55 Masters Reports and Exceptions

(a) *Masters reports and recommendations.*

(1) *Effective date for alimony pendente lite and alimony.* All reports from the masters recommending an award of alimony pendente lite or alimony shall contain a recommendation for the effective date of that order. All reports from the masters recommending an award of interim counsel fees shall contain a recommendation for a date by which the award must be paid.

(2) *Draft court orders.* In all cases, the master's report and recommendation shall be accompanied by one or more draft orders setting forth the master's recommended resolution of the case.

(3) *Assessment of costs and expenses.* In any case, the master may assess any costs or expense in the case against either party. The master may recommend that the party pay these costs before the granting of the divorce or the enforcement of any economic decree; PROVIDED, HOWEVER, that the master must first consider the effects of staying the granting of a divorce or the enforcement of any economic decree upon the other party. The master's recommended assessment of costs and expenses shall be binding on the parties unless specific exceptions are filed with respect to this recommended assessment.

(b) *Filing Exceptions.*

(1) *Filing of exceptions.* Exceptions to the master's report, filed pursuant to Pa. R.C.P. 1920.55, shall be filed in the Office of the Prothonotary, with copies provided to the Divorce Masters Office and to the opposing party.

(2) *Time for filing exceptions.* Regardless of whether a transcript has been filed, a party must file any Exceptions to the master's report and recommendation within ten (10) days after the notice of the filing of said report has been mailed. A party filing Exceptions shall also file a certification that the transcript has been requested in accordance with Local Rules.

(3) *Request of transcript.* In the event no transcript has been filed by the court reporter prior to the time that a party files Exceptions, the party filing Exceptions shall make a written request to the court reporter for the preparation and filing of the transcript. This request must be made within ten (10) days after the date of the notice from the Divorce Masters Office that the report and recommendation has been filed. Any party requesting a transcript shall pay the costs of such transcript to the court reporter, within fifteen (15) days of the written notice from the court reporter that the transcript has been transcribed. In the event such party fails to pay the transcript cost within the fifteen (15) days allowed, then that party is deemed to have waived the right to file amended Exceptions, as set forth in this subsection and that party's briefing schedule commences, as set forth in subsection (6), below.

(4) *Amended Exceptions.* If a party wishes to file additional Exceptions after reviewing the transcript, the party may do so by filing amended Exceptions within ten (10) days after the court reporter filed the transcript, provided that the party has timely paid the transcription costs.

(5) *Briefs to reference transcript.* The moving party's brief shall direct the Court to the specific page or pages of the transcript of the notes of testimony that support the moving party's position on all issues raised by the Exceptions. The responding party's brief shall direct the Court to the specific page or pages the transcript of the notes of testimony that support the responding party's position on all issues raised by the Exceptions.

(6) *Filing and service of briefs.*

[a] *Moving party.* In Rule 1920.55 proceedings on the Exceptions to a master's report, the party filing the Exceptions shall file a brief in support thereof within twenty (20) days from the filing of the transcript.

[b] *Opposing party.* Within fifteen (15) days after the service of the moving party's brief, all other parties

desiring to oppose the issue raised by such proceeding shall file a brief in opposition.

[c] *Reply.* Any moving party may file a reply brief within five (5) days after the service of the brief in opposition.

[d] *Listing and disposition.* See Rule 6031(b).

[e] *Sanctions.* See Rule 6031(c).

[g] *Transmittal of the record.* If no Exceptions are filed within ten (10) days of the notice of the filing of the

master's report and recommendation, or if Exceptions have been filed but addressed by the court, then either party may move for the entry of a Final Order of Court by filing a "Praeipce to Transmit Record" with the Prothonotary. The Divorce Masters Office shall not be responsible for preparing or filing this Praeipce.

[Pa.B. Doc. No. 02-2218. Filed for public inspection December 13, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 403]

Compliance With the No Child Left Behind Act of 2001

The Department of Education (Department) adds Chapter 403 (relating to Compliance with the No Child Left Behind Act of 2001).

Contact Person

Questions regarding these standards should be directed to Dr. Frances Warkomski, Director of the Bureau of Special Education, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 783-2311.

Effective Date

The standards will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Department acts under the authority of section 2603-B(d)(10)(i) of the Public School Code of 1949 (24 P. S. § 26-2603-B(d)(10)(i)) (code), which was added by section 31 of the act of June 29, 2002 (P. L. 524, No. 88) (Act 88). Section 2603-B(d)(10)(i) of the code empowers the Department, with the approval of the State Board of Education (State Board), to adopt standards to comply with the provisions of the No Child Left Behind Act of 2001 (NCLB) (Pub. L. No. 107-110, 115 Stat. 1425) to maintain the eligibility of the Commonwealth to receive Federal funding for education programs. Under section 2603-B(d)(10)(i) of the code, the State Board must approve or disapprove the standards within the 30 days of submission to its office or at its next scheduled meeting, whichever is sooner. Failure of the State Board to approve or disapprove the standards within the time prescribed results in its deemed approval of the standards proposed by the Department.

Standards promulgated by the Department under section 2603-B(d)(10)(i) of the code must be deposited with the *Pennsylvania Bulletin* for publication, see section 2603-B(d)(10)(ii) of the code, but they are exempt from the following laws:

(a) Sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (71 P. S. §§ 1201—1205), known as the Commonwealth Documents Law.

(b) Section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)).

(c) The Regulatory Review Act (71 P. S. §§ 745.1—745.15).

In light of these exemptions and the express approval of the State Board, the Department is depositing these standards for publication in final form.

Description of Process

On September 18, 2002, the Department presented to the State Board two sets of proposed standards necessary to comply with NCLB. On September 18, 2002, the special committee of the State Board established to work with the Department in the development and review of standards necessary to comply with NCLB (the NCLB committee) conducted a public meeting to review and

discuss the standards proposed by the Department and to receive public comment on the proposal.

At the regular business meeting of the State Board held September 19, 2002, the Secretary of Education made a detailed presentation explaining the proposed standards. At its September 19, 2002, meeting, the State Board publicly voted to approve the proposed standards presented by the Department. On September 26, 2002, the Chairperson of the State Board signed two resolutions delineating the standards. Those resolutions were published at 32 Pa.B. 5151 (October 12, 2002).

Background and Need for Standards

On January 8, 2002, President George W. Bush signed NCLB into law. The NCLB, inter alia, amends Titles I and III of the Elementary and Secondary Education Act of 1965 (ESEA) (Pub. L. 89-10, 79 Stat. 27) (Improving the Academic Achievement of the Disadvantaged) (20 U.S.C.A. §§ 6301—6578 and 6801—7014). The purpose of Title I is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State achievement standards and academic assessments. In furtherance of this purpose, Title I provides grants to State education agencies and sub-grants to local educational agencies. To remain eligible for funding under Title I, State and local educational agencies must comply with the NCLB.

Section 1111(b)(2)(A) of Title I, as added by NCLB (20 U.S.C.A. § 6311(b)(2)(A)), requires each state to demonstrate that it has developed and is implementing a single, statewide accountability system that will be of high quality, technically valid and reliable, aligned with the state's academic content and student achievement standards, and based upon the same content expectations for all children. It is further required, by section 1111 of NCLB, that the single, statewide accountability system be effective in ensuring that all Local Education Agencies (LEAs), public elementary schools and public secondary schools make adequate yearly progress (AYP), as defined in section 1111(b)(2)(C) of Title I.

In addition, section 1111(b)(3)(A) of Title I requires that, beginning no later than the 2005-06 school year, states assess all students in grades three through eight against the challenging State academic content standards in, at a minimum, math and reading or language arts and, beginning in the 2007-08 school year, in science for students in grades four, seven and ten.

Section 3121 of Title III of the ESEA, added by NCLB (20 U.S.C.A. § 6841), requires that each state approve evaluation measures that are designed to assess the progress of children in attaining English proficiency, including a child's level of comprehension, listening, speaking, reading and writing skills in English.

Description of Standards

The standards proposed by the Department and approved by the State Board provide for a single, Statewide accountability system. More specifically, the standards provide for the fulfillment of the NCLB's assessment requirements and the calculation of AYP.

Fiscal Impact

These standards are necessary to ensure that the State and its local educational agencies remain eligible to receive Federal funding under Titles I and III of the ESEA. The standards will not result in new costs to the

State, as the Department will continue to access State Title I funds. In addition, Title VI of the ESEA (Flexibility and Accountability), as amended by the NCLB (20 U.S.C.A. §§ 7301—7372), provides \$11.6 million in funds to implement this program.

Since the standards as adopted allow the LEAs to choose from a list of commercially available assessments that are currently used as local assessments in grades four, six and seven, the fiscal impact to school districts is expected to be minimal. To the extent that funding is available, the Department expects to offset at least some of the costs that school districts may incur.

Paperwork Requirements

The additional paperwork requirements resulting from these standards are minimal and mandated by NCLB.

Regulatory Review

Under section 2603-B(d)(10)(iii) of the code, these standards are exempt from the Regulatory Review Act.

Findings

The Department finds that:

(1) Proposed rulemaking in advance of the promulgation of standards is not required under section 2603-B(d)(10)(iii)(A) of the code added by section 31 of Act 88, which expressly provides that the standards are exempt from the requirements of sections 201—205 of the Commonwealth Documents Law.

(2) The State Board approved the proposed standards by public vote at its September 19, 2002, meeting.

(3) The promulgation of these standards is necessary for compliance with the NCLB.

Order

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

(a) The regulations of the Department, 22 Pa. Code, are amended by adding §§ 403.1—403.3 to read as set forth in Annex A.

(b) The Secretary of Education will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

CHARLES B. ZOGBY,
Secretary

Fiscal Note: 6-284. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 403. COMPLIANCE WITH THE NO CHILD LEFT BEHIND ACT OF 2001

- Sec. 403.1. Purpose and scope.
- 403.2. Definitions.
- 403.3. Single accountability system.

§ 403.1. Purpose and scope.

This chapter describes the standards of the Department, approved by the State Board, that have been adopted under section 2603-B(d)(10) of the Public School Code (24 P. S. § 26-2603-B(d)(10)) to facilitate compliance

by the Commonwealth with the requirements of the No Child Left Behind Act of 2001 (Pub. L. No. 107-110, 115 Stat. 1425).

§ 403.2. Definitions.

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

AYP—Adequate yearly progress as defined by section 1111(b)(2)(C) of Title I (20 U.S.C.A. § 6311(b)(2)(C)), added by NCLB.

Department—The Department of Education of the Commonwealth.

ESEA—The Elementary and Secondary Education Act of 1965 (20 U.S.C.A. §§ 6301—7941), as amended by the NCLB.

LEA—A local educational agency.

NCLB—The No Child Left Behind Act of 2001 (Pub. L. No. 107—110, 115 Stat. 1425) (20 U.S.C.A. §§ 6053e, 6054b, 6055h, 6056a, 1041—1044, 3427 and 6052).

PSSA—The Pennsylvania System of State Assessment.

State Board—The State Board of Education of the Commonwealth.

Title I—Title I of the ESEA (20 U.S.C.A. §§ 6301—6578), as amended by NCLB.

§ 403.3. Single accountability system.

(a) *Requirement of NCLB.* Section 1111 of Title I, added by NCLB (20 U.S.C.A. § 6311), requires each state to develop and implement a single, statewide state accountability system that will be effective in ensuring that all LEAs, public elementary schools and public secondary schools make AYP as defined in section 1111(b)(2)(C) of Title I.

(b) *Proficiency as a measure of student progress.*

(1) As the starting point for calculating the AYP, the Department will use the proficient level of student performance, as adopted by the State Board on May 10, 2001. See 31 Pa.B. 2763 (May 26, 2001).

(2) Using data from the 2001-02 school year as the baseline, the Department will determine the number of students meeting or exceeding the proficient level of achievement on State assessments.

(c) *Adequate yearly progress.*

(1) The Department will calculate the AYP by using the “intermediate method” of calculation, involving “stepped goals.”

(2) The Department will provide yearly targets to assist the LEAs in measuring progress within the intermediate method.

(3) The Department will use graduation rates as an additional indicator of the AYP for secondary schools and students.

(4) The Department will use child attendance rates as an additional indicator of the AYP for elementary schools and students.

(5) The Department will use 75 as the required number of students tested per building to form a group for the purposes of measuring the AYP of students with disabilities, limited English proficient students and students who are members of economically disadvantaged, major racial and ethnic groups.

(d) *Assessments.*

(1) Section 1111(b)(3)(A) of Title I specifically requires that, beginning no later than the 2005-06 school year, states must assess all students in grades three through eight against the challenging state academic content standards in, at a minimum, math and reading or language arts, or both. In addition, beginning in the 2007-08 school year, states must assess all students in grades four, seven and ten against the challenging state academic content standards for science.

(i) To accomplish the mandates described in paragraph (1), the LEAs shall continue to use the PSSA to assess students in grades three, five, eight and eleven in reading and mathematics and to assess students in grades six, nine and eleven in writing.

(ii) For determining the tests to be administered in grades four, six and seven, the Department will adhere to the following procedure:

(A) The Department will identify a limited number of commercially available assessments that are currently used as local assessments in grades four, six and seven as tests that may be used for compliance with the NCLB.

(B) The tests identified by the Department will be augmented, if necessary, for alignment with State academic standards.

(C) From these tests, each LEA shall choose the assessment that it will use to test students in grades four, six and seven.

(iii) The Value Added Assessment System shall be implemented as a component of the Commonwealth's assessment system to provide the LEAs with analyses and reports to offer valuable information for focused program improvement to increase performance.

(2) Section 3121 of Title III of the ESEA, added by the NCLB (20 U.S.C.A. § 6841), requires that each state approve evaluation measures that are designed to assess the progress of children in attaining English proficiency, including a child's level of comprehension, listening, speaking, reading and writing skills in English.

(i) To accomplish the mandates described in paragraph (2), the Commonwealth will serve as the leader in a consortium of states seeking to develop a language proficiency assessment that will meet the needs of the NCLB.

(ii) The Department will use the consortium's assessment to evaluate the progress of students in attaining English proficiency, including a child's level of comprehension, listening, reading and writing skills in English.

(iii) The Department will identify one or more commercially developed language proficiency assessments that the LEAs shall administer until the assessment developed by the consortium is available.

[Pa.B. Doc. No. 02-2219. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Great Lakes Initiative

The Environmental Quality Board (Board) is amending Chapter 93 (relating to water quality standards) to read

as set forth in Annex A. The final-form rulemaking incorporates Federal requirements concerning prohibitions and phasing out of mixing zones for bioaccumulative chemicals of concern (BCCs) in waters of the Great Lakes System.

This notice is given under Board order at its meeting of September 17, 2002.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed. This final-form rulemaking is available electronically through the Department of Environmental Protection (Department) website (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

This final-form rulemaking is made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grants the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department.

D. *Background*

The Board approved the proposed rulemaking on November 20, 2001, and it was published at 32 Pa.B. 427 (January 26, 2002) with a provision for a 45-day public comment period that closed on March 12, 2002.

The purpose of this final-form rulemaking is to revise existing water quality regulations in Chapter 93. The Great Lakes Initiative (GLI) requirements were promulgated at 40 CFR Part 132 (relating to water quality guidance for the Great Lakes System) at 60 FR 15366 (March 23, 1995) to provide for consistent protection of the Great Lakes System. The Commonwealth promulgated the regulations for this Commonwealth waters in the Great Lakes System on December 27, 1997, and the Environmental Protection Agency (EPA) approved the regulations on March 17, 2000.

The EPA had promulgated a mixing zone prohibition provision as part of the regulation, but the provision was vacated by the United States Court of Appeals for the District of Columbia Circuit in the case of *American Iron & Steel Institute v. EPA*, 115 F.3d 979 (D.C. Cir. 1997), and was remanded to the EPA for further consideration. In response to the Court's remand, the EPA published a proposal on October 4, 1999, to amend the guidance to reinstate the provision to prohibit mixing zones for BCCs (64 FR 53632). The EPA promulgated the final rule to amend Appendix F, Procedure 3.C of 40 CFR Part 132 to prohibit mixing zones for BCCs in the Great Lakes System, subject to certain exceptions for existing dis-

charges, by publication in 65 FR 67638 (November 13, 2000). The regulatory amendment to Chapter 93 provides consistency with the Federal guidance for the Great Lakes System by eliminating opportunity for the use of mixing areas for discharges of toxic and persistent chemicals known as BCCs. Examples of BCCs are mercury and dioxin. BCCs in the waters of the Great Lakes are not flushed from the system but build up for long periods of time, allowing aquatic organisms to accumulate and magnify the pollutants. Animals and humans who consume the fish are subject to increased loadings of these toxic pollutants. This final-form rulemaking eliminates the use of mixing areas in calculating allowable discharge limits for BCCs, thereby lessening loadings to the Great Lakes System.

For existing discharges to waters of the Great Lakes System, the final-form rulemaking prohibits mixing zones for BCCs after November 15, 2010. New discharges of BCCs to waters of the Great Lakes System are subject to the mixing zone prohibition when the EPA approves the State's submission of the final-form rulemaking. The three Great Lakes states, the Commonwealth, Ohio and New York, which did not include the BCC mixing zone provision in their regulations, are required to submit amended regulations for the EPA approval by May 13, 2002. The Federal regulation provides for an extension to November 13, 2002, for states making progress toward adopting the provision.

On May 8, 2002, the Water Resources Advisory Committee approved the final draft recommendation for presentation to the Board.

E. *Summary of Comments and Responses on the Proposed Rulemaking*

A 45-day public comment period for the proposed rulemaking ended on March 12, 2002. Two comments were received. The first comment asked the Department to develop a compliance plan in case a BCC is found in an existing discharge at a later date by improved analytical methods. Because the Department addresses compliance on a case-by-case basis, no plan will be developed unless, and until, one is needed.

The other comment alleged that use of the word "subpart" in the proposed rulemaking was incorrect. After discussion with the Legislative Reference Bureau, "subpart" was replaced with a "." and corresponding changes were made to the final-form rulemaking. An editorial change was also made to the definition of "BCC," removing the word "subpart."

F. *Benefits, Costs and Compliance*

Executive Order 1996-1, "Regulatory Review and Promulgation" provides for a cost/benefit analysis of the final-form rulemaking.

Benefits

Overall, the citizens of this Commonwealth will benefit from the final-form rulemaking because it provides the appropriate level of protection of the waters in the Great Lakes System. The revision also assures compliance with the applicable Federal requirements.

Compliance Costs

The final-form rulemaking is not expected to impose any significant additional compliance costs on the regulated community. No current NPDES permits provide for discharges of BCCs to the Great Lakes System in this Commonwealth. For this reason, no costs associated with phase out of mixing provisions need to be addressed. New

discharges would have to meet the requirement when discharging commences, but there is no way of knowing if or when discharges will be proposed.

Compliance Assistance Plan

The final-form rulemaking adds a requirement that, in practice, will only be applicable if there are new discharges of BCCs to waters of the Great Lakes System. The requirement is straightforward and will not require implementation guidance. Staff are available to assist regulated entities in complying with the regulatory requirements if any questions arise.

Paperwork Requirements

This final-form rulemaking should have no significant paperwork impact on the Commonwealth, its political subdivisions or the private sector.

G. *Pollution Prevention*

In keeping with Governor Schweiker's interest in encouraging pollution prevention solutions to environmental problems, this final-form rulemaking specifically provides for prevention of additional loadings of BCCs to the water environment by requiring that the addition of these substances be significantly limited, even beyond that necessary to meet water quality standards.

H. *Sunset Review*

The final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended. In addition, water quality standards are required to be reviewed by the Department at least once every 3 years, with the results of the review to be submitted to the EPA.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 11, 2002, the Department submitted a copy of the notice of proposed rulemaking published at 32 Pa.B. 427, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House 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 this final-form rulemaking, the Department 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 October 28, 2002, this 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 November 7, 2002, and approved the final-form rulemaking.

J. *Findings*

The Board finds that:

(1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 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) This final-form rulemaking does not enlarge the purpose of the proposal published at 32 Pa.B. 427.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending § 93.8a to read as set forth in Annex A.

(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 approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House 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, relating to this document, see 32 Pa.B. 5816 (November 23, 2002).)

Fiscal Note: Fiscal Note 7-374 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

ANTIDEGRADATION REQUIREMENTS

§ 93.8a. Toxic substances.

(a) The waters of this Commonwealth may not contain toxic substances attributable to point or nonpoint source waste discharges in concentrations or amounts that are inimical to the water uses to be protected.

(b) Water quality criteria for toxic management substances shall be established under Chapter 16 (relating to water quality toxics management strategy—statement of policy) wherein the criteria and analytical procedures will also be listed. Chapter 16 along with changes made to it is hereby specifically incorporated by reference.

(c) Water quality criteria for toxic substances which exhibit threshold effects will be established by application of margins of safety to the results of toxicity testing to prevent the occurrence of a threshold effect.

(d) Nonthreshold carcinogenic effects of toxic substances, will be controlled to a risk management level of one excess case of cancer in a population of 1 million (1×10^{-6}) over a 70-year lifetime. Other nonthreshold effects of toxic substances will be controlled at a risk management level as determined by the Department.

(e) Water quality criteria for toxics shall be applied in accordance with Chapter 96 (relating to water quality

standards implementation) and any other applicable State and Federal laws and regulations. For carcinogens, the design conditions shall result in a lifetime—70 years—average exposure corresponding to the risk management level specified in subsection (d).

(f) The Department will consider both the acute and chronic toxic impacts to aquatic life and human health.

(g) The Department may consider synergistic, antagonistic and additive toxic impacts.

(h) At intervals not exceeding 1 year, the Department will publish a new or revised water quality criteria for toxic substances, and revised procedures for criteria development in the *Pennsylvania Bulletin*.

(i) A person challenging criteria established by the Department under this section shall have the burden of proof to demonstrate that the criteria does not meet the requirements of this section. In addition, a person who proposes an alternative site-specific criterion shall have the burden of proof to demonstrate that the site specific criterion meets the requirements of this section.

(j) The requirements for discharges to and antidegradation requirements for the Great Lakes System are as follows:

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

BAF—Bioaccumulation Factor—The ratio in liters per kilogram of a substance's concentration in tissues of an aquatic organism to its concentration in the ambient water, when both the organism and its food are exposed and the ratio does not change substantially over time.

BCC—Bioaccumulative Chemical of Concern—A chemical that has the potential to cause adverse effects which, upon entering the surface waters, by itself or its toxic transformation product, accumulates in aquatic organisms by a human health BAF greater than 1,000, after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation, under the methodology in 40 CFR Part 132 Appendix B (relating to Great Lakes Water Quality Initiative). Current BCCs are listed in 40 CFR 132.6, Table 6.A (relating to pollutants of initial focus in the Great Lakes Water Quality Initiative).

Great Lakes System—The streams, rivers, lakes and other bodies of surface water within the drainage basin of the Great Lakes in this Commonwealth.

Open Waters of the Great Lakes—The waters within the Great Lakes in this Commonwealth lakeward from a line drawn across the mouth of the tributaries to the lakes, including the waters enclosed by constructed breakwaters, but not including the connecting channels.

(2) *Total Maximum Daily Loads (TMDLs).* TMDLs for Open Waters of the Great Lakes shall be derived following the procedures in 40 CFR Part 132, Appendix F, Procedure 3.D (relating to Great Lakes Water Quality Initiative implementation procedures).

(3) Statewide antidegradation requirements in this chapter and 95 (relating to water quality standards; and wastewater treatment requirements) and in the Federal regulation in 40 CFR 131.32(a) (relating to Pennsylvania) as applicable, apply to all surface waters of the Great Lakes System.

(4) If, for any BCC, the quality of the surface water exceeds the levels necessary to support the propagation of fish, shellfish and wildlife and recreation in and on the

waters, that quality shall be maintained and protected, unless the Department finds that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the surface water is located.

[Pa.B. Doc. No. 02-2220. Filed for public inspection December 13, 2002, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 96]

Water Quality Standards Implementation—Chloride and Sulfate

The Environmental Quality Board (Board) is amending Chapter 96 (relating to water quality standards implementation) to read as set forth in Annex A.

This order was adopted by the Board at its meeting of September 17, 2002.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed. 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*

This final-form rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department.

D. *Background and Summary*

The purpose of this final-form rulemaking is to revise existing water quality regulations in Chapter 96. This final-form rulemaking adds the sulfate and chloride criteria to the exceptions in § 96.3(d) (relating to water quality protection requirements). Section 96.3(d) provides for exception to the application of water quality criteria at all points instream after mixing for certain substances. The criteria for these substances, total dissolved solids (TDS), fluoride, nitrite-nitrate, phenolics, sulfate and chloride, are applicable at the point of all existing or planned surface potable water supply withdrawals, fully protecting the potable water supply use.

This final-form rulemaking will provide the appropriate level of protection for the potable water supply use. The

current scientific information supports this final-form rulemaking because there are no adverse human health effects from the substances at the levels that the substances are regulated. Effluent limitations required for discharges of these substances are calculated using critical (or stringent) conditions that include a requirement that the criteria be met 99% of the time, even at the low-flow condition known as Q^{7-10} (that is, the lowest 7-day consecutive flow in a 10-year period), a condition that is seldom reached, even in drought conditions. This provides an additional margin of safety built into the effluent limitations to protect the potable water supplies, prior to withdrawal. In addition, other surface water uses will be protected by application of general criteria and other criteria listed in §§ 93.6 and 93.7 (relating to general water quality criteria; and specific water quality criteria).

The Board has considered all of the public comments received on its proposed rulemaking in preparing this final-form rulemaking. The draft final-form rulemaking was discussed with and approved by the Department's Water Resources Advisory Committee on May 8, 2002.

E. *Summary of Comments and Responses on the Proposed Rulemaking*

In the Preamble to the proposed rulemaking, the Department specifically sought information and comment on an appropriate health-based value for sulfate. Although some information was provided with comments, no new information was presented. The Department is not recommending a change to the sulfate water quality criterion.

Comments were received from one person who offered testimony at the public hearing and from nine other persons who provided written comments. All but one comment supported the proposed rulemaking. Some comments supported changing the sulfate and chloride criteria but there is not sufficient information on which to develop a change in the water quality criteria. The one opposing comment was concerned about protection of the esthetic use under the new rulemaking. The esthetic use, as well as the aquatic use, is protected by the osmotic pressure criterion and, if necessary, by the general narrative criteria in § 93.6.

F. *Benefits, Costs, and Compliance*

Executive Order 1996-1, "Regulatory Review and Promulgation" provides for a cost/benefit analysis of the final-form rulemaking.

Benefits

Overall, the citizens of this Commonwealth will benefit from the change because it provides the appropriate level of protection for the uses of the Commonwealth's surface waters.

Compliance Costs

The final-form rulemaking will reduce future compliance costs on the regulated community, when compared to the existing regulation. Effluent limitations for chloride and sulfate will be applied where needed to protect potable water supplies, which will preclude the need for costly advanced treatment technologies or source reduction techniques to reduce these substances from wastewater discharges. Because effluent limits are case-specific, there is no accurate way to predict the costs required or saved by a single discharger or all dischargers.

Compliance Assistance Plan

The final-form rulemaking will be implemented according to procedures already available for the substances currently included in § 96.3(d). The technical guidance, Implementation Guidance for Application of Section 93.5(e) (DEP 391-2000-019), will be amended to include sulfate and chloride and also to update the outdated section reference to reflect § 96.3(d). Staff members are available to assist regulated entities in complying with the regulatory requirements if any questions arise.

Paperwork Requirements

The final-form rulemaking should have no significant paperwork impact on the Commonwealth, its political subdivisions or the private sector.

G. Pollution Prevention

In keeping with Governor Schweiker's interest in encouraging pollution prevention solutions to environmental problems, this final-form rulemaking provides for controlling the discharge of the listed substances to the water environment to achieve or maintain water quality standards.

H. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 11, 2002, the Department submitted a copy of the notice of proposed rulemaking published at 32 Pa.B. 428 (January 26, 2002), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House 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 this final-form rulemaking, the Department 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 October 28, 2002, this 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 November 7, 2002, and approved the final-form rulemaking.

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 regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law. In addition, a Board hearing was held and all comments were considered.

(3) This regulation does not enlarge the purpose of the proposal published at 32 Pa.B. 428.

(4) This regulation is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 96, are amended by amending § 96.3 to read as set forth at 32 Pa.B. 428.

(b) The Chairperson of the Board shall submit this order and 32 Pa.B. 428 to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this order and 32 Pa.B. 428 to IRRC and the Senate and House 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, relating to this document, see 32 Pa.B. 5816 (November 23, 2002).)

Fiscal Note: Fiscal Note 7-375 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 02-2221. Filed for public inspection December 13, 2002, 9:00 a.m.]

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ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 260a—265a AND 270a]
Hazardous Waste Management

The Environmental Quality Board (Board) by this order amends Chapters 260a—265a and 270a to update the hazardous waste management program to read as set forth in Annex A.

This order was adopted by the Board at its meeting of September 17, 2002.

A. Effective Date

The final-form rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Rick Shipman, Division of Hazardous Waste Management, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-6239; or Kurt Klapkowski, 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, (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

The final-form rulemaking is being made under the authority of sections 105, 401—403 and 501 of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.105,

691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20). Under sections 105, 401—403 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety and welfare, and the environment of this Commonwealth. Sections 105, 402 and 501 of The Clean Streams Law grant the Board the authority to adopt regulations that are necessary to protect the waters of this Commonwealth from pollution. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

D. *Background and Summary*

The hazardous waste management regulations were amended at 29 Pa.B. 2367 (May 1, 1999) in accordance with the Regulatory Basics Initiative (RBI) and Executive Order 1996-1, "Regulatory Review and Promulgation." Since that time, the Commonwealth's hazardous waste management program received final authorization for changes made to its hazardous waste program under the Resource Conservation and Recovery Act from the Environmental Protection Agency (65 FR 57734). This final-form rulemaking provides the opportunity to make the changes necessary to update that program authorization.

In addition, the Department now has over 3 years experience implementing these regulations. Several of the changes contained in this final-form rulemaking were developed to address issues raised since the RBI rulemaking and correct problems identified over the past 3 years.

On May 9, 2002, the Solid Waste Advisory Committee (SWAC) reviewed the draft final-form rulemaking and voted to submit it to the Board for consideration as a final-form rulemaking pending resolution of three issues. Two of the issues were resolved with minor wording changes to the final-form rulemaking. The third issue involves reporting of spills and discharges of hazardous waste by generators. The Department compared the final-form rulemaking with reporting requirements for discharges under the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Department of Transportation release reporting requirements and reporting requirements of other states. This review resulted in modification of the final-form rulemaking to ensure consistency with these other requirements.

A list of members of the SWAC may be obtained from the agency contacts identified in Section B of this order.

The final-form rulemaking generally falls into one of five categories: codification of SWMA requirements that differ from or are broader than the Federal requirements incorporated by reference; restoration of regulatory provisions that were inadvertently deleted in the RBI rulemaking; clarification of ambiguous requirements; clarification of manifesting requirements; and correction of typographical errors. The specific changes in these categories are summarized.

1. *Codification of statutory requirements*

The Department has a general policy not to duplicate statutory definitions or provisions in regulations unless a compelling reason exists to do so. The hazardous waste regulations contain provisions that incorporate by reference large portions of the Federal hazardous waste regulations. The controlling statutory authority in the Commonwealth is the SWMA. However, where the SWMA

and the Federal regulations touch on the same subject, the SWMA governs that subject in this Commonwealth. As a result, the Commonwealth hazardous waste regulations contain some provisions that duplicate SWMA requirements where the Federal regulations vary from the commands of the SWMA. In addition, there are some subjects that the SWMA explicitly regulates, and on which the Federal regulations are silent. The final-form rulemaking duplicates the SWMA provisions in two instances. This duplication is necessary to eliminate confusion over the incorporation by reference of contradictory Federal regulations and to establish requirements where the Federal regulations are silent. The first instance is in § 260a.10 (relating to definitions) where the rulemaking adds the definition of "treatment." The term is defined differently in section 103 of the SWMA (35 P. S. § 6018.103) and 40 CFR 260.10. The definition follows the SWMA language.

The second instance is in § 263a.13(b)(4) and (j) (relating to licensing). In accordance with section 403(b) of the SWMA, the final-form rulemaking adds the requirement that a transporter of hazardous waste prepare and carry a preparedness, prevention and contingency plan (PPC plan) to address potential discharges or spills of hazardous waste. The incorporated Federal regulations do not contain this requirement.

2. *Restoration of provisions that were deleted in the May 1999 RBI rulemaking*

Several of the amendments reinstate requirements that were part of the Commonwealth hazardous waste program prior to the May 1999 RBI rulemaking. Because of the general approach of broadly incorporating the Federal hazardous waste regulations by reference, some existing regulations that helped to clarify how the program operates were inadvertently deleted. Generally speaking, these requirements remain in effect based on the requirements of the SWMA and the Department's interpretation of the hazardous waste regulations. Having them reinstated in the rulemaking serves to clarify the Department's approach to the hazardous waste program and inform the regulated community of proper compliance methods. In several cases the regulated community and regional Department staff have noted the problems caused by the absence of these long-standing provisions.

An excellent example of this category of changes is in § 261a.3 (relating to definition of "hazardous waste"). The final-form rulemaking reinstates the requirement to manage waste as hazardous until a waste determination is completed. Under 40 CFR 262.11 (relating to hazardous waste generation), generators of solid waste must make a determination as to whether or not the waste is hazardous. It is silent, however, on the issues of when the determination must be complete and management of the waste until the determination is complete. Reinstating this requirement in the regulation establishes a firm position to what would otherwise be an ambiguous provision in the regulations.

Another good example concerns when spills and discharges of hazardous waste must be reported. Section 403(b)(12) of the SWMA requires "any person or municipality who generates, transports, stores, treats or disposes of hazardous waste to . . . immediately notify the Department and the affected municipality or municipalities of any spill or accidental discharge" of hazardous waste. Section 262a.43 (relating to additional reporting) re-establishes the conditions, amounts, standards and procedures for reporting spills and discharges of hazardous waste. This section also restores the provision that a

Department official may authorize immediate removal of spilled hazardous wastes or materials if necessary to protect the health and safety of the public and the environment.

Reinstating the following provisions accomplishes similar goals: § 262a.11 (relating to hazardous waste determination) clarifies that the Department retains the independent authority to make a waste determination; § 262a.12(b)(1)(iv) (relating to EPA Identification numbers) requires subsequent notification when a generator's facility class changes; § 262a.12(b)(2) explicitly states that a generator is only allowed to offer hazardous waste to a Department-licensed transporter; § 263a.13(j) requires a copy of the contingency plan to be on a hazardous waste transport vehicle; § 263a.26(c) (relating to assessment of penalties) notes that the penalty for falsification is a minimum of \$1,000 (rather than a flat \$1,000); § 265a.13 (relating to general and generic waste analysis) clarifies that the report that must be submitted is a "Module I" report; and § 270a.60(a) (relating to permits-by-rule) notes that an owner or operator must give notice to the Department prior to operating under a permit-by-rule.

3. Clarification of ambiguous requirements

The third broad category of changes addresses ambiguous requirements identified during the implementation of the RBI regulations over the past 2 years. These changes do not, however, have pre-RBI counterparts that the Department can reinstate.

Several of the changes in this category relate to containment and contingency plans. Section 403(b) of the SWMA states:

(b) It shall be unlawful for any person or municipality who generates, transports, stores, treats or disposes of hazardous waste to fail to:

* * * * *

(10) Develop and implement contingency plans for effective action to minimize and abate hazards from any treatment, storage, transportation or disposal of any hazardous waste.

(11) Maintain such operation, train personnel, and assure financial responsibility for such storage, treatment or disposal operations to prevent adverse effects to the public health, safety and welfare and to the environment and to prevent public nuisances.

(12) Immediately notify the department and the affected municipality or municipalities of any spill or accidental discharge of such waste in accordance with a contingency plan approved by the department and take immediate steps to contain and clean up the spill or discharge.

The Department has received several inquiries from regulated entities regarding compliance with these requirements. Therefore, this final-form rulemaking contains new language that clarifies how a person can comply with the containment and contingency plan requirements of the SWMA.

First, § 262a.34 (relating to accumulation time) is added to require secondary containment for generator storage of hazardous waste in containers. Second, § 263a.12 (relating to transfer facility requirements) adds requirements for PPC plan preparation for hazardous waste transfer facilities. The amendment accomplishes this through reference to § 263a.13(b)(4).

The amendment to § 264a.97 (relating to general groundwater monitoring requirements) specifies the frequency of the analyses required by that section. This final-form rulemaking eliminates setback requirements contained in § 264a.173(2) (relating to management of containers) for reactive or ignitable waste. This provision, which is not mandated, created an arbitrary distance requirement where safe management could allow a closer storage distance and duplicated certain fire safety requirements (see, for example, 37 Pa. Code § 13.1 (relating to relative location to property)).

The final-form rulemaking deletes § 265a.175 (relating to containment and collection system). This section is redundant since containment and collection system requirements are already incorporated by reference for interim status facilities in § 265a.179 (relating to containment).

The final-form rulemaking adjusts the fee schedule for permit modifications by amending § 270a.3 (relating to payment of fees). The section is amended because Class 2 permit modifications are generally much less complex than Class 3 modifications and therefore demand less time and resources from the Department for review. Appendix I to 40 CFR 270.42 (relating to permit modification at the request of the permittee) contains tables classifying the various types of permit modifications as Class 1, 2 or 3. These tables are incorporated by reference in § 270a.1(a) (relating to incorporation by reference, scope and applicability).

New language is added to § 270a.51 (relating to continuation of existing permits) to clarify when an expired permit continues in effect. This language is needed since the Federal counterpart in 40 CFR 270.51 (relating to continuation of expired permits) explicitly applies only to permits issued by the EPA. The language added matches the Federal regulation and clarifies this issue with regard to Department-issued permits.

Section 270a.60 is amended to eliminate the application of siting criteria for permit-by-rule facilities. These changes are contained in § 270a.60(b)(2)(ii), (3)(ii), (4)(ii) and (5)(ii). Permits-by-rule are generally intended to assure proper management of hazardous waste without causing overly burdensome regulation. If an issue arises regarding siting of a particular permit-by-rule facility, the Department retains the authority in § 270a.60(a) to require an owner or operator to obtain an individual permit for the facility. Under § 264a.18 (relating to location standards), the siting criteria would apply to that permit.

Finally, the incorporation by reference of 40 CFR Part 262, Subpart E (relating to exports of hazardous waste) in § 262a.10 (relating to incorporation by reference, purpose, scope and applicability) is simplified. The final-form rulemaking eliminates the separate exceptions to the "blanket substitution of terms" contained in §§ 262a.55—262a.57 (relating to exception report; annual reports; and recordkeeping) by deleting those sections and replacing them with a new § 262a.50 (relating to applicability) that contains the blanket exclusion of terms.

4. Manifest completion requirements or clarifications

The fourth category of changes in this final-form rulemaking addresses the administration of the manifest program for tracking the movement of hazardous waste in this Commonwealth. This is a series of changes designed to clarify ambiguous requirements for all parties involved, streamline the manifesting process and ensure that the Department receives proper notification in a timely fashion.

First, the amendment to § 262a.20(1) (relating to general requirements) clarifies that a generator does not need to send a generator copy of the manifest to the Department unless specifically required to do so. Section 262a.21 (relating to acquisition of manifests) requires Commonwealth generators of hazardous waste to use a Commonwealth manifest if the destination state for the hazardous waste does not require use of a manifest. This change is important for tracking the waste while it remains within this Commonwealth. Several changes are made to § 262a.23 (relating to use of the manifest). These changes require legible information on the manifest, clarify submission requirements for Commonwealth generators when the destination facility is out-of-State and prohibit alteration of the Manifest Tracking Number.

The amendment to § 263a.12(3) (relating to transfer facility requirements) clarifies the responsibilities of hazardous waste transporters when a shipment is transferred from one transporter to another at a transfer facility. This is another change identified as necessary through field implementation of the hazardous waste program.

The final-form rulemaking amends § 263a.20 (relating to manifest system) to give specific manifest handling guidance to subsequent transporters of hazardous waste. Section 263a.21 (relating to compliance with the manifest) is amended to require a transporter to accept only complete manifests from a hazardous waste generator and prohibits alteration of the Manifest Tracking Number. Finally, § 264a.71 (relating to use of the manifest system) requires use of a Commonwealth manifest, accounts for bulk shipment discrepancies and requires legible information by a permitted facility; the final-form rulemaking amends § 265a.71 (relating to use of the manifest system) to add the same requirements for an interim status facility.

5. *Typographical errors*

Finally, several sections of the 1999 RBI rulemaking contained minor typographical errors and omissions. Rather than submit a separate rulemaking for minor corrections, the Department decided to wait to make these minor changes until a broader rulemaking package was developed to update the hazardous waste program. These errors and omissions are corrected by this final-form rulemaking. The final-form rulemaking contains corrections in §§ 263a.24(b), 264a.83(a)(2) and (3), 270a.3(3), 270a.42, 270a.60(b)(1)(iv) and (5), 270a.62, 270a.66, 270a.81 and 270a.83.

E. *Summary of Comments and Responses on the Proposed Rulemaking and Changes to the Proposed Rulemaking*

This rulemaking was published as proposed 31 Pa.B. 6814 (December 15, 2001) with a 30-day comment period. The Department received 23 public comments from 6 commentators. The Department also received written comments from the Independent Regulatory Review Commission (IRRC). The major comments and responses, as well as any changes to the proposed rulemaking, are discussed in the following section.

1. *Section 261a.3*

Several public commentators requested deletion of the proposed rulemaking's requirement in § 261a.3 that solid waste be managed as hazardous waste until a proper waste determination is made. IRRC also questioned the necessity for this amendment. Among the concerns raised were that the requirement was overly prescriptive and unnecessary, imposed costs that do not result in any significant environmental benefits, was impractical be-

cause it would invoke other requirements such as requiring a hazardous waste label and code for an as yet unknown material and require materials such as contaminated soils from remedial activities to be managed as hazardous waste while the results of laboratory analyses are being performed.

The Department believes that the proposed rulemaking does not add new requirements to the regulations; it merely clarifies the existing requirement for a waste to be properly managed. "Properly managed" in this case means that if a waste is hazardous, it must be managed as a hazardous waste. Determining if a material is a hazardous waste does not always require laboratory analysis of the material. The existing regulation, 40 CFR 262.11, as incorporated in § 262a.10, allows a generator to apply "generator knowledge" to the waste or provides the option to test the waste to determine whether or not it is hazardous. Application of generator knowledge adds no new costs or time to a hazardous waste determination. Additionally, the environmental benefits associated with management of an "undetermined" waste as a hazardous waste are substantial. To improperly manage a hazardous waste stream can cause substantial harm to human health and the environment and add substantial costs to the generator if the waste must later be removed. The amendment is intended to affect newly generated waste and not waste in place subject to remediation activities; language was added to this subsection to clarify that intent.

2. *Section 262a.12(b)(1)(iv)*

Several commentators and IRRC raised concerns about the proposed rulemaking requiring notice to the Department when the generator's status changes. The existing State and Federal regulations provide for small quantity generators (SQG), conditionally exempt small quantity generators and large quantity generators (LQG). Generator status is based on the volume of waste produced by a generator during a single month, and the requirements placed on each category of generator vary accordingly. Primarily, the commentators were concerned about the clarity of this requirement and whether a temporary change in status would require notification to the Department.

The proposed rulemaking contained this provision to clarify that when a generator changes status (for example, SQG to LQG), they must submit a subsequent notification. This was not intended to require notification based on an "episodic" change. Examples of situations where notification was not intended to be required include where a SQG cleans out a tank once every several years and becomes a LQG for a single month, or where an LQG generates less than the LQG amount in a month. A subsequent notification is required, however, when a generator's status changes permanently. The final-form rulemaking clarifies this point in new subsection (b)(v).

3. *Section 262a.43*

The proposal to reinstate reporting requirements for spills and discharges of hazardous materials garnered the most comments during the public comment period. The commentators primarily focused on the proposed rulemaking's requirement that spills and discharges of hazardous materials be reported to the Department. The intent of the Department was to require reporting only of spills or discharges of hazardous wastes or of hazardous materials that become hazardous wastes when spilled or discharged. The final-form rulemaking clarifies that intent throughout the section.

Several commentators also commented on this provision from the standpoint of the relationship between State and Federal law on this issue. The commentators noted that the reporting provision was deleted as part of the changes made to implement the RBI and argued that nothing has occurred since those changes were made in 1999 that would warrant reversing those results. They further noted that the Federal hazardous waste program does not include the same type of reporting requirements as the proposed rulemaking. Instead, generators of hazardous waste are generally required to have in place emergency contingency plans that describe the steps that will be followed to minimize hazards from releases of hazardous wastes. In addition, the facility must maintain equipment to respond to emergencies involving releases of hazardous wastes.

As previously noted, section 403(b)(12) of the SWMA states that it "shall be unlawful for any person or municipality who generates, transports, stores, treats or disposes of hazardous waste to fail to immediately notify the department and the affected municipality or municipalities of any spill or accidental discharge" of hazardous waste. There have been many inquiries from the regulated community and Department regional staff regarding the absence of spill reporting requirements in the hazardous waste regulations. The Department agrees, in part, with the commentators' position that spill reporting requirements exist outside of the State hazardous waste regulations; however, those requirements are broader statutory provisions that have prompted uncertainty with respect to hazardous waste releases. To simplify the spill reporting requirements, several changes were made to § 262a.43 in the final-form rulemaking. Table 1 (Reporting Requirements and Hazard Codes) has been removed and the requirements for solids and liquids have been standardized. In addition, the final-form rulemaking establishes CERCLA reportable quantities as the notification limits, with the modification of including caps. The caps have been established to ensure that the Department receives notification of large spills or discharges of hazardous wastes, which might go unreported because of higher CERCLA requirements for reportable quantities. The Department believes that this notification is important for proper oversight of hazardous waste management in this Commonwealth. The notification provides the Department with basic information to determine whether the appropriate field office should follow up with a site visit. One of the reasons that the Federal regulations do not include this reporting requirement is because of an insufficient availability of Federal field investigators. Because of these factors, the Department believes that reinstatement of the provisions within the scope of the hazardous waste regulations, as modified, is warranted.

Finally, for clarity and consistency across program lines, the phrase "surface or groundwater" in § 262a.43(1) and (3) has been changed to "waters of this Commonwealth."

4. Section 263a.12(3)

The proposed requirement to add secondary containment at in-transit storage facilities where the hazardous waste would be moved off of the original vehicle to another vehicle or a loading area for temporary storage generated several comments. Generally, the commentators felt that this provision was redundant, unnecessary and beyond the scope of the Federal program given the other protective measures that are in place at in-transit storage facilities (for example, container requirements and PPC plans for both the transporter and the facility).

After consideration of these comments and recognizing the additional cost for in-transit storage facility owners to install secondary containment, the Department has deleted the secondary containment requirement from § 263a.12 in the final-form rulemaking.

5. Section 264a.97(1)

One commentator questioned the necessity of requiring groundwater monitoring at particular frequencies in the hazardous waste regulations as limiting flexibility to design an appropriate groundwater monitoring program.

The incorporated provisions in 40 CFR 264.97 authorize the monitoring and reporting requirements that were proposed in § 264a.97. The Federal regulations authorize these requirements through permit conditions rather than through a specific regulatory requirement. The Department believes that permit conditions are appropriate for requirements that are determined on a case-by-case basis rather than for requirements that are applicable to an entire class of facilities. In this case, the Commonwealth's seasonal, climatological and hydrological features, including a high water table, make it necessary to require all surface impoundments, land treatment units, landfills and in some cases waste piles operating in this Commonwealth to conduct the same type of groundwater monitoring and reporting. As a result, the Department believes that these requirements should be included in regulations rather than in permit conditions.

6. Section 270a.60(a)(1)

A commentator and IRRC raised concerns about those regulated entities who are operating under permits-by-rule on the effective date of the final-form rulemaking. While not opposing the concept of notification, they noted that it was unclear whether notification would be required for the facilities. If notification was required, the commentator recommended that the final-form rulemaking provide a transition period following the effective date of the amendments so that regulated entities are not faced with the need to submit notifications to the Department simultaneously with the publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

The Department's intent was to receive notifications from existing facilities operating under permits-by-rule as well as from facilities that will operate under permits-by-rule in the future. The Department concedes the commentator's point regarding the need for a phase-in period for existing permit-by-rule facilities. The final rule establishes a 1-year phase-in period after the effective date of the final-form rulemaking for notification by existing permit-by-rule facilities.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

Benefits

The final-form rulemaking clarifies ambiguous provisions and eliminates redundant provisions and typographical errors. The final-form rulemaking should help to minimize confusing aspects of a complex program, enabling regulated entities to understand and meet their regulatory obligations regarding hazardous waste management. The final-form rulemaking concerning release reporting will provide the Department with timely and accurate information regarding spills and releases of hazardous wastes, which will allow the Department to properly manage staff resources for release response. The clarification that certain manifest copies do not need to be submitted to the Department should also result in cost

savings to the regulated community. Finally, the Department believes that the provision that materials must be managed as hazardous waste until a proper determination is made will provide the benefit of avoiding improper management of waste.

Compliance Costs

Since the final-form rulemaking primarily clarifies and corrects the existing regulations, the Department believes that there should be no additional costs imposed on the regulated community. For example, the final-form rulemaking concerning release reporting merely clarifies an existing requirement in section 403(b)(12) of the SWMA to “immediately notify the department and the affected municipality or municipalities of any spill or accidental discharge” of hazardous waste.

Compliance Assistance Plan

As with previous hazardous waste management regulations, the Department’s compliance assistance efforts will take three forms. Following promulgation as final-form rulemaking, the Department will prepare fact sheets specifically addressing certain changes made by this final-form rulemaking. The Department will also continue to work with the regulated community to explain impacts from the final-form rulemaking and any necessary operational changes to remain in compliance. Information concerning the final-form rulemaking and any necessary technical guidance documents will also be available on the Department’s website.

Paperwork Requirements

This final-form rulemaking will result in a net reduction of paperwork requirements because of the clarifying provision that a hazardous waste generator is no longer required to submit generator copies of manifests to the Department. Section 262.93 does require additional reporting to the Department in response to certain releases; however, the Department feels that the situation of the spill or discharge of hazardous waste warrants the additional paperwork. The requirement in § 262a.12(b)(1)(iv) to notify the Department when generator status changes permanently and the requirement for notification to the Department when a facility seeks to operate under a permit-by-rule under § 270a.60(a)(1) also require minor amounts of paperwork to be submitted to the Department. Because of the importance of those issues in determining the proper regulatory requirements that apply to a facility, the Department believes that notification is necessary for it to fulfill its obligations under the SWMA. Other changes do not affect paperwork 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 final-form rulemaking effectively fulfills the goals for which it was intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 29, 2001, the Board submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 6814, to IRRC and to 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 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 October 28, 2002, this 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 November 7, 2002, and approved the final-form rulemaking.

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, 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 the proposal published at 31 Pa.B. 6814.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

J. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 260a—265a and 270a, are amended by amending §§ 260a.10, 261a.3, 261a.5, 262a.12, 262a.20, 262a.21, 262a.23, 263a.12, 263a.13, 263a.20, 263a.21, 263a.24, 263a.26, 264a.71, 264a.83, 264a.97, 264a.173, 265a.13, 265a.71, 265a.173, 270a.3, 270a.42, 270a.51, 270a.60, 270a.62, 270a.66, 270a.81 and 270a.83; by adding §§ 262a.11, 262a.34, 262a.43, 262a.50; and by deleting §§ 262a.55—262a.57 and 265a.175 to read as set forth in Annex A with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

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

(d) 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, relating to this document, see 32 Pa.B. 5817 (November 23, 2002).)

Fiscal Note: Fiscal Note 7-364 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 260a. HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

Subchapter B. DEFINITIONS

§ 260a.10. Definitions.

A term defined in this section replaces the definition of the term in 40 CFR 260.10, or, in situations for which no term exists in 40 CFR 260.10, the term shall be defined in accordance with this section. The substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporated definition of "EPA region," "State," "United States," "Administrator" and "Regional Administrator."

* * * * *

Treatment—

(i) A method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of waste to neutralize the waste or to render the waste nonhazardous, safer for transport, suitable for recovery, suitable for storage, or reduced in volume.

(ii) The term includes an activity or processing designed to change the physical form or chemical composition of waste to render it neutral or nonhazardous.

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 261a.3. Definition of "hazardous waste."

(a) 40 CFR 261.3(c)(2)(ii)(C) (relating to certain nonwastewater residues such as slag resulting from HTMR processing of K061, K062 or F006 waste) is not incorporated by reference.

(b) In addition to the requirements incorporated by reference, except when the waste is contaminated media subject to remediation, when it is not promptly possible to determine if a material will be a hazardous waste, the material shall be managed as a hazardous waste until the determination is made that indicates it is not a hazardous waste.

§ 261a.5. Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

(a) The reference to 40 CFR Part 279 in 40 CFR 261.5(c)(4) and (j) (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators) is replaced with Chapter 298 (relating to management of waste oil).

(b) In addition to the requirements incorporated by reference, a conditionally exempt small quantity generator may not dispose of hazardous waste in a municipal or residual waste landfill in this Commonwealth.

(c) A conditionally exempt small quantity generator complying with this subchapter and 40 CFR 261.5 is deemed to have a license for the transportation of those

conditionally exempt small quantity generator wastes generated by the generator's own operation.

CHAPTER 262a. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 262a.11. Hazardous waste determination.

In addition to the requirements incorporated by reference, a determination that a waste is not hazardous under 40 CFR 262.11 (relating to hazardous waste determination) does not preclude the Department from determining the waste to be hazardous, using the characteristics and testing methods set forth in 40 CFR Part 261 (relating to identification and listing of hazardous waste).

§ 262a.12. EPA identification numbers.

(a) Regarding the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR 262.12 (relating to EPA identification numbers).

(b) In addition to the requirements incorporated by reference:

(1) A generator shall submit a subsequent notification to the Department if:

(i) The generator activity moves to another location.

(ii) The generator facility's designated contact person changes.

(iii) The ownership of the generator facility changes.

(iv) The type of regulated activity that takes place at the generator facility changes.

(v) The generator's facility class changes, except when the facility class change is temporary.

(2) A generator shall offer a shipment of hazardous waste only to a transporter with a valid license issued by the Department.

Subchapter B. MANIFEST

§ 262a.20. General requirements.

40 CFR 262.20 (b) and (c) (relating to general requirements) is not incorporated by reference. In addition to the requirements incorporated by reference, a generator shall:

(1) Complete the manifest form in its entirety and distribute manifest copies in accordance with the instructions for the manifest, except that generators need not submit copies of manifests to the Department unless required by § 262a.23(a)(2) (relating to use of the manifest).

(2) List no more than four waste streams on one manifest. If the generator is transporting or offering for transportation more than four different hazardous waste streams for offsite treatment, storage or disposal, the generator shall complete additional manifest forms for the remaining waste streams in the shipment, unless the waste stream is a lab pack.

(3) Complete a continuation sheet, EPA Form 8700-22a, when there are more than two transporters, or for lab packs with more than four different waste streams in one shipment.

(4) Ensure that the required information on all copies, including photocopies, of the manifest is legible to the Department, transporter and designated facility.

(5) A generator shall designate only one permitted facility to handle the waste described on the manifest.

§ 262a.21. Acquisition of manifests.

(a) The substitution of terms in § 260a.3(a)(5) (relating to terminology and citations related to Federal regulations) does not apply to 40 CFR 262.21 (relating to acquisition of manifests).

(b) In addition to the requirements incorporated by reference, a generator shipping hazardous waste to a facility in a state that does not require use of its own state manifest shall use the Department's manifest.

§ 262a.23. Use of the manifest.

(a) In addition to the requirements incorporated by reference:

(1) The generator shall print or type the generator's name and enter the date of shipment in the designated space on the manifest.

(2) If the out-of-State manifest does not include a generator-state copy to be submitted to the Department by the out-of-State designated facility, the generator shall submit a complete, legible copy, such as a photocopy, of the manifest as signed by the generator, all transporters and the designated facility. This copy shall be sent within 10 days of the generator's receipt of its signed copy from the designated facility.

(3) The generator shall obtain the printed or typed name of the transporter on the manifest.

(4) A generator may not use a hazardous waste manifest which has either a preprinted Manifest Document Number or preprinted Manifest Tracking Number that has been altered by anyone other than the printer of the manifest.

(b) The substitution of terms in § 260a.3(a)(5) (relating to terminology and citations related to Federal regulations) does not apply to 40 CFR 262.23(e) (relating to notification of shipments of hazardous waste to a facility in an authorized state which has not yet received authorization to regulate a newly designated hazardous waste).

Subchapter C. PRETRANSPORT REQUIREMENTS

§ 262a.34. Accumulation time.

In addition to the requirements incorporated by reference, a generator who accumulates hazardous waste onsite as specified in 40 CFR 262.34(a)(1)(i) (relating to accumulation time) shall also comply with Chapter 265a, Subchapter I (relating to use and management of containers).

Subchapter D. RECORDKEEPING AND REPORTING

§ 262a.43. Additional reporting.

In addition to the requirements incorporated by reference:

(1) Spills and discharges which are in amounts less than the reportable quantities, which do not result in discharges into waters of this Commonwealth, and which are managed according to an approved contingency plan, need not be reported.

(2) The reportable quantities are:

(i) Liquid hazardous waste or liquids that become hazardous waste when spilled or discharged shall be reported to the Department when the quantity spilled or discharged equals or exceeds the reportable quantity for the waste contained in 40 CFR 302.4 (relating to designation of hazardous substances) or 10 gallons, whichever is more stringent. Liquids are flowable substances which

contain less than 20% solids by dry weight. Flowable refers to flow in the sense of pourable as a liquid.

(ii) Solid hazardous waste or solids that become hazardous wastes when spilled or discharged shall be reported to the Department when the quantity spilled or discharged equals or exceeds the reportable quantity for the waste contained in 40 CFR 302.4 or 500 pounds, whichever is more stringent.

(3) A discharge or spill into waters of this Commonwealth shall be reported regardless of quantity spilled or discharged.

(4) In the event of a discharge or spill equal to or greater than the reportable quantity of hazardous waste or material that becomes a hazardous waste when spilled or discharged, the generator shall take appropriate immediate action to protect the health and safety of the public and the environment and immediately notify the Department by telephone at (800) 541-2050 with the following information:

(i) The name of the person reporting the spill.

(ii) The name and identification number of the generator.

(iii) The phone number where the person reporting the spill can be reached.

(iv) The date, time and location of the spill.

(v) A brief description of the incident.

(vi) For each material involved in the spill:

(A) The shipping name, hazard class and U.N. Number.

(B) The estimated quantity of material spilled.

(vii) The extent of contamination of land, water or air, if known.

(5) If a discharge or spill of hazardous waste, or hazardous material that becomes a hazardous waste when spilled or discharged, occurs during onsite unloading, loading, storage or plan operation, and a Departmental official acting within the scope of his official responsibilities determines that immediate removal of the material is necessary to protect the health and safety of the public and the environment, that official may authorize in writing the removal of the material by transporters who do not have identification numbers or license and without the preparation of a manifest.

(6) A generator shall clean up a spill or discharge of hazardous waste, or material that becomes a hazardous waste when spilled or discharged, that occurs during onsite unloading, loading, storage or plan operation, and take actions that may be required or approved by the Department so that the discharge or spill no longer presents a hazard to the health and safety of the public or environment.

(7) In addition, the generator shall file a written report on a spill or discharge of a reportable hazardous waste or material that becomes a hazardous waste when spilled or discharged, with the Department within 15 days after the incident, and supply the Department with other information it may require or request that pertains to the discharge. The report on the spill or discharge shall be entitled "Hazardous Waste Spill Report" and shall contain the following information:

(i) The name, address and identification number of the generator and the date, time and location of the incident.

(ii) A brief description of the circumstances causing the incident.

(iii) A description of each of the hazardous wastes or materials that become hazardous wastes when spilled or discharged involved in the incident, including the estimated quantity spilled by weight or volume.

(iv) A legible copy of the manifest document, if applicable.

(v) A description of a contamination of land, water or air that has occurred due to the incident.

(vi) A description of the actions the generator intends to take to prevent a similar occurrence in the future.

Subchapter E. EXPORTS OF HAZARDOUS WASTE

§ 262a.50. Applicability.

Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262, Subpart E (relating to exports of hazardous waste).

§ 262a.55—262a.57. (Reserved).

CHAPTER 263a. TRANSPORTERS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 263a.12. Transfer facility requirements.

In addition to the requirements incorporated by reference:

(1) A transporter storing hazardous waste at a transfer facility for periods of not more than 10 days but greater than 3 days shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4) (relating to licensing). This plan shall be submitted under section 403(b)(10) of the act (35 P. S. § 6018.403(b)(10)) and approved in writing by the Department prior to the initiation of the storage.

(2) A transporter transferring hazardous waste from one vehicle to another at a transfer facility shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4). This plan shall be submitted under section 403(b)(10) of the act and shall be approved in writing by the Department.

(3) A transporter delivering hazardous waste to another transporter at a transfer facility shall do the following:

(i) Obtain the printed or typed name and signature of the subsequent transporter and the date of the transfer in the designated location on the manifest.

(ii) If the subsequent transporter is not present at the transfer facility while the delivering transporter is at the transfer facility, obtain the location address of the transfer facility, the printed or typed name and signature of the transfer facility operator, and the date of delivery to the transfer facility, assuring the information is entered in Item 15 of the manifest.

(iii) If neither the subsequent transporter nor a representative of the transfer facility is present, enter the location address of the transfer facility, the subsequent transporter's printed or typed name and signature, and the date of delivery to the transfer facility in Item 15 of the manifest.

(iv) Assure all the information required by subparagraphs (i)—(iii) is legible on remaining copies of the manifest.

§ 263a.13. Licensing.

(a) Except as otherwise provided in subsection (b), § 263a.30, § 261a.5(c), § 266a.70(1) or § 266b.50, a person or municipality may not transport hazardous waste within this Commonwealth without first obtaining a license from the Department.

(b) A person or municipality desiring to obtain a license to transport hazardous waste within this Commonwealth shall:

(1) Comply with 40 CFR 263.11 (relating to EPA identification number).

(2) File a hazardous waste transporter license application with the Department. The application shall be on a form provided by the Department and completed as required by the instructions supplied with the form.

(3) Deposit with the Department a collateral bond conditional upon compliance by the licensee with the act, this article, the terms and conditions of the license and a Department order issued to the licensee. The amount, duration, form, conditions and terms of the bond shall conform to § 263a.32 (relating to bonding).

(4) In accordance with the Department's guidelines for contingency plans, submit a transporter contingency plan for effective action to minimize and abate discharges or spills of hazardous waste from an incident while transporting hazardous waste.

(5) Supply the Department with relevant additional information it may require.

(c) Upon receiving the application and the information required in subsection (b), the Department evaluates the application for a license and other relevant information and issues or denies the license. If a license is denied, the Department will advise the applicant in writing of the reasons for denial.

(d) A license granted or renewed under this chapter is valid for 2 years unless the Department determines that circumstances justify issuing a license for less than 2 years. The expiration date will be set forth on the license.

(e) A license to transport hazardous wastes is non-transferable and nonassignable and usable only by the licensee and employees of the licensee.

(f) The Department may revoke or suspend a license in whole or in part for one or more of the following reasons:

(1) Violation of an applicable requirement of the act or a regulation promulgated under the act.

(2) Aiding or abetting the violation of the act or a regulation promulgated under the act.

(3) Misrepresentation of a fact either in the application for the license or renewal or in information required or requested by the Department.

(4) Failure to comply with the terms or conditions placed upon the license or renewal.

(5) Failure to comply with an order issued by the Department.

(6) Failure to maintain the required bond amount.

(g) The application for a license shall be accompanied by a check for \$500 payable to the "Commonwealth of Pennsylvania." The application for license renewal shall

be accompanied by a check for \$250 payable to the "Commonwealth of Pennsylvania."

(h) In addition to the fees required by subsection (g), the transporter shall submit a fee of \$5 for each license card requested in excess of ten cards.

(i) The licensee shall notify the Department within 30 days of any change in the information contained in the license application.

(j) A copy of the transporter contingency plan approved at licensure or approved as amended shall be carried on the transport vehicle while transporting hazardous waste.

Subchapter B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

§ 263a.20. Manifest system.

(a) Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply in 40 CFR 263.20 (relating to manifest system), as incorporated by reference into this chapter.

(b) In addition to the requirements incorporated by reference:

(1) A transporter shall print or type the transporter's name.

(2) The second and any subsequent highway transporter shall print or type their name, and sign and date the manifest or continuation sheet in the designated location.

(3) A transporter shall obtain the printed or typed name of the subsequent transporter or representative of the designated facility.

§ 263a.21. Compliance with the manifest.

In addition to the requirements incorporated by reference:

(1) A transporter may not accept or transport hazardous waste if the number or type of containers or quantity of waste to be transported does not correspond with the number, type or quantity stated on the manifest.

(2) A transporter may not accept a manifest from a generator unless it is completed in accordance with 40 CFR 262.20 and § 262a.20 (relating to general requirements).

(3) A transporter may not accept a hazardous waste manifest which has either a preprinted Manifest Document Number or preprinted Manifest Tracking Number that has been altered by anyone other than the printer of the manifest.

§ 263a.24. Documentation of hazardous waste transporter fee submission.

(a) A transporter receiving or delivering hazardous waste to or from a site in this Commonwealth shall submit specific information to the Department to document that the amount of fees submitted under § 263a.23 (relating to hazardous waste transportation fee) is accurate. This information shall be provided on forms provided or approved by the Department.

(1) A transporter who has transported hazardous waste during a quarter shall submit completed forms ER-WM-55G and ER-WM-55H, or their successor documents, with the appropriate fees.

(2) A transporter who has not transported hazardous waste during a quarter shall submit only form ER-WM-55G.

(b) The required forms shall be completed by the transporter in conformance with instructions provided.

(c) A transporter shall, upon request from the Department, provide additional information or documentation regarding its hazardous waste transportation activities necessary for the Department to assess the accuracy of the information contained on the required forms and the amount of fees due.

§ 263a.26. Assessment of penalties.

(a) Consistent with section 605 of the act (35 P. S. § 6018.605) and section 1104 of the Hazardous Sites Cleanup Act (35 P. S. § 6020.1104) and the regulations thereunder, this section sets forth civil penalties for certain violations. This section does not limit the Department's authority to assess a higher penalty for the violations identified in this section, or limit the Department's authority to proceed with appropriate criminal penalties.

(b) If a person or municipality fails to submit the hazardous waste transportation fees as required by § 263a.23(d) (relating to hazardous waste transportation fee), fails to submit properly completed documents required by § 263a.24 (relating to documentation of hazardous waste transporter fee submission) or fails to meet the time schedule for submission established by § 263a.23(e), the Department may assess a minimum civil penalty of \$500 for submissions which are less than 15 days late, and \$500 per day for each day thereafter.

(c) If a person or municipality falsifies information relating to hazardous waste transportation fees required by this chapter and the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), the Department may assess a minimum civil penalty of \$1,000.

(d) Failure to comply with the fee payment and documentation requirements of this chapter constitutes grounds for suspension or revocation of a hazardous waste transporter license, denial of issuance or renewal of a license, and for forfeiture of the hazardous waste transporter's collateral bond, in addition to civil penalties set forth in this section.

CHAPTER 264a. OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

§ 264a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) An owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by the Department's manifest, unless a manifest is not required by 40 CFR 262.20(e) (relating to the manifest general requirements).

(2) Within 30 days of the delivery, the owner or operator or the agent of the owner or operator shall send the specified copies of the manifest to the Department and generator state, as required.

(3) The owner or operator or other agent of the designated facility shall state in the Discrepancy Indication Space on the respective manifest and continuation sheet the actual quantity received in bulk shipment.

(4) The name of the designated facility representative signing the manifest shall be printed or typed on the manifest.

§ 264a.83. Administration fees during closure.

(a) The owner or operator shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes. The Department may approve a longer closure period if the owner or operator demonstrates that:

(1) The closure activities will, of necessity, take longer than 180 days to complete or the following:

(i) The facility has the capacity to receive additional wastes.

(ii) There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site.

(iii) Closure of the facility would be incompatible with continued operation of the site.

(2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility. Under 40 CFR 264.112(d) (relating to closure plan; amendment of plan) and paragraph (1)(i), if operation of the site is recommenced, the Department may defer completion of closure activities until the new operation is terminated. The deferral shall be in writing.

(3) The demonstrations referred to in 40 CFR 264.112(d) and this section shall be made as follows:

(i) The demonstrations in 40 CFR 264.112(d) shall be made at least 30 days prior to the expiration of the 60-day period.

(ii) The demonstrations in this section shall be made at least 30 days prior to the expiration of the 180-day period.

(b) A nonrefundable administration fee in the form of a check payable to the "Commonwealth of Pennsylvania" shall be forwarded to the Department within 30 days after receiving the final volumes of waste, and on or before January 20th of each succeeding year until the requirements of § 264a.115 (relating to certification of closure) are met. The fee shall be:

(1) Land disposal facilities—\$100.

(2) Impoundments—\$100.

(3) All other facilities—\$50.

Subchapter F. RELEASES FROM SOLID WASTE MANAGEMENT UNITS**§ 264a.97. General groundwater monitoring requirements.**

In addition to the requirements incorporated by reference:

(1) The owner or operator shall keep records of analyses and evaluations of groundwater quality and surface elevations, which shall be conducted quarterly, and flow rate and direction determinations, which shall be conducted annually. These evaluations and determinations shall be conducted as required under 40 CFR Part 264, Subpart F (relating to releases from solid waste management units).

(2) The owner or operator shall report the following information in writing to the Department:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in 40 CFR 264.98(a) (relating to detection monitoring program) for an upgradient groundwater monitoring well within 15

days after completing a quarterly analysis and no later than 30 days after the end of a quarter.

(ii) Quarterly after the first year: concentrations or values of the parameters in 40 CFR 264.98(a) and required under 40 CFR 264.97(g) (relating to detection monitoring program), for each groundwater monitoring well, along with the required evaluations for these parameters under 40 CFR 264.97(h), within 15 days after completing a quarterly analysis and no later than 30 days after the end of a quarter.

(iii) Annually: concentrations or values of those parameters for each well which are specified by the facility's permit within 15 days of completing the annual analysis.

(iv) Annually: those determinations for the groundwater flow rate and direction specified in 40 CFR 264.99(e) (relating to compliance monitoring).

(3) The owner or operator shall report the groundwater quality required by paragraph (2) and 40 CFR 264.97 at a monitoring point established under 40 CFR 264.95 (relating to point of compliance) in a form necessary for the determination of statistically significant increases under 40 CFR 264.98 (relating to detection monitoring program).

Subchapter I. USE AND MANAGEMENT OF CONTAINERS**§ 264a.173. Management of containers.**

In addition to the requirements incorporated by reference:

(1) For indoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application.

(2) For outdoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application.

(3) For indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application.

CHAPTER 265a. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**Subchapter B. GENERAL FACILITY STANDARDS****§ 265a.13. General and generic waste analysis.**

In addition to the requirements incorporated by reference:

(1) Except as provided in paragraphs (4) and (5), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the owner or operator shall submit to the Department for approval, on a form provided by the Department, or on a form approved by the Department, a

Module 1 report which the owner or operator shall retain for 3 years. The report shall include the following information:

- (i) A detailed chemical and physical analysis of the waste.
- (ii) A description of the waste and the process generating the waste.
- (iii) The name and address of the hazardous waste management facility.
- (iv) A description of the hazardous waste management facility's treatment, storage and disposal methods.
- (v) Results of liner compatibility testing.
- (vi) An assessment of the impact of the waste on the hazardous waste management facility.
- (vii) Other information which the Department may prescribe for the Department to determine whether the waste will be treated, stored or disposed of in accordance with this chapter. The chemical and physical analysis of the waste shall be repeated under one or more of the following circumstances:

(A) When necessary to ensure that it is accurate and up-to-date.

(B) When the owner or operator is notified, or has reason to believe, that the process or operation that generates the hazardous waste has changed.

(C) For offsite facilities or onsite facilities receiving waste from offsite sources, when the results of the inspection or analysis, or both, of each hazardous waste indicates that the waste received at the facility does not match the description of the waste on the accompanying manifest or shipping paper.

(2) The owner or operator shall develop and follow a written waste analysis plan in compliance with 40 CFR 265.13 (relating to general waste analysis) which shall be submitted to the Department for approval at a time in the application process as the Department may prescribe. The plan shall be retained at the facility.

(3) The owner or operator of a facility utilizing a liner shall conduct an evaluation of the liner compatibility with the hazardous waste before accepting the waste for emplacement in a waste pile, surface impoundment or landfill unless the approval to accept the waste is granted in the facility's permit. The evaluation procedure shall meet the approval of the Department prior to its commencement. The evaluation of the liner shall consist of testing the liner in the presence of the waste for a minimum of 30 days or as otherwise approved by the Department. In lieu of actual testing, existing published or documented data on the hazardous waste or waste generated from similar processes proving the liner compatibility may be substituted if approved by the Department. The results of the evaluation of the liner compatibility shall be furnished to the Department for approval of the waste before acceptance by the facility.

(4) The Department may waive prior approval of the report specified in paragraph (1) for wastes that are in containers that are only to be stored at the facility. The Department may waive prior approval of the report only if:

- (i) The Department determines that the waiver does not pose a potential threat to human health or the environment.

(ii) The management of the wastes is allowed in the permit for the facility and properly addressed in the approved waste analysis plan for the facility.

(iii) The report is submitted to the Department within 1 week of the arrival of the wastes at the facility and a copy of the report is maintained in the operating record onsite for 20 years.

(5) Prior Department approval of the report specified in paragraph (1) is not required for offsite reclamation facilities that, under a contractual agreement, supply raw material to a generator and accept the expended material from the generator for storage prior to reclamation.

(6) In lieu of the waste and generator specific report required by paragraphs (1)–(3), the Department may accept from the operator of a treatment, storage or disposal facility a Generic Module I application for similar wastes containing similar hazardous constituents from multiple generators.

(7) An application for a Generic Module I shall include:

(i) The information required by paragraph (1). Generator specific information shall be included for each generator identified in the application.

(ii) Criteria for determining whether the wastes have similar physical and chemical characteristics and contain similar hazardous constituents.

(8) Additional generators may be added to an approved Generic Module I if the operator of the treatment, storage or disposal facility demonstrates that the waste from the new generator is consistent with the waste already approved in the Generic Module I. At least 15 days prior to accepting a waste from a new generator, the operator of the treatment, storage or disposal facility shall submit to the Department in writing, the generator specific information required by paragraph (1). The Department will not add an additional generator to the Generic Module I if the Department finds that the operator of the treatment, storage or disposal facility has not demonstrated that the waste from the new generator is consistent with that approved under the Generic Module I.

(9) A permit modification and Generic Module I requested under this section shall be accompanied by a fee, as specified in § 270a.3 (relating to payment of fees).

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

§ 265a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) An owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by the Department's manifest, unless a manifest is not required by 40 CFR 262.20(e) (relating to general requirements).

(2) Within 30 days of the delivery, the owner or operator or the agent of the owner or operator shall send the specified copies of the manifest to the Department and generator state, as required.

(3) The owner or operator or other agent of the designated facility shall state in the Discrepancy Indication Space on the respective manifest and continuation sheet the actual quantity received in bulk shipment.

(4) The name of the designated facility representative signing the manifest shall be printed or typed on the manifest.

Subchapter I. USE AND MANAGEMENT OF CONTAINERS

§ 265a.173. Management of containers.

In addition to the requirements incorporated by reference:

(1) For indoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.

(2) For outdoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.

(3) For indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.

§ 265a.175. (Reserved).

CHAPTER 270a. HAZARDOUS WASTE PERMIT PROGRAM

Subchapter A. GENERAL INFORMATION

§ 270a.3. Payment of fees.

40 CFR 270.3 is not incorporated by reference, and the following fees are established:

(1) Applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the "Commonwealth of Pennsylvania" according to the following schedule:

(i) Land disposal facilities—commercial—\$125,000.

(ii) Land disposal facility—captive—\$71,400.

(iii) Surface impoundments:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(iv) Postclosure permits—\$25,000.

(v) Treatment facilities:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(vi) Storage facilities:

(A) Commercial—\$36,000.

(B) Captive—\$14,000.

(vii) Incinerators:

(A) Commercial—\$93,000.

(B) Captive—\$54,000.

(2) If more than one permitted activity is located at a site, or more than one activity occurs, the fees are cumulative.

(3) Module I applications and permit modification applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a

check payable to the "Commonwealth of Pennsylvania" according to the following schedule:

(i) Module I and Generic Module I applications:

(A) Module I—\$300.

(B) Generic Module I—\$1,500.

(ii) Class 3 permit modifications—50% of fees listed in paragraph (1).

(iii) Class 1 and Class 2 permit modifications—\$700.

Subchapter D. CHANGES TO PERMITS

§ 270a.42. Permit modification at the request of the permittee.

(a) Instead of complying with 40 CFR Part 124.10(c)(ix) (relating to public notice of permit actions and public comment period) the permittee shall send a notice to those persons in § 270a.80(d)(iv) (relating to public notice and comment requirements).

(b) Instead of the appeal procedure in 40 CFR 124.19 (relating to appeal of RCRA, UIC, NPDES, PSD permits), the Department's decision to grant or deny permit modifications may be appealed to the EHB under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514).

(c) Applicants seeking a Class 3 permit modification shall comply with § 270a.83 (relating to preapplication public meeting and notice).

Subchapter E. EXPIRATION AND CONTINUATION OF PERMITS

§ 270a.51. Continuation of existing permits.

(a) 40 CFR 270.51 (relating to continuance of expiring permits) is not incorporated by reference.

(b) The conditions of an expired permit continue in force until the effective date of a new permit if the following conditions are met:

(1) The permittee has submitted a timely application which is a complete application for a new permit.

(2) The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(c) Permits continued under this section remain fully effective and enforceable.

(d) When the permittee is not in compliance with the conditions of the expiring or expired permit, the Department may choose to do one or more of the following:

(1) Initiate enforcement action based upon the permit which has been continued.

(2) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would be required to cease activities authorized by the continued permit or be subject to enforcement action for operating without a permit.

(3) Issue a new permit with appropriate conditions.

(4) Take other actions authorized by these regulations.

Subchapter F. SPECIAL FORMS OF PERMITS

§ 270a.60. Permits-by-rule.

(a) Relative to the requirements incorporated by reference, the following are substituted for the introductory paragraph in 40 CFR 270.60 (relating to permits by rule):

(1) In addition to other provisions of this chapter, the activities listed in this section are deemed to have a hazardous waste management permit if the owner or operator gives prior notification to the Department on a form provided by the Department and the conditions listed are met. Existing permit-by-rule facilities shall comply with the notification requirements by December 8, 2003.

(2) The Department may require an owner or operator with a permit-by-rule under this section to apply for, and obtain, an individual permit when the facility is not in compliance with the applicable requirements or is engaged in an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(b) In addition to the requirements incorporated by reference, the following requirements apply:

(1) The owner or operator of an elementary neutralization unit or a wastewater treatment unit is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

(i) The facility treats hazardous waste generated onsite.

(ii) The facility has an NPDES permit, if required, and complies with the conditions of that permit.

(iii) Section 264a.11 (relating to identification number and transporter license) and 40 CFR 264.11 (relating to identification number).

(iv) Chapter 264a, Subchapter D and 40 CFR Part 264 Subparts C and D (relating to preparedness and prevention; and contingency plan and emergency procedures).

(v) 40 CFR Part 265, Subpart Q (relating to chemical, physical and biological treatment), except for 40 CFR 265.400 (relating to applicability).

(vi) For the purposes of this subsection, the owner or operator of an elementary neutralization unit or wastewater treatment unit permit-by-rule facility may treat wastes generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262a.20 and 40 CFR 262.20 (relating to general requirements; and general requirements).

(vii) The Department may, under special circumstances, approve on a case-by-case basis the receipt and treatment of wastes generated offsite by a different generator for treatment at a facility regulated under this subsection without the treatment of the wastes resulting in the loss of permit-by-rule status under this subsection.

(2) A generator that treats its own hazardous waste in containers, tanks or containment buildings is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

(i) The facility is a captive facility and the only waste treated is generated onsite.

(ii) The notification requirements of 40 CFR 264.11 (relating to notification of hazardous waste activities) and the applicable requirements of 40 CFR Part 264, Subparts A—D, I, J and DD and Chapter 264a, Subchapters A, B, D, I, J and DD, except for § 264a.18 (relating to location standards).

(iii) The applicable requirements of 40 CFR 262.34 (relating to accumulation).

(iv) Except for the characteristic of ignitability, the hazardous waste is not being rendered nonhazardous by means of dilution.

(v) A generator may mix waste oil with a waste which is hazardous solely because it exhibits the toxicity characteristic for benzene, arsenic, cadmium, chromium, lead or ignitability, provided that the resultant mixture does not exhibit any characteristic of hazardous waste under 40 CFR Part 261, Subpart C (relating to characteristics of hazardous waste) incorporated by reference in § 260a.1 (relating to incorporation by reference, purpose, scope and applicability) and that the mixture is managed in accordance with Chapter 298, Subchapter C (relating to waste oil generators).

(3) The owner or operator of a battery manufacturing facility reclaiming spent, lead-acid batteries is deemed to have a permit-by-rule for treatment prior to the reclamation of the spent, lead-acid batteries, if the owner or operator complies with the following requirements:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—E, I—L and DD and Chapter 264a, Subchapters A, B, D, E, I—L and DD, except for § 264a.18.

(4) The owner or operator of a facility that reclaims hazardous waste onsite, at the site where it is generated is deemed to have a permit-by-rule for treatment prior to the reclamation, if the owner or operator complies with the following requirements:

(i) The notification requirements of 40 CFR 264.11.

(ii) The applicable requirements of Chapter 262a and Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Parts 262 and 264, Subparts A—E and I, J and DD.

(iii) For the purposes of this subsection, onsite reclamation includes reclamation of materials generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262a.20 (relating to general requirements) and 40 CFR Part 262.20 (relating to general requirements).

(iv) The Department may, under special circumstances, approve on a case-by-case basis the receipt and reclamation of wastes generated offsite by a different generator for reclamation at a facility regulated under this subsection without the reclamation of the wastes resulting in the loss of onsite reclamation status under this subsection.

(5) The owner or operator of a facility that treats recyclable materials to make the materials suitable for reclamation of economically significant amounts of the precious metals identified in 40 CFR Part 266, Subpart F (relating to recyclable materials utilized for precious metal recovery) is deemed to have a permit-by-rule if the owner or operator complies with the following:

(i) The notification requirements of 40 CFR 264.11 (relating to identification number).

(ii) The applicable requirements of Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Part 264, Subparts A—D, I, J and DD.

(c) In addition to the requirements incorporated by reference:

(1) With respect to any permit-by-rule facility under subsection (b)(3)—(6), the Department may, upon written application from a person subject to these paragraphs, grant a variance from one or more specific provision of those paragraphs in accordance with this subsection.

(2) In granting a variance, the Department may impose specific conditions reasonably necessary to assure that the subject activity results in a level of protection of the environment and public health equivalent to that which would have resulted from compliance with the suspended provisions. Any variance granted under this section will be at least as stringent as the requirements of section 3010 of the RCRA (42 U.S.C.A. § 6930) and regulations adopted thereunder.

§ 270a.62. Hazardous waste incinerator permits.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all persons listed in § 270a.80 (d)(1) (relating to public notice and comment requirements).

§ 270a.66. Permits for boilers and industrial furnaces burning hazardous waste.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all persons listed in § 270a.80(d)(1) (relating to public notice and comment requirements).

Subchapter H. PUBLIC NOTICE AND HEARINGS

§ 270a.81. Public hearings.

(a) During the public comment period provided under § 270a.80 (relating to public notice and comment requirements), an interested person may submit written comments on the draft permit and may request a public hearing, if a hearing is not already scheduled. A request for a public hearing shall be in writing and state the nature of the issues proposed to be raised in the hearing. The Department considers comments in making its final decision and answers these comments as provided in § 270a.10(c) (relating to general application requirements and permit issuance procedures).

(b) The Department follows the following procedures in a public hearing held under this subchapter:

(1) The Department holds a public hearing whenever, on the basis of requests received under subsection (a), it determines that a significant degree of public interest in a draft permit exists.

(2) The Department may hold a public hearing whenever a hearing might clarify issues involved in the permit decision.

(3) The Department holds a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice, under § 270a.80.

(4) The Department schedules, when possible, a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(5) The Department gives public notice of the hearing under § 270a.80 (relating to public notice and comment requirements).

(6) A person may submit oral or written statements and data concerning the draft permit before, during or after the public hearing, as long as the Department receives the statements and data during the public comment period. The Department may set reasonable

limits upon the time allowed for oral statements and may require the submission of statements in writing. The public comment period under § 270a.80 is automatically extended to the close of a public hearing under this section. The Department's hearing officer may also extend the comment period by so stating at the hearing.

(7) The Department makes a tape recording or written transcript of the hearing available to the public.

§ 270a.83. Preapplication public meeting and notice.

(a) *Applicability.*

(1) This section applies to RCRA Part B applications seeking initial permits for hazardous waste management units over which the Department has permit issuance authority.

(2) This section also applies to RCRA Part B applications seeking renewal of permits for the units, if the renewal application is proposing a significant change in facility operations.

(3) For the purposes of this section, a "significant change" is a change that would qualify as a Class 2 or Class 3 permit modification under 40 CFR 270.42 (relating to permit modification at the request of the permittee) and § 270a.42 (relating to permit modification at the request of the permittee).

(4) This section does not apply to Class 1 or Class 2 permit modifications under 40 CFR 270.42 and § 270a.42 or to applications that are submitted for the sole purpose of conducting postclosure activities or postclosure activities and corrective action at a facility.

(b) Prior to the submission of a Part B RCRA permit application for a facility, the applicant shall hold at least one meeting with the public to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under subsection (b), and copies of any written comments or materials submitted at the meeting, to the Department as a part of the Part B application, under 40 CFR 270.14(b) (relating to contents of Part B: general requirements).

(d) The applicant shall provide public notice of the preapplication meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the Department upon request, documentation of the notice.

(1) The applicant shall provide public notice in the following forms:

(i) *Newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in paragraph (2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Department will instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, if the Department determines that the publication is necessary to inform the affected public. The notice shall be published as a display advertisement.

(ii) *Visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (2). If the applicant places the sign on the facility property, the sign shall

be large enough to be readable from the nearest point where the public would pass by the site.

(iii) *Broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in paragraph (2), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Department.

(iv) *Notice to the Department.* The applicant shall send a copy of the newspaper notice to the Department and to the appropriate units of State and local government.

(2) The notices required under paragraph (1) shall include the following:

- (i) The date, time and location of the meeting.
- (ii) A brief description of the purpose of the meeting.
- (iii) A brief description of the facility and proposed operations, including the address or a map—for example, a sketched or copied street map—of the facility location.
- (iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting.
- (v) The name, address and telephone number of a contact person for the applicant.

[Pa.B. Doc. No. 02-2222. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 1001, 1003, 1005, 1007 AND 1051]

Out-of-Hospital Do-Not-Resuscitate Orders

The Department of Health (Department) is adopting interim regulations to facilitate implementation of 20 Pa.C.S. Chapter 54 (relating to the Do-Not-Resuscitate Act) (DNR Act) enacted by the act of June 19, 2002 (P. L. 409, No. 59) (Act 59). Under the interim regulations, the Department is dividing Part VII (relating to emergency medical services) into Subparts A and B (relating to emergency medical services systems; and matters ancillary to emergency medical services systems). Subpart A contains regulations the Department has adopted under the Emergency Medical Services Act (35 P. S. §§ 6921—6938). Amendments are made in Subpart A to §§ 1001.1—1001.5, 1003.27, 1005.3, 1005.10 and 1007.7. Subpart B contains new Chapter 1051 (relating to out-of-hospital do-not-resuscitate orders). The amendments and additions are set forth in Annex A.

Purpose and Background

Act 59 requires that the Department adopt interim regulations by December 16, 2002, to facilitate its implementation. In developing the interim regulations, the Department has conferred with the State Advisory Council (Council) and Commonwealth agencies such as the Department of Aging, the Department of Education, the Department of Public Welfare and the Pennsylvania Emergency Management Agency. It also convened a public hearing on the interim regulations on September 12, 2002, prior to which it distributed a preliminary draft of the interim regulations to persons who requested the

preliminary draft. Notice of the public hearing was published at 32 Pa.B. 4208 (August 24, 2002). In adopting the interim regulations, the Department has considered the comments of the Council, other Commonwealth agencies and other persons who have provided comments to the Department.

Section 6 of Act 59 exempts the interim regulations from review under the Regulatory Review Act (71 P. S. §§ 745.1—745.14). Act 59 does not exempt the regulations from the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1101—1611), known as the Commonwealth Documents Law (CDL). Act 59 went into effect on August 19, 2002, and requires that the interim regulations be adopted within 120 days thereafter, following at least one public hearing on the interim regulations. Based upon Act 59's requirement that the Department convene a public meeting on the interim regulations before adopting them, and the short period of time Act 59 gave the Department to adopt interim regulations, it appears that the General Assembly intended to exempt the Department from proposing regulations, as generally required by sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) for final regulations, before adopting the interim regulations. Assuming, however, that sections 201 and 202 of the CDL do apply to the interim regulations, the Department has determined to proceed with the interim regulations without prior proposed rulemaking, under section 204(3) of the CDL (45 P. S. § 1204(3)), on the grounds that following the procedures for proposed rulemaking would be impractical and contrary to the public interest.

It is impractical to proceed with proposed rulemaking before final adoption because of the very short time Act 59 gave the Department to adopt interim regulations, after the effective date of Act 59. Additionally, these regulations need to be adopted expeditiously so that the Department has time to ensure that curricula is revised in emergency medical services (EMS) training institutes to incorporate the requirements of these regulations before out-of-hospital DNR orders, bracelets and necklaces are made available by the Department. The DNR Act provides that these items are to be made available by February 14, 2003. It is also contrary to the public interest to proceed with proposed rulemaking because to do so would delay adoption of the regulations, which are being promulgated to promote the public interest, past the deadline directed by statute for the adoption of the interim regulations.

Act 59 also requires that following the Department's adoption of interim regulations the Department is to adopt final regulations in accordance with customary rulemaking procedures by February 18, 2004. The Department will propose regulations before adopting final regulations by that date.

Summary

Subpart A. Emergency Medical Services Systems

Section 1001.1. Purpose.

This section is amended to address the purpose of Subpart A rather than the purpose of Part VII.

Section 1001.2. Definitions.

This section is amended to provide that the definitions in the section apply throughout Subpart A. The regulation had read that the definitions in the section applied throughout Part VII. This is no longer practical since some of the terms defined in the section are given different definitions under the DNR Act and the definition section in Chapter 1051.

Section 1001.3. Applicability.

This section identified the persons who were affected by Part VII. It has been amended to identify persons affected by Subpart A.

Section 1001.4. Exceptions.

This section authorized persons to seek exceptions to regulations in Part VII that did not repeat statutory requirements. It has been amended to authorize persons to seek exceptions to regulations in Subpart A.

Section 1001.5. Investigations.

This section announced that the Department may investigate a possible violation of Part VII. It has been amended to announce that the Department may investigate a possible violation of Subpart A.

Section 1003.27. Disciplinary and corrective action.

This section addresses the Department's authority to discipline prehospital personnel. One of the grounds for discipline was violating a duty imposed by Part VII. Subsection (a)(20) has been amended to provide that discipline may be imposed for violating a duty imposed by Subpart A.

Section 1005.3. Right to enter, inspect and obtain records.

This section addressed the duty of a ground ambulance service to cooperate with the Department when the Department was investigating a violation of Part VII. It has been amended to substitute "Subpart A" for "Part VII." Under § 1007.1 (relating to general provisions), this amendment is also applicable to air ambulance services.

Section 1005.10. Licensure and general operating standards.

This section addresses the standards that an entity needs to satisfy to become licensed as a ground ambulance service and continue to operate as a ground ambulance service. It is amended to require a ground ambulance service to maintain written policies and procedures to implement the requirements of Chapter 1051.

Section 1007.7. Licensure and general operating standards.

This section addresses the standards that an entity needs to satisfy to become licensed as an air ambulance service and continue to operate as an air ambulance service. It is amended to require that an air ambulance service maintain written policies and procedures to implement the requirements of Chapter 1051.

Subpart B. Matters Ancillary to Emergency Medical Services Systems

Chapter 1051 is adopted to facilitate implementation of the DNR Act. In addition, it assists the implementation of an Act 59 amendment to 20 Pa.C.S. §§ 5401—5416 (relating to the Advance Directive for Health Care Act) that directs EMS providers to follow the procedures for implementing an out-of-hospital DNR order when a patient experiencing cardiac or respiratory arrest has both an advance declaration issued under the Advance Directive for Health Care Act and an out-of-hospital DNR order issued under the DNR Act.

There are significant procedural differences between the two processes. Under the Advance Directive for Health Care Act, if a patient has issued an advance declaration that directs that no CPR be provided in the event of the patient's cardiac or respiratory arrest, the EMS provider cannot follow that directive until the provider contacts a medical command physician, the

medical command physician determines that the declaration is operative and the medical command physician directs the EMS provider to withhold or discontinue CPR. Under the DNR Act, the EMS provider is empowered to withhold CPR upon observing an out-of-hospital DNR order, bracelet or necklace displayed with the patient; the EMS provider is not required to contact a medical command physician to secure approval.

*General Provisions**Section 1051.1. Purpose.*

This section addresses the purposes of the chapter. While a primary purpose of the DNR Act and the chapter is to articulate standards for the issuance and revocation of out-of-hospital DNR orders, a component of the DNR Act deals with pregnant patients. That component sets forth specific rules for the administration of out-of-hospital DNR orders issued for pregnant patients. Also, it addresses other types of life-sustaining procedures, other types of orders and directives that address the withholding or withdrawing of life-sustaining procedures, and duties of health care providers when confronted with these orders. Consequently, this section announces that the chapter deals with these special provisions relating to pregnant patients in addition to the general rules applicable to the issuance, administration and revocation of out-of-hospital DNR orders.

Section 1051.2. Definitions.

This section provides definitions for terms used in the chapter. Requiring some discussion are the definitions of "attending physician," "EMS provider," "EMS personnel," "health care provider," "patient," "prehospital personnel" and "surrogate."

"Attending physician"

"Attending physician" is defined as it is defined in the DNR Act, except a sentence is added stating that a patient may have more than one attending physician. More than one physician may have primary responsibility for the medical care and treatment of a patient. For example, a patient may use a group practice in which multiple physicians handle the patient's medical care. Another example is that a patient who has cancer may see an oncologist on a regular basis in addition to a primary care physician.

Depending upon a variety of circumstances it may be difficult to conclude that one physician is the "exclusive" attending physician. Also, a physician may believe that the physician is the patient's attending physician based upon the information the patient or a surrogate provides to the physician, but some information may be forgotten, withheld or not known by the patient or surrogate.

A physician who is requested to issue an out-of-hospital DNR order for a patient needs to make a good faith judgment as to whether the physician is an attending physician of the patient based upon the medical care the physician provides the patient. If the physician determines that the circumstances of the physician-patient relationship do not enable the physician to make that determination, the physician should attempt to supplement that knowledge with information the physician secures after making reasonable inquiries of the patient or the patient's surrogate regarding the medical care the patient is receiving from other physicians.

"Health care provider," "EMS provider," "EMS personnel" and "prehospital personnel"

The DNR Act defines "[EMS] provider," "health care provider" and "person." The statutory definition of "health

care provider” uses the term “person” and includes “personnel recognized” under the EMS Act. The statute’s definition of “person” is not limited to an individual. The Department construes the statute’s definition of “health care provider” to include persons, not limited to individuals, who are licensed, certified or otherwise authorized under Commonwealth laws to administer health care in the ordinary course of their business or profession. Consequently, it interprets the statutory “health care provider” definition’s reference to “personnel” recognized under the EMS Act, to serve as an example of health care providers and not as a limitation on the definition.

The DNR Act defines “[EMS] provider” to include each health care provider recognized under the EMS Act, and also an individual recognized to use automated external defibrillators (AEDs) under 42 Pa.C.S. § 8331.2 (relating to good Samaritan civil immunity for use of AEDs). Similar to the Department’s interpretation of the statute’s definition of “health care provider” the Department interprets the statute’s definition of “[EMS] provider” to include a person, not limited to an individual, that provides EMS under authority granted by the EMS Act. The Department’s definitions of “health care provider” and “EMS provider” in this section reflect these interpretations. Additionally, this section defines the terms “EMS personnel” and “prehospital personnel.” It employs the term “prehospital personnel” in defining “EMS personnel,” and it employs the term “EMS personnel” in defining “EMS provider.”

“Prehospital personnel” is defined in § 1002.1 (relating to definitions) that the Department has adopted under the EMS Act, to include ambulance attendants, first responders, EMTs, EMT-paramedics (paramedics), prehospital registered nurses (PHRNs) and health professional physicians. That definition is included in this section. These individuals are authorized by the EMS Act to perform various services for ambulance companies. However, unlike the DNR Act’s definition of “[EMS] provider,” the definition of “prehospital personnel” does not include an individual who enjoys good Samaritan civil immunity to use an AED.

Some parts of Chapter 1051 address the responsibilities of prehospital personnel and good Samaritan users of AEDs, and other parts address the responsibilities of prehospital personnel exclusively. The latter provisions deal with the relationship between prehospital personnel and medical command physicians—a relationship that good Samaritan users of an AEDs do not share. To distinguish between provisions of the regulations that apply to prehospital personnel and good Samaritan users of AEDs, and those provisions that apply to prehospital personnel only, the Department has defined the term “EMS personnel” to include both types of personnel and uses that term in provisions that apply to both types of personnel. The Department uses the term “prehospital personnel” in provisions that apply to prehospital personnel, but do not apply to good Samaritan users of AEDs.

“Patient”

Act 59 defines “out-of-hospital do-not-resuscitate patient” to be an individual for whom an out-of-hospital DNR order has been issued. It defines “patient” to mean the same thing, unless the context indicates otherwise. As used in Act 59, “patient” and “out-of-hospital do-not-resuscitate patient” are not interchangeable. “Patient” is employed, for example, to refer to an individual who is qualified to receive an out-of-hospital DNR, but not,

necessarily, for whom an out-of-hospital DNR order has been issued. This is the manner in which the term “patient” is defined in this section.

“Surrogate”

The DNR Act permits a patient’s surrogate to request an out-of-hospital DNR order for the patient and to revoke that order. It does not define “surrogate.” In the context in which this term is used in the statute, it means a person who has, or persons who jointly have, legal authority to request or revoke an out-of-hospital DNR order. That is how the Department defines the term in its regulations.

§ 1051.3. Applicability.

This section identifies the major categories of persons to which the chapter applies. It also clarifies that the chapter does not regulate the issuance or implementation of a DNR order executed or to be executed in a hospital, but that it does authorize compliance with an out-of-hospital DNR order in all other settings, including other health care facilities and facilities regulated by other Commonwealth agencies, such as personal care facilities regulated by the Department of Public Welfare. Additionally, it relates that even in a hospital an EMS provider may comply with an out-of-hospital DNR order if the hospital requests an ambulance service to provide EMS to a patient. Hospital requests for an ambulance service’s assistance occasionally occur when an out-of-hospital DNR patient is receiving services at a hospital site that does not handle emergency patients.

Patient and Surrogate Rights and Responsibilities

§ 1005.11. Patient qualifications to request and revoke out-of-hospital DNR order.

The DNR Act identifies the types of patients who qualify to request an out-of-hospital DNR order for themselves. It also provides that even if the patient’s surrogate requests the order, the patient may revoke it. This regulation incorporates that information.

§ 1005.12. Surrogate’s authority to request and revoke out-of-hospital DNR order.

The DNR Act provides that a patient’s surrogate may request an out-of-hospital DNR order for the patient if the patient meets certain criteria, and then may later revoke the out-of-hospital DNR order. This section conveys that information. It also explains that the age or physical or mental condition of the patient does not impact the ability of a surrogate to act on the patient’s behalf. The only patient conditions that are relevant are that a patient is in a terminal condition, or is permanently unconscious and has an operative advance declaration.

§ 1005.13. Person who loses authority to function as a surrogate.

The responsibilities of a person who loses the authority to function as a patient’s surrogate are not addressed in the DNR Act. Subsection (a) emphasizes that the authority to request an out-of-hospital DNR order for another person, and to revoke that order, is not necessarily an authority that lasts a lifetime. For example a person may be appointed to act as the guardian of a patient and later be replaced as the patient’s guardian.

Subsection (b) imposes upon a person who acted as a patient’s surrogate when requesting an out-of-hospital DNR order for the patient, but who has since lost the authority to function as the patient’s surrogate, to cooper-

ate with the physician who issued that order and who is seeking to locate the patient or the patient's surrogate. A physician may contact a surrogate who requested an out-of-hospital DNR to convey important information about the patient's condition, including that the physician misdiagnosed the patient's condition or made an error in determining that the condition was terminal or that the patient was permanently unconscious. This information needs to be conveyed to the patient if the patient is competent to make health care decisions for himself. If the patient is not competent to make those decisions, the information needs to be conveyed to the person who is the patient's current surrogate. The patient's former surrogate, when contacted by the patient's physician, is required to provide the physician information to locate the current surrogate if that information is possessed by the former surrogate.

Subsection (c) also imposes upon a person who has lost the authority to serve as a patient's surrogate, the duty to provide the patient or the patient's new surrogate, as appropriate, the name of the physician who issued the out-of-hospital DNR order for the patient and any other information the surrogate has to help the patient or replacement surrogate locate the physician who issued the out-of-hospital DNR order.

Attending Physician Responsibilities

§ 1051.21. Securing out-of-hospital DNR orders, bracelets and necklaces.

This section informs physicians about how they may secure out-of-hospital DNR orders, bracelets and necklaces. It provides that out-of-hospital DNR bracelets and necklaces are to be purchased from a vendor with which the Department has contracted. The Department will publish in the *Pennsylvania Bulletin* a notice identifying the name and address of the vendors. The section also relates that the Department will publish superseding notices in the *Pennsylvania Bulletin* if there is a vendor change.

§ 1051.22. Issuance of out-of-hospital DNR order.

This section relates that an attending physician may issue an out-of-hospital DNR order and specifies various duties the physician is required to perform before issuing the order.

§ 1051.23. Disclosures to patient requesting out-of-hospital DNR order.

This section identifies the information a patient's attending physician must disclose to the patient before issuing an out-of-hospital DNR order requested by the patient. The regulation does not require the physician to provide the required information verbally, but the physician is required to ensure that the patient has received and understands all of the required information before issuing an out-of-hospital DNR order for the patient that is requested by the patient.

§ 1051.24. Disclosures to surrogate requesting out-of-hospital DNR order.

This section identifies the information a patient's attending physician must disclose to the patient's surrogate before issuing an out-of-hospital DNR order requested for the patient by the surrogate.

§ 1051.25. Disclosures to patient when surrogate requests out-of-hospital DNR order.

This section specifies the process the patient's attending physician must follow in deciding the information the

physician will provide to the patient when an out-of-hospital DNR order is requested by the patient's surrogate.

§ 1051.26. Physician refusal to issue an out-of-hospital DNR order.

This section prescribes the procedures an attending physician is to follow when the physician is not willing to issue an out-of-hospital DNR order for a patient who qualifies for the order.

§ 1051.27. Providing out-of-hospital DNR bracelet or necklace.

This section prohibits an attending physician's issuance of an out-of-hospital DNR bracelet or necklace without also issuing, or having previously issued, an out-of-hospital DNR order for the patient.

§ 1051.28. Documentation.

This section requires an attending physician to assert in an out-of-hospital DNR order whether the physician also provided an out-of-hospital DNR bracelet or necklace for the patient. It also requires the physician to maintain a copy of the order in the patient's medical record. If the physician issues an order and provides the bracelet or necklace at a later time, this section further requires the physician to document in the patient's record the physician's issuance of a bracelet or necklace for the patient.

§ 1051.29. Duty to contact patient or surrogate.

This section requires the attending physician to make a reasonable effort to contact the patient or the patient's surrogate, after having issued an out-of-hospital DNR order for the patient, if the physician discovers that the diagnosis of a terminal condition or permanent unconsciousness was in error.

§ 1051.30. Physician destruction of out-of-hospital DNR order, bracelet or necklace.

This section addresses a physician's responsibilities when a patient or the patient's surrogate returns or has been requested by the physician to return an out-of-hospital DNR order, bracelet or necklace because the physician has determined that a terminal condition or permanently unconscious diagnosis was in error.

EMS Provider Responsibilities

§ 1051.51. Implementation of out-of-hospital DNR order.

This section deals with EMS provider compliance with out-of-hospital DNR orders and the procedures the provider is to follow if uncertain as to whether an out-of-hospital DNR order is valid or has been revoked.

§ 1051.52. Procedure when both advance directive and out-of-hospital DNR order are present.

This section explains that when an EMS provider observes both an advance directive for health care directing that no CPR be provided in the event of the patient's cardiac or respiratory arrest, and an out-of-hospital DNR order, bracelet or necklace, the provider is to follow the procedure for complying with the out-of-hospital DNR order.

Pregnant Patients

§ 1051.61. Pregnant patients.

This section specifies preconditions to a health care provider complying with an order or direction to not

provide nutrition, hydration, CPR and other life-sustaining procedures to a pregnant woman.

Medical Command Physician Responsibilities

§ 1051.81. Medical command physician responsibilities.

This section addresses a medical command physician's responsibilities when communicating with an EMS provider who encounters an out-of-hospital DNR patient who is experiencing cardiac or respiratory arrest. Specific subsections address the medical command physician's responsibilities when the EMS provider communicates uncertainty as to whether an out-of-hospital DNR order has been revoked, and the medical command physician's responsibilities when the EMS provider advises that the provider has encountered a pregnant out-of-hospital DNR patient who is experiencing cardiac or respiratory arrest.

Orders, Bracelets and Necklaces from Other States

§ 1051.101. Recognition of other states' out-of-hospital DNR orders.

The DNR Act directs that EMS providers are to comply with out-of-hospital DNR orders issued in another state if that state's orders, bracelets and necklaces are issued in a manner consistent with the laws of the Commonwealth. This section repeats that responsibility and explains how the Department will apprise EMS providers of the orders, bracelets and necklaces issued in other states that are acceptable in this Commonwealth.

Effective Date

The amendments will go into effect on March 1, 2003. The effective date is postponed following the publication of the regulations for several reasons. First, the amendments to §§ 1005.10 and 1007.7 (relating to licensure and general operating standards; and licensure and general operating standards) require an ambulance service to have written policies and procedures relating to Chapter 1051. Ambulance services will need time to adopt those policies and procedures. Second, as a practical matter, the regulations cannot go into effect until the out-of-hospital DNR orders, bracelets and necklaces are available. They are not available at this time. Section 54A04 of the DNR Act (relating to orders, bracelets and necklaces) gives the Department 180 days after the effective date of that act, which is February 14, 2003, to make those items available. Third, section 4 of Act 59 requires the Department to develop and make available to health care providers materials relating to the DNR Act and the Department's regulations. Fourth, section 4 of Act 59 also requires that the curricula for securing prehospital personnel certifications and recognitions be modified to include the requirements of Act 59 and these regulations. Each of these tasks requires time to complete and dictates that the effective date of the regulations be postponed for a period of time following publication of the interim regulations in the *Pennsylvania Bulletin*.

Paperwork

The Department will need to develop an out-of-hospital DNR order form for attending physicians to issue for patients who qualify for those orders. The Department will need to develop a paper or electronic process for physicians to secure those orders from the Department or its designee.

Attending physicians will also need to follow a paper or electronic process to secure out-of-hospital DNR bracelets and necklaces from a vendor contracted by the Department to manufacturer those bracelets and necklaces. The

Department will need to complete the paperwork required to contract with vendors to produce the bracelets and necklaces.

The Department will need to publish notices in the *Pennsylvania Bulletin* identifying vendors from which attending physicians may procure out-of-hospital DNR bracelets and necklaces. The Department will also need to publish notices in the *Pennsylvania Bulletin* identifying states that provide out-of-hospital DNR orders, bracelets and necklaces that EMS providers are to follow, and describing the acceptable out-of-hospital DNR items.

Physicians will need to maintain information in patient medical records regarding the issuance of out-of-hospital DNR items, and prepare the paperwork or electronic entries to secure and provide out-of-hospital DNR items for patients.

Financial Impact

The DNR Act and the regulations will save patients and their families, as well as insurers, the costs of paying for continued patient care when patients who are in a terminal condition or who are permanently unconscious receive unwanted but successful CPR that continues and perpetuates the patient's poor quality of life following a cardiac or respiratory arrest. These end of life costs can continue to burden the family for several years following a patient's death. While the purpose of the DNR Act and Chapter 1051 is to enable a patient in a terminal condition, or the patient's surrogate, to communicate a decision that directs EMS providers to permit the patient to die with dignity, significant health care cost-savings will often be a collateral benefit.

The average annual cost the DNR Act and Chapter 1051 impose over 5 years to the regulated community (attending physicians, patients and surrogates) is projected to be \$65,000. This includes the cost of procuring DNR orders, bracelets and necklaces for distribution in attending physician offices. The average annual costs over 5 years for State government is projected to be \$36,000, which includes development and printing costs for educational materials, training, outreach and travel needed to assist regional EMS councils and practitioners in the implementation of the statute and the regulations.

It is expected that the overall cost-savings in reducing expensive and undesired end-of-life care will offset other costs incurred in implementing the statute and regulations.

Statutory Authority

Section 6 of Act 59 provides that the Department publish interim regulations regarding implementation of the DNR Act.

Regulatory Review

Under section 6 of Act 59, the Department, upon completion of at least one public hearing, and within 120 days after the effective date of Act 59, is to publish interim regulations regarding implementation of the DNR Act. The interim regulations are not subject to the Regulatory Review Act. Under the same section of Act 59, the Department is to adopt final regulations within 18 months after the effective date of Act 59.

The Office of Attorney General has reviewed the interim regulations. The interim regulations were approved on December 2, 2002.

Contact Person

Interested persons are invited to submit comments, suggestions or objections to the interim regulations to

Margaret E. Trimble, Director of the Emergency Medical Services Office, Department of Health, 1032 Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, (717) 787-8740, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons with a disability may also submit comments, suggestions or objections to Margaret Trimble in alternative formats, such as by audio, Braille or, for speech or hearing impaired persons, by using V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984[TT]. Persons who require an alternative format of this document should contact Margaret Trimble so that necessary arrangements may be made. The Department will consider the comments it receives in developing proposed regulations that will be published in advance of the Department adopting final regulations by February 18, 2004.

Findings

The Department finds that:

(1) Proposed rulemaking in advance of the interim regulations is not required under section 6 of Act 59, or, if the proposed rulemaking requirements of sections 201 and 202 of the CDL are applicable, the interim regulations are exempt from those requirements under section 204(3) of the CDL because publishing proposed rulemaking in advance of the interim regulations would be impractical and contrary to the public interest.

(2) A public hearing was held prior to the adoption of the interim regulations as required by section 6 of Act 59 and all comments received by the Department were considered.

(3) The adoption of the interim regulations in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 28 Pa. Code Part VII, are amended by amending §§ 1001.1—1001.5, 1003.27, 1005.3, 1005.10 and 1007.7; and by adding §§ 1051.1—1051.3, 1051.11—1051.13, 1051.21—1051.30, 1051.51, 1051.52, 1051.61, 1051.81 and 1051.101 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) The final-omitted rulemaking shall take effect March 1, 2003.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

Fiscal Note: 10-171 (1) General Fund; (2) Implementing Year 2002-03 is \$10,000; (3) 1st Succeeding Year 2003-04 is \$36,000; 2nd Succeeding Year 2004-05 is \$36,000; 3rd Succeeding Year 2005-06 is \$36,000; 4th Succeeding Year 2006-07 is \$36,000; 5th Succeeding Year 2007-08 is \$36,000; (4) 2001-02 Program—\$29,353,000; 2000-01 Program—\$27,453,000; 1999-00 Program—\$24,250,000; (7) General Government Operations; (8) recommends adoption. The costs, reflected above, implement the requirements of Act 59 of 2002. These figures are included in the Governor's Executive Budget.

Annex A

TITLE 28. HEALTH AND SAFETY

PART VII. EMERGENCY MEDICAL SERVICES

Subpart A. EMERGENCY MEDICAL SERVICES SYSTEM

CHAPTER 1001. ADMINISTRATION OF THE EMS SYSTEM

Subchapter A. GENERAL PROVISIONS

GENERAL INFORMATION

§ 1001.1. Purpose.

The purpose of this subpart is to plan, guide, assist and coordinate the development of regional EMS systems into a unified Statewide system and to coordinate the system with similar systems in neighboring states, and to otherwise implement the Department's responsibilities under the act consistent with the Department's rulemaking authority

§ 1001.2. Definitions.

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

* * * * *

§ 1001.3. Applicability.

This subpart affects regional EMS councils, the Council, other entities desiring to receive funding from the Department or the regional EMS councils for the provision of EMS, ALS and BLS ambulance services, QRSs, instructors and institutes involved in the training of prehospital personnel including EMTs, EMT-paramedics, first responders, ambulance attendants and health professionals, and trauma centers and local governments involved in the administration and support of EMS.

§ 1001.4. Exceptions.

(a) The Department may grant exceptions to, and departures from, this subpart when the policy objectives and intentions of this subpart are otherwise met or when compliance would create an unreasonable hardship, but would not impair the health, safety or welfare of the public. No exceptions or departures from this subpart will be granted if compliance with the standard is required by statute.

(b) Requests for exceptions to this subpart shall be made in writing to the Department. The requests, whether approved or not approved, will be documented and retained on file by the Department. Approved requests shall be retained on file by the applicant during the period the exception remains in effect.

(c) A granted request will specify the period during which the exception is operative. Exceptions may be reviewed or extended if the reasons for the original exception continue.

(d) An exception granted may be revoked by the Department for just cause. Just cause includes, but is not limited to, failure to meet the conditions for the exception. Notice of the revocation will be in writing and will include the reason for the action of the Department and a specific date upon which the exception will be terminated.

(e) In revoking an exception, the Department will provide for a reasonable time between the date of the written notice or revocation and the date of termination of an exception for the holder of the exception to come

into compliance with this subpart. Failure to comply after the specified date may result in enforcement proceedings.

(f) The Department may, on its own initiative, grant an exception to this subpart if the requirements of subsection (a) are satisfied.

§ 1001.5. Investigation.

The Department may investigate any person, entity or activity for compliance with the act and this subpart.

CHAPTER 1003. PERSONNEL

Subchapter B. PREHOSPITAL EMS PERSONNEL

§ 1003.27. Disciplinary and corrective action.

(a) The Department may, upon investigation, hearing and disposition, impose upon prehospital personnel who are certified or recognized by the Department one or more of the disciplinary or corrective measures in subsection (c) for one or more of the following reasons:

* * * * *

(20) Violating a duty imposed by the act, this subpart or an order of the Department previously entered in a disciplinary proceeding.

* * * * *

CHAPTER 1005. LICENSING OF BLS AND ALS GROUND AMBULANCE SERVICES

§ 1005.3. Right to enter, inspect and obtain records.

(a) Upon the request of an employee or agent of the Department during regular and usual business hours, or at other times when that person possesses a reasonable belief that violations of this subpart may exist, a licensee shall:

(1) Produce for inspection records maintained under § 1001.41 (relating to data and information requirements for ambulance services).

(2) Produce for inspection, permit copying, and provide within a reasonable period of time, records that pertain to personnel and their qualifications, staffing, equipment, supplies, and policies and procedures required under § 1005.10 (relating to licensure and general operating standards).

(3) Permit the person to examine vehicles, required equipment and supplies and security facilities.

(b) The Department's representative shall advise the licensee that the inspection is being conducted under section 12(k) of the act (35 P. S. § 6932(k)) and this chapter.

(c) Failure of a licensee to produce records or to permit an examination as required by this section constitutes misconduct in operating the ambulance service and shall be grounds for disciplinary sanctions or denial of license.

§ 1005.10. Licensure and general operating standards.

* * * * *

(l) Policies and procedures. An ambulance service shall maintain written policies and procedures addressing each of the requirements imposed by this section, as well as the requirements imposed by §§ 1001.41, 1001.42, 1001.65, 1005.11 and Chapter 1051 (relating to out-of-hospital do-not-resuscitate orders), and shall also maintain written policies and procedures addressing infection control, management of personnel safety, substance abuse in the workplace, and the placement and operation of its ambulances.

CHAPTER 1007. LICENSING OF AIR AMBULANCE SERVICES—ROTORCRAFT

§ 1007.7. Licensure and general operating standards.

* * * * *

(n) Policies and procedures. An air ambulance service shall maintain written policies and procedures addressing each of the requirements imposed by this section, as well as the requirements imposed by §§ 1001.41, 1001.42, 1001.65 (relating to data and information requirements for ambulance services; dissemination of information; and cooperation) and Chapter 1051 (relating to out-of-hospital do-not-resuscitate orders) and shall also maintain written policies and procedures addressing infection control, management of personnel safety, substance abuse in the workplace, and the placement and operation of its air ambulances.

Subpart B. MATTERS ANCILIARY TO EMERGENCY MEDICAL SERVICES SYSTEMS

CHAPTER 1051. OUT-OF-HOSPITAL DO-NOT-RECUSCITATE ORDERS

GENERAL PROVISIONS

- Sec. 1051.1. Purpose. 1051.2. Definitions. 1051.3. Applicability.

PATIENT AND SURROGATE RIGHTS AND RESPONSIBILITIES

- 1051.11. Patient qualifications to request and revoke out-of-hospital DNR order. 1051.12. Surrogate's authority to request and revoke out-of-hospital DNR order. 1051.13. Person who loses authority to function as a surrogate.

ATTENDING PHYSICIAN RESPONSIBILITIES

- 1051.21. Securing out-of-hospital DNR orders, bracelets and necklaces. 1051.22. Issuance of out-of-hospital DNR order. 1051.23. Disclosures to patient requesting out-of-hospital DNR order. 1051.24. Disclosures to surrogate requesting out-of-hospital DNR order. 1051.25. Disclosures to patient when surrogate requests out-of-hospital DNR order. 1051.26. Physician refusal to issue an out-of-hospital DNR order. 1051.27. Providing out-of-hospital DNR bracelet or necklace. 1051.28. Documentation. 1051.29. Duty to contact patient or surrogate. 1051.30. Physician destruction of out-of-hospital DNR order, bracelet or necklace.

EMS PROVIDER RESPONSIBILITIES

- 1051.51. Implementation of out-of-hospital DNR order. 1051.52. Procedure when both advance directive and out-of-hospital DNR order are present.

PREGNANT PATIENTS

- 1051.61. Pregnant patients.

MEDICAL COMMAND PHYSICIAN RESPONSIBILITIES

- 1051.81. Medical command physician responsibilities.

ORDERS, BRACELETS AND NECKLACES FROM OTHER STATES

- 1051.101. Recognition of other states' out-of-hospital DNR orders.

GENERAL PROVISIONS

§ 1051.1. Purpose.

This chapter provides standards for the issuance and revocation of out-of-hospital DNR orders and compliance with those orders. An additional purpose of this chapter is to address how health care providers are to deal with orders or directions to not provide life-sustaining treatment, CPR, nutrition or hydration to a pregnant woman.

§ 1051.2. Definitions.

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

Advance directive—A directive for health care in a declaration issued under 20 Pa.C.S. Chapter 54 (relating to the Advance Directive for Health Care Act).

Attending physician—A physician who has primary responsibility for the medical care and treatment of a patient. A patient may have more than one attending physician.

CPR—Cardiopulmonary resuscitation—Cardiac compression, invasive airway techniques, artificial ventilation, defibrillation and other related procedures used to resuscitate a patient or to prolong the life of a patient.

Declarant—As defined in 20 Pa.C.S. § 5403 (relating to definitions).

Declaration—As defined in 20 Pa.C.S. § 5403.

Department—The Department of Health of the Commonwealth.

DNR—Do not resuscitate.

EMS personnel—Emergency medical services personnel—Prehospital personnel and individuals given good Samaritan civil immunity protection when using an automated external defibrillator under 42 Pa.C.S. § 8331.2 (relating to good Samaritan civil immunity for use of automated external defibrillators).

EMS provider—Emergency medical services provider—EMS personnel, a medical command physician and, as defined in § 1001.2 (relating to definitions), an advance life support service medical director, medical command facility medical director, medical command facility, ambulance service and quick response service.

Health care provider—A person who is licensed, certified or otherwise authorized to administer health care in the ordinary course of a business or practice of a profession. The term includes EMS providers.

Invasive airway technique—Any advanced airway technique, including endotracheal intubation.

Life-sustaining treatment—

(i) A medical procedure or intervention that, when administered to a patient, will serve only to prolong the process of dying or to maintain the patient in a state of permanent unconsciousness.

(ii) The term includes nutrition and hydration administered by gastric tube or intravenously or any other artificial or invasive means if the order of the patient so specifically provides.

Medical command physician—A physician who is approved by a regional emergency medical services council to provide medical command.

Out-of-hospital DNR bracelet—A bracelet which signifies that an out-of-hospital DNR order has been issued.

Out-of-hospital DNR necklace—A necklace which signifies that an out-of-hospital DNR order has been issued.

Out-of-hospital DNR order—A written order, the form for which is supplied by the Department or its designee under this chapter, that is issued by an attending physician and directs EMS providers to withhold CPR from the patient in the event of cardiac or respiratory arrest.

Out-of-hospital DNR patient—A patient for whom an attending physician has issued an out-of-hospital DNR order.

Patient—One of the following:

(i) An individual who is in a terminal condition.

(ii) A declarant whose declaration has become operative under 20 Pa.C.S. § 5405(2) (relating to when declaration becomes operative) and which provides that no CPR be provided in the event of the declarant's cardiac or respiratory arrest if the declarant becomes permanently unconscious, or designates a surrogate to make that decision under those circumstances

Permanently unconscious—

(i) A medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment.

(ii) The term includes, without limitation, a persistent vegetative state or irreversible coma.

Person—An individual, corporation, partnership, association or Federal, State or local government or governmental agency.

Physician—An individual who has a currently registered license to practice medicine or osteopathic medicine in this Commonwealth.

Prehospital personnel—The term includes any of the following prehospital practitioners:

- (i) Ambulance attendants.
- (ii) First responders.
- (iii) Emergency medical technicians (EMTs).
- (iv) EMT-paramedics.
- (v) Prehospital registered nurses.
- (vi) Health professional physicians.

Surrogate—An individual who has, or individuals who collectively have, legal authority to request an out-of-hospital DNR order for another individual or to revoke that order.

Terminal condition—An incurable and irreversible medical condition in an advanced state caused by injury, disease or physical illness which will, in the opinion of the attending physician, to a reasonable degree of medical certainty, result in death regardless of the continued application of life-sustaining treatment.

§ 1051.3. Applicability.

(a) This chapter applies to the following:

- (1) Health care providers.
- (2) Attending physicians.
- (3) Patients.
- (4) Surrogates.

(b) This chapter neither compels nor prohibits health care provider compliance with an out-of-hospital DNR order in a hospital. In a hospital, an EMS provider shall comply with an out-of-hospital DNR order only if responding on behalf of an ambulance service to a call the hospital makes for ambulance service assistance.

(c) This chapter does not regulate the issuance of or compliance with a DNR order issued in a hospital to be followed in that hospital.

(d) This chapter permits EMS providers to comply with out-of-hospital DNR orders in all settings other than a hospital, except as set forth in subsection (b), including personal care facilities and all other health care facilities.

PATIENT AND SURROGATE RIGHTS AND RESPONSIBILITIES

§ 1051.11. Patient qualifications to request and revoke out-of-hospital DNR order.

(a) *Patient requesting an out-of-hospital DNR order.* A patient may request and receive an out-of-hospital DNR order from the patient's attending physician if the patient has a terminal condition and the patient is at least 18 years of age, has graduated from high school, has married or is emancipated.

(b) *Patient revoking an out-of-hospital DNR order.* An out-of-hospital DNR patient, regardless of age or physical or mental condition, may revoke an out-of-hospital DNR order issued for the out-of-hospital DNR patient whether the order was issued pursuant to the request of the patient or the patient's surrogate.

§ 1051.12. Surrogate's authority to request and revoke out-of-hospital DNR order.

(a) *Surrogate requesting an out-of-hospital DNR order.* The surrogate of a patient may request and receive from the patient's attending physician an out-of-hospital DNR order for the patient, regardless of the patient's age or other physical or mental condition.

(b) *Surrogate revoking an out-of-hospital DNR order.* A patient's surrogate may revoke an out-of-hospital DNR order for the patient if the out-of-hospital DNR order was issued at the request of a surrogate.

§ 1051.13. Person who loses authority to function as a surrogate.

(a) *No authority to revoke out-of-hospital DNR order.* A person who acted as a patient's surrogate when requesting an out-of-hospital DNR order for the patient may not revoke the out-of-hospital DNR order if the person loses the legal authority to serve as the patient's surrogate.

(b) *Duty when contacted by physician.* If a person who acted as the patient's surrogate when the out-of-hospital DNR order was issued for the patient, is not qualified to act as the patient's surrogate when a physician contacts that person under § 1051.30(b) (relating to physician destruction of out-of-state DNR order, bracelet or necklace), the person shall apprise the physician that the person is no longer the patient's surrogate and provide the physician any information the person has to help the physician locate the patient.

(c) *Duty when person loses surrogate status.* A person who loses the authority to act as a patient's surrogate after the person obtained an out-of-hospital DNR order for the patient shall make a reasonable effort to apprise the physician who issued the out-of-hospital DNR order of the change in that person's status, as well as the name of the person, if any, who replaced that person as the patient's surrogate. A person who loses the authority to act as a patient's surrogate shall also provide to the patient if the patient is no longer represented by a surrogate, or to the replacement surrogate if there is one, the name of the physician who issued the out-of-hospital DNR order and any information the person has to help the patient or the patient's surrogate locate the physician.

ATTENDING PHYSICIAN RESPONSIBILITIES

§ 1051.21. Securing out-of-hospital DNR orders, bracelets and necklaces.

(a) *Securing order forms.* A physician or the physician's agent may secure out-of-hospital DNR order forms from the Department unless the Department has contracted

with a vendor to provide the order forms, in which case the physician shall secure the order forms from the contracted vendor.

(b) *Securing bracelets and necklaces.* A physician may secure out-of-hospital DNR bracelets and necklaces by purchasing them from the vendor with which the Department has contracted to produce the bracelets and necklaces.

(c) *Vendors.* The Department will publish in a *Pennsylvania Bulletin* notice the name and address of the vendors with which it has contracted under this section and publish superseding *Pennsylvania Bulletin* notices when there are vendor changes.

§ 1051.22. Issuance of out-of-hospital DNR order.

(a) *Authority to issue.* A patient's attending physician shall issue an out-of-hospital DNR order for the patient if the patient who is qualified to request the order under § 1051.11(a) (relating to patient qualifications to request and revoke out-of-hospital DNR order) or the patient's surrogate requests the attending physician to issue an out-of-hospital DNR order for the patient and the attending physician determines that the patient has a terminal condition or is permanently unconscious.

(b) *Review of order before signing.* Before completing, signing and dating an out-of-hospital DNR order, a patient's attending physician shall ensure that the patient is identified in the order, that all other provisions of the order have been completed, and that the patient or the patient's surrogate, as applicable, has signed the order.

(c) *Order form.* A patient's attending physician shall issue an out-of-hospital DNR order for the patient only on a form provided by the Department or its designee.

§ 1051.23. Disclosures to patient requesting out-of-hospital DNR order.

When a patient qualified under § 1051.11(a) (relating to patient qualifications to request and revoke out-of-hospital DNR order) requests an out-of-hospital DNR order, the attending physician shall disclose the following information to the patient before issuing an out-of-hospital DNR order for the patient:

(1) The diagnosed condition is a terminal condition.

(2) An out-of-hospital DNR order directs an EMS provider to withhold providing CPR to the patient in the event of the patient's cardiac or respiratory arrest.

(3) The attending physician may also issue an out-of-hospital DNR bracelet or necklace for the patient, and that the necklace and bracelet also direct an EMS provider to withhold providing CPR in the event of the patient's cardiac or respiratory arrest.

(4) An out-of-hospital DNR order, bracelet or necklace requested by a patient is effective only when the patient possesses and displays the order, bracelet or necklace.

(5) An out-of-hospital DNR order is not effective when the patient is in a hospital, unless an EMS provider has been dispatched to provide EMS to the patient in the hospital, but a DNR order may be issued for the patient in a hospital in accordance with other procedures.

(6) The patient may revoke the out-of-hospital DNR order; the patient may do so without the physician's approval or knowledge; revocation may be accomplished by destroying or not displaying the order, bracelet or necklace, or by conveying the decision to revoke the out-of-hospital DNR order verbally or otherwise at the

time the patient experiences respiratory or cardiac arrest; and neither the patient's physical nor mental condition will be considered to void the patient's decision to revoke the out-of-hospital DNR order if that decision is clearly communicated in some manner.

(7) The possibility exists that the EMS provider may administer CPR in the event of the patient's cardiac or respiratory arrest if an EMS provider is uncertain regarding the validity or applicability of the out-of-hospital DNR order, bracelet or necklace.

(8) An EMS provider who complies with the patient's out-of-hospital DNR order may provide other medical interventions to the patient to provide comfort or alleviate pain.

(9) The physician will attempt to contact the patient to ask the patient to return the out-of-hospital DNR order, bracelet and necklace to the physician, for destruction by the physician, if the physician discovers that the diagnosis of the terminal condition was in error.

(10) If the patient is female, there are additional procedures that an EMS provider will need to follow to implement an out-of-hospital DNR order if the patient is pregnant at the time of cardiac or respiratory arrest. If the patient is pregnant or requests information regarding the additional procedures, the physician shall explain the requirements of § 1051.61 (relating to pregnant patients).

§ 1051.24. Disclosures to surrogate requesting out-of-hospital DNR order.

Before issuing an out-of-hospital DNR order for a patient that is requested by the patient's surrogate, the attending physician shall disclose the following information to the surrogate:

(1) The diagnosed condition is a terminal condition or that the physician has diagnosed the patient to be permanently unconscious.

(2) The disclosures required by § 1051.23(2), (3), (5), (7) and (8) (relating to disclosures to patient requesting out-of-hospital DNR order).

(3) An out-of-hospital DNR order, bracelet or necklace requested by the surrogate is effective only when the order, bracelet or necklace is displayed with the patient or the surrogate presents the order to the health care provider at the time the patient experiences cardiac or respiratory arrest.

(4) The patient or surrogate may revoke the out-of-hospital DNR order; the patient or surrogate may do so without the physician's approval or knowledge; revocation may be accomplished by destroying or not displaying the order, bracelet or necklace, or by conveying the decision to revoke the out-of-hospital DNR order verbally or otherwise at the time the patient experiences cardiac or respiratory arrest; and neither the physical nor mental condition of the patient will be considered to void the decision of the patient or surrogate to revoke the out-of-hospital DNR order if that decision is clearly communicated in some manner. The physician shall also apprise the surrogate, if it seems appropriate under the circumstances, that the power of the surrogate to revoke the out-of-hospital DNR order for the patient will terminate if the surrogate loses the legal authority to make that decision.

(5) The physician will attempt to contact the surrogate to ask the surrogate to return the out-of-hospital DNR order, bracelet and necklace to the physician, for destruction by the physician, if the physician discovers that the

diagnosis of the terminal condition or that the patient is permanently unconscious was in error.

(6) If the patient is female, there are additional procedures that an EMS provider will need to follow to implement an out-of-hospital DNR order if the patient is pregnant at the time of cardiac or respiratory arrest. If the patient is pregnant or the patient's surrogate requests information regarding the additional procedures, the physician shall explain the requirements of § 1051.61 (relating to pregnant patients).

§ 1051.25. Disclosures to patient when surrogate requests out-of-hospital DNR order.

Before issuing an out-of-hospital DNR order for a patient that is requested by the patient's surrogate, the attending physician shall disclose to the patient the information in § 1051.23 (relating to disclosures to patient requesting out-of-hospital DNR order) that the physician in good faith believes the patient needs to have to make a future decision to revoke or not revoke the order. In making this assessment, the physician shall consult with the patient's surrogate and consider factors such as the reason the patient is not able to request an out-of-hospital DNR order, the patient's ability to comprehend and retain the information, and the patient's age and maturity. The attending physician shall refuse to issue the order if the physician and surrogate cannot agree to the information that is to be disclosed to the patient by the physician.

§ 1051.26. Physician refusal to issue an out-of-hospital DNR order.

An attending physician who is not willing to issue an out-of-hospital DNR order for a reason other than described in § 1051.25 (relating to disclosures to patient when surrogate requests out-of-hospital DNR order) shall explain the reason to the patient or the patient's surrogate, as appropriate.

(1) The physician shall also explain that an out-of-hospital DNR order may be issued only by a physician who has primary responsibility for the treatment and care of a patient.

(2) The physician shall offer to assist the patient or surrogate to secure the services of another physician who is willing to issue an out-of-hospital DNR order for the patient and who will undertake primary responsibility for the treatment and care of the patient in addition to or instead of the attending physician, as the patient or surrogate chooses.

§ 1051.27. Providing out-of-hospital DNR bracelet or necklace.

(a) *Bracelet and necklace.* A patient's attending physician may provide to the patient, or to the patient's surrogate for the patient, an out-of-hospital DNR bracelet or necklace, or both, if the physician has issued or is issuing an out-of-hospital DNR order for the patient and the patient or the surrogate requests the item.

(b) *Order also required.* A patient's attending physician may not provide an out-of-hospital DNR bracelet or necklace for the patient without also issuing, or having issued, an out-of-hospital DNR order for the patient.

(c) *Department vendor.* A patient's attending physician may provide to or for the patient only an out-of-hospital DNR bracelet or necklace produced by a vendor with which the Department has contracted to produce the bracelet or necklace.

§ 1051.28. Documentation.

An attending physician who issues an out-of-hospital DNR order for a patient shall maintain a copy of that order in the patient's medical record and shall document in that order whether the physician also provided an out-of-hospital DNR bracelet or necklace, or both. If the attending physician provides an out-of-hospital DNR bracelet or necklace after issuing the out-of-hospital DNR order, the physician shall document the patient's medical record to reflect that the bracelet or necklace was also provided for the patient.

§ 1051.29. Duty to contact patient or surrogate.

If a physician who issued an out-of-hospital DNR order for the patient, subsequently determines that the diagnosis that the patient is in a terminal condition or is permanently unconscious was in error, the physician shall make a good faith effort to promptly contact the patient or the patient's surrogate to disclose the error. The physician shall also request the return of the order, and the bracelet and necklace if the physician provided those items.

§ 1051.30. Physician destruction of out-of-hospital DNR order, bracelet or necklace.

(a) *Destruction of order, bracelet and necklace.* A physician shall destroy an out-of-hospital DNR order, bracelet or necklace returned to the physician under § 1051.29 (relating to duty to contact patient or surrogate), as follows:

(1) The physician shall shred or otherwise destroy beyond identification the original order and mark all copies of the order in the physician's possession as having been revoked.

(2) The physician shall cut the bracelet or necklace pendant in half or take other action that renders the bracelet or necklace incapable of being again used as an out-of-hospital DNR bracelet or necklace.

(b) *Documentation of order when items not destroyed.* A physician who requests the return of an out-of-hospital DNR order, bracelet or necklace under § 1051.29 may not mark copies of the order in the physician's possession as having been revoked without having destroyed or confirmed the destruction of the original out-of-hospital DNR order and any out-of-hospital DNR bracelet or necklace the physician provided for the patient.

EMS PROVIDER RESPONSIBILITIES

§ 1051.51. Implementation of out-of-hospital DNR order.

(a) *Display of order, bracelet or necklace.* An EMS provider may not provide CPR to a patient who is experiencing cardiac or respiratory arrest if an out-of-hospital DNR order, bracelet or necklace is displayed with the patient or the patient's surrogate presents the EMS provider with an out-of-hospital DNR order for the patient, and neither the patient nor the patient's surrogate acts to revoke the order at that time. When an EMS provider observes an out-of-hospital DNR order without also observing an out-of-hospital DNR bracelet or necklace, the EMS provider shall implement the out-of-hospital DNR order only if it contains original signatures.

(b) *Discovery after CPR initiated.* If after initiating CPR an EMS provider becomes aware of an out-of-hospital DNR order that is effective under subsection (a), the EMS provider shall discontinue CPR.

(c) *Prehospital practitioner uncertainty.* If a prehospital practitioner is uncertain as to whether an out-of-hospital

DNR order has been revoked for a patient who is experiencing cardiac or respiratory arrest, the prehospital practitioner shall provide CPR to the patient subject to the following:

(1) If the prehospital practitioner is in contact with a medical command physician prior to initiating CPR, the prehospital practitioner shall initiate or not initiate CPR as directed by the medical command physician.

(2) If the prehospital practitioner is in contact with a medical command physician after initiating CPR, the prehospital practitioner shall continue or not continue CPR as directed by the medical command physician.

(d) *Discontinuation of CPR not initiated by prehospital practitioner.* If CPR had been initiated for the patient before a prehospital practitioner arrived at the scene, and the prehospital practitioner determines that an out-of-hospital DNR order is effective under subsection (a), the prehospital practitioner may not discontinue the CPR without being directed to do so by a medical command physician.

(e) *AED good Samaritan.* If an individual who is given good Samaritan civil immunity protection when using an automated external defibrillator (AED) under 42 Pa.C.S. § 8331.2 (relating to good Samaritan civil immunity for use of automated external defibrillators) is uncertain as to whether an out-of-hospital DNR order has been revoked for a patient who is experiencing cardiac arrest, the individual may provide CPR to the patient as permitted by 42 Pa.C.S. § 8331.2, but shall discontinue CPR if directed by a medical command physician directly or as relayed by a prehospital practitioner.

(f) *Providing comfort and alleviating pain.* When a prehospital practitioner complies with an out-of-hospital DNR order, the prehospital practitioner, within the practitioner's scope of practice, shall provide other medical interventions necessary and appropriate to provide comfort to the patient and alleviate the patient's pain, unless otherwise directed by the patient or the prehospital practitioner's medical command physician.

§ 1051.52. Procedure when both advance directive and out-of-hospital DNR order are present.

If a patient with cardiac or respiratory arrest has both an advance directive directing that no CPR be provided and an out-of-hospital DNR order, an EMS provider shall comply with the out-of-hospital DNR order as set forth in § 1051.51 (relating to compliance with an out-of-hospital DNR order).

PREGNANT PATIENTS

§ 1051.61. Pregnant patients.

Notwithstanding the existence of an order or direction to the contrary, life-sustaining treatment, CPR, nutrition and hydration shall be provided to a pregnant patient by a health care provider unless, to a reasonable degree of medical certainty as certified on the patient's medical record by the patient's attending physician and a second physician who is an obstetrician who has examined the patient, life-sustaining treatment, nutrition and hydration will have one of the following consequences:

(1) They will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the unborn child.

(2) They will be physically harmful to the pregnant patient.

(3) They will cause pain to the pregnant patient which cannot be alleviated by medication.

MEDICAL COMMAND PHYSICIAN RESPONSIBILITIES

§ 1051.81. Medical command physician responsibilities.

(a) *Compliance with out-of-hospital DNR order.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a patient in cardiac or respiratory arrest and the prehospital practitioner is made aware of an out-of-hospital DNR order for the patient by examining an out-of-hospital DNR order, bracelet or necklace, the medical command physician shall honor the out-of-hospital DNR order. If appropriate, the medical command physician shall direct the prehospital practitioner to provide other medical interventions within the practitioner's scope of practice to provide comfort to the patient and alleviate the patient's pain, unless the prehospital practitioner is otherwise directed by the patient.

(b) *Prehospital practitioner uncertainty.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a patient in cardiac or respiratory arrest and the prehospital practitioner communicates uncertainty as to whether an out-of-hospital DNR order for the patient has been revoked, the medical command physician shall ask the prehospital practitioner to explain the reason for the uncertainty. Based upon the information provided, the medical command physician shall make a good faith assessment of whether the described circumstances constitute a revocation, and then direct the prehospital practitioner to withdraw or continue CPR based upon whether the physician determines that the out-of-hospital DNR order has been revoked or not revoked.

(c) *Pregnant patient.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a pregnant patient in cardiac or respiratory arrest, and the prehospital practitioner is made aware of an out-of-hospital DNR order for the pregnant patient by examining an out-of-hospital DNR order, bracelet or necklace for the patient, and apprises the medical command physician of the out-of-hospital DNR order, the medical command physician shall direct the prehospital practitioner to ignore the out-of-hospital DNR order unless the medical command physician has knowledge that the patient's attending physician and a second physician who is an obstetrician had examined the patient, and both certified in the patient's medical record that, to a reasonable degree of medical certainty, life-sustaining treatment, nutrition, hydration and CPR will have one of the following consequences:

- (1) They will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the unborn child.
- (2) They will be physically harmful to the pregnant patient.
- (3) They will cause pain to the pregnant patient which cannot be alleviated by medication.

(d) *Inconsistencies.* Subsections (a) and (b) apply when the patient is a pregnant patient, except to the extent they are inconsistent with subsection (c).

ORDERS, BRACELETS AND NECKLACES FROM OTHER STATES

§ 1051.101. Recognition of other states' out-of-hospital DNR orders.

(a) *Validity of orders, bracelets and necklaces from other states.* An out-of-hospital DNR order, bracelet or

necklace valid in a state other than this Commonwealth is effective in this Commonwealth to the extent the order, bracelet or necklace is consistent with the laws of this Commonwealth.

(b) *Department acceptance.* The Department will review the applicable laws of other states, and the out-of-hospital DNR orders, bracelets and necklaces provided in other states, and list in a notice in the *Pennsylvania Bulletin* the states that provide out-of-hospital DNR orders, bracelets and necklaces that are consistent with the laws of the Commonwealth. The notice will also include, for each state listed, a description of the out-of-hospital DNR order, bracelet and necklace the state issues consistent with the laws of the Commonwealth. The Department will update the list and descriptions, as needed, in a superseding notice in the *Pennsylvania Bulletin*.

(c) *Compliance by EMS providers.* An EMS provider shall comply with §§ 1051.51, 1051.52, 1051.61 and 1051.81 when encountering a patient with an apparently valid out-of-hospital DNR order, bracelet or necklace issued by another state listed in a notice in the *Pennsylvania Bulletin* issued under subsection (b).

[Pa.B. Doc. No. 02-2223. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 89b]

Policies and Forms; General Filing Requirements and General Contents of Forms

The Insurance Department has renumbered the final-form rulemaking which appeared at 32 Pa.B. 5747 (November 23, 2002). The sections affected are as follows:

CHAPTER 89b. APPROVAL FOR LIFE INSURANCE, ACCIDENT AND HEALTH INSURANCE AND PROPERTY AND CASUALTY INSURANCE FILING AND FORM

Old Number	Title	New Number
§ 89a.1	Definitions.	§ 89b.1
§ 89a.2	Purpose.	§ 89b.2
§ 89a.3	Form filings.	§ 89b.3
§ 89a.4	General filing procedure.	§ 89b.4
§ 89a.5	Letter of submission.	§ 89b.5
§ 89a.11	General contents of forms.	§ 89b.11

[Pa.B. Doc. No. 02-2224. Filed for public inspection December 13, 2002, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 53]

Corrective Amendment to 58 Pa. Code § 53.27

The Fish and Boat Commission has discovered a discrepancy between the agency text of 58 Pa. Code § 53.27 (relating to use permits for unpowered boats), as deposited with the Legislative Reference Bureau, and the official text published at 32 Pa.B. 4484 (September 14,

2002), and the text which appeared in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 336), and as currently appears in the *Pennsylvania Code*. When the amendments to § 53.27 were codified, the text of subsections (c)—(f) were inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Fish and Boat Commission has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 53.27. The corrective amendment to 58 Pa. Code § 53.27 is effective as of September 14, 2002, the date the defective official text was published in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 53.27 appears in Annex A.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 53. COMMISSION PROPERTY

§ 57.27. Use permits for unpowered boats.

(a) The Commission and issuing agents designated by the Commission will issue use permits for unpowered boats when their owners choose not to register them to use Commission lakes and access areas.

(b) Use permits will be issued in the form of decals, showing the expiration date. Decals shall be clearly displayed on both sides of the hull amidships below the gunwale. For low-volume boats, such as kayaks, decals shall be placed on both sides of the deck amidships.

(c) An applicant for a use permit shall provide the following information:

(1) The name, address and telephone number of the applicant.

(2) A description of the boat (make, model, year).

(3) The Hull Identification Number (HIN) of the boat (if readily available).

(d) A use permit is issued for a specific boat. It is unlawful to transfer a use permit issued for a specific boat to another boat. A use permit remains effective for the boat for which it is issued even if ownership of the boat is changed during the term of the permit.

(e) Use permits are be valid for 1 or 2 years. The expiration date of a 1-year use permit is December 31 of the year for which it is issued. The expiration date of a 2-year use permit is December 31 of the second year for which it was issued.

(f) The initial fees for the use permits are \$10 for a 1-year permit and \$18 for a 2-year permit. The Executive Director may, by notice published in the *Pennsylvania Bulletin*, adjust these fees so that they remain the same as the resident price for 1-year and 2-year boat launching permits as established in the schedule of fees published, and from time-to-time revised, by the Department of Conservation and Natural Resources for State parks and forests. Whenever a use permit authorized by this section is issued by an issuing agent other than the Commission or the Department of Conservation and Natural Resources, the issuing agent may charge an issuing agent fee not to exceed \$1 per transaction for issuing the permit.

[Pa.B. Doc. No. 02-2225. Filed for public inspection December 13, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing Guide Operations

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to the recognition of fishing guide operations.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposal is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The proposed amendments to § 63.41 (relating to recognition of charter boat and fishing guide operations) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to recognized fishing guide operations. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

E. Summary of Proposal

The Commission administers a program that provides for the voluntary Official Recognition of Charter Boats and Fishing Guides operating within this Commonwealth. Under existing regulations, operators pay a \$50 annual fee for which they receive an official recognition certificate and two decals. In return, they may proclaim themselves as being officially recognized by the Commission and may field dress fish caught for their customers. They also must report to the Commission the number and species of fish caught and their disposition.

The Commission is proposing several significant revisions to § 63.41 as set forth in Annex A. The major changes include:

- Changing the title of the section to "recognition of fishing guide operations." This program enables those so recognized to provide value added services for customers, such as field dressing fish, and imposes a reporting requirement on fish caught. The use of a boat when delivering these services is incidental and not germane to the primary privileges and requirements of participation.

- Including a definition of "concurrent jurisdiction waters" for the purpose of this section.

- Imposing additional requirements when boats are used in fishing guide operations, such as: (1) a Pennsylvania Boating Safety Education Certificate; and (2) registration carrying a use classification of "commercial passenger" when the boat is registered in this Commonwealth.

- Requiring additional documentation be included with applications when boats are used, depending on the number of passengers.

- Correcting a reference to Chapter 101 (relating to boating accidents) to refer to Chapter 115 (relating to boats carrying passengers for hire).

Commission staff intend to provide a copy of the proposed rulemaking to all current participants in the program.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no new costs on the general public. The proposed rulemaking will impose new costs on the private sector in that they will require that when charter boats are used, applicants for official recognition submit a copy of a valid boat registration certificate, showing the boat use classification as "commercial passenger." The statutory biannual fee for a commercial passenger boat registration is \$50, as opposed to the biannual fee of \$30 and \$40 to register motorboats 16 feet to less than 20 feet and motorboats 20 feet or longer, respectively. Each year, the Commission receives approximately 100 applications for official recognition, nearly half of which involve charter boats. Thus, the impact on the private sector will be nominal.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking 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. 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-135. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.41. Recognition of [charter boat and] fishing guide operations.

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

Charter boat—A boat operated as [a commercial enterprise which carries passengers for hire for the purpose of fishing] part of a fishing guide operation on the waters of this Commonwealth.

Concurrent jurisdiction waters—Those waters of this Commonwealth over which the Commonwealth and the United States Coast Guard exercise concurrent jurisdiction, including Lake Erie and the Ohio, Monongahela, Allegheny, Delaware and North Branch, Susquehanna and West Branch, Susquehanna (below Williamsport) Rivers.

Fishing guide operation—A [person who operates a] commercial enterprise [whereby he guides or leads other persons] operated for the purpose of guiding or leading persons fishing on the waters of this Commonwealth by boat or otherwise.

(b) *Voluntary official recognition.* [Registered owners of charter boats and operators of fishing guide enterprises may apply for recognition by the Commission. The application shall contain information the Executive Director may require. Applications will be subject to review by the Bureaus of Law Enforcement, Fisheries and Boating. The Executive Director, with the advice of the staff, may grant official recognition to charter boat and fishing guide operations.] The Executive Director may upon application grant official recognition of fishing guide operations. Applications for recognition shall be made on forms provided by the Commission and contain information the Executive Director may require. Denial of official recognition may be appealed in accordance with Chapter 51, Subchapter E (relating to permit procedures).

(c) [*Inspection and licensing.* Charter boats shall be licensed either as “boats carrying passengers for hire” under Chapter 101 (relating to boating accidents) or by the United States Coast Guard.] *Charter boats.* When charter boats are used, an applicant for official recognition shall submit the following evidence along with the application:

(1) A copy of a valid boat registration certificate, showing the boat use classification as “commercial passenger.”

(2) A copy of a Boating Safety Education Certificate for all operators and crew members.

(3) For charter boats carrying seven or more passengers for hire on concurrent jurisdiction waters submit the following:

(i) A copy of the operator’s license issued by the United States Coast Guard appropriate for the waters on which the boat will operate.

(ii) A copy of the valid Federal documentation certificate.

(iii) A copy of the most recent inspection report for the vessel.

(4) For charter boats carrying six or fewer passengers for hire on concurrent jurisdiction waters, a copy of the operator’s license issued by the United States Coast Guard appropriate for the waters on which the boat will operate.

(5) For charter boats carrying seven or more passengers for hire on waters other than concurrent jurisdiction waters, a certificate of inspection issued under Chapter 115 (relating to boats carrying passengers for hire).

(d) *Duration and fee.* Official recognition of [charter boats and] fishing guide operations [are] shall be valid for a calendar year and shall expire on December 31 of the year [in which they are issued] of issuance. The annual fee for official recognition is \$50.

(e) *Use of official recognition.* [Charter boat and fishing] Fishing guide operations recognized under this section may indicate that they have been “Officially Recognized by the Pennsylvania Fish and Boat Commission” in advertisements and by other means.

(f) *Compliance with regulations.* Persons who receive official recognition for [their charter boat or] fishing guide operations are responsible for ensuring that their employees, passengers and customers comply with fishing and boating regulations. The individual who submits and signs the application shall be the fishing guide or the owner/lessee/captain of the charter boat, and the individual shall be considered the individual party responsible for compliance with regulations. An application for official recognition shall include a provision whereby applicants agree that they will be responsible and are subject to prosecution for [a] any violation of this part [which occur] that occurs in connection with their operations.

(g) *Reports.* [Operators of officially-recognized charter boat and] Officially-recognized fishing guide operations shall provide periodic reports to the Commission on the number of passengers or customers, number and species of fish caught and their disposition and other matters the Executive Director may require. Reports shall be submitted on forms approved by the Commission in numbers and at intervals [the Executive Director may request] determined by the Executive Director. Not more than four nor less than one report will be required per calendar year.

(h) *Field dressing of fish.*

(1) Notwithstanding § 63.15 (relating to field dressing of fish), fish caught pursuant to officially-recognized [charter boat and] fishing guide operations may be filleted and have the head and tail removed before arrival at the place of consumption. The skin shall remain attached to the fillet for species subject to a minimum size limit [have a minimum fillet size limit equal to 75% of the minimum size limit for that species]. The minimum fillet size shall be 75% of the minimum size limit of the fish being filleted.

(2) The [operator of the charter boat or] fishing guide operation shall give the person who receives the

field dressed fish a signed, dated receipt indicating the species and number of fish on a form acceptable to the Commission. A person in possession of the field dressed fish shall carry the receipt with **[them] him** and display it upon request to an officer authorized to enforce this title until the fish have arrived at the place of consumption. It is the responsibility of the officially-recognized **[charter boat or]** fishing guide **[operator] operation** to ensure that a fish field dressed pursuant to the authority of this subsection complies with applicable season, size and creel limits.

(i) **Holder of official recognition. Official recognition for a fishing guide operation that does not involve operation of a charter boat will be issued to an individual fishing guide. Each individual fishing guide shall apply for and receive official recognition. Official recognition for charter boats will be issued to the owner/lessee/captain of the boat. Individuals employed as crew members for a charter boat may, but need not necessarily, apply for and receive individual recognition as fishing guides. The operators of charter boats and the crew members shall comply with the licensing and training requirements in subsection (c).**

(j) **Suspension or revocation of official recognition.** The Commission may suspend or revoke the official recognition of a **[charter boat or]** fishing guide **[operator] operation** for noncompliance with the terms and conditions **[with]** of this section or when the **[operator] guide operation, the individual fishing guide, charter boat owner/lessee/captain or employee or crew member of the guide operation** is convicted or acknowledges guilt of a violation of the code or this part **related to the fishing guide operation.** Suspension or revocation procedures shall comply with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registration or privileges).

[Pa.B. Doc. No. 02-2226. Filed for public inspection December 13, 2002, 9:00 a.m.]

[58 PA. CODE CH. 111] Boating

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking relates to boating.

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, 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 §§ 111.32, 111.59 and 111.65 (relating to Indiana County; Tioga County; and

Westmoreland County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. *Purpose and Background*

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to boating. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal. The Commission's Boating Advisory Board considered the proposals and recommended that the Commission publish a notice of proposed rulemaking containing the proposed amendments.

E. *Summary of Proposal*

(1) *Sections 111.32 and 111.65.* The Commission received a letter from the U.S. Army Corps of Engineers (Corps), Pittsburgh District, dated April 22, 2002, requesting that the Conemaugh River Lake be restricted to electric and manual powered boats. The Conemaugh River Lake was created in 1953 as a part of the flood control system for the Allegheny and Ohio Rivers. The project purposes include flood control, water quality, hydropower generation and recreation. Of these purposes, only flood control has storage allocated for its operation. Other purposes are accommodated to the extent feasible. The summer pool is approximately 800 acres.

Due to historic acid mine drainage pollution, the quality of the water has been highly degraded and water recreational facilities have not been developed. During the past 10 years, agencies have observed a significant improvement in water quality to the point where water recreation is becoming a possibility and demand for shoreline fishing and hand carried boat launching is increasing.

In 1995, the Corps initiated an analysis of various proposed boating alternatives. An interagency meeting was convened to gather input from State and Federal agencies and a consensus electric/manual boat policy was reached. Because there was no significant access at that time, no action was taken to formalize this restriction beyond the Operations Management Plan. However, access is improving with two hand-carry boat launch sites having been developed by local municipalities and two more in the planning stage for development in the next 2 years. The current Corps policy for boating limits on this lake should be formalized in the Commission's regulations. Accordingly, the Commission proposes to amend these sections to read as set forth in Annex A.

(2) *Section 111.59.* The Commission received a letter from the Corps, Baltimore District, dated August 6, 2002, requesting changes to the boating regulations on Tioga, Hammond and Cowanesque Lakes. These lakes were built in the late 1970s as a part of the flood control system for the Susquehanna River. As the lakes were opened, the Commission and the Corps developed a management plan for boating. This plan was modified in the 1991 when the level of the water at Cowanesque Lake was raised. Since that time, the lakes have increased in popularity, becoming a destination for many people from the northern tiers of this Commonwealth and southern New York. After evaluating the current use of the facilities, the Corps is proposing loosening the restrictions on certain activities to expand boating opportunities.

The Corps proposes to:

- Remove the "slow no wake" regulation at Cooks Creek Cove—the area is no more than 200 feet across and is therefore regulated by the general no wake regulations.

• Remove the restriction from boating at the dam—no trespassing signs keep people off the dam structure and there is no need to restrict boats in this area.

• Eliminate the “boats keep out” restriction above the Route 49 Bridge—the original purpose of this restriction was to keep boaters away from Nelson Falls. The Route 49 Bridge provided an easy place to mark this restriction. The Corp has since been able to mark this area by other means and would like to open this area to boats.

• Eliminate the two water-skier rules—the original restriction was intended to restrict conventional skiers. The more common use today is inflatable tubes and similar devices many of which are designed for more than two people. Eliminating this rule will allow families greater freedom to use and enjoy the sport.

• Eliminate the over the transom exhaust restriction—the Corps believe there is no further need for this rule. The original concern was for noise, and the Commission has other regulations to control the production of excessive noise by boats of this type.

• Add a new “slow no wake” zone in the vicinity of two heavily used launch ramps—this area is on a narrow part of the lake and is very congested because of the launch ramp use.

The Commission has reviewed the proposed rulemaking and agrees that the changes will be beneficial to the overall use of the three lakes. Accordingly, the Commission proposes to amend this section to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking 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 rulemaking 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. 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-137. 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

§ 111.32. Indiana County.

* * * * *

(c) *Conemaugh River Lake.*

(1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

(2) **The operation of boats powered by internal combustion motors is prohibited.**

§ 111.59. Tioga County.

* * * * *

(b) *Cowanesque Lake.*

[(1)] Boats are limited to slow, minimum height swell speed in the following areas:

[(i)] (1) * * *

[(ii)] (2) * * *

[(iii) **Cooks Creek Cove**] (3) **Between the buoy lines across the lake in the vicinity of the East and West Boat Launch areas.**

[(iv)] (4) From the [**Day Use Beach**] buoy line west of the **South Shore Day Use Area** upstream to the headwaters of the lake.

[(2) **Boats are prohibited in the following areas:**

(i) **On a line parallel to the dam approximately 25 yards from the shoreline.**

(ii) **From the Route 49 Bridge at Nelson in the headwaters at Nelson Falls.**

(3) **No more than two waterskiers may be towed behind a boat.]**

(c) *Hammond Lake.*

[(1)] Boats are limited to slow, minimum height swell speed from a buoy line across the lake in the [**approximate**] vicinity of [**the Lakeside Pavilion at**] Ives Run [**Recreation Area**] to the extreme backwaters of the lake.

[(2) **No more than one waterskier may be towed behind a boat.**

(3) **It is unlawful to operate boats equipped with over the transom or straight stack type exhaust, wet or dry.]**

* * * * *

(f) *Tioga Lake.*

[(1)] Boats are limited to slow, minimum height swell speed in the following areas:

[(i)] (1) * * *

[(ii)] (2) * * *

[(2) No more than two waterskiers may be towed behind a boat.]

* * * * *

§ 111.65. Westmoreland County.

* * * * *

(c) *Conemaugh River Lake.*

(1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

(2) **The operation of boats powered by internal combustion motors is prohibited.**

* * * * *

[Pa.B. Doc. No. 02-2227. Filed for public inspection December 13, 2002, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 137]

Feeding of Certain Wildlife Prohibited

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 2002, meeting, proposed the following change:

Add § 137.33 (relating to feeding of certain wildlife prohibited) to prohibit the feeding of bears.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed regulation is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the October 8, 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 December 27, 2002.

1. *Introduction*

The Commission is proposing to add § 137.33.

2. *Purpose and Authority*

With increasing bear populations in parts of this Commonwealth, more and more conflicts are taking place between humans and bears. The feeding of bears helps to aggravate the situation by attracting bears to developed areas. The proposed rulemaking will eliminate this factor by making it unlawful to feed bears.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) vests ownership, jurisdiction and control of game or wildlife in the Commission. Section 2102(a) of the code (relating to regulations) directs the Commission to promulgate "... such regulations as it deems necessary and appropriate concerning game or wildlife ... including regulations relating to the protection, preservation and management of game or wildlife" The proposed rulemaking would fulfill these mandates.

3. *Regulatory Requirements*

The proposed rulemaking would not impose additional requirements, but would prohibit an activity.

4. *Persons Affected*

Persons living within areas where black bears are located would not be able to intentionally feed bears or cause bears to congregate or habituate in an area.

5. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until October 31, 2004, unless a regulation is promulgated reauthorizing it.

7. *Contact Person*

For further information regarding the proposed rulemaking, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-152. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.33. Feeding of certain wildlife prohibited.

It is unlawful to, except for normal or accepted farming, habitat management practices, oil and gas drilling, mining, forest management activities or other legitimate commercial or industrial practices, intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals anywhere in this Commonwealth for the purpose of feeding bear, or to intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals that may cause bear to congregate or habituate an area. If songbird feeders are being used by bears, the Commission may issue a written notice prohibiting the songbird feeding. This section shall expire October 31, 2004, unless a regulation is promulgated reauthorizing it.

[Pa.B. Doc. No. 02-2228. Filed for public inspection December 13, 2002, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

Consignment Sales

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to add § 19.18a (relating to consignment sales) to read as set forth in Annex A. The Board published a proposed rulemaking at 31 Pa.B. 822 (February 10, 2001) amending § 19.19 (relating to consignment sales). After further consideration, the Board determined that its prior proposed rulemaking did not

adequately address consumer concerns with consignment sales. Therefore, the Board determined that it should republish its proposed rulemaking to read as set forth in Annex A.

The proposed rulemaking establishes requirements for licensed vehicle dealers who wish to sell vehicles on a consignment basis without holding a vehicle auction license, as authorized by section 5(f)(3) of the Board of Vehicles Act (act) (63 P. S. § 818.5(f)(3)).

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under section 4(a)(9) of the act (63 P. S. § 818.4(a)(9)), which authorizes the Board to promulgate regulations necessary to the effective administration of the act.

Background and Need for the Proposed Rulemaking

By the act of April 19, 1996 (P. L. 104, No. 27) (Act 27), the General Assembly made substantial amendments to the act. Among the changes, the General Assembly eliminated licensure for brokers and created a new class of licensure for public or retail auctions and wholesale auctions. In addition, the activities of brokering—selling at auction and selling on consignment—were divided between dealers and the new auction licensees. Specifically, section 5(f)(3) of the act now provides that “[a] dealer licensed under this act without possessing a wholesale vehicle auction or public or retail vehicle auction license shall be permitted to sell vehicles on consignment.” The General Assembly did not specify consumer protection provisions that would apply to the new classes of licensure.

Dealers did not previously sell vehicles on consignment. Thus, consumers may be unaware that vehicles on display at a dealer’s lot are not owned by the dealer and do not have the same protections in title and warranty as vehicles owned by the dealer. The proposed rulemaking is necessary to address important consumer protection issues. The proposed rulemaking will require an exchange of information between dealers and consignors, which in turn will require an exchange of information between dealers and potential buyers, obviating title and warranty problems post purchase.

Section 19.19(a)(2) of the proposed rulemaking published at 31 Pa.B. 822 provided that “[t]he dealer need not possess the title while displaying the vehicle, but shall provide the executed title by the time of delivery of the vehicle to the buyer.” The Board determined that this provision would not adequately protect the public because it did not ensure that the dealer could obtain clear title to the consigned vehicle. Therefore, the Board decided to amend this subsection in a new proposed rulemaking to provide that the dealer must have either an unexecuted title if the title to the consigned vehicle is unencumbered or a title release from each lien holder if the title to the consigned vehicle is encumbered. In addition, the Board made several other changes to the prior proposed rulemaking. The Board followed the suggestions of the Independent Regulatory Review Commission (IRRC) relating to the wording “vehicle auction.” The Board added the provision that the dealer has a separate consignment agreement for each vehicle on consignment. The Board added the requirement that the consignment agreement specify the length of the consignment period. The Board added the provision that the dealer maintain an executed

power of attorney authorizing the dealer to sell the vehicle on behalf of the consignor. Finally, at IRRC’s suggestion, the Board deleted the provision requiring dealers to comply with applicable Federal and State laws regarding consignment sales, as dealers are already required to abide by these laws.

Description of Proposed Rulemaking

The proposed rulemaking requires a dealer who engages in consignment sales to enter into and keep a copy of the written consignment agreement between the dealer and the consignor covering the consigned vehicles. The agreements must be kept at the location where the vehicle is displayed for sale. The consignment agreement must contain the name and signature of the consignor to be legally binding. The consignment agreement must contain information that identifies the vehicle, to avoid fraud. The consignment agreement must set forth the length of the consignment period, so it is clear at any time whether the dealer has the right to negotiate the sale of the vehicle. The consignment agreement must include the terms of sale to protect the consignor from unauthorized actions by the dealer. The consignment agreement must contain the terms of insurance coverage to forestall arguments between the dealer and consignor if the vehicle is damaged or destroyed while on the dealer’s lot. The consignment agreement must contain information regarding any lien holders, which the dealer is, in turn, already required to disclose to potential buyers. This will protect the lien holders and potential buyers by assuring payment of the lien and assisting buyers in obtaining clear title. The consignment agreement must include a copy of the current registration card or title to alleviate concerns about the ability to later obtain clear title. Finally, the consignment agreement must include any warranties extended by the consignor and any material facts relative to the vehicle. This last provision helps protect the potential buyer by ensuring that the dealer will have the information necessary to properly represent the vehicle.

The proposed rulemaking also requires a dealer who engages in consignment sales to keep an executed power of attorney from the consignor to the dealer and either an unexecuted title, if the title is not encumbered, or a title release from each lien holder to pay off all liens, if the title is encumbered. These provisions are designed to ensure that the buyer will be able to obtain title to the vehicle. Subsection (c), requiring that the dealer take title from the consignor prior to applying for title in the name of the buyer, also helps ensure that the buyer can obtain title to the vehicle. Finally, the requirement in subsection (d), that the dealer display vehicles clearly marked as consignment, puts potential buyers on alert that the vehicle is not owned by the dealer and may have other than the usual warranties.

Compliance with Executive Order 1996-1, “Regulatory Review and Promulgation”

The Board sent this proposed rulemaking to dealer organizations as required under the directives of Executive Order 1996-1. In addition, the Board considered the impact the proposed rulemaking would have on the regulated community and on public safety and welfare. The Board finds that the proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth or political subdivisions. Dealers will be required to comply with additional paperwork requests of § 19.18a.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2002, the Board submitted a copy of this proposed rulemaking to IRRC and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, 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. 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 regarding this proposed rulemaking to Teresa Woodall, State Board of Vehicle Dealers, Manufacturers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105, www.dos.state.pa.us within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

EDWARD J. CERNIC, Jr.,
Chairperson

Fiscal Note: 16A-607. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 49. PROFESSIONAL AND
VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND
OCCUPATIONAL AFFAIRS
CHAPTER 19. STATE BOARD OF VEHICLE
MANUFACTURERS, DEALERS AND
SALESPERSONS
DEALERSHIP LICENSE**

§ 19.18a. Consignment sales.

(a) A licensed dealer is permitted to engage in consignment sales without being licensed as a wholesale vehicle

auction or public or retail vehicle auction, as defined in section 2 of the act (63 P. S. § 818.2), if the dealer meets the requirements of this section.

(b) The dealer shall maintain the following documents at the lot where the vehicle is displayed:

(1) A copy of a separate written consignment agreement with the consignor for each vehicle. The written consignment agreement shall contain the following information:

(i) The name and signature of the consignor.

(ii) The make, model, year, vehicle identification number and license plate number of the vehicle.

(iii) The length of the consignment period.

(iv) The terms of sale, including the minimum selling price, if any, and the amount of or formula for determining the dealer's commission.

(v) The terms of insurance coverage during the period of consignment, including the name, address and telephone number of the consignor's insurance agent, if any.

(vi) The express identification of any warranties extended by the consignor.

(vii) The name and address or telephone number of all current lien holders, together with the account number for each lien.

(viii) Any material facts relative to the vehicle, including accident history, vehicle condition and odometer disclosure.

(2) A copy of the current registration card or title.

(3) An executed power of attorney from the consignor to the dealer which authorizes the dealer to assign title of the vehicle.

(4) Either an unexecuted title, if the title is unencumbered, or a title release from each lien holder to pay off all liens, if the title is encumbered.

(c) The dealer shall have the title of the vehicle assigned from the consignor to the dealer prior to applying for title in the name of the buyer.

(d) Whenever a vehicle is displayed for sale on consignment, the dealer shall disclose in writing on or attached to the vehicle that the vehicle is held on consignment and is not owned by the dealer.

[Pa.B. Doc. No. 02-2229. Filed for public inspection December 13, 2002, 9:00 a.m.]

STATEMENTS OF POLICY

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 126]

Health Care Under the Workers' Compensation Act

The Department of Labor and Industry (Department) adopts a statement of policy, to read as set forth in Annex A, to establish the format of code sets submitted to the Bureau of Workers' Compensation (Bureau) by health care providers (providers) under Chapter 127, Subchapter B (relating to medical fees and fee review).

A. Effective Date

This statement of policy will be effective immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

The contact person for this Statement of Policy is Eileen Wunsch, Chief, Health Care Services Review Division, Bureau of Workers' Compensation, Department of Labor and Industry, 1171 South Cameron Street, Room 103, Harrisburg, PA 17104.

C. Statutory Authority

This statement of policy is published under the authority of sections 401.1 and 435 of the Workers' Compensation Act (77 P. S. §§ 710 and 991).

D. Purpose of the Statement of Policy

Under § 127.3 (relating to definitions), providers submit to the Bureau their listing of current charges for procedures and supplies utilized in the provider's billing process. This collection of data is known as the charge master. Under this statement of policy, providers shall submit their listings of current charges for procedures and supplies using the criteria contained in the United States Department of Health and Human Service's (HHS) recent rulemaking under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191 (August 21, 1996); 45 CFR Parts 160 and 162 (2000) (relating to general administrative requirements; and administrative requirements).

Under the procedures now used to comply with § 127.155 (relating to medical fee updates on and after January 1, 1995—outpatient acute care providers, specialty hospitals and other cost-reimbursed providers), providers do not submit charge master data to the Bureau in a standardized format. The Bureau's charge master contains different rates for each provider under the regulations and different codes. This lack of continuity results in a significant administrative burden for the Bureau, for workers' compensation employers, the insurance industry and the providers. The Bureau is essentially required to develop a different charge master for each provider that submits data. The employer and insurance industries must consult different charge master data for each provider that submits bills. The providers must update code sets as often as each calendar quarter. The additional expense associated with this process undoubtedly adds unnecessary costs throughout the workers' compensation system.

To improve this system, the Department initiated a dialogue with providers involved with the charge master process. Recently published HHS rulemaking establishing the use of standardized code sets for electronic transactions, 45 CFR Part 162 (2000) (relating to administrative requirements), serves as an adequate base from which the Department and providers could develop a standardized workers' compensation code set. Toward that end, the Bureau worked with providers to encourage the submission of charge master updates using the standardized Healthcare Common Procedure Coding System (HCPCS), Current Procedural Terminology (CPT) and International Classification of Diseases (ICD) codes. It is the Department's understanding that some providers are already submitting medical fee updates using the standardized code sets. These codes allow for modifiers to account for individual billing systems.

This statement of policy provides for the use of these standardized code sets established by the HHS to provide for standardized billing, expedite claims and decrease costs.

JOHNNY J. BUTLER,
Secretary

(*Editor's Note:* The regulations of the Department, are amended by adding § 126.1, to read as set forth in Annex A.)

Fiscal Note: 12-63. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY PART VIII. BUREAU OF WORKERS' COMPENSATION

CHAPTER 126. HEALTH CARE UNDER THE WORKERS' COMPENSATION ACT— STATEMENT OF POLICY

Sec.

126.1. Medical fee updates.

§ 126.1. Medical fee updates.

When submitting data under § 127.155(c) (relating to medical fee updates on and after January 1, 1995—outpatient acute care providers, specialty hospitals and other cost-reimbursed providers), all codes submitted to the Bureau of Workers' Compensation shall be based upon the appropriate International Classification of Disease (ICD), Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) code. If these codes are not available, providers shall submit data in a form mandated by the United States Department of Health and Human Services as published in 45 CFR Parts 160 and 162 (2000) (relating to general administrative requirements; and requirements), as amended. Providers submitting this data may append an appropriate modifier to the code to account for interfacility distinctions in treatment or billing procedures.

[Pa.B. Doc. No. 02-2230. Filed for public inspection December 13, 2002, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice it will award up to \$250,000 in grants under its Year 2003 Dog Control Facility Bill Reimbursement Program (Program). This is a \$50,000 increase over the \$200,000 figure published with the guidelines and conditions for the Program at 32 Pa.B. 4372 (September 7, 2002). This increase is prompted by the large number of qualified applicants for grants under the Program and the availability of surplus funds from the Dog Law Restricted Account. The Program is funded from the Dog Law Restricted Account from funds which are surplus funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

In summary, the Program will award bill reimbursement grants of up to \$10,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the Program's guidelines and conditions. Persons having questions regarding the Program should contact Janet Frushone-Gibas, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 02-2231. Filed for public inspection December 13, 2002, 9:00 a.m.]

Pennsylvania Christmas Tree Marketing and Research Program

Two public hearings, in accordance with the Agricultural Commodities Marketing Act (3 Pa.C.S. §§ 4501—4513), will be held at the following dates, times and locations:

- Tuesday, January 21, 2003, 9 a.m. at the Indiana County Courthouse Annex, 827 Water Street, Indiana, PA.

- Tuesday, January 28, 2003, at 9 a.m. at the Department of Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The hearings will be held for the purpose of receiving testimony in relation to a proposed marketing and research program for Pennsylvania Christmas trees (program).

The proposed program would apply to producers who make an initial sale of 200 or more Pennsylvania-grown Christmas trees during the October 1 to December 31 marketing season. Each producer would owe the program a producer charge of \$10 with respect to 200-tree sales. In addition, a producer shall owe the program a producer charge of 5¢ with respect to every initial sale of a cut Pennsylvania-grown Christmas tree beyond the first 200 sales in a marketing season. A "balled and bagged" Christmas tree shall not be considered a "cut" tree for purposes of this program.

Testimony will also be received as to other necessary and relevant matters, including rate of assessment, and with respect to the accuracy of producer lists on file at the Department of Agriculture (Department) identifying the names and addresses, Christmas tree acreage and the number of Christmas trees cut and sold between October 1, 2002, and December 31, 2002.

A copy of the proposed program is on file at the Department. A copy of the program order will be sent to interested parties upon request to the Department of Agriculture, Bureau of Market Development, Pennsylvania Christmas Tree Marketing and Research Program, 2301 North Cameron Street, Harrisburg, PA 17110-9408

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 02-2232. Filed for public inspection December 13, 2002, 9:00 a.m.]

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 December 3, 2002.

BANKING INSTITUTIONS

Holding Company Acquisition

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-26-02	Citizens Financial Group, Inc., Providence, RI, to acquire 100% of the voting shares of Commonwealth Bancorp, Inc., Norristown, PA	Providence, RI	Approved

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-26-02	Integrity Bank Camp Hill Dauphin County	3345 Market St. Camp Hill Dauphin County	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-26-02	Citizens Bank of Pennsylvania, Philadelphia, and Commonwealth Bank, Norristown Surviving Institution— Citizens Bank of Pennsylvania, Philadelphia	Philadelphia	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-20-02	Citizens Bank of Southern Pennsylvania Greencastle Franklin County	24 N. Cedar Street Lititz Lancaster County	Opened
11-25-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1142 Northern Blvd. Clarks Summit Lackawanna County	Filed
11-25-02	Altoona First Savings Bank Altoona Blair County	Kapa Plaza 112 Willow Grove Drive Everett Snake Spring Township Bedford County	Opened
12-2-02	Mid Penn Bank Millersburg Dauphin County	One Lemoyne Square Lemoyne Cumberland County	Filed
12-2-02	Farmers and Merchants Trust Company of Chambersburg Chambersburg Franklin County	Menno-Haven Retirement Community 2075 Scotland Avenue Chambersburg Franklin County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-22-02	Lebanon Valley Farmers Bank Lebanon Lebanon County	<i>Into:</i> 555 Willow Street Lebanon Lebanon County (Main Office) <i>From:</i> 250 North 8th Street Lebanon Lebanon County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-26-02	AmeriServ Financial Bank Johnstown Cambria County	Oakley Park II Route 30 East Greensburg Westmoreland County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity

PAUL H. WENTZEL, Jr.,
Acting Secretary

DEPARTMENT OF EDUCATION

Application of Pittsburgh Technical Institute for Approval of a Certificate of Authority to Operate as an Academic Degree Granting Institution

Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Pittsburgh Technical Institute for a Certificate of Authority approving the institution's application to operate as an academic degree granting institution.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of the notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, 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, protest and request for hearing shall be filed with Paula Fleck, Chief, Division of Program Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623 by 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Copies of the application are not available.

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 Paula Fleck at (717) 772-3623 to discuss how the Department may best accommodate their needs.

CHARLES B. ZOGBY,
Secretary

[Pa.B. Doc. No. 02-2234. Filed for public inspection December 13, 2002, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For 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.

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0062944	Robert Barker 618 Quaker Plain Road Bangor, PA 18013	Northampton County Upper Mount Bethel Township	Unnamed tributary to Martins Creek 1F	Y
PA0060461 (Minor Re- newal)	Silver Lake Township Municipal Authority P. O. Box 1975 Brackney, PA 18812	Susquehanna County Silver Lake Township	Laurel Lake Creek 4E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0083674 (Transfer)	Rainworth, Inc. (Former Lincoln Logs Restaurant) 1979 Biglerville Road Gettysburg, PA 17325	Adams County Straban Township	UNT White Run 13-D	Y
PA0082228	Hill Top Acres MHP 1546 Newport Road Manheim, PA 17545	Lancaster County Rapho Township	Chickies Creek 7-G	Y
PA0031348	Moselem Development Co. P. O. Box 582 Reading, PA 19603	Berks County Richmond Township	Moselem Creek 3-B	Y
PA0034363	Pine View Acres MHP 116-B Blantz Road Lititz, PA 17543	Lancaster County Penn Township	UNT Chickies Creek 7-G	Y
PA0043028	Hemlock Acres Court 1546 Newport Road Manheim, PA 17545	Lancaster County Rapho Township	Chickies Creek 7-G	Y
PA0029823	Tussey Mountain School District Defiance Elementary School 199 Front Street Saxton, PA 16678	Bedford County Broad Top Township	Six Mile Run 11-D	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0111716 (Sewerage)	Clyde E. Yohey Wonderview Development 560 Montour Blvd. Bloomsburg, PA 17815	Main Township Columbia County	North Branch Susquehanna River 5D	Y
PA0114081 (Sewerage)	Clear-Run, Inc. Woods-Edge Estates 181 Draketown Rd. Bloomsburg, PA 17815	Orange Township Columbia County	UNT to Fishing Creek 5C	Y
PA0113727 (Sewerage)	Larry Reed Country Place MHP R. R. 2, Box 71 DuBois, PA 15801	Sandy Township Clearfield County	Muddy Run 17C	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0210404, Sewage, **Melvin J. Wachob**, 4916 Glen Hazel, Wilcox, PA 15870. This proposed facility is located in Jones Township, **Elk County**.

Description of Proposed Activity: Renewal of a Part I Permit for a discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Clarion District—Pennsylvania American Water Company on the Clarion River, approximately 69.16 miles below point of discharge.

The receiving stream, unnamed tributary to the East Branch Clarion River, is in watershed 17B and classified for HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.000400 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (MGD)	XX		
CBOD ₅	10		20
Total Suspended Solids	20		40
Total Residual Chlorine	XX		XX
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and Report

The EPA Waiver is in effect.

PA0222313, Sewage, **Gene P. Kidder**, P. O. Box 106, Sigel, PA 15860. This proposed facility is located in Barnett Township, **Jefferson County**.

Description of Proposed Activity: A renewal Part I Permit for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Clarion District—Pennsylvania American Water Company on the Clarion River, approximately 47.1 miles below point of discharge.

The receiving stream, unnamed tributary of Cathers Run, is in watershed 17B and classified for HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.000400 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (MGD)	XX		
CBOD ₅	10		20
Total Suspended Solids	20		40
Total Residual Chlorine	XX		
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and Report

The EPA Waiver is in effect.

PA0028487, Sewage, **Hermitage Municipal Authority—Bobby Run WPCP**, Box 1046, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is located in the City of Hermitage, **Mercer County**.

Description of Proposed Activity: Renewal of an existing Part I NPDES permit.

For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Western Pennsylvania Water Company—New Castle District intake on the Shenango River located in New Castle, approximately 18 miles below point of discharge.

The receiving stream, Shenango River, is in watershed 20-A and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 5.0 MGD.

<i>Parameters</i>	<i>Loadings (lb/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Monthly Average (lbs/day)</i>	<i>Weekly Average (lbs/day)</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instant Maximum (mg/l)</i>
Flow (MGD)	XX		XX		
CBOD ₅	1,042	1,668	25	40	50
TSS	1,251	1,877	30	50	60

Parameters	Loadings (lb/day)		Concentrations (mg/l)		
	Monthly Average (lbs/day)	Weekly Average (lbs/day)	Monthly Average (mg/l)	Weekly Average (mg/l)	Instant Maximum (mg/l)
Ammonia Nitrogen (5-1 to 10-31)	626		15		30
(11-1 to 4-30)	XX		XX		
Fecal Coliform (5-1 to 9-30)			200/100 ml as a geometric average		
(10-1 to 4-30)			7,500/100 ml as a geometric average		
Total Residual Chlorine			0.5		1.6
pH			Within limits of 6.0 to 9.0 standard units at all times		

XX—Monitor and Report

Special Conditions: continued implementation of a Federal pretreatment program; and acute whole effluent toxicity monitoring.

The EPA Waiver is not in effect.

PA0210072, Sewage, **YMCA—Camp Sherwin**, 8600 West Lake Road, Lake City, PA 16423. This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary of Lake Erie in Girard Township, Erie County. This is an existing, seasonal discharge from a sewage treatment plant operating June through September and supporting a recreational camp.

The receiving stream, unnamed tributary of Lake Erie, is in the Lake Erie watershed and classified for CWF, MF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to consider until Lake Erie.

The proposed effluent limits for Outfall 001 based on a design flow of 0.01 MGD:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N (5-1 to 10-31)	9.0		18.0
(11-1 to 4-30)		no limit—seasonal operation	
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
Phosphorus as "P"	1.0		
Total Residual Chlorine	0.50		1.17
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		no limit—seasonal operation	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0024899, Sewage, **Lake City Municipal Sewer Authority**, 2350 Main Street, Lake City, PA 16423. This facility is located in Lake City Borough, **Erie County**.

Description of Proposed Activity: The applicant requests renewal of an NPDES permit to discharge treated sanitary sewage to Elk Creek in Lake City Borough, Erie County. This is an existing discharge.

The receiving stream, Elk Creek, is in the Lake Erie watershed and classified for WWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply to consider until Lake Erie.

The proposed effluent limits for Outfall 001 based on a design flow of 0.099 MGD:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅ (5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
Phosphorus as "P"	1.0		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.18		0.58
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		4,400/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is not in effect.

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA00500865, Industrial Waste, **Gessner Products Company, Inc.**, 241 North Main Street, P. O. Box 389, Ambler, PA 19002. This application is for renewal of an NPDES permit to discharge cooling water from Gessner Products Company moulding equipment in Ambler Borough, **Montgomery County**. This is an existing discharge to Rose Valley Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of .053 MGD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA Waiver is in effect.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA0051799, Sewerage, **Lehigh Carbon Community College**, 4525 Education Park Drive, Schnecksville, PA 18075-2502. This proposed facility is located in North Whitehall Township, **Lehigh County**.

Description of Proposed Activity: This proposed action is for the renewal of an NPDES permit to discharge 0.036225 MGD of treated sewage into an unnamed tributary to Jordan Creek in North Whitehall Township, Lehigh County.

The receiving stream, Jordan Creek, is in the State Water Plan watershed 02C and is classified for HQ, CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for City of Allentown is located on Lehigh River, 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.036225 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10		20
(11-1 to 4-30)	20		40
Total Suspended Solids	10		20
NH ₃ -N (5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
Fecal Coliform	200/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	1.2		2.8

The EPA waiver is in effect.

PA0062367, Sewerage, **Lakeview Estates Homeowners Association**, 1425 Collegeville Road, Collegeville, PA 19426. This proposed facility is located in Lehigh Township, **Wayne County**.

Description of Proposed Activity: This proposed action is for the renewal of an NPDES permit to discharge 0.054 mgd of treated sewage into an unnamed tributary to Lehigh River in Lehigh Township, Wayne County.

The receiving stream, an unnamed tributary to Lehigh River, is in the State Water Plan watershed 02A and is classified for HQ, CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Lehigh Water Authority is located on Lehigh River is 35 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.054 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Phosphorus as "P"	1	2
Dissolved Oxygen	A minimum of 5.0 mg/l at all times	
Fecal Coliform	200/100 ml as a geometric mean	
(5-1 to 9-30)	2,000/100 ml as a geometric mean	
(10-1 to 4-30)	6.0 to 9.0 standard units at all times	
pH		
Total Residual Chlorine	0.8	1.9

The EPA waiver is in effect.

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

PA0053091, SIC Code 2033, Industrial Waste, **Giorgio Foods, Inc.**, P. O. Box 96, Temple, PA 19560. This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Willow Creek, in Maiden Creek Township, **Berks County**.

The receiving stream is classified for CWF, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Pottstown Borough Authority located on the Schuylkill River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.5 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report		XXX
pH	6.0 to 9.0 at all times		
Total Suspended Solids	30	60	75
Total Dissolved Solids	1,000	2,000	2,500
Total Residual Chlorine	0.17	XXX	0.55
Dissolved Oxygen	Minimum of 5.0 at all times		
CBOD ₅	10	20	25
NH ₃ -N			
(5-1 to 9-30)	1.5	3.0	3.5
(10-1 to 4-30)	4.5	9.0	11.0
Fecal Coliform			
(5-1 to 9-30)	200	XXX	XXX
(10-1 to 4-30)	2,000	XXX	XXX
Color (P.C.)	XXX	100	100
Temperature	As required each month		

Individuals may make an appointment to review the Department files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

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

PA0026140, Sewage, **Rochester Area Joint Sewer Authority**, 390 Pinney Street, Suite 1, Rochester, PA 15074. This application is for renewal of an NPDES permit to discharge treated sewage from Rochester Area Joint Sewer Authority Wastewater Treatment Plant in Rochester Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio River, 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 Midland Borough Water Supply.

Outfall 001: existing discharge, design flow of 1.4 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 10-31) (11-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.0
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0032174, Sewage, **Frank Perano, GSP Management Company**, P. O. Box 677, Morgantown, PA 19543. This application is for renewal of an NPDES permit to discharge treated sewage from Interstate Mobile Village STP in Donegal Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Bonar Creek, which are classified as a HQ-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 Claysville Donegal Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.005 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	1.5 4.5			3.0 9.0
Phosphorus	1			2
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	.1			.25
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: This permit will expire on July 15, 2003.

The EPA waiver is in effect.

PA0090786, Sewage, **Hempfield Township Supervisors**, R. D. 9, Box 427, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Hempfield Park STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Brush Creek, which are classified as a TSF 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 Pennsylvania American Water Company—Becks Run Intake.

Outfall 001: existing discharge, design flow of 0.005 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	4.0 12.0			8.0 24.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 4,000/100 ml as a geometric mean			
Total Residual Chlorine	0.7			1.7
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0238929, Sewage, **Connie A. Wakeman**, 7918 SR 28, Frankfort, OH 45628. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Activity: A small flow treatment facility serving one existing single residence dwelling.

The receiving stream, an unnamed tributary of Lake Erie, is in the Lake Erie watershed and classified for CWF, MF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, there is no downstream public water supply to consider until Lake Erie.

The proposed effluent limits for Outfall 001 based on a design flow of 0.000225 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	10		20
Total Suspended Solids	20		40
Total Residual Chlorine	Monitor and Report		
Dissolved Oxygen	greater than 3.0 mg/l at all times		
Fecal Coliform	200/100 ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

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 an application 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. 4602417, Sewerage, **Horsham Water and Sewer Authority**, 617 B Horsham Road,

Horsham, PA 19044. This proposed facility is located in Horsham Township, **Montgomery County**.

Description of Proposed Action/Activity: Applicant is requesting approval to modify the Park Creek Wastewater Treatment Plant.

WQM Permit No. 0900421 Amendment No. 1, Sewerage, **Pennridge Wastewater Treatment Authority**, 180 Maple Avenue, P. O. Box 31, Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Applicant is requesting approval to amend existing permit for a maximum monthly flow limitation of 5.0 MGD

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

WQM Permit No. 2102409, Sewerage, **Michael and Gayniale Nowak**, 299 Springfield Road, Shippensburg, PA 17257. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval to construct a single family sewage treatment facility.

WQM Permit No. 0192406, Sewerage, **Rainworth, Inc.**, 1979 Biglerville Road, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Transfer of Permit for the former Lincoln Logs Restaurant.

WQM Permit No. 2189203, Industrial Waste, **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for construction of new and larger volume lagoons to support the enhanced coagulation residuals at the Silver Springs Water Treatment Plant.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 5902201, Industrial Waste, **Duncan Township Municipal Water Authority**, R. R. 1, Box 55, Wellsboro, PA 16901. This facility is located in Duncan Township, **Tioga County**.

Description of Proposed Action/Activity: Water Quality Management Part II Permit Application for construction

of a flow detention wetland area to accept well blow-off water and greensand filtration backwash water from the Duncan Township Public Water Supply Treatment Plant.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2002430, Sewerage, **Alan Ladner**, P. O. Box 333, Springboro, PA 16435. This proposed facility is located in Summit Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 2002431, Sewerage, **Edward M. and Elaine V. Bercik**, 19379 Irish Road, Edinboro, PA 16412. This proposed facility is located in Cussewago Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 2002432, Sewerage, **Richard M. and Betty J. Curry**, 21158 Shore Drive, Meadville, PA 16335. This proposed facility is located in West Mead Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 2502431, Sewerage, **Mary O'Connell, Executor for the Fred Weber Estate**, 4226 Four Seasons Trail, Erie, PA 16505. This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application,

within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate DEP Regional Office during the 30-day public comment period.

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

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability 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 PAS10G554, Stormwater, **Gen Terra Corporation**, 101 Marchwood Road, Exton, PA 19341-1832, has applied to discharge stormwater associated with a construction activity located in Wallace Township, **Chester County** to unnamed tributary to March Creek (HQ-TSF-MF).

NPDES Permit PAS10G555, Stormwater, **Cornerstone Communities, Inc.**, 717 East Lancaster Avenue, Radnor Building, Villanova, PA 19085, has applied to discharge stormwater associated with a construction activity located in East Caln Township, **Chester County** to unnamed tributary to East Branch Brandywine Creek (HQ-TSF-MF).

NPDES Permit PAS10G553 (Correction), **Heritage Builders**, 3326 Old York Road, Suite A100, Furlong, PA 18925, has applied to discharge stormwater associated with a construction activity located in Warwick Township, **Chester County**, to French Creek (EV).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

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

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10S122	Darlak Properties c/o Joseph Darlak 5120 Memorial Blvd. Tobyhanna, PA 18466	Monroe County Stroud Township	Wigwam Run HQ-CWF UNT to Pocono Creek HQ-CWF

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10S123	Shawnee Valley c/o Robert Shebelsky River Road, Fort DePue P. O. Box 93 Shawnee on Delaware, PA 18356-0093	Monroe County Smithfield and Middle Smithfield Townships	UNT to Delaware River (Shawnee Creek) HQ-CWF

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

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10U188	Clifford Bonney 1055 Bushkill Center Rd. Nazareth, PA 18064	Northampton County Bushkill Township	Bushkill Creek HQ-CWF

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Beaver County Conservation District: 1000 3rd Street, Suite 202, Beaver, PA 15009-2026.

NPDES Permit PAS100250, Stormwater, **Department of Conservation and Natural Resources, Bureau of State Parks**, P. O. Box 387, Prospect, PA 16052-0387, has applied to discharge stormwater associated with a construction activity located in Hanover Township, **Beaver County** to Traverse Creek (HQ-CWF).

Washington County Conservation District: 100 West Beau Street, Suite 602, Washington, PA 15301-4402.

NPDES Permit PAS10W090, Stormwater, **Brandon Hudock**, 24 Hothouse Lane, Washington, PA 15301, has applied to discharge stormwater associated with a construction activity located in South Strabane Township, **Washington County** to UNT to Little Chartiers Creek (HQ).

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 MINOR AMENDMENT

Applications Received 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.

Application No. Minor Amendment.

Applicant	Pocono Plateau Mobile Home Park
Township or Borough	Tunkhannock Township Monroe County
Responsible Official	Joseph Boyle, Owner Pocono Plateau Mobile Home Park 1432 South West End Boulevard Quakertown, PA 18951 (215) 536-9235
Type of Facility	Community Water System
Consulting Engineer	Thakur U. Bakhru, P. E. 1513 North Line Street Lansdale, PA 19446 (570) 348-5347 (215) 361-7145
Application Received Date	September 23, 2002
Description of Action	The application proposes replacement of treatment chemicals currently being utilized for pH adjustment from soda ash to caustic soda and for sequestering from C-5 to AquaMag.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Application No. Minor Amendment, Minor Amendment.

Applicant **Eastville Community Water Association**
 Township **Greene Township, Clinton County**
 Responsible Official **Jon McCloskey, President**
 Eastville Community Water Association
 2443 East Winter Road
 Loganton, PA 17747-9708
 Type of Facility **PWS**
 Consulting Engineer **Alfred Benesch & Company**
 400 One Norwegian Plaza
 P. O. Box 1090
 Pottsville, PA 17901
 Application Received Date **November 22, 2002**
 Description of Action **Application to rehabilitate existing spring house structure.**

Application No. 4146292-T4, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township **Boggs Township, Centre County**
 Responsible Official **Shirley Bonsell**
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938
 Type of Facility **Bottled Water Plant**
 Application Received Date **November 14, 2002**
 Description of Action **Application to transfer permit for Source known as "Diamond Spring" and tanker fill station from Danone Waters of North America, Inc. to CCDA Waters LLC.**

Application No. 4146292 Amendment 6-T2, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township **Boggs Township, Centre County**
 Responsible Official **Shirley Bonsell**
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938
 Type of Facility **Bottled Water Plant**
 Application Received Date **November 14, 2002**
 Description of Action **Application to transfer permit for bottling plant in Milesburg including storage tanks, ozonation equipment, UV disinfection, pump stations, bottling lines, fluoridation, bag and cartridge filters, softeners and distillation equipment from Danone Waters of North America, Inc. to CCDA Waters LLC.**

Application No. 4146292 Amendment 8-T2, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township **Boggs Township, Centre County**
 Responsible Official **Shirley Bonsell**
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938
 Type of Facility **Bottled Water Plant**
 Application Received Date **November 14, 2002**
 Description of Action **Application to transfer permit for "Diamond Spring" enclosure and 10,000 gallon holding tank, ozonator, tanker fill pumps and cartridge filters at the fill station from Danone Waters of North America, Inc. to CCDA Waters LLC.**

Application No. 4146292 Amendment 9-T2, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township **Boggs Township, Centre County**
 Responsible Official **Shirley Bonsell**
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938
 Type of Facility **Bottled Water Plant**
 Application Received Date **November 14, 2002**
 Description of Action **Application to transfer permit for 25,000 feet of transmission main between the Gamble Mill in Bellefonte and the Milesburg bottling facility from Danone Waters of North America, Inc. to CCDA Waters LLC.**

Application No. 4146292 Amendment 10-T2, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township **Boggs Township, Centre County**
 Responsible Official **Shirley Bonsell**
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938
 Type of Facility **Bottled Water Plant**
 Application Received Date **November 14, 2002**

Description of Action Application to transfer permit for Bellefonte Big Spring source of supply and 2,500 feet of transmission main from the Big Spring to the Gamble Mill in Bellefonte from Danone Waters of North America, Inc. to CCDA Waters LLC.

Application No. 4146292 Amendment 13-T1, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township Boggs Township, **Centre County**
 Responsible Official Shirley Bonsell
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938

Type of Facility Bottled Water Plant

Application Received Date November 14, 2002

Description of Action Application to transfer permit for all but one bottle label currently approved for use on bottles 1/2 gallon and larger from Danone Waters of North America, Inc. to CCDA Waters LLC.

Application No. 4146292 Amendment 14-T1, Minor Amendment.

Applicant **CCDA Waters LLC**
 Township Boggs Township, **Centre County**
 Responsible Official Shirley Bonsell
 Quality Assurance Mgr.
 CCDA Waters LLC
 1 Aqua Penn Drive
 P. O. Box 938
 Milesburg, PA 16853-0938

Type of Facility Bottled Water Plant

Application Received Date November 14, 2002

Description of Action Application to transfer permit for construction of ultraviolet light disinfection unit, two reverse osmosis filtration units, addition of phosphoric acid, sulfuric acid, magnesium chloride, anhydrous calcium chloride, caustic soda, sodium fluoride and anhydrous sodium sulfate chemical feed and one bottle label from Danone Waters of North America, Inc. to CCDA Waters LLC.

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.

760 Moore Road Property, Upper Merion Township, **Montgomery County**. Samuel J. Kucia, Environmental Consulting, Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401, on behalf of Jerry V. DeRosa, CHMM, PFPC, Inc., 2 PNC Plaza, 19th Fl., 620 Liberty Ave., Pittsburgh, PA 15222-2719, has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. 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 *Montgomery Life* on November 8, 2002.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Remp Group Property, Cumru Township, Berks County. RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, on behalf of the Remp Group, 64 Sycamore Lane, Reading, PA 19606, submitted a Notice of Intent to Remediate site soils contaminated with inorganics and 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 *Reading Eagle* on October 4, 2002.

Buttonwood Gateway Complex, City of Reading, Berks County. Synergy Environmental, Inc., 607 Washington Street, Reading, PA 19601, on behalf of Reading Redevelopment Authority, Room 303, City Hall, 815 Washington Street, Reading, PA 19601, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with chlorinated solvents, inorganics, lead, other organics, PAHs and PCBs. The applicant proposes to remediate the site as a Special Industrial Area. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle* on September 30, 2002.

FES Systems, Manchester Township, York County. The RETEC Group, Inc., 2550 Eisenhower Avenue, Eagleville, PA 19403, on behalf of FES Systems, Inc., 3475 Board Road, York, PA 17402, submitted a Notice of Intent to Remediate site groundwater contaminated with 1,1, dichloroethene. The applicant proposes to remediate the site to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *York Dispatch/York Daily Record* on November 4, 2002.

Fort Indiantown Gap Former Fire Training Site, Union Township, Lebanon County. Herbert, Rowland, & Grubic, Inc., 116 Baltimore Street, Gettysburg, PA 17325, on behalf of the Department of Military and Veterans Affairs, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate site soils contaminated with aviation gasoline and diesel fuel. The applicant proposes to remediate the site to meet a combination of the requirements for the Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lebanon Daily News* on October 9, 2002.

Teledyne Readco Lot 2A, Spring Garden Township, York County. Gannett Fleming, Inc., 1650 Manheim Pike, Lancaster, PA 17601, on behalf of York College of Pennsylvania, 439 Country Club Road, York, PA 17405, submitted a Notice of Intent to Remediate site soils contaminated with inorganics. The applicant proposes to remediate the site to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *York Dispatch/York Daily Record* on November 5, 2002.

Doerrman Property, Ruscombmanor Township, Berks County. Walter B. Satterthwaite Associates, Inc., 720 Old Fern Hill Road, West Chester, PA 19380, on behalf of Patrick and Amy Doerrman, 3638 Pricetown Road, Fleetwood, PA 19522 and State Farm Insurance, 108 West Airport Road, Lititz, PA 17543, has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. 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 *Reading Eagle* on October 22, 2002.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 101538. WSI Sandy Run Landfill Inc., 995 Landfill Road, Hopewell, PA 16650, Broad Top Township, **Bedford County.** The application is for increase in average daily volume for Sandy Run Landfill. The application is determined to be administratively complete by the Southcentral Regional Office on November 29, 2002.

Permit Application No. 101509. New Morgan Landfill Company, Inc., 420 Quarry Road, P. O. Box 128, Morgantown, PA 19543, New Morgan Borough, **Berks County.** The application is for Disposal Area 1 Expansion for Conestoga Landfill. The application is determined to be administratively complete by the Southcentral Regional Office on November 29, 2002.

Comments concerning the application should be directed to John Krueger, Program Manager, Waste Management Program, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

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

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001-4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

48-310-047: Stockertown Construction Materials—Division of Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 119474) for modification of a stone crushing plant and associated air cleaning device in Stockertown Borough, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

01-03022A: Agricultural Commodities, Inc. (224 Oxford Road, New Oxford, PA 17350) for construction of a new pellet mill controlled by a cyclone and a fabric filter baghouse in Straban Township, **Adams County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

12-399-015C: GE Transportation Systems (55 Pine Street, Emporium, PA 15834) for construction of an armature coating operation in Emporium Borough, **Cameron County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-0050C: Better Materials Corporation (P. O. Box 196, Penns Park, PA 18943) for installation of Drum Mix Asphalt Plant and control equipment at its Penns Park facility in Wrightstown Township, **Bucks County**. The facility is a non-Title V facility for any of air pollutants. This asphalt plant is subject to 40 CFR Part 60 Subpart I—Standards of Performance (NSPS) for Hot Mix Asphalt Facilities. This plant replaces the existing Drum Mix Asphalt Plant at the facility. The new plant is technologically more advanced; therefore no emission increase at the facility is expected. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

40-320-017: Bemis Co., Inc. (20 Jaycee Drive, West Hazleton, PA 18201) for replacement of two existing catalytic incinerators with a single newer catalytic incinerator and for controlling VOC emissions from two existing flexographic presses. This is a major facility subject to Title V permitting requirements in West Hazleton Borough, **Luzerne County**. The installation will not increase VOC emissions from the facility. VOC emissions from these presses will be 20.1 tons per year. The Plan Approval will contain conditions requiring the source to show compliance with the emission rates. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. For further details, contact Mark Wejkszner.

48-399-052: Bethlehem Contracting Co. (P. O. Box 40, Bath, PA 18014) for construction of a steel shot blast booth and associated air cleaning device (fabric collector) in East Allen Township, **Northampton County**. The facility is a non-Title V facility. The particulate emissions from the process will be less than 0.02 grain/DSCFT. The plan approval will include monitoring, reporting and recordkeeping requirements designed to keep the source operating within all applicable air quality requirements.

48-318-134: Bethlehem Contracting Co. (P. O. Box 40, Bath, PA 18014) for modification of paint spraying operations and associated air cleaning devices in East Allen Township, **Northampton County**. The facility is a non-Title V facility. Annual VOC emissions from the paint spraying operations will be less than 30 tons per year of which 13 tons per year will be HAPs. The particulate emissions from the process will be controlled through the use of filter panels and will be less than 0.02 grain/DSCFT. The plan approval will include monitoring, reporting and recordkeeping 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: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05033A: Hempt Bros., Inc. (P. O. Box 278, Camp Hill, PA 17001-0278) for installation of a knockout box and a fabric collector to replace a multicyclone and a venturi scrubber at an existing batch asphalt plant at its Steelton Quarry in Steelton Borough, **Dauphin County**.

The facility's PM10 emissions will remain unchanged. The plan approval and operating permit administrative amendment will contain emission restrictions, work practice standards and monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

28-03001B: Ametek Specialty Motors (1051 Sheffler Drive, Chambersburg, PA 17201) for modification of the existing small electric motor manufacturing lines at their plant in Chambersburg Borough, **Franklin County**. Hazardous air pollutant emissions may increase by several tons after the modifications. The plan approval and eventual operating permit will contain emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

28-05025: Bri Mar Manufacturing LLC (formerly Bri Mar Manufacturing) (1080 South Main Street, Chambersburg, PA 17201) for administrative amendment to synthetic minor operating permit to incorporate the change of company name for the site at Chambersburg Borough, **Franklin County**.

36-05104A: Ephrata Manufacturing Co. (104 West Pine Street, Ephrata, PA 17522) for construction of a baghouse to control emissions from a sand muller and a sand conveying system at their plant in Ephrata Borough, **Lancaster County**. This plan approval will be incorporated into the facility's current application for a synthetic minor operating permit prior to issuance. The operation of the baghouse at this facility will result in emissions of approximately 1 ton per year of PM. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources 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.

04-00013B: J and L Specialty Steel, Inc. (Westpointe Corporate Center One, 1550 Coraopolis Heights Road Suite 500, Coraopolis, PA 15108) for installation at a Title V facility of a second boiler to provide process heat for the DRAP Line and installation of new H₂SO₄ and HF-HNO₃ prepickling tanks in Midland, PA as described in its application received in May 2002.

Based on the information provided by the applicant and on the Department's analysis of that information, yearly emissions from these installations will be approximately .12 ton of SO₂, 21.25 tons of NO_x, 15.77 tons of CO, 1.03 tons of VOC and 1.48 tons of particulate matter.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

For the Department to assure compliance with all applicable standards, the Department proposes to place the following special conditions on the Plan Approval:

1. This Plan Approval is for construction of a second boiler to provide process heat for the DRAP Line and the installation of new H₂SO₄ and HF-HNO₃ prepickling tanks at the J and L Specialty Steel facility in Midland, Beaver County (25 Pa. Code § 127.12b).

2. The Department reserves the right to establish emission limitations for H₂SO₄, HF and HNO₃ emissions from the scrubbers based on the results of the stack tests required in this Approval (25 Pa. Code § 127.12b).

3. NO_x emissions from the HF-HNO₃ pickle tank scrubber are limited to 140 ppm at 3% O₂ and 24.0 tons/yr (25 Pa. Code § 127.12b).

4. Emissions from the prepickle line boiler shall be limited to the following:

<i>Pollutant</i>	<i>PPM (at 3% O₂)</i>	<i>Pounds per Hour</i>	<i>Tons per Year</i>
NO _x	30	3.28	5.32
CO		2.75	12.08

5. The water flow meters and air pressure gauges on each scrubber shall be observed and recorded on a daily basis. These records shall be maintained on site for a period of 5 years and be made available to the Department upon request (25 Pa. Code § 127.12b).

6. The permittee shall continuously monitor and record the pH of the scrubber solution for each scrubber. These records shall be maintained on site for a period of 5 years and be made available to the Department upon request (25 Pa. Code § 127.12b).

7. The permittee shall demonstrate a control efficiency of at least 95% for HF, HNO₃ and H₂SO₄ acid mists from the corresponding scrubber.

8. The permittee shall install and maintain the necessary meters to determine and to record amount of fuel usage from the boiler (40 CFR 60 Subpart Dc).

9. The permittee shall comply with the recordkeeping and certification requirements in accordance with 40 CFR 60.46c(e), 60.42c(h) and 60.48c(f)(1). Reports shall be submitted on a quarterly basis unless no excess emissions occurred. If there are no excess emissions, the permittee shall semi-annually report that no excess emissions occurred during the semi-annual reporting period (40 CFR 60 Subpart Dc).

10. The permittee shall maintain daily fuel consumption records in accordance with 40 CFR 60.48c(g). Records shall be kept for the fuel firing rates of the combustion unit on a monthly basis to determine sulfur dioxide emissions in accordance with 40 CFR 60.48c(d) (40 CFR 60 Subpart Dc).

11. Quarterly reports shall be submitted by the permittee in accordance with 40 CFR 60.48c(d) and 60.48c(e)(11). The initial quarterly report shall be postmarked by the last day of the third month following the completion of the initial performance test. Each subsequent report shall be postmarked by the last day of the month following the end of the reporting period (40 CFR 60 Subpart Dc).

12. In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both the Environmental Protection Agency and the Department: Associate Director for Enforcement and Permits Review (3AP10), Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; and Department of Environmental Protection, Regional Air Quality Manager, Office of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

13. Opacity from the prepickle boiler shall not equal or exceed 10% at any time (25 Pa. Code § 127.12b).

14. Stack testing on the HF/HNO₃ pickle tank scrubber shall be conducted to determine the inlet and outlet emission rate for the following pollutants: HF, HNO₃ and NO_x (25 Pa. Code § 139).

15. Stack testing on the H₂SO₄ pickle tank scrubber shall be conducted to determine the inlet and outlet emission rate for H₂SO₄ (25 Pa. Code § 139).

16. Stack testing on the pickle line boiler shall be conducted to determine the outlet emission rate for NO_x (25 Pa. Code § 139).

17. All stack testing shall be performed in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual (25 Pa. Code § 139).

18. Two copies of a pretest protocol shall be submitted to the Department for review at least 60 days prior to the performance of the stack test (25 Pa. Code § 139).

19. The Department shall be notified at least 2 weeks prior to the stack test of the date and time of the test so that an observer may be present (25 Pa. Code § 139).

20. Two copies of the stack test results shall be supplied to the Department for review within 60 days of completion of the testing (25 Pa. Code § 139).

21. J and L Specialty Steel, Inc. has demonstrated 75.55 tons of creditable NO_x and 0.3 ton of creditable VOC reductions from the shutdown of the No. 10 Anneal and Pickle Line. These creditable reductions are available for use internally, at this facility, to offset emission increases until November 28, 2005 (25 Pa. Code §§ 127.207 and 127.211).

22. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b).

(a) The Department must receive written notice from the Owner/Operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the Owner/Operator under subpart (a).

(d) The Owner/Operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by the Owner/Operator under subpart (a) prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

Persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of the Plan Approval, may submit the information to the Department at the following address. A 30-day comment period, from the date of

this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.

- Identification of the proposed Plan Approval (specify the Plan Approval number).

- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper, in the *Pennsylvania Bulletin* or by telephone, where the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to the Southwest Regional Air Quality Program Manager. For additional information, contact the Acting Facilities Section Chief, Thomas J. Joseph, P. E.

PUBLIC HEARINGS

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

48-309-118: ESSROC Cement Corp. (Permittee) (3251 Bath Pike, Nazareth, PA 18064). Notice given under 25 Pa. Code § 127.44 and 40 CFR 52.21 that the Department is soliciting comments on the proposed Air Quality Plan Approval for Lower Nazareth Township, **Northampton County** for the proposed modification of cement manufacturing operations at plants I, II and III as described in the Permittee's December 19, 2001, Plan Approval Application and subsequent supplemental submissions.

The PSD regulations require specific sources of air pollution, such as the proposed modification of cement manufacturing operations at plants I, II and III to satisfy four conditions before approval to modify and operation may granted by the Department. First, all pollutants that are subject to this regulation must be controlled by best available control technology. Second, particulate and sulfur dioxide air pollutant emissions must not cause violations of the allowable annual, 24 hour or 3-hour air quality class increments applicable in the area where the source is to be located; nor any class increments applicable in any other areas which would be impacted by the source. Third, the maximum allowable increase in concentrations of all pollutants must not cause violation of either the National primary or secondary ambient air quality standards. Finally, the pollutant emissions from the proposed source must not adversely impact upon soils, vegetation and visibility in the vicinity of the proposed plant site.

A preliminary review of the information submitted by ESSROC Cement Corporation indicates that the modification and operation of plants I, I and III will meet all applicable air quality requirements including the four previously stated. Based upon these findings, the Department plans to approve the application and issue a permit for the modifications of plants I, II and III.

The following table summarizes the potential emissions from maximum operation of the facility according to the application submitted for the Department's own analysis.

<i>Pollutant</i>	<i>Emission limit Tons/year</i>
PM ₁₀	1,494.8
TSP	2,825.9
SO ₂	4,503.4
NO _x	3,402.0
CO	5,974.8
VOC	82.3
Fluoride	1.2
Lead	0.9

The emissions of these pollutants are within all applicable emissions limitations and will not cause an exceedance of the National Ambient Air Quality Standards. NO_x, SO₂ and PM emissions from the proposed modification will not increase at a significant rate as these emissions are netted out by the emissions decrease from the proposed shut down of four cement kilns and associated clinker coolers operations at Nazareth III. A decreasing of NO_x emissions from the shut down of existing kilns and associated clinker coolers at Nazareth III will offset NO_x emission increase from the proposed modification. No net increase will occur in total particulate and sulfur dioxide emissions from this project, therefore, the particulate and sulfur dioxide emissions do not affect the allowable annual, 24 hour or 3 hour air quality class increments applicable in the area. The modeling performed has demonstrated that the proposed net emissions increase in carbon monoxide will not have a significant impact.

According to 40 CFR 52.21(l)(2), an alternative to the air quality models specified in 40 CFR Part 51, Appendix W (relating Guideline on Air Quality Models) may be used to model air quality if the EPA approves the substitute model. Use of the substituted model must also be subject to notice and an opportunity for public comment.

As an alternative to EPA Guideline Models, ISC-PRIME model was used in the air quality analysis for the proposed ESSROC facility. Specific approval for the use of ISC-PRIME in this analysis was granted by the EPA Region III Administrator and was consistent with the recommendations under section 3.2 of Appendix W to 40 CFR Part 51. The Department is requesting written comments on ISC-PRIME, the EPA-approved substitute model used for the ESSROC modification. Under 25 Pa. Code §§ 127.44 and 127.83 and 40 CFR 52.21(l)(2) and (q), notice given that the Department is soliciting written comments on the use of the nonguideline model, ISC-PRIME, approved by the EPA.

To assure compliance with the applicable standards, the Department will place the following conditions on the plan approval.

I. General Plan Approval Requirements

1. The air-cleaning devices are to be installed in accordance with the plans submitted with the application (as approved herein).

2. Nothing in this permit shall be construed to supersede, amend or authorize violation of the provisions of any valid and applicable local law, ordinance or regulation, provided that said local law, ordinance or regulation is not preempted by the Air Pollution Control Act (35 P. S. §§ 4001—4015).

3. The permittee shall comply with the Air Pollution Control Act and 25 Pa. Code Subpart C, Article III promulgated thereunder.

4. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met.

(a) The Department must receive written notice from the Owner/Operator of the completion of construction and the Operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when Operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the Owner/Operator under subpart (a).

(d) The Owner/Operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reason's compliance has not been established.

(e) The notice submitted by the Owner/Operator under subpart (a) prior to the expiration of this Plan approval shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

5. This Plan Approval authorizes following.

A. Modification of Kiln 1 and associated cement manufacturing operations at Plants I, II and III as stated in the PSD plan approval application.

B. Shutdown of Kilns II, III, IV and V and associated operations at Plant III to generate emission reduction credits.

C. Installation of raw material hoppers and equipment for raw material mill feeding to the new and existing raw mills.

D. Installation of a new raw mill in addition to the existing one, with the relevant air conditioning tower, filter and fan, as well as modification of existing raw mill duct works, conditioning tower, conveyors and general conditions.

E. Replacement or upgrade of existing preheater with a two strings, five stages and replacement or upgrade of existing clinker cooler to accommodate the desired production levels at Plant I.

F. Construction of new clinker conveyors to accommodate the new production levels at Plant I.

G. Construction of a new coal mill with a coarse coal silo and all relevant equipment.

H. Department approves either of the following stack configuration for the exhaust gases from the air pollution control equipment.

a. *Scenario B.*

i. Kiln gases from each string vented through a single stack.

ii. Gases from the new coal mill will be vented a dedicated stack.

iii. Kiln alkali removal system gases vented through a dedicated stack.

b. *Scenario C.*

i. Kiln gases and coal mill gases vented through a single stack.

ii. Kiln alkali removal system gases vented through a dedicated stack

6. If the construction, modification or installation is not commenced within 18 months of the issuance of the plan approval or if there is more than an 18-month laps in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters D and E shall be submitted.

7. If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension must be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension shall include the following:

(a) A justification for the extension.

(b) A schedule for the completion of the construction.

(1) When required by the Department, a reanalysis of best available technology as required by 25 Pa. Code § 127.12(a)(5) and best available control technology reanalysis as required by 25 Pa. Code § 127.83.

II. Restriction

1. The facility is restricted to the following clinker production limits:

a. Maximum clinker production no more than 2,655,375 tons per year based on 365 days rolling sum.

b. All references made in the plan approval for tons are short ton (2,000 lb/ton).

2. The company is authorized to burn only petroleum coke, natural gas, no. 2 fuel oil, bituminous and anthracite coals and coal fines by exclusively or in combination as a fuel for the production of clinker in the modified cement kiln I.

3. Under the best available control technology provision of 25 Pa. Code § 127.83, the kiln system is subject to the following carbon monoxide emission limitations:

Scenario B: (Three Stack Configuration)

Source	Allowable Pounds per Hour		
	1 hour average	8 hour average, rolling by 1 hour	Annual hourly average (12 month average, rolling by 1 month)
Kiln Stack (KS1), Coal Mill 2 (CM2) Stack and Alkali Removal Stack (ARS)	5,186.7	3,809.8	1,363.7

Scenario C: (Two stack Configuration)

Source	Allowable Pounds per Hour		
	1 hour average	8 hour average rolling by 1 hour	Annual hourly average (12 month average, rolling by 1 month)
KS1 and ARS	5,186.7	3,954.7	1,363.7

4. Under the best available technology provision of 25 Pa. Code § 127.12, the facility is subject to the following air contaminant emission limitations:

Scenario B: (Three Stack Configuration)

Source	Pollutant	Allowable	Averaging Time
KS1, CM2 and ARS	NOx	1,420.0 lb/hr	30 day average, rolling by daily.
KS1, CM2 and ARS	NOx	776.7 lbs/hr	Annual hourly average (12 month average, rolling by 1 month)
KS1, CM2 and ARS	VOC	18.8 lb/hr	Annual hourly average (12 month average, rolling by 1 month)
KS1, CM2 and ARS	SO ₂	1,028.2 lb/hr	
KS1, CM2 and ARS	SO ₂	2,657.0 lb/hr	3 hour average, rolling by 1 hour
KS1, CM2 and ARS	SO ₂	500 ppmby volume, dry gas basis	1 hour average, block
KS1, CM2 and ARS	Total particulate including PM ₁₀	0.0095 grains/dscf	

<i>Source</i>	<i>Pollutant</i>	<i>Allowable</i>	<i>Averaging Time</i>
All other cement manufacturing operations and coal preparation plant	Total particulate including PM ₁₀	0.01 to 0.02 grain/dscf, detail in table 7 of the application	
Clinker cooler	Total particulate including PM ₁₀	0.01 grain/dscf	
<i>Scenario C: (Two Stack Configuration)</i>			
<i>Source</i>	<i>Pollutant</i>	<i>Allowable</i>	<i>Averaging Time</i>
KS1 and ARS	NOx	1,420.0 lb/hr	30 day average, rolling by daily
KS1 and ARS	NOx	776.7 lb/hr	Annual hourly average (12 month average, rolling by 1 month)
KS1 and ARS	VOC	18.8 lb/hr	
KS1 and ARS	SO ₂	1,028.2 lb/hr	Annual hourly average (12 month average, rolling by 1 month)
KS1 and ARS	SO ₂	2,657.0 lb/hr	3 hour average, rolling by 1 hour
KS1 and ARS	SO ₂	500 ppm by volume, dry gas basis	1 hour average, block
KS1 ARS	Total particulate including PM ₁₀	0.0095 grain/dscf	
All other cement manufacturing operations and coal preparation plant	Total particulate including PM ₁₀	0.01 to 0.02 grain/dscf, detail in table 7 of the application	
Clinker Cooler	Total particulate including PM ₁₀	0.01 grain/dscf	

5. Under 40 CFR Part 60, Subpart F of the Standard of Performance for New Stationary Sources and 40 CFR Part 63, Subpart LLL of the National Emission Standards for Hazardous Air Pollutants, the following emission limits apply to Portland cement plants.

<i>Source</i>	<i>Pollutant</i>	<i>Emission Limits</i>
Kilns and kilns with inline raw mills	Opacity	20%
	Particulate matter	0.30 lbs/ton dry kiln feed
	Dioxin/Furans	0.40 ng TEQ/dscm when operating at ≤ 400°F at the PMCD inlet or 0.20 ng TEQ/dscm, corrected to 7% oxygen (NESHAPS Only)
Clinker Coolers	Opacity	10%
Other Sources	Particulate	0.10 lb/ton dry kiln feed
	Opacity	10%

6. In accordance with applicable NESHAP Subpart LLL and Subpart A requirements, the company shall prepare, prior to initial startup, a Startup, Shutdown and Malfunction (SSM) Plan for affected sources (including the cement kiln system) addressed in this Plan Approval. The terms startup, shutdown and malfunction contained in this Plan Approval will be the same as defined in the most recent version of the SSM Plan.

7. Under 25 Pa. Code § 123.41, the visible air contaminant from the sources shall not be emitted in a manner that the opacity of the emissions is equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour; or equal to or greater than 60% at any time

Fuel Preparation and Handling Systems:

8. Under 40 CFR Part 60, Subpart Y of the Standard of Performance for New Stationary Sources, the following emission limits apply to the coal preparation units:

<i>Source</i>	<i>Pollutant</i>	<i>Emission Limits</i>
Thermal Dryer	Opacity	20%
Other Source	Opacity	20%

9. Particulate matter emissions from exhausts associated with the fuel unloading area, the fuel crushing/screening area, the fuel transfer tower area and the fuel silo shall not exceed 0.02 grain per dry standard cubic foot and shall at all times be in compliance with 25 Pa. Code § 123.41.

10. The fabric collectors must be equipped with a device for monitoring the pressure differential across the collectors.

11. The operation of all associated fuel handling equipment shall at all times be in compliance with 25 Pa. Code § 123.1.

12. Methods for controlling particulate emissions resulting from the fuel handling activities shall include, but not to be limited to, the following:

A. Enclosing all conveyor belts totally on the top, bottom and sides as needed to contained the fugitive emissions in compliance with 25 Pa. Code § 123.1.

B. Application of water or chemical dust suppressant to the transfer points to prevent the discharge into the atmosphere of visible emissions.

C. Control of fugitive particulate matter emissions from the vehicle used to transport fuel may include, but is not limited to the following measures:

- I. Use of completely enclosed vehicles.
- II. Tarping the vehicle.
- III. Maintaining the vehicle body in a condition that any leaks of material are prevented.
- IV. Spraying the materials in the vehicle with a chemical dust suppressant.
- V. Washing and dewatering truck tires and underbody.
- D. Application of water or chemical dust suppressant to the storage pile as needed to prevent the discharge into the atmosphere of fugitive emissions.
- E. The fuel conveyors and hoppers shall be enclosed as needed and freeze-protected water spray systems shall be installed as needed to control potential fugitive air contaminant emissions from the fuel stakeout conveyor, fuel storage pile, unpaved plant roadways and fly ash dumpster.

Material Storage and Handling Operations:

13. Fugitive emissions from the material storage and handling operations shall be minimize by enclosing all conveyor belts totally on the top, bottom and sides as needed to contain the fugitive emissions in compliance with 25 Pa. Code § 123.1. The company shall submit a plan and schedule to the Department for approval by December 31, 2004, to eliminate any clinker stored outside in open areas.

In-Plant Roads and Trucks:

14. To prevent fugitive particulate matter resulting from the use of the in-plant roads from becoming airborne, the company shall adhere to the following plan:

- 1. All paved in-plant roads shall be swept on as-needed basis, weather permitting.
- 2. Water and/or chemicals to be applied on all paved and unpaved in-plant roads as needed to control the fugitive emissions.
- 3. The company shall keep a log of the dates of road sweeping or cleaning.
- 4. All fuel delivery trucks must be tarped or enclosed when transporting the fuel to the plant facility.

Stone Crushing Operations:

15. Under 40 CFR Part 60, Subpart OOO of the Standard of Performance for New Stationary Sources, the following emission limits apply to onsite nonmetallic processing units.

Source	Pollutant	Emission Limits
Crusher	Opacity	15%
Other Source	Opacity	10%
Stacks	Opacity	7%

16. The operation of a nonmetallic mineral processing plant shall not at any time result in the emission of:

A. Fugitive air contaminants in excess of the limitations specified in 25 Pa. Code §§ 123.1 and 123.2. All reasonable actions shall be taken to prevent particulate matter from becoming airborne. These actions include, but are not limited to, the following:

- i. Proper installation of a water spray dust suppression system and operation.

ii. Application of asphalt, water or suitable chemicals on dirt roads, material stockpiles and other surfaces, which may give, rise to airborne dusts.

iii. Paving and maintenance of plant roadways.

B. Prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosions by water or other means.

17. The company shall not emit pollutants from the sources at plants I, II and III in excess of the following limitation in any 12 month period, rolling monthly:

Pollutant	Emission limit Tons/year
PM ₁₀	1,494.8
TSP	2,825.9
SO ₂	4,503.4
NOx	3,402.0
CO	5,974.8
VOC	82.3
Fluoride	1.2
Lead	0.9

18. This Plan Approval establishes a Federally enforceable emissions cap (FEEC) for emissions of NOx and VOCs from the sources at Nazareth I, II and III plants.

19. This Plan Approval constitutes a FEEC determination for NOx and VOC emissions in accordance with 25 Pa. Code § 127.448.

20. The total actual emissions from sources at the facility's Nazareth I, II and III plants shall not exceed the FEEC of 3,402 tons per year (tpy) of NOx and 82.3 tpy of VOCs on a 12-month rolling total basis. To determine the compliance with the FEEC, the calculated NOx and VOCs emission rates for the month shall be added to the previous 11 months calculated NOx and VOC emission rates for the total facility. Any change that would result in an increase over the FEEC would be subject to the NSR requirements specified in 25 Pa. Code Chapter 127, Subchapter E.

21. The facility is not subject to the major NSR requirements of 25 Pa. Code Chapter 127, Subchapter E for NOx and VOC emissions so long as the permittee complies with the terms and conditions specified in this Plan Approval. Any increase in NOx or VOC emissions above this FEEC will subject the facility to the major NSR requirements.

22. The issuance of this Plan Approval does not prevent the future adoption by the Department of any rules, regulations or standards or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act or the Air Pollution Control Act, or to achieve or maintain ambient air quality standards. The issuance of this Plan Approval shall not be construed to limit the Department's enforcement authority.

23. In accordance with 25 Pa. Code § 127.448(a) and (d)(1), the permittee shall notify the Department in writing at least 7 days prior to making any changes or modifications to sources at the facility's Nazareth I, II and III plants, which result in an emission trade. This 7-day notice requirement applies to any changes or modifications which do not subject the facility to major NSR requirements under Title I of the Federal Clean Air Act.

24. The storage and handling of the material collected in the air cleaning devices associated with the aforementioned sources shall not at any time result in the

emission of fugitive air contaminants in excess of the limitations specified in 25 Pa. Code § 123.1.

25. Issuance of an operating permit will be contingent upon the satisfactory demonstration of compliance with 25 Pa. Code §§ 123.1 and 123.2.

III. Testing Requirements

1. Within 60 days after achieving the maximum production rate, but not later than 180 days after initial start-up of modified kiln I, the Owner or Operator shall demonstrate compliance with each emission limit established in conditions 3, 4 and 5 of restriction, as per 40 CFR Part 63 Subpart LLL and 25 Pa. Code Chapter 139. The stack tests shall be performed while the aforementioned sources are operating at the maximum routine operating conditions or under other conditions, within the capacity of the equipment as may be requested by the Department.

The company shall perform stack tests to show compliance with particulate emission rates from the cement manufacturing operations baghouses listed in the table 7 of the application. Company shall test only new and modified baghouses whose emission rates are listed as less than 0.02 grain/dscf in the application (table 7). The Department may waive the particulate emissions testing for several of the new and modified baghouses upon receiving manufacturer's emission rate guarantees.

2. At least 60 days prior to the test, the Owner or Operator shall submit to the Department for approval the procedures for a test and a sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples.

3. At least 30 days prior to the test, the Regional Air Quality Program Manager shall be informed of the date and time of the test.

4. Within 60 days after the source tests, two copies of the complete test report, including all operating conditions, shall be submitted to the Regional Air Quality Program Manager for approval.

5. If at any time the Department has cause to believe that air contaminant emissions from the aforementioned sources may be in excess of the limitations specified in, or established under, any applicable rule or regulation contained in 25 Pa. Code Subpart C, Article III, the company shall be required to conduct whatever tests are deemed necessary by the Department to determine the actual emission rates. The testing shall be conducted in accordance with the revisions of 25 Pa. Code Chapter 139, where applicable and in accordance with any restrictions or limitations established by the Department at a time as it notifies the company that testing is required.

IV. Continuous Source Monitoring Requirements

1. Continuous emission monitoring system for as NO_x, CO, SO₂, flow rates and opacity at all points where gas contaminants are measured must be approved by the Department and installed, operated and maintained in accordance with the requirements of 25 Pa. Code Chapter 139. Proposals containing information as listed in the Phase I section of the Department's Continuous Source Monitoring Manual for CEMs must be submitted at least 3 months prior to the initial start-up of the kiln system.

2. Phase I Department approval must be obtained for the monitors described in Condition 1 of continuous source monitoring requirements prior to initial start-up of the modified Kiln I. Phase III Department approval must be obtained within 60 days of achieving the maximum

production rate at which the modified kiln I will be operated, but not later than 180 days after initial start-up of the Kiln I. Department review time for the Phase III report (time between postmark of the Owner or Operator's Phase III report and the postmark of the Department's response letter) will not be charged against the Kiln I in determining compliance with this condition. Information on obtaining Department approval is included in the Department's Continuous Source Monitoring Manual.

V. Monitoring Requirements

1. Mechanical gauges shall be installed and maintained to indicate, in inches of water column, the static pressure differential across the baghouses.

2. The company shall ensure that the control devices shall be equipped with the applicable monitoring equipment and that equipment shall be installed, calibrated, operated and maintained according to the good engineering/operating practices at all times the control device is in use.

VI. Recordkeeping Requirements

1. The company shall maintain a file containing all records and other data that are required to be collected under the various provisions of this plan approval. The file shall include, but not be limited to all air pollution control systems performance evaluations and records of calibration checks, adjustments and maintenance performed on all equipment which is subject to this plan approval. All measurements, records and other data required to be maintained by the company shall be retained for at least 2 years following the date on which measurements, records or data are recorded.

2. The permittee shall record the pressure drop across the dust collectors. At a minimum these recordings shall be taken once per day, while the source and collector is in operation. The recordings shall be maintained in a logbook and made available to the Department upon request. The company may submit alternative methods and/or plans for approval to the Department for substitution of the previous requirement.

VII. Reporting Requirements

1. The company shall immediately notify the Department of any malfunction of, or damage to, sources or associated air cleaning devices which result in, or may possibly be results in, the emissions in excess of the limitations specified in this Plan Approval or any applicable Department rule or regulation.

2. Any changes in the location of the aforementioned source, or any changes in the process or control equipment, would be considered a modification and would require the submittal of an amended application for plan approval in accordance with the provisions of 25 Pa. Code §§ 127.11 and 127.12.

3. This facility is subject to the requirement of the NESHAP for the Portland Cement Plants 40 CFR 63 Subpart LLL and shall comply with all applicable requirements of this subpart; 40 CFR 63.10 requires submission of copies of all requests, reports, applications, submittals and other communications to both the EPA and the Department. The EPA copies shall be forwarded to Director, Air Protection Division, EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103.

4. The nonmetallic mineral processing plants are subject to Subpart OOO of the Standards of Performance for New Stationary Sources and shall comply with all appli-

cable requirements of this subpart; 40 CFR 60.4 requires submission of copies of all requests, reports, applications, submittals and other communications to both the EPA and the Department. The EPA copies shall be forwarded to the previous address

5. The coal preparation plant is subject to Subpart Y of the Standards of Performance for New Stationary Sources and shall comply with all applicable requirements of this subpart; 40 CFR 60.4 requires submission of copies of all requests, reports, applications, submittals and other communications to both the EPA and the Department. The EPA copies shall be forwarded to the previous address.

6. Notification as a result of any condition herein should be directed to Thomas A. DiLazaro, Air Quality Program Manager, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711-0790.

VIII. Work Practice Standard

1. The aforementioned sources may only be operated as long as the associated air pollution control devices are operated and maintained in accordance with the specifications set forth in the respective plan approvals and the applications submitted for said plan approvals (as approved by the Department) and in accordance with any conditions set forth herein.

2. The permittee shall keep on hand a sufficient quantity of spare baghouse bags/filters for the baghouses associated with the aforementioned sources to be able to immediately replace any bags/filters requiring replacement due to deterioration resulting from routine operation of the sources and baghouses.

3. The company shall maintain and operates the air pollution control equipment and sources in accordance with good engineering practice.

4. Water spray dust suppression systems on nonmetallic mineral processing plants shall be operated on any and all occasions that the respective plant is operated, except in those unusual instances where processed materials contain sufficient moisture so that operation of the plant without the simultaneous operation of the water spray dust suppression system can take place without creating air contaminant emissions in excess of the limitations and standards of this plan approval. If, however, the water spray dust suppression system is incapable of operation due to weather conditions or any other reason the plant may not operate at all.

a. The company shall keep on hand a sufficient quantity of spare nozzles to be able to immediately replace any nozzles.

5. The company shall keep on hand equipment and materials as are necessary to take reasonable action (including but not necessarily limited to the application of water, oil or chemicals) to prevent fugitive particulate matter resulting from the use of any roadways and/or material stockpiling operations associated with the plant from becoming airborne and shall be used, as necessary, to prevent fugitive particulate matter from becoming airborne.

IX. Additional Requirements

1. The company shall not impose conditions upon or otherwise restrict the Department's access to the aforementioned sources and/or any associated air cleaning devices and shall allow the Department to have access at any time to said sources and associated air cleaning devices with measuring and recording equipment, including equipment recording visual observations, as the De-

partment deems necessary and proper for performing its duties and for the effective enforcement of the Air Pollution Control Act.

Persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of the Plan Approval, may submit the information to the following address. The Department will consider written comments received within 30 days of the publication of this notice. Each written comment must contain: name, address and telephone number of the person submitting the comments; identification of the proposed Plan Approval No. 48-309-118; a concise statement regarding the relevancy of the information or any objections to the issuance of the Plan Approval.

A public hearing will be held for the purpose of receiving comments on the proposed air quality plan approval. The hearing will be held on January 14, 2003, at 7 p.m. at the Nazareth High School, East Center Street, Nazareth, PA. Persons interested in commenting are invited to appear at the public hearing.

Copies of the application, air modeling analysis used in the evaluation, the Department's technical review and other supporting documents are available for public inspection between the hours of 8 a.m. and 4 p.m. at the Department's Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. Appointments for scheduling a review may be made by calling (570) 826-2531.

The general procedures for the hearing are as follows:

To develop an agenda for the hearing, the Department requests that individuals wishing to testify at the hearing submit a written notice of their intent. The notice should be sent to Thomas A. DiLazaro, Hearing Examiner, Department of Environmental Protection, Air Quality Program, Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. The Department will accept notices up to the day of the public hearing.

This written notice should include the person's name, address, telephone number and a brief description as to the nature of the testimony. Individuals who submit a notice of intent to testify will be given priority on the agenda. If time permits, the Department will allow individuals who have not submitted a notice of intent to testify to present their comments.

Each individual will have up to 10 minutes to present testimony. The Department requests that individuals present written copies of their testimony in addition to their oral presentations.

To insure that all speakers have a fair and equal opportunity to present their testimony, relinquishing of time will be prohibited. Further details relating to the procedures to be followed at the hearing will be outlined at the beginning of the hearing.

Persons unable to attend the hearing can submit written testimony to the Department through January 25, 2003.

The Department will address comments from the public before a final action is taken on the proposal. A summary report addressing the concerns raised by the public will be released should the Department decide to issue the Plan Approval. Send written comments to Thomas A. DiLazaro, Regional Air Quality Program Manager, Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations should contact the Department at the previous address or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may address their needs.

For additional information contact Thomas A. DiLazaro at (570)-826-2531 or write to the Department at the Wilkes-Barre address given previously.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00011: Bethlehem Steel Corp. (Conshohocken Rd., Conshohocken, PA 19428) for Administrative Amendment of the Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) is processed in accordance with 25 Pa. Code § 127.450 in Plymouth Township, **Montgomery County**.

The following items have been amended in this permit:

- (i) Permit contact person has been changed.
- (ii) Insignificant changes to the process flow diagrams for various sources listed in Section A (Site Inventory List).
- (iii) Section D, Source ID: 110, Condition No. 003— inclusion of the term “Slab Reheating Furnace No. 2.”
- (iv) Section D, Source ID: 110, Condition No. 010— inclusion of the rated heat input capacity for Slab Reheating Furnace No. 2.
- (v) Insignificant changes to the names and number of various sources listed in Section G (Miscellaneous).

15-00010: Bethlehem Steel Corp. (130 Modena Rd., Coatesville, PA 19320) for an Administrative Amendment of the Title V Operating Permit issued under the Air Pollution Control Act is processed in accordance with 25 Pa. Code § 127.450 in Coatesville City, **Chester County**.

The following items have been amended in this permit:

- (i). Sections A and D, Source IDs: 181 and 182—Fuel Sources FML01 and FML02 have been added to the flow process diagram for these sources.
- (ii). Section D, Source ID: 180, Condition No. 002— Inclusion of the term “Effective July 1, 2002. . . .”
- (iii). Section D, Source ID: 258, Condition No. 004— Inclusion of the term “Effective July 1, 2002. . . .”
- (iv). Section D, Source ID: 263, Condition No. 002— Inclusion of the term “Effective July 1, 2002. . . .”

46-00020: Superior Tube Co. (3900 Germantown Pike, Collegeville, PA, 19426) for an administrative amendment to Title V operating permit 46-00020 in Lower Providence Township, **Montgomery County**. The permit is being amended to incorporate changes based Plan Approval PA-46-0020C, which entails the addition of a new batch vapor degreaser and carbon adsorber. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act and 25 Pa. Code § 127.450. 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 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05003: Carlisle Tire and Wheel Co. (621 North College Street, Carlisle, PA 17013) for a Title V Operating Permit renewal to operate a specialty tire manufacturing facility in Carlisle Borough, **Cumberland County**. The tire manufacturing activities produce VOC emissions; the facility’s boiler plant generates SOx and NOx. The Title V Operating Permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-05024: Bigbee Steel and Tank Co. (99 West Elizabethtown Road, Manheim, PA 17545) for a Title V Operating Permit renewal to operate a steel tank manufacturing facility in Rapho Township, **Lancaster County**. The spray painting of the tanks produces VOC emissions; emissions from other activities are minimal. The Title V Operating Permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-05078: Berk-Tek, Inc. (132 White Oak Road, New Holland, PA 17557-9722) for a Title V Operating Permit renewal to operate a cable extrusion facility in Earl Township, **Lancaster County**. The facility’s major source of emissions are attributed to the use of a hazardous air pollutant, methyl ethyl ketone, in solvent-based inks and extenders used in the band marking of the wire coating. The Title V Operating Permit will contain appropriate monitoring, recordkeeping and reporting requirements 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.

11-00356: Dominion Peoples (625 Liberty Avenue, Pittsburgh, PA 15222) for renewal of the Title V Operating Permit at Rager Mountain/Laurel Ridge Station in Jackson Township, **Cambria County**. The facility is a compressor station primarily used for the storage and distribution of natural gas. The facility is a major stationary source due to its potential to emit NOx.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00132: Lansdale Crematory, Inc. (Derstine and Cannon Avenue, Lansdale, PA 19446) for operation of a non-Title V Facility, State-Only, Natural Minor Operating Permit in Lansdale Borough, **Montgomery County**. The permit is for the operation of a human crematorium, from which the main pollutants emitted are PM and NOx. PM and NOx emissions from the facility are each less than 1 ton per year. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00121: Lankenau Hospital (100 Lancaster Avenue, Wynnewood, PA 19096), for operation of a hospital in Lower Merion Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. The hospital has the potential to emit 24.99 TPY of NOx. The facility's major air emission points include boilers and emergency generators that are restricting their major source emissions of NOx. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the hospital operating within all applicable air quality requirements.

09-00085: A. E. Staley Manufacturing (East Post Road, Morrisville, PA 19067), for operation of a bulk corn syrup transfer station in Morrisville Township, **Bucks County**. The permit is for a non-Title V (State only) facility. Major sources are two 10.5 mmBtu boilers. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00107: Pet Memorial Services Corporation (319 Westtown Road, Suite Q, West Chester, PA 19382) for operation of three animal crematoriums in West Goshen Township, **Chester County**. The permit is for a non-Title V (State only) facility. The facility has a potential to emit less than 25 tons per year of NOx; the facility is a Natural Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Salko, Facilities Permitting Chief, (570) 826-2531.

39-318-105A: Ultra Hi-Tek Products, Inc. (827 North Meadow Street, Allentown, PA 18102) for operation of a film coating line and associated air cleaning device in Allentown, **Lehigh County**.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

31-05012: Department of Corrections (P. O. Box 598, Camp Hill, PA 17001-0598) for operation of three bituminous coal fired boilers at the Smithfield SCI in Smithfield Township, **Huntingdon County**. Particulate emissions from each unit are controlled by multiple cyclones. The facility has the potential to emit 463.5 tons per year of SOx, after restrictions, SOx emissions are limited to 71.9 tons per year. The Synthetic Minor operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

08-00012: Taylor Packing Co., Inc. (P. O. Box 188, Wyalusing, PA 18853) for operation of their meat packing and rendering facility in Wyalusing Township, **Bradford County**. The facility's sources include: gas and fuel oil fired combustion units, a blood drying operation, a rendering operation, a crax processing operation, a crax cooling system, emergency generators, storage tanks, parts cleaning stations and a wastewater treatment operation. These sources have the potential to emit major quantities of SOx. The State Only Permit includes requirements limiting facility's annual SOx emissions to below major emission thresholds. The facility has the potential to emit CO, NOx, PM, VOCs and HAPs below

major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

14-00029: Con-Stone, Inc. (P. O. Box 28, Bellefonte, PA 16823) for operation of their crushed and broken limestone facility in Haines Township, **Centre County**. The facility's main sources include a diesel generator, primary crusher, secondary crusher, portable crusher and associated various material sizing and conveying equipment. The facility has taken restrictions to limit potential PM10 emissions below Title V thresholds. The facility has the potential to emit NOx, SOx, VOCs and CO below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

14-00008: Cerro Metal Products Co. (P. O. Box 388, Bellefonte, PA 16823) for operation of their copper rolling and drawing facility in Spring Township, **Centre County**. The facility's main sources include three natural gas/no. 2 fuel oil fired boilers, one natural gas/no. 2 fuel oil fired brass chip dryer, six melter holder electric induction furnaces, five natural gas fired billet furnaces, three natural gas/no. 2 fuel oil fired small rod coil annealing furnaces, six natural gas fired buzzer furnaces, large rod brass pickling operation and graphite machining operation. The facility has taken restrictions to limit potential NOx and SOx emissions below Title V thresholds. The facility has potential to emit (VOCs, PM10 and CO below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

18-00023: Hanson Aggregates Pennsylvania, Inc. (P. O. Box 231, Easton, PA 18044) for operation of their crushed and broken limestone facility in Lamar Township, **Clinton County**. The facility's main sources include a primary crusher, secondary crusher, tertiary crusher and associated various material sizing and conveying equipment. These sources have the potential to emit PM10 below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-00018: Athens Area School District (204 Willow Street, Athens, PA 18810) for operation of their Harlan Rowe Middle School complex in Athens Borough, **Bradford County**. The facility's main sources include one natural gas fired paper waste incinerator and a natural gas fired emergency generator. The facility has the potential to emit SOx, CO, NOx, PM10, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

20-00272: Universal Stainless and Alloy Products (121 Caldwell Street, Titusville, PA 16354) for operation of a Natural Minor Permit of a cold rolling steel mill facility in the City of Titusville, **Crawford County**.

10-00281: II—VI, Inc. (375 Saxonburg Boulevard, Saxonburg, PA 16056) for operation of a Natural Minor Operating Permit facility's air contamination sources consisting of several miscellaneous combustion sources, chemical vapor deposition units, hydrogen selenide gas

production, thin film materials production and a batch vapor degreaser unit in Clinton Township, **Butler County**.

25-00397: APW Erie (4000 West Ridge Road, Erie, PA 16505) for operation of a Natural Minor Operating Permit facility's air contamination sources consisting of several gas-fired heaters and boilers, a surface coating operation and a parts washer in Millcreek Township, **Erie County**.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); and The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and 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 or objections, or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

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

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts

upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54910205R2. CLS Coal Company (P. O. Box 81, Port Carbon, PA 17965), renewal of a coal refuse reprocessing operation in West Mahanoy Township, **Schuylkill County** affecting 12.5 acres, receiving stream: none. Application received November 21, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17920115 and NPDES Permit No. PA0207110. P & N Coal Co., Inc., 240 West Mahoning Street, P. O. Box 332, Punxsutawney, PA 15767. Renewal of an existing bituminous surface mine-coal preparation plant/processing facility permit located in Goshen Township, **Clearfield County** affecting 16.5 acres. Receiving streams: unnamed tributary to West Branch Susquehanna River. Application received November 12, 2002.

17990119 and NPDES Permit No. PA0242748. Laurel Energy, L. P., One Energy Place, Suite 7500, Latrobe, PA 15650. Transfer of an existing bituminous surface mine permit from Forcey Coal, Inc. The permit is located in Woodward Township, **Clearfield County** and affects 83.3 acres. Receiving streams: unnamed tributaries to Goss Run. Application received November 13, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32980103 and NPDES Permit No. PA0234702. Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, permit renewal for continued operation of a bituminous surface mine and for discharge of treated mine drainage in Pine Township, **Indiana County**, affecting 15.2 acres. Receiving streams: unnamed tributary to Yellow Creek and Yellow Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 21, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

24020104 and NPDES Permit No. PA0242268. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838). Commencement, operation and restoration of a bituminous surface strip and auger operation in Fox Township, **Elk County** affecting 260.0 acres. Receiving streams: Little Toby Creek and unnamed tributaries to Little Toby Creek, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received November 14, 2002.

10950103 and NPDES Permit No. PA0226963. State Industries, Inc. (P. O. Box 1022, Kittaning, PA 16201). Renewal of an existing bituminous surface strip and auger operation in Concord Township, **Butler County** affecting 67.2 acres. Receiving streams: unnamed tributaries to Bear Creek and Bear Creek, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received November 26, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

7975SM1C6 and NPDES Permit PA0045047. Haines & Kibblehouse, Inc. (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), quarry operation with renewal of existing discharge of treated mine drainage in Hilltown Township, **Bucks County**, receiving stream: unnamed run to Morris Run, classified for TSF. Application received November 19, 2002.

5278SM3C5 and NPDES Permit PA0595764. Hanson Aggregates Pennsylvania, Inc. (1900 Sullivan Trail, P. O. Box 231, Easton, PA 18044-0231), quarry operation with renewal of existing discharge of treated mine drainage in Lake Township, **Wayne County**, receiving stream: unnamed tributary to Middle Creek, classified for CWF. Application received November 22, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

NPDES Permit No. PA0249343. Robindale Energy Services, Inc., 1001 Broad Street, Suite 130, Johnstown, PA 15906, application for a post-mining water treatment permit in Shade Township, **Somerset County**, affecting 106.5 acres. Receiving streams: Miller Run to Dark Shade Creek to Stony Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 1, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

37960304. Essroc Cement Corp. (P. O. Box 779, Bessemer, PA 16112-8928). Renewal of NPDES Permit No. PA0227307, Bessemer Borough and North Beaver Township, **Lawrence County**. Receiving streams: Hickory Run Creek, classified for TSF. No public water supplies are within 10 miles downstream of this proposed operation. NPDES Renewal application received November 22, 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.

E46-926. Stewart & Conti, Development Co., 3801 Germantown Pike, Fairview Village, PA 19426, Douglass Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following activities associated with the cobblestone crossing residential subdivision, phases ii and iii:

1. To construct and maintain a stormwater outfall channel from outfall no. 117 to an existing grass waterway impacting approximately 500 square feet of wetland (PEM) within the grass waterway.
2. To construct and maintain a stormwater outfall and channel within the 100-year floodway and discharging to Swamp Creek (TSF-MF) and impacting approximately 300 square feet of adjacent wetlands (PEM) associated with improvements to Smith Road.
3. To install an 8-inch water line by temporarily impacting 25 linear feet of Swamp Creek (TSF-MF).
4. To place fill in approximately 0.04 acre of wetland (PEM) and to construct and maintain a stormwater outfall channel within the 100-year floodway discharging to Swamp Creek (TSF-MF) associated with improvements to Smith Road.
5. To construct and maintain a stormwater outfall channel from outfall no. 300 to an existing wetland. The outfall channel will impact 0.01 acre of wetland (PEM) within the 100-year floodplain of Swamp Creek.
6. To construct an 8-inch sanitary sewer line across an unnamed tributary to Swamp Creek, Swamp Creek and its adjacent wetlands (PEM) at three locations.
7. To construct and maintain a stormwater outfall channel from outfall no. 400, across and potentially draining approximately 1.0 acre of wetland (PEM) adjacent to an unnamed tributary of Swamp Creek.

8. To construct and maintain a stormwater outfall channel from a detention basin, outfall 240, across and potentially draining approximately 1.0 acre of wetland (PEM) adjacent to an unnamed tributary of Swamp Creek.

The site is located just north of the intersection of Big Road (SR 0073) and Smith Road (Sassamansville, PA USGS Quadrangle N: 11.8 inches; W: 13.8 inches).

E446-012SE. Berwind Property Group, Inc., GSB Building, One Belmont Avenue, Suite 401, Bala Cynwyd, PA 19004, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

A request for an Environmental Assessment for impacts associated with the construction, operation and maintenance of the nonjurisdictional dam across an unnamed tributary to the Doe Run (TSF). The proposed dam will provide stormwater management for Providence Corporate Centers. The project will impact approximately 210 linear feet of watercourse and 0.02 acre of wetland (PFO). The project is located about 2,000 feet northeast of the intersection of Black Rock and Troutman Road (Collegeville, PA Quadrangle N: 6.10 inches; W: 12.90 inches).

E51-205. Penn's Landing Corporation, 121 Columbus Boulevard, Philadelphia, PA 19106, Philadelphia City and **Philadelphia County**, ACOE Philadelphia District.

To construct and maintain two pile-supported boat launching ramps along the Delaware River (WWF-MF) to facilitate the operation of the "Ride the Duck" amphibious boat tours at the Penn's Landing Waterfront in the City and County of Philadelphia. Open waters will be maintained beneath both boat ramps.

1. The ingress ramp will be situated between Pier 12N and Pier 11N, just south of the Ben Franklin Bridge (Philadelphia USGS Quadrangle N: 14.2 inches; W: 2.0 inches). The ingress ramp dimensions will be approximately 234 feet long by 16 feet wide.

The egress ramp will be constructed within the Penn's Landing boat basin between the USS Olympia and the Moshulu (Philadelphia USGS Quadrangle N: 12.1 inches; W: 2.3 inches). The ramp dimensions will be approximately 110 feet long by 16 feet wide.

E46-927. Plymouth Township, 700 Belvoir Road, Plymouth Meeting, PA 19462, Plymouth Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain 400 linear feet of 4 foot by 12 foot box culvert that will relocate 480 linear feet of unnamed intermittent tributary to the Plymouth Creek (WWF). The proposed structure will replace the existing Gallagher Road triple cell culvert and extend downstream to a new confluence with a perennial unnamed tributary to the Plymouth Creek. The proposed site is located 500 feet southeast of the intersection of Belvoir Road and Gallagher Road (Norristown, PA Quadrangle N: 19.9 inches; and W: 8.0 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E54-203. Reading Blue Mountain and Northern Railroad Co., P. O. Box 218, Port Clinton, PA 19549, in Port Carbon Borough, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To repair and maintain a three-span concrete arch railroad bridge across the Schuylkill River (CWF) with

work consisting of rehabilitation of spalled and hollowed-out concrete areas to reduce the risk of any long-term structural problems. The project is located approximately 500 feet downstream of SR 2002 (Pottsville, PA Quadrangle N: 12.2 inches; W: 6.1 inches).

E45-440. William O'Neill, R. R. 2, Box 5234, East Stroudsburg, PA 18301, in Smithfield Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 48-inch diameter HDPE stormwater outfall structure and associated energy dissipater along the eastern streambank of Marshall's Creek (CWF) approximately 300 feet downstream of SR 0209 (East Stroudsburg, PA Quadrangle N: 2.9 inches; W: 0.6 inch).

E64-238. Luke Wenk, R. R. 2, Box 2774, Mount Pleasant, PA 18439, in Mount Pleasant Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain fill that was placed in 0.29 acre of wetlands in the drainage basin of Equinunk Creek, for the purpose of expanding an existing woodshop. The project is located along the west side of SR 0247, approximately 1,000 feet south of the Preston Township/Mount Pleasant Township boundary (Lake Como, PA-NY Quadrangle N: 8.0 inches; W: 12.8 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E06-549. Sandra Lutz, South Heidelberg Township, 68A N. Galen Hall Rd., Wernersville, PA 19565 in South Heidelberg Township, **Berks County**, ACOE Philadelphia District.

To remove the existing 11 foot span steel girder bridge and to construct and maintain an 11 foot span by 4 foot rise concrete box culvert within Manor Creek (CWF) at a point approximately 2,200 feet southeast of the intersection of Furnace Road and SR 422 in the Borough of Wernersville (Sinking Spring, PA Quadrangle N: 13.9 inches; W: 13.0 inches) in South Heidelberg Township, Berks County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-399. William Jackson, R. R. 3, Box 401, Troy, PA 16947. Mill Creek Restoration Project Reach 1, in Springfield Township, **Bradford County**, ACOE Baltimore District (East Troy, PA Quadrangle N: 12.25 inches; W: 8.6 inches).

The application proposes to restore 1,930 linear feet of Mill Creek by means of natural channel design techniques. This project is in conjunction with a downstream reach of stream on an adjacent property. The project design utilized Brace Creek as a reference reach along with combining regional curve data and stable reaches within Mill Creek to establish the correct design parameters. Rock structures (Cross-Veins, J-Hooks) will be utilized to promote bank stabilization and to establish grade control within the stream. This project intends to impact 1,930 linear feet of Mill Creek, which is designated as TSF although the Fish and Boat Commission does not actively stock this reach.

E08-400. Wilson Leiby, R. R. 3, Box 418, Troy, PA 16947. Mill Creek Restoration Project Reach 2, in Springfield Township, **Bradford County**, ACOE Baltimore District (East Troy, PA Quadrangle N: 13 inches; W: 8.95 inches).

The application proposes to restore 600 linear feet of Mill Creek by means of natural channel design techniques. This project is in conjunction with an upstream reach of stream on an adjacent property. The project design utilized Brace Creek as a reference reach along with combining regional curve data and stable reaches within Mill Creek to establish the correct design parameters. Rock structures (Cross-Veins, J-Hooks) will be utilized to promote bank stabilization and to establish grade control within the stream. This project intends to impact 600 linear feet of Mill Creek, which is designated as TSF although the Fish and Boat Commission does not actively stock this reach.

E12-134. Cameron County Commissioners, Cameron County Courthouse, East 5th Street, Emporium, PA 15834. Crowley Run Bridge Replacement, in Portage Township, **Cameron County**, ACOE Baltimore District (Emporium, PA Quadrangle N: 16.4 inches; W: 10.2 inches).

The permit application proposes to remove the existing double span structure and replace it with a single span concrete box beam structure in the same location. The proposed work also includes widening of the existing T-331 to include 10-foot travel lanes and paved shoulders. The proposed structure crosses of Crowley Run, which is designated as an Exceptional Value Watershed and proposes to impact 50 linear feet of stream.

E53-380. Adelpia Communications Corp, 1 North Main Street, Coudersport, PA 16915. Adelpia Data Center Stormwater Outfall, in Coudersport Borough, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle N: 3.0 inches; W: 4.0 inches).

To construct, operate and maintain a stormwater conveyance pipe and outfall structure in and along the Allegheny River (CWF). The stormwater conveyance shall be constructed with a 30-inch diameter high-density plastic pipe. The outfall structure shall be constructed with a R-7 riprap. The project will not impact wetlands while permanently impacting 50-feet of the Allegheny River. The project is located along the southern right-of-way of SR 0006 approximately 2,250-feet west of SR 3017 and SR 006 intersection.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-366-A1. Township of Upper St. Clair, 1820 McLaughlin Run Road, Upper St. Clair, PA 15241-2332. Upper St. Clair Township, **Allegheny County**, ACOE Pittsburgh District.

To amend permit E02-366 which authorized the construction and maintenance of gabion walls and rock riprap along the banks of McLaughlin Run for a distance of about 4,600 feet beginning at a point approximately 2.7 miles upstream from its mouth in Upper St. Clair Township, Allegheny County. This permit amendment will authorize the relocation and maintenance of approximately 600 feet of McLaughlin Run (WWF) using fluvial geomorphology to improve the water quality and habitat and protect McLaughlin Run Road as part of the

McLaughlin Run stream restoration Phase III. The project is located on the north side of McLaughlin Run Road approximately 3,000 feet west of its intersection with Route 19 (Bridgeville, PA Quadrangle N: 16.0 inches; W: 10.6 inches).

E02-1408. Mirric Realty, LLC, 8199 McKnight Road, Pittsburgh, PA 15237. Etna Borough, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a retail building on the right bank of Pine Creek (TSF) for the purpose of constructing the Etna Towne Center. The project is located on the east side of Butler Street, approximately 600 feet northeast from the intersection of Butler Street and Maplewood Street (Glenshaw, PA Quadrangle N: 0.1 inch; W: 9.6 inches).

E11-298. USSCO Johnstown Federal Credit Union, 522 Central Avenue, Johnstown, PA 15902. Richland Township, **Cambria County**, ACOE Pittsburgh District.

To place and maintain fill in 0.28 acre of wetlands, for the purpose of expansion of the USSCO Johnstown Federal Credit Union located along Oakridge Drive approximately 2,000 feet east of SR 56. To meet wetland replacement requirements, the applicant proposes to pay into the wetland replacement fund (Geistown, PA Quadrangle N: 7.5 inches; W: 12.0 inches).

E26-302. Fayette County Commissioners, Court House, 61 East Main Street, Uniontown, PA 15401. North Union and Menallen Townships, **Fayette County**, ACOE Pittsburgh District.

To remove the County Bridge No. 184 and to construct and maintain a bridge having a normal clear span of 36.0 feet and an underclearance of 5.4 feet across Jennings Run (WWF) located on T-719 (Fan Hollow Road) approximately 8,000 feet north of the intersection with SR 40 (New Salem, PA Quadrangle N: 11.85 inches; W: 0.35 inch).

E65-810. Dr. Ice, 300 Penn Center Boulevard, Suite 201, Pittsburgh, PA 15235. City of New Kensington, **Westmoreland County**, ACOE Pittsburgh District.

To construct and maintain an ice skating facility along Little Pucketa Creek (TSF) located at the intersection of SR 56 and Craig Dell Road (New Kensington East, PA Quadrangle N: 14.1 inches; W: 15.7 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-368, Butler County Commissioners, P. O. Box 1208, Butler, PA 16003-1208. R. C. Duffy Bridge County No. 26 T-428 New Hope Road Across McMurray Run, in Cherry Township, **Butler County**, ACOE Pittsburgh District (West Sunbury, PA Quadrangle N: 15.6 inches; W: 12.7 inches).

To remove the existing R. C. Duffy Bridge (County No. 26) and to construct and maintain a steel beam bridge having a clear span of 37 feet and an underclearance of 6 feet on a 71 degree skew across McMurray Run on T-428 New Hope Road approximately 1 mile north of Branchton Road.

E24-229, Elk County Commissioners, P. O. Box 448, Ridgway, PA 15853-0448. T-314 Bridge (Arroyo Bridge) Replacement in Spring Creek Township, **Elk County**, ACOE Pittsburgh District (Hallton, PA Quadrangle N: 2.8 inches; W: 0.8 inch)

To remove the existing structure and to construct and maintain a three span steel I-beam bridge having three

clear spans of 85.7 feet, 107.3 feet and 83.8 feet each and an underclearance of 21.29 feet on a 70° skew across the Clarion River (CWF) approximately 1.4 miles northwest of the intersection of T-314 and SR 949. The project includes the temporary impact of 0.043 acre of wetlands, the construction of a temporary causeway and cofferdams for construction and the temporary reinforcement of three bridges on T-314 over Beech Bottom Run (CWF), Cole Run (CWF) and Lake City Run (CWF) to provide access for construction equipment.

E25-661, Behrend College, 5091 Station Road, Erie, PA 16563-0001. Behrend Research & Economic Development Center, in Harborcreek Township, **Erie County**, ACOE Pittsburgh District (Hammett, PA Quadrangle N: 21.5 inches; W: 14.2 inches).

To fill 0.1 acre of wetland (PFO) for construction of the Behrend Research & Economic Development Center building along Jordan Road approximately 0.3 mile west of Station Road at Pennsylvania State University—Behrend College. Project proposes the creation of 0.15 acre of replacement wetland through modification of an existing pond.

E37-147, Department of Transportation, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017-2853. SR 2007, Section L01, Segment 0040, Offset 0000 Stream Enclosure Replacement in an unnamed tributary to Slippery Rock Creek in Perry Township, **Lawrence County**, ACOE Pittsburgh District (Portersville, PA Quadrangle N: 3 inches; W: 12.5 inches).

To remove the existing structure and to construct and maintain a 120-foot long, 12-foot wide by 6.5-foot high precast concrete arch stream enclosure in an unnamed tributary to Slippery Rock Creek (CWF) on SR 2007, Section L01, Segment 0040, Offset 0000 approximately 0.95 mile northwest of the intersection of SR 2007 (Armstrong Road) and SR 488.

E42-294, Bradford Housing Authority, 2 Bushnell Street, Bradford, PA 16701. Bennett Brook Pedestrian Bridge Replacement, in the City of Bradford, **McKean County**, ACOE Pittsburgh District (Bradford, PA Quadrangle N: 14.7 inches; W: 4.6 inches).

To remove the existing pedestrian bridge superstructure and to construct and maintain a concrete deck on steel girders pedestrian bridge having a clear span of 19.8 feet and an underclearance of 7 feet across Bennett Brook (CWF) approximately 250 feet southwest of the intersection of Bennett Street and Barbour Street.

E61-258, Great Lakes Energy Partners, LLC, 1369 Cochran Road, Carlton, PA 16311. Wallaceville Pipeline Across Little Sugar Creek and wetlands, in Oakland and Plum Townships, **Venango County**, ACOE Pittsburgh District.

To construct and maintain a 6-inch-diameter natural gas pipeline across Little Sugar Creek and adjoining EV wetland by directional drill approximately 3,500 feet upstream of Creek Hill Road (Dempseytown, PA Quadrangle N: 5.5 inches; W: 8.5 inches) in Oakland Township and across a tributary to Little Sugar Creek approximately 2,000 feet upstream of where the stream crosses Dallas Road (Dempseytown, PA Quadrangle N: 7.6 inches; W: 8.1 inches) in Plum Township.

ENVIRONMENTAL ASSESSMENTS

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

EA56-002SW, Wells Creek Watershed Association, 1019 Pompey Hill Road, Stoystown, PA 15563. Somerset Township, **Somerset County**, ACOE Pittsburgh District.

To construct and maintain a passive, acid mine drainage treatment system, to treat the mine drainage from the Listie Coal Corporation's Louise Mine Nos. 1 and 2. The project will affect a reported 0.8 acre of wetland from the construction of a successive alkaline producing system, settling basin and a maintenance road, a collection system, consisting of open pipes and subsurface, French-drain type structures will also be constructed and maintained in the wetlands. Three outfall structures will be constructed and maintained along unnamed tributaries to Wells Creek (CWF). The project area is located approximately 1,000 feet east of the intersection of Township Roads T-572 and T-539 (Somerset, PA Quadrangle N: 2.0 inches; W: 1.65 inches).

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Land Recycling and Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P.S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
02015	Thomas G. Martin Martin Oil Company 528 North First Street Bellwood, PA 16617	Cambria County Cambria Township	Two ASTs storing heating oil One AST storing kerosene	40,000 gallons total 15,000 gallons

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 Act (35 P. S. §§ 691.1—
691.1001).**

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

NPDES Permit No. PA0031992, Sewage, **Department of Conservation and Natural Resources, Greenwood Furnace State Park**, R. R. 2, Box 118, Huntingdon, PA 16652-9006. This proposed facility is located in Jackson Township, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to East Branch Standing Stone Creek in Watershed 11-B.

WQM Permit No. 6799403 Amendment 02-1, Sewerage, **Northeastern York County Sewer Authority**, 175 Chestnut Street, P. O. Box 516, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township and Manchester Borough, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewers and appurtenances in Watershed 7-F.

WQM Permit No. 2102408, Sewerage, **Emanuel B. King**, 50 County Line Lane, Newburg, PA 17240. This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewage treatment facilities.

WQM Permit No. 5095401 Amendment No. 02-1, Sewerage, **Caldwell Development Company, Inc.**, 434 North Front Street, Wormleysburg, PA 17043. This proposed facility is located in Howe Township, **Perry County**.

Description of Proposed Action/Activity: Approval for modification to the construction/operation of sewage treatment facilities.

NPDES Permit No. PA0088498, Industrial Waste, **Eagle Land Management of PA, Inc., Milton Grove Landfill**, Three Glenhardie Corporate Center, 1265 Drummers Lane, Suite 102, Wayne, PA 19087. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Little Chickies Creek in Watershed 7-G.

NPDES Permit No. PA0246565, Industrial Waste, **Kinsley Concrete**, 629 Loucks Mill Road, York, PA 17403. This proposed facility is located in Spring Garden Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT of Codorus Creek in Watershed 7-H.

WQM Permit No. 3602205, Industrial Waste, **Eagle Land Management of PA, Inc.**, Three Glenhardie Corporate Center, 1265 Drummers Lane, Suite 102, Wayne, PA 19087. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction/operation of industrial waste treatment facilities.

WQM Permit No. 6702405, Industrial Waste, **Kinsley Concrete**, 629 Loucks Mill Road, York, PA 17403. This proposed facility is located in Spring Garden Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of industrial waste treatment facilities.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit No. PA0209449, Industrial Waste, **GKN Sinter Metals, Inc.**, R. R. 2, Box 47, Emporium, PA 15834. This existing facility is located in Emporium Borough, **Cameron County**.

Description of Proposed Action/Activity: Renewal of Industrial Waste NPDES Permit for Plant (Airport Road facility), which authorizes the discharge of noncontact cooling water and stormwater to West Creek and the Driftwood Branch of Sinnemahoning Creek.

NPDES Permit No. PA0031453, Sewage, **South Columbia Area School District**, 800 Southern Drive, Catawissa, PA 17820. This existing facility is located in Franklin Township, **Columbia County**.

Description of Proposed Action/Activity: Renewal of NPDES permit authorizing the discharge of treated effluent, from a facility serving the elementary and junior/senior high schools, to Roaring Creek.

NPDES Permit No. PA0033782, Sewage 4952, **Timberend Estates, Inc.**, 528 Ruben Keher Road, Lot 100A, Muncy, PA 17756. This existing facility is located in Fairfield Township, **Lycoming County**.

Description of Proposed Action/Activity: Applicant granted an NPDES permit to discharge treated sewage from treatment facilities serving Timberend Estates to an unnamed tributary to Twin Run.

NPDES Permit No. PA0025933, Sewage, **City of Lock Haven**, 20 East Church St., Lock Haven, PA 17745. This existing facility is located in the City of Lock Haven, **Clinton County**.

Description of Proposed Action/Activity: This action was an amendment of the NPDES permit for the discharge from the City's sewage treatment facility to Bald Eagle Creek. The amendment is issued in response to issues which Lock Haven raised in their appeal of the recently reissued permit. The amendment makes four minor changes to language in special conditions and terms of the permit.

WQM Permit No. 0802404, Sewerage 4952, **Clifford Robinson**, R. R. 3, Box 197, Wyalusing, PA 18853. This proposed facility will be located in Orwell Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant has been granted a Water Quality Management permit for a SRSTP serving a residence.

WQM Permit No. 6002401, Sewerage 4952, **George Schenawolf**, R. R. 6, Box 260, Danville, PA 17821. This proposed facility will be located in Union Township, **Union County**.

Description of Proposed Action/Activity: The applicant has been granted a permit for a SFTF to serve four rental units situated along the West Branch of the Susquehanna River.

WQM Permit No. 5902410, Sewerage, **Richmond Township Municipal Authority**, P. O. Box 401, Mansfield, PA 16933. This proposed facility will be located in Richmond Township, **Tioga County**.

Description of Proposed Action/Activity: Issuance of a WQM permit for a sewer extension and pump stations to serve the Pickle Hill and Route 6 areas of Richmond Township.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0021610, Sewage, **Blairsville Municipal Authority**, 203 East Market Street, Blairsville, PA 15717 is authorized to discharge from a facility located at Blairsville Municipal Authority STP, Burrell Township, **Indiana County** to receiving waters named Conemaugh River.

NPDES Permit No. PA0094838, Sewage, **Roger D. Hay**, 1247 Trent Road, Somerset, PA 15501 is authorized to discharge from a facility located at Glades Pike Estates STP, Somerset Township, **Somerset County** to receiving waters named West Branch of Coxes Creek.

NPDES Permit No. PA0097195, Sewage, **Kiski Area School District**, 200 Poplar Street, Vandergrift, PA 15690-1491 is authorized to discharge from a facility located at the Bell Elementary School STP, Bell Township, **Westmoreland County** to receiving waters named Wolford Run.

NPDES Permit No. PA0205711, Sewage, **Ernest Buck**, 1601 North Road, McDonald, PA 15057 is autho-

ized to discharge from a facility located at Buck SRSTP, North Fayette Township, **Allegheny County** to receiving waters named unnamed tributary of North Branch Robinson Run.

NPDES Permit No. PA0205869, Sewage, **West Branch Sewer Authority**, 900 Philadelphia Avenue, Northern Cambria, PA 15714 is authorized to discharge from a facility located at West Branch Sewer Authority WWTP, Susquehanna Township, **Cambria County** to receiving waters named West Branch Susquehanna River.

NPDES Permit No. PA0216178, Sewage, **Cecil Township Municipal Authority**, Cecil Township Municipal Building, 3599 Millers Run Road, Cecil, PA 15321 is authorized to discharge from a facility located at Cherrybrook Sewage Treatment Plant, Cecil Township, **Washington County** to receiving waters named unnamed tributary of Chartiers Creek.

NPDES Permit No. PA0217760, Sewage, **RoxCoal, Inc.**, 1576 Stoystown Road, P. O. Box 149, Friedens, PA 15541 is authorized to discharge from a facility located at Barbara No. 2 Small Flow Sewage Treatment Facility, Stonycreek Township, **Somerset County** to receiving waters named Reitz Creek.

NPDES Permit No. PA0217786, Sewage, **New Eagle Borough Municipal Sewer Authority**, 157 Main Street, New Eagle, PA 15067 is authorized to discharge from a facility located at Borough of New Eagle STP, Borough of New Eagle, **Washington County** to receiving waters named Monongahela River.

NPDES Permit No. PA0219282, Sewage, **Oak Grove Church of Christ**, 169 Ashwood Drive, Industry, PA 15052-1929 is authorized to discharge from a facility located at Oak Grove Church STP, Ohioville Borough, **Beaver County** to receiving waters named unnamed tributary to South Branch Brady Run.

Permit No. 0302403, Sewage, **Randy Shondelmyer**, Star Route, Box 126A, Pond Drive, Spring Church, PA 15686. Construction of 400 GPD domestic wastewater discharge from a single residence sewage treatment plant located in South Bend Township, **Armstrong County** to serve the Randy Shondelmyer STP.

Permit No. 6502406, Sewerage, **Ligonier Borough**, Town Hall, 120 East Main Street, Ligonier, PA 15658. Construction of interceptor sewer located in Ligonier Borough, **Westmoreland County** to serve Ligonier Borough Sewage Treatment Plant.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0002381, Industrial Waste, **Honeywell International—Emlenton Plant**, 101 Columbia Road, P. O. Box 1057, Morristown, NJ 07962-1057. This proposed facility is located in Emlenton Borough, **Venango County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Allegheny River.

NPDES Permit No. PA0103250, Industrial Waste, **Urick Foundry Company**, 1501 Cherry Street, Erie, PA 16512-6027. This proposed facility is located in City of Erie, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Presque Isle Bay and Erie storm sewer (Myrtle Street).

NPDES Permit No. PA0028207, Sewage, **Reynoldsville Sewage Authority**, 400 North Fifth

Street, P. O. Box 207, Reynoldsville, PA 15851. This proposed facility is located in Reynoldsville Borough, **Jefferson County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Sandy Lick Creek.

NPDES Permit No. PA0222101, Sewage, **H. E. Association, Inc. (Honey Estates)**, 6795 Honey Lane, Erie, PA 16509. This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Walnut Creek.

NPDES Permit No. PA0035505, Sewage, **Faith Builders Educational Programs**, P. O. Box 127, Guys Mills, PA 16327. This proposed facility is located in Randolph Township, **Crawford County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Woodcock Creek.

NPDES Permit No. PA0238864, Sewage, **Meyer Small Flow Treatment Facility (Dean Meyer)**, 5502 Lunger Road, Erie, PA 16510. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Six Mile Creek.

WQM Permit No. 2402401, Sewerage, **Fox Township Sewer Authority**, 116 Irishtown Road, Box 186, Kersey, PA 15846. This proposed facility is located in Fox Township, **Elk County**.

Description of Proposed Action/Activity: This project is for the extension of an existing sanitary sewer line and expansion of the wastewater treatment plant.

WQM Permit No. 2502417, Sewerage, **Mill Village Elementary School, Fort LeBoeuf School District**, 34 East Ninth Street, Waterford, PA 16442. This proposed facility is located in Borough of Mill Village, **Erie County**.

Description of Proposed Action/Activity: This project is for the installation of a UV disinfection system at the existing wastewater treatment plant.

WQM Permit No. 2502430, Sewerage, **Meyer Small Flow Treatment Facility (Dean Meyer)**, 5502 Lunger Road, Erie, PA 16510. This proposed facility is located in Harborcreek Township, **Erie County**.

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.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10N037	Springbrook Township R. R. 4, Box 4239, Route 307 Moscow, PA 18444	Lackawanna	Springbrook Township	Trout Run Spring Brook HQ-CWF
PAS10Q240	Heritage Building Group, Inc. 3326 Old York Road Suite A-100 Furlong, PA 18925	Lehigh	City of Allentown	Little Lehigh Creek HQ-CWF
PAS10U178	The Carpenter's Community Church P. O. Box 358 Bethlehem, PA 18064	Northampton	Lower Nazareth Township	Monocacy Creek HQ-CWF
PAS10U180	Moravian Academy 7 East Market St. Bethlehem, PA 18018	Northampton	Bethlehem Township	Monocacy Creek Nancy Run HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10V042	Pike County Industrial and Commercial Development Authority 10 Buist Road, Suite 301 P. O. Box A Milford, PA 18377	Pike	Lehman Township	Little Bushkill Creek EV
PAS107426	Wayne Highlands School District 474 Grove St. Honesdale, PA 18431	Wayne	Texas Township	Lackawaxen River HQ-TSF-MF

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS102516	Fox Township Sewer Authority 116 Irishtown Rd. Kersey, PA 15846	Elk	Fox Township	Beaver Run HQ Tributary to Daguscahonda Run CWF Laurel Run HQ

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)

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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>
Erie County Harborcreek Township	PAR10K207	Jeff Yahn 1741 West 26th Street Erie, PA 16508	Four Mile Creek WWF-MF	Erie County Conservation District (814) 825-6403
Warrington Township Bucks County	PAR10D633	Managing Partner of Pickertown Hickory Association 1800 Street Road, Suite 200 Warrington, PA 18976	Unnamed tributary to Neshaminy Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Warwick Township Bucks County	PAR10D647	Archdiocese of Philadelphia 1410 Almshouse Road Jamison, PA 18929	Unnamed tributary to Neshaminy Creek TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Newtown Township Bucks County	PAR10D643	Gerald and Lynda Katzoll David and Ray Pinchuk 534 Durham Road Newtown, PA 18940	Newtown Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Warwick Township Bucks County	PAR10D655	Mignatti Ventures, Inc. P. O. Box 249 Huntingdon Valley, PA	Little Neshaminy Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Hilltown Township Bucks County	PAR10D680	Prime Properties, Inc. 1045 Buggy Whip Drive Warrington, PA 18976	Morris Run—Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAR10T895	Better Living Homes 101 Green Briar Road Lansdale, PA 195546	Towamencin Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Plymouth Township Montgomery County	PAR10T817	Montgomery Equities, Inc. 2201 Barren Hill Road Conshohocken, PA 19428	Plymouth Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAR10T691	Eastern Equities, Inc. Bucks County Office Center Bristol, PA 19007	East Branch Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

<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>
Worcester Township Montgomery County	PAR10T855	Warich Builders, Inc. 3250 Hedwig Lane Collegeville, PA 19426	Tributary of Skipack Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAR10T861	Heritage Building Group, Inc. 3326 Old York Rd., Suite A100 Furlong, PA 18925	Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAR10T888	Philomeno and Salamone 450 South Gravers Road Plymouth Meeting, PA 19462	Perkiomen Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Limerick Township Montgomery County	PAR10T903	George Matuch P. O. Box 520 Creamery, PA 19409	Lodal Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Schuylkill County Wayne Township	PAR105844	John and David Halabura Evergreen Meadows 1286 Chestnut St. Orwigsburg, PA 17961	Upper Little Swatara CWF-TSF	Schuylkill County Conservation District (570) 622-3742
Schuylkill County Pine Grove Township	PAR105845	Fanelli Group P. O. Box 163 100 Hammersmith Dr. Pine Grove, PA 17963	Swatara Creek CWF	Schuylkill County Conservation District (570) 622-3742
Northampton County Lower Saucon Township	PAR10U191	Saucon Valley School District 2097 Polk Valley Rd. Hellertown, PA 18055	Saucon Creek CWF	Northampton County Conservation District (610) 746-1971
Lower Heidelberg Township Berks County	PAR10C447	Dr. Lee Fredricks, Supt. Wilson School District 2601 Grandview Blvd. W. Lawn, PA 19609	Cacoosing Creek WWF	Berks Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Exeter Township Berks County	PAR10C446	Walter Greth, Pres. Greth Dev. Group P. O. Box 305 Temple, PA 19560	Unnamed tributary/ Antietam Creek Owatin Creek Tributary/ Monocacy Creek CWF and WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Spring Township Berks County	PAR10C443	Alan Kreider 207 Reedy Rd. Sinking Spring, PA 19608	Cacoosing Creek WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657

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<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>
Southampton Township	PAR1M274	Wayne D. Ebersole 1628 Pinola Road Shippensburg, PA 17257	Rowe Run Muddy Run CWF	Franklin County Conservation District Admin. Annex 218 N. 2nd Street Chambersburg, PA 17201 (717) 264-8074
Derry Township	PAR10I301	Hershey Christian School P. O. Box 378 Hershey, PA 17033	Spring Creek East WWF Iron Run WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Lebanon County North Londonderry Township	PAR10P181	Ronald E. Sniegocki 360 Palmyra-Bellegrove Road Annville, PA 17003	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 3
Lebanon County Palmyra Borough	PAR10P188	Palmyra Area School District 1125 Park Drive Palmyra, PA 17178	Spring Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 3
Lebanon County Union Township Swatara Township Bethel Township	PAR10P184	Department of Transportation District 8-0 2140 Herr Street Harrisburg, PA 17103-1699	Swatara Creek (two locations) CWF and WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 3
Tioga County Duncan Township	PAR106646	Duncan Township Carl Borden P. O. Box 908 Wellsboro, PA 16901	Bridge Run Wilson Creek CWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Allegheny County Sewickley Hills Borough Ohio Township	PAR10A589	Kellaur Corp. One Landmark North-201 20399 Route 19 Cranberry, PA 16066	Kilbuck Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Robinson Township	PAR10A603	DGM Dev. Corp. 1691 Pinetree Dr. Pittsburgh, PA 15241	UNT to Montour Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Harrison Township	PAR10A604	UPMC St. Margaret 815 Freeport Rd. Pittsburgh, PA 15215 and Graziano Const. & Dev. Co., Inc. 235 Alpha Dr., Suite 301 Pittsburgh, PA 15238	Little Bull Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Harrison Township	PAR10A614	Tara Developers 715 Craigdale Rd. New Kensington, PA 15068	UNT to Little Bull Creek WWF	Allegheny County Conservation District (412) 241-7645
Washington County	PAR10W220	Lance Dobrowski 401 Euclid Avenue Canonsburg, PA 15317	Chartiers Creek WWF	Washington County Conservation District (724) 228-6774

<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>
Westmoreland County Unity and Hempfield Townships	PAR10X305	J. West Corporation 222 Oxford Blvd. Allison Park, PA 15101	Township Line Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAR10X309	Pellis-Rugh Const. 210 Culbertson Ave. Greensburg, PA 15601	Four Mile Run TSF	Westmoreland County Conservation District (724) 837-5271

General Permit Type—PAG-3

<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>
York County Manchester Township	PAR233541	Marley Cooling Technologies—York 7401 W. 129th St. Overland Park, KS 66213	UNT Codorus Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Snow Shoe Township Centre County	PAR214815	Premier Refractories, Inc. 895 Clarence Rd. P. O. Box 276 Snow Shoe, PA 16874	Beech Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Northumberland Borough and County	PAR804839	Norfolk Southern Railway Company 4th and Duke Streets Northumberland, PA 17857	Susquehanna River WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
North Union Township Fayette County	PAR806110	Golden Eagle Construction P. O. Box 945 Uniontown, PA 15401	Cove Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cranberry Township Butler County	PAR208312	TRACO, Inc. 71 Progress Avenue Cranberry Township, PA 16066-3596	Unnamed tributary to Brush Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<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>
Cumberland County Upper Mifflin Township	PAG043696	Michael and Gayniale Nowak 299 Springfield Road Shippensburg, PA 17257	UNT to Peebles Creek WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 787-4707

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<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>
Bedford County West Providence Township	PAG043593	Gilbert Davis 9882 Clear Ridge Rd. Everett, PA 15537	UNT Clear Creek TSF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Monroe Township Snyder County	PAG044989	Glenn W. Holtzapple R. D. 5, Box 152 Selinsgrove, PA 17870	UNT to Susquehanna River WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Orange Township Columbia County	PAG045012	James Blackledge 22 McHenry Hill Road Orangeville, PA 17859	Green Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Smithfield Township Bradford County	PAG045032	James Zweidinger 279 Pittsburgh Ave. Massapequa Park, NY 11762-1856	Browns Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Orwell Township Bradford County	PAG045148	Clifford Robinson R. R. 3, Box 197 Wyalusing, PA 18853	UNT to South Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
South Bend Township Armstrong County	PAG046263	Randy Shondelmyer Star Route Box 126A Pond Drive Spring Church, PA 15686	Crooked Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-5

<i>Facility Location 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>
Berks County Spring Township	PAG053516	Sunoco, Inc. Automotive Lab P. O. Box 1135 Post Road and Blueball Ave. Marcus Hook, PA 19061	UNT to Cacoosing Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<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>
Cranberry Township Butler County	PAG058315	Cranberry Township 2525 Rochester Road Suite 400 Cranberry Township, PA 16066	Unnamed tributary To Brush Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
McKean Township Erie County	PAG058316	Erie Petroleum, Inc. The Fuel Stop P. O. Box 6345 Erie, PA 16512	Elk Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-6

<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>
Rochester Borough Beaver County	PAG066133	Borough of Rochester 300 West Park Street Rochester, PA 15074	Beaver and Ohio Rivers	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-9

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Perry Township Snyder County	PAG094801	Henry Wendt Wendt Excavating R. R. 2, Box 76 Mt. Pleasant Mills, PA 17853	Wendt Excavating Perry and Snyder Counties	William Hanczar Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3655

General Permit Type—PAG-12

<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>
Fulton County Bethel Township	PAG123555	C. Richard Mossmann, Jr. Misty Mountain Farms 5287 Pleasant Grove Road Warfordsburg, PA 17267	Barnetts Run Tonoloway Creek WWF	Southcentral Region 909 Elmerton Ave. Harrisburg, PA 17110-8200 (717) 705-4707

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).

Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 4602504, Public Water Supply.

Applicant **Horsham Water and Sewer Authority**
617B Horsham Road
Horsham, PA 19044

Borough Horsham

County **Montgomery**

Type of Facility PWS

Consulting Engineer Carroll Engineering Corporation
949 Easton Road, Suite 100
Warrington, PA 18976

Permit to Construct November 22, 2002
Issued

Operations Permit issued to **Superior Water Company**, 2960 Skippack Pike, Worcester, PA 19490, PWS ID 242435, New Hanover Township, **Montgomery County** on November 26, 2002, for the operation of facilities approved under Construction Permit 4600510.

Operations Permit issued to **Pennsylvania American Water Company**, 800 W. Hersheypark Drive, Hershey, PA 17033, PWS ID 1460046, Upper Providence Township, **Montgomery County** on November 26, 2002, for the operation of facilities approved under Construction Permit 4602502.

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Operations Permit issued to **Valley Gorge Mobile Home Park**, 316 Susquehanna Street, White Haven, PA 18661, PWS ID 2400125, White Haven Borough, **Luzerne County**, on November 14, 2002, for operation of facilities approved under Construction Permit 4089516.

Operations Permit issued to **Skytop Lodge, Inc.**, One Skytop, Skytop, PA 18357, PWS ID 2450040, Barrett Township, **Monroe County**, on November 15, 2002, for operation of facilities approved under Minor Amendment issued June 11, 2002.

Operations Permit issued to **Washington Park Water System**, 1199 Laurel Run Road, Wilkes-Barre, PA 18702, PWS ID 2660016, Washington Township, **Wyoming County**, on November 1, 2002, for operation of facilities approved under Construction Permit 6694502 and Minor Amendment.

Operations Permit issued to **Mehoopany Township Municipal Authority**, P. O. Box 61, Mehoopany, PA 18629, PWS ID 2660020, Mehoopany Township, **Wyoming County**, on November 14, 2002, for operation of facilities approved under Construction Permit N/A.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1400509, Public Water Supply.

Applicant **Pennsylvania American Water Company**
Moshannon Valley District
800 West Hersheypark Drive
Hershey, PA 17033

Township Boggs and Bradford Townships

County **Clearfield**

Type of Facility PWS—approval to operate Mutton Hollow Pump Station with booster chlorination, 110,000-gallon finished water storage tank, three pressure reducing valves and 28,000 feet of 8-inch distribution mains.

Permit to Operate November 25, 2002
Issued

Permit No. 5301501, Public Water Supply.

Applicant **Galeton Borough Authority**
2 Sherman Street
Galeton, PA 16922

Township West Branch Townships

County **Potter**

Type of Facility PWS—approval to operate Wells 1 and 2 with disinfection and blending for iron and aluminum treatment.

Permit to Operate November 25, 2002
Issued

Permit No. Minor Amendment, Public Water Supply.

Applicant **Houtzdale Municipal Authority**
731-I Kirk Street
Houtzdale, PA 16651

Borough Houtzdale Borough

County **Clearfield**

Type of Facility PWS—approval to operate DelPAC 2020 primary coagulant feed and bentonite feed to enhance coagulation and flocculation at existing filter plant.

Consulting Engineer Uni-Tec Consulting Engineers, Inc.
2007 Cato Avenue
State College, PA 16801

Permit to Operate December 2, 2002
Issued

Permit No. 5576501-T1, Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—transfer of permit covering Rolling Green Wells 2 and 3

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Issued November 21, 2002

Permit No. Minor Amendment-T1. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—transfer of permit from the Rolling Green Water Co. for interconnection with Shamokin Dam Borough and line extension to Wal Mart.

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Issued November 21, 2002

Permit No. 5580503-T1. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—transfer of permit covering Monroe Manor Well 4 with disinfection

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Issued November 21, 2002

Permit No. 5587501-T1. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—transfer of permit covering Monroe Manor Well 5 with disinfection

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Issued November 21, 2002

Permit No. 5590505-T1. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—transfer of permit covering Monroe Manor Well 6 with disinfection

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Issued November 21, 2002

Permit No. 5569501. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—cancellation of permit for Monroe Manor Well 1

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Cancelled November 21, 2002

Permit No. 5581502. Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—cancellation of permit for modifications to disinfection facilities for Monroe Manor Wells 1 and 3

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate Cancelled November 21, 2002

Permit No. Minor Amendment (5-15-90). Public Water Supply.

Applicant **Pennsylvania Suburban Water Company**
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Township Monroe Township

County **Snyder**

Type of Facility PWS—cancellation of original approval of interconnection with Shamokin Dam Borough. The original interconnection was never built and was re-permitted at a later date.

Consulting Engineer CET Engineering Services
321 Washington Street
Huntingdon, PA 16652

Permit to Operate November 21, 2002
Cancelled

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Wrightsville Borough	129 S. Second St., P. O. Box 187	York County
Hellam Township	Wrightsville, PA 17368 44 Walnut Springs Rd. York, PA 17406	

Plan Description: North Front Street Sewer Extension: The approved plan provides for a public sewer extension that will serve 32 existing residential units and 1 commercial lot with total estimated sewage flows of 15,950 GPD to be tributary to the Wrightsville Borough Wastewater Treatment Plant. The proposed development is located on the east and west sides of North Front Street, starting just south of Limekiln Alley and ending at Waterworks Lane in Wrightsville Borough and Hellam Township, York County.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Franklin Township	P. O. Box 309 Cashtown, PA 17310	Adams

Plan Description: The approved plan provides for the construction of an elevated sand mound and associated sewerage to serve 13 existing dwellings and 3 proposed dwellings. The existing dwellings are located on Poplar Springs Road. The proposed sewage disposal system will be owned and maintained by Franklin Township. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
West Pennsboro Township	2150 Newville Road Carlisle, PA 17013	Cumberland

Plan Description: The approved plan (Department Code No. C1-21933-ACT) provides for a revision to the previously approved plan (Department Code No. B1-21933-ACT) that proposed construction of sewerage and a 0.168 MGD wastewater treatment plant to serve the Plainfield area of the township. The revised plan provides for a 0.084 MGD treatment plant to be constructed in a first phase and a second phase to enlarge the plant to 0.168 MGD as needed in the future. The remaining provisions of the previously approved plan are unchanged. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required

NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sandy Township	12th Street and Chestnut Avenue DuBois, PA 15801	Clearfield

Plan Description: The approved plan provides for the construction of new collection system consisting of 19,000 L.F. of 8 inch gravity sanitary sewers, 1,100 L.F. of 4 inch force main and a new pump station. The new collection system will serve the West Liberty portion of Sandy Township and eliminate the existing sewage treatment facilities at the Busy Bee development. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Prompt Interim Response

Langner Enterprises Site, Pine Township, Mercer County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has initiated a prompt interim response at the Langner Enterprises Site (Site). This response has been initiated under sections 501(a) and 505(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)). The Site is located at 4142 Diamond Road in Pine Township, Mercer County.

The Site consists of an approximately 52-acre property of partially wooded land interlaced by numerous dirt roads and trails (property) and groundwater or any other areas where hazardous substances from the property have migrated. The property consists of three buildings and vehicles, containers of unidentified wastes and scrap materials. Much of the material on the property appears to be military surplus. During past visits to the property, the Department collected samples of soil, water, containerized waste and uncontainerized waste. Results from sampling verified the presence of the following: acetone, benzene, chloroform, ethylbenzene, naphthalene, n-propylbenzene, toluene, 1,1-dichloroethane, 1,1-dichloroethene, naphthalene, PCB (Aroclor 1260), 1,2,4-trichlorobenzene, 1,2,3-trichlorobenzene, 1,1,1-trichloroethane, trichloroethylene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, xylenes (total) and lead. Further, some of the waste materials were characteristically hazardous wastes.

The two main objectives for the prompt interim response proposed for the Site are: (1) protection of the public and the environment from direct contact with hazardous substances in containerized and uncontainerized wastes and associated contaminated soils at the property; and (2) elimination of the ongoing release and threat of release of hazardous substances into the environment from containerized and uncontainerized wastes and contaminated soils.

The first objective is especially important because of the unrestricted access to the property and because the Department plans a further investigation of the Site. Remedial investigation workers would be operating in the immediate proximity of containerized and uncontainerized wastes and stained soils. This action will remove the containerized and uncontainerized wastes and associated contaminated soils at the property, thereby eliminating the ongoing release and threat of release of hazardous substances posed by those wastes and soils.

For this prompt interim response, the Department considered two alternatives for the site: Alternative 1—No action; Alternative 2—Removal of containerized and uncontainerized wastes and associated stained soils. Each alternative was evaluated with respect to four comparison criteria of: (1) the extent to which each alternative protects the public health and the environment; (2) the extent to which each alternative complies with or otherwise addresses State and Federal requirements; (3) the extent to which each alternative is feasible, effective, implementable and permanent; and (4) the relative cost of each alternative.

Furthermore, this comparative analysis evaluated the relative performance of each alternative in relation to each specific comparison criterion. The comparative analysis identified advantages and disadvantages of each alternative, so that tradeoffs between the alternatives could be determined.

Based on the comparative analysis the Department chose to implement Alternative 2 as the prompt interim response for the Site. This alternative was implemented because it would, in the more cost-effective manner, permanently protect the public, Site workers and the environment from direct contact with hazardous substances in wastes and stained soils at the property and eliminate the ongoing release and threat of release of hazardous substances into the environment from those wastes and soils.

The prompt interim response, Alternative 2, would not be a final remedial response under section 504 of the HSCA and, therefore, is not required to meet the standards that apply to final remedial responses. Additional responses will likely be necessary to address the ongoing release of hazardous substances at the Site, including the property and the groundwater. However, Alternative 2 will be consistent with any future remedial actions and future investigation activities.

This notice is being provided under section 506(b) of the HSCA. The administrative record, which contains the information that forms the basis and documents the selection of this prompt interim response, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335 and is available for review Monday through Friday from 8 a.m. to 4 p.m. Telephone for an appointment, (814) 332-6648. The administrative record will be open for comment from December 14, 2002, until March 14, 2003. Persons may submit written comments into the record during this time only, by sending them to Gary Mechtly, Project Manager, at the Department's Northwest Regional Office or by delivering them to the office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. A public hearing is scheduled for January 16, 2003, at 7 p.m. at the Pine Grove Community Center, 545 Barkeyville Road, Grove City, PA. Persons wishing to

present comments must register with Gary Mechtly at the Department's Northwest Regional Office before January 13, 2003, by telephone or in writing. Persons interested in finding out if anyone has registered should contact Gary Mechtly. If no persons register to present oral comments before January 13, 2003, the public meeting will not be held.

Persons with a disability who wish to review the administrative record or attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings should call Gary Mechtly at (814) 332-6648 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site 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.

Village Center Mart (Has Has Cleaners), Bensalem Township, **Bucks County**. Charlene R. Drake, React Environmental Services, Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of Kent Boyer, P. O. Box 585, Bensalem, PA 19020, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with solvents. The report is intended to document remediation of the site to meet Site-Specific Standards.

Miluski Property, Nether Providence Township, **Delaware County**. Henry G. Bienkowski, P. G., Mulry & Cresswell Environmental, Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343, on behalf of Mr. and Mrs.

Miluski, 18 Brookside Dr., Wallingford, PA 19086, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and PAH. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Hogg Property, Haverford Township, **Delaware County**. Jeffrey Grant, GAC Associates, Inc., P. O. Box 625, Ardmore, PA 19003, on behalf of Herbert Victor, HMS/Bryn Mawr Assoc., 349 W. Lancaster Ave., No. 201, Haverford, PA 19004, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PHC. The report is intended to document remediation of the site to meet Site-specific Standards.

Lola Landes Property, Lower Salford Township, **Montgomery County**. George W. Buchanan, P. G., Cowan Associates, Inc., 120 Penn-Am Dr., Quakertown, PA 18951 on behalf of Greg Landes, 532 Meetinghouse Rd., Harleysville, PA 19438, has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Rite Aide Pharmacy, City of Philadelphia, **Philadelphia County**. Kenneth M. Yoder, P. G., BL Companies, 830 Sire Thomas Court, Harrisburg, PA 17109, on behalf of Rite Aide Corp., 30 Hunter La., Camp Hill, PA, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, heavy metals and solvents. The report is intended to document remediation of the site to meet Site-specific Standards.

Former Whitman's Chocolate (Pillsbury) Warehouse, City of Philadelphia, **Philadelphia County**. Blake N. Moyer, Jr., URS Corp., 2325 Maryland Rd., 2nd Fl., Willow Grove, PA 19090, on behalf of Gershal Brothers, Larry Gershal, 720 N. Fifth St., Philadelphia, PA 19123, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with Fuel Oil No. 4. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Sears Logistics Services, Inc., Option A, Former Bridge Street Warehouse, City of Philadelphia, **Philadelphia County**. Tom Farrell, Resource Control Corp., 1274 N. Church St., Moorestown, NJ 08057, has submitted a Final Report concerning remediation of site groundwater contaminated with solvents, BTEX and PAH. The report is intended to document remediation of the site to meet Site-Specific Standards.

Gordon, Gonzales, Marchesani, Welsh Property, Proposed CVS Pharmacy, City of Philadelphia, **Philadelphia County**. Robert R. Botterman, TolTest, Inc., 339 Haymaker Rd., Suite 1101, Monroeville, PA 15146, on behalf of Howard Gordon, 1521 E. Wingohocking St., Philadelphia, PA 19124; Geraldine and Ferdinand Gonzales, 1515 E. Wingohocking St., Philadelphia, PA 19124; Nino Marchesani, 4411 Castor Ave., Philadelphia, PA 19124; and Richard Welsh, 1509 Wingohocking St., Philadelphia, PA 19124, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with solvents, PAH and PHC. The report is intended to document remediation of the site to meet the Statewide Health Standards.

3742 Main Street, City of Philadelphia, **Philadelphia County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of 3780 Main Associates, LP, Tina Roberts, 1 Reed St., Philadelphia, PA 19147, has submitted a Remedial

Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with inorganics, PAH and PCB.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

John and Betty Hart Residence, Mount Joy Township, **Adams County**. Hydrocon Services, Inc., 16 East Minor Street, Emmaus, PA 18049, on behalf of John and Betty Hart, 95 Hoffman Home Road, Gettysburg, PA 17325, submitted a final report concerning remediation of site soils, groundwater and surface water contaminated with BTEX and PAHs. The report is intended to document remediation of the site to the Statewide Health Standard.

Remp Group Property, Cumru Township, **Berks County**. RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, on behalf of the Remp Group, 64 Sycamore Lane, Reading, PA 19606, submitted a final report concerning remediation of site soils contaminated with inorganics and lead. The report is intended to document remediation of the site to the Statewide Health Standard.

Doerrman Property, Ruscombmanor Township, **Berks County**. Walter B. Satterthwaite Associates, Inc., 720 Old Fern Hill Road, West Chester, PA 19380, on behalf of Patrick and Amy Doerrman, 3638 Pricetown Road, Fleetwood, PA 19522 and State Farm Insurance, 108 West Airport Road, Lititz, PA 17543, has submitted a final report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard

Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

National Fuel Gas Co, Van Compressor Station, Route 322, Van, PA, **Venango County**. George W. Hermance, P. G., Parsons 180 Lawrence Bell Drive, Suite 104, Williamsville, NY 14221 (on behalf of National Fuel Gas) has submitted a Site-Specific Risk Assessment Report concerning remediation of groundwater contaminated with Benzene, Pentane and Butane. The report is intended to document remediation of the site to meet the Site Specific Standards. Public notice in *The Derrick* will be submitted November 27, 2002.

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. 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. 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the Act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. 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 plans and reports:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Town & Country Shopping Center, West Goshen Township, **Chester County**. Richard P. Almquist, Jr., OXFORD Engineers & Consultants, Inc., 2621 Van Buren Ave., Suite 500, Norristown, PA 19403, on behalf of John Pfister, Jaymate Associates, LP, One Wiltshire Rd., Wynnewood, PA 19090, has submitted a Final Report concerning the remediation of site groundwater contaminated with MTBE and unleaded gasoline. The Final Report demonstrated attainment of Background Standards and was approved by the Department on October 31, 2002.

Zeke's Number 2, Nottingham Township, **Chester County**. Bernard Beegle, Advanced GeoServices Corp., Routes 1 and 202, Brandywine One, Suite 202, Chadds Ford, PA 19317, has submitted a Final Report concerning the remediation of site soil contaminated with Number 2 fuel oil. The Final Report was submitted within 90 days of the release, demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 28, 2002.

Bethlehem Pike Property, Montgomery Township, **Montgomery County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of Neil C. Hopkins, Clark,

Hopkins & Craig Hopkins d/b/a CNC Investment Group, 107 N. Broad St., Doylestown, PA 18901, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with BTEX, PAH, MTBE and naphthalene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 1, 2002.

Former Gasoline Service Station, Montgomery Township, **Montgomery County**. Jeffrey E. Goudsward, Penn Environmental & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Cynwyd Investments, 261 Old York Rd., Warminster, PA 19046, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, BTEX, PAH, EDB and EDC. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 25, 2002. This notice supercedes the October 26, 2002, notice of disapproval.

Klausner Residence, Plymouth Township, **Montgomery County**. William F. Schmidt, P. E., Pennoni Associates, Inc., 3001 Market St., Suite 200, Philadelphia, PA 19104, on behalf of Edith Klausner, 16 Locust Lane, Plymouth Township, PA, has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX and PAH. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 29, 2002.

DeKalb Street Site, Upper Merion Township, **Montgomery County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Glasgow Inc., Willow Grove Ave. and Limekiln Pike, P. O. Box 1089, Glenside, PA 19038, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and PAH. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 1, 2002.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

James Property, Douglass Township, **Berks County**. Penn Environmental and Remediation, Inc., 2755 Berger Road, Hatfield, PA 19440, on behalf of Christopher and Diane James, 130 Red Shale Drive, Boyertown, PA 19512, submitted a Final Report concerning the remediation of site soils contaminated with fuel oil No. 4 and No. 6. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 1, 2002.

Buttonwood Gateway Complex, City of Reading, **Berks County**. Synergy Environmental, Inc., 607 Washington Street, Reading, PA 19601, on behalf of Reading Redevelopment Authority, Room 303, City Hall, 815 Washington Street, Reading, PA 19601, submitted a work plan concerning remediation of site soils and groundwater contaminated with chlorinated solvents, inorganics, lead, other organics, PAHs and PCBs. The applicant proposes to remediate the site as a Special Industrial Area. The work plan was approved by the Department on October 31, 2001, and modified on June 19, 2002.

Former Reading Gray Iron Casting, City of Reading, **Berks County**. The Greater Berks Development Fund, 19 North Sixth Street, Suite 200, P. O. Box 8621, Reading, PA 19603-6821 and the Reading Redevelopment Authority, 815 Washington Street, Room 3-03, Reading, PA 19601-3190 submitted a baseline environmental report concerning the remediation of site soils contaminated

with lead, heavy metals, BTEX, PHCs, PAHs and solvents. The site is located in a Special Industrial Area. The report was approved by the Department on November 15, 2002, and modified on December 3, 2002.

Former Reading Iron Company Oley Street Storeyard, City of Reading, **Berks County**. The Greater Berks Development Fund, 19 North Sixth Street, Suite 200, P. O. Box 8621, Reading, PA 19603-6821 and the Reading Redevelopment Authority, 815 Washington Street, Room 3-03, Reading, PA 19601-3190 submitted a baseline environmental report concerning the remediation of site soils and groundwater contaminated with PCBs, lead, heavy metals, BTEX, PHCs, PAHs, solvents and cyanide. The site is located in a Special Industrial Area. The report was approved by the Department on November 15, 2002, and modified on December 3, 2002.

Former Reading Iron Company Pennsylvania Lines LLC Railspur, City of Reading, **Berks County**. The Greater Berks Development Fund, 19 North Sixth Street, Suite 200, P. O. Box 8621, Reading, PA 19603-6821 and the Reading Redevelopment Authority, 815 Washington Street, Room 3-03, Reading, PA 19601-3190 submitted a baseline environmental report concerning the remediation of site soils contaminated with PCBs, lead, heavy metals, BTEX, PHCs and PAHs. The site is located in a Special Industrial Area. The report was approved by the Department on November 15, 2002, and modified on December 3, 2002.

Former Reading Iron Company Metropolitan Edison Company Parcel, City of Reading, **Berks County**. The Greater Berks Development Fund, 19 North Sixth Street, Suite 200, P. O. Box 8621, Reading, PA 19603-6821 and the Reading Redevelopment Authority, 815 Washington Street, Room 3-03, Reading, PA 19601-3190 submitted a baseline environmental report concerning the remediation of site soils and groundwater contaminated with lead, heavy metals, PHCs, PAHs and solvents. The site is located in a Special Industrial Area. The report was approved by the Department on November 15, 2002, and modified on December 3, 2002.

Quaker Oats Company, Hampden Township, **Cumberland County**. Science Applications International Corporation, 6310 Allentown Boulevard, Harrisburg, PA 17112, on behalf of The Quaker Oats Company, 485 Saint Johns Church Road, Shiremanstown, PA 17011, submitted a combined remedial investigation and final report concerning remediation of site soils and groundwater contaminated with lead, PHCs and PAHs. The combined report demonstrated attainment of the Statewide Health and Site Specific Standards and was approved by the Department on November 26, 2002.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201–6209) and regulations to transport municipal or residual waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

Hallett Contractors, 221 East Shore Dr., Bangor, PA 18013-5717. Authorization No. WH0395. Effective November 25, 2002.

Impriano Roofing Inc., 2625 West Chester Pike, Broomall, PA 19008. Authorization No. WH0484. Effective November 25, 2002.

Tri County Industries Inc., 159 TCI Park Dr., Grove City, PA 16127-4336. Authorization No. WH0618. Effective November 25, 2002.

WSI of PA Inc., P. O. Box 136, 995 Landfill Road, Hopewell, PA 16650. Authorization No. WH1424. Effective November 25, 2002.

Environmental Transportation Group Inc., P. O. Box 296, Flanders, NJ 07836. Authorization No. WH1451. Effective November 25, 2002.

Hi Gear Transportation Services Inc., P. O. Box 1305, Whitehouse Station, NJ 08889-1305. Authorization No. WH0654. Effective November 21, 2002.

Freehold Cartage Inc., P. O. Box 5010, Freehold, NJ 07728-5010. Authorization No. WH0754. Effective November 21, 2002.

Casie Ecology Oil Salvage Inc., 3209 North Mill Road, Vineland, NJ 08360. Authorization No. WH1095. Effective November 21, 2002.

Teixeira, Paulo O., Basement, 74 Lincoln Ave., Cliffside Park, NJ 07010. Authorization No. WH1164. Effective November 21, 2002.

Martins, Renato, 413 Hickory St., Kearny, NJ 07032. Authorization No. WH1165. Effective November 21, 2002.

Hamberland, Zaqueu M., 544 Markey St., Newark, NJ 07105. Authorization No. WH1166. Effective November 21, 2002.

Freitas, Jose, 620 North 9th St., Newark, NJ 07107. Authorization No. WH1167. Effective November 21, 2002.

Tuncel, Mesut, Apt. 11, 155 Illinois Ave., Paterson, NJ 07503. Authorization No. WH1168. Effective November 21, 2002.

Carlos, Francisco, Unit 79, 163 South Street, Danbury, CT 06810. Authorization No. WH1169. Effective November 21, 2002.

Blanco, Eli R., 56 W. Spring St., Somerville, NJ 08876. Authorization No. WH1170. Effective November 21, 2002.

APR Inc., 40-20 Windsor Road, Fair Lawn, NJ 07410. Authorization No. WH1171. Effective November 21, 2002.

Noble, Dave A., Apt. F, 319 Central Ave., Hackensack, NJ 07601. Authorization No. WH1172. Effective November 21, 2002.

Hernandez, Henry P., P. O. Box 924, 2 Ashwood Ave., Summit, NJ 07901. Authorization No. WH1173. Effective November 21, 2002.

Vargas, Frederico, 27 Orchard St., Summit, NJ 07901. Authorization No. WH1174. Effective November 21, 2002.

Cisneros, Cesar A., 1st Floor, 22 Springdale Ave., Newark, NJ 07107. Authorization No. WH1175. Effective November 21, 2002.

Rodrigues, Osvaldo, 2nd Floor, 530 Hamilton St., Harrison, NJ 07029. Authorization No. WH1176. Effective November 21, 2002.

Lima, Vicente B., Apt. 3C, 957 Madison Ave., Elizabeth, NJ 07201. Authorization No. WH1177. Effective November 21, 2002.

EPC Trucking Co., 2nd Floor, 526 Market St., Newark, NJ 07105. Authorization No. WH1178. Effective November 21, 2002.

Delduca, Joseph F., 70 North St., Madison, NJ 07940. Authorization No. WH1179. Effective November 21, 2002.

Souza, Paulo S., 1st Floor, 26 Fillmore St., Newark, NJ 07105. Authorization No. WH1180. Effective November 21, 2002.

Silva, Mirailton P., 1st Floor, 11 Columbus Ave., Belleville, NJ 07109-2018. Authorization No. WH1181. Effective November 21, 2002.

Swiss Network Inc., 211 Martha St., Euless, TX 76040. Authorization No. WH1182. Effective November 21, 2002.

Christian O. Caraballo, 34 East 29 St., Bayonne, NJ 07002. Authorization No. WH1183. Effective November 21, 2002.

Romero, Jose A., 414 Jelliff Ave., Newark, NJ 07112. Authorization No. WH1184. Effective November 21, 2002.

Aguero Chavez, Yendry I., 657 Maple Ave., Elizabeth, NJ 07202. Authorization No. WH1185. Effective November 21, 2002.

Sullivan, Randolph L., 3630 New Brunswick Ave., Piscataway, NJ 08854. Authorization No. WH1186. Effective November 21, 2002.

Enamorado, Manuel J., 28 Washington Ave., North Plainfield, NJ 07060. Authorization No. WH1187. Effective November 21, 2002.

McDaniels, Joseph III, 766 High St., Perth Amboy, NJ 08861. Authorization No. WH1188. Effective November 21, 2002.

Deoliveira, Sebastiao, 124 Gotthart St., Newark, NJ 07105. Authorization No. WH1189. Effective November 21, 2002.

Cano, William, 36 Falcon Drive, Budd Lake, NJ 07828. Authorization No. WH1190. Effective November 21, 2002.

Romero, Mario, 431 Parker St., Newark, NJ 07104. Authorization No. WH1191. Effective November 21, 2002.

Guerrero, Jose, 452 Passaic Ave., Lodi, NJ 07644. Authorization No. WH1192. Effective November 21, 2002.

Dossantos, Anderson A., 120 Green Brook Road, Greenbrook, NJ 08812. Authorization No. WH1193. Effective November 21, 2002.

Desouza, Geraldo C., P. O. Box 119, 187 Dewitt Ave., Belleville, NJ 07109. Authorization No. WH1195. Effective November 21, 2002.

Varga, Andrew J., 10 Lincoln Ave., Clifton, NJ 07011. Authorization No. WH1196. Effective November 21, 2002.

Romero, Jaime, 414 Jelliff Ave., Newark, NJ 07112. Authorization No. WH1197. Effective November 21, 2002.

Rector, Scott J., 50 Quickset Road, Levittown, PA 19057. Authorization No. WH1198. Effective November 21, 2002.

Leonard, Jean C., Apt. 2, 97 Brill St., Newark, NJ 07105. Authorization No. WH1199. Effective November 21, 2002.

Johnson, Sheahan W., Apt. 2, 146 E. 32nd St., Paterson, NJ 07504. Authorization No. WH1200. Effective November 21, 2002.

Cannizzaro, Alessandr, 25 Williams Drive, West Paterson, NJ 07424. Authorization No. WH1201. Effective November 21, 2002.

Gallego, Bertulfo, Apt. F4, 100 Passaic Ave., Passaic, NJ 07055. Authorization No. WH1202. Effective November 21, 2002.

Arroyo, Walter, 416 Liberty St., Trenton, NJ 08611. Authorization No. WH1203. Effective November 21, 2002.

Vargas, Erquin, 107 Elm St., Newark, NJ 07105. Authorization No. WH1204. Effective November 21, 2002.

Nicolas, Llivirumbay, 2B, 3 Oxford St., Newark, NJ 07105. Authorization No. WH1205. Effective November 21, 2002.

Gallego-Otalvaro, Guillermo, Apt. F4, 100 Passaic Ave., Passaic, NJ 07055. Authorization No. WH1206. Effective November 21, 2002.

Navarro, Jesus, Apt. 7, 175 South St., Newark, NJ 07114. Authorization No. WH1207. Effective November 21, 2002.

Sangha, Rattan S., 155 E. Jerome St., Roselle Park, NJ 07204. Authorization No. WH1209. Effective November 21, 2002.

Hernandez, Juan D., 32 Phoenix Ave., Morristown, NJ 07960. Authorization No. WH1210. Effective November 21, 2002.

Brenes, Manuel E., 343 Vosseler Ave., Bound Brook, NJ 08805. Authorization No. WH1211. Effective November 21, 2002.

Cannizzaro, Carmelo, 7-10 Fern St., Fairlawn, NJ 07410. Authorization No. WH1214. Effective November 21, 2002.

Padilla, Lizzette, 380 N. 6th St., Newark, NJ 07107. Authorization No. WH1215. Effective November 21, 2002.

Romero, Angel, 414 Jelliff Ave., Newark, NJ 07112. Authorization No. WH1216. Effective November 21, 2002.

Kroom, Antonius J., 13 White St., West Orange, NJ 07052. Authorization No. WH1217. Effective November 21, 2002.

Matlosz, Mark A., 1896 Bell Place, South Plainfield, NJ 07080. Authorization No. WH1218. Effective November 21, 2002.

Kissilevitch, Jorge L., 546 Leo St., Hillside, NJ 07205. Authorization No. WH1219. Effective November 21, 2002.

Lassalle, David, 524 Cherry St., Elizabeth, NJ 07208. Authorization No. WH1220. Effective November 21, 2002.

Truck Acquisition Funding LLC, 131-14 226th St., Laurelton, NY 11413. Authorization No. WH1221. Effective November 21, 2002.

Carey, Ronald A., 120 E. 21st St., Paterson, NJ 07513. Authorization No. WH1222. Effective November 21, 2002.

BJ Transport, 87 Westville Ave., Caldwell, NJ 07006. Authorization No. WH1223. Effective November 21, 2002.

Kentish, Carlon, 1st Floor, 9222 Ave. B, Brooklyn, NY 11236. Authorization No. WH1225. Effective November 21, 2002.

Fernande, Getulio, 363 Cliff St., Fairview, NJ 07022. Authorization No. WH1226. Effective November 21, 2002.

Pereira, Jamie, 40 Pulaski St., Newark, NJ 07105. Authorization No. WH1227. Effective November 21, 2002.

F & G Transport, P. O. Box 591, 334 Layfield Road, Frederick, PA 19435. Authorization No. WH1357. Effective November 21, 2002.

Silva, Jose P., 2nd Floor, 8026 Craig St., Philadelphia, PA 19136. Authorization No. WH1359. Effective November 21, 2002.

Long Riders Transport Inc./J. Masciantonio & Son Inc., P. O. Box 591, Frederick, PA 19435-0591. Authorization No. WH1360. Effective November 21, 2002.

Long Riders Transport Inc./J. Masciantonio & Son Inc., P. O. Box 591, Frederick, PA 19435-0591. Authorization No. WH1361. Effective November 21, 2002.

Allstate Power Vacuum Inc., 928 E. Hazelwood Ave., Rahway, NJ 07065-5634. Authorization No. WH1404. Effective November 21, 2002.

Singh, Sewa, 32 Carlton Avenue, Jersey City, NJ 07307. Authorization No. WH0886. Effective November 25, 2002.

Gurai, Kuldip Singh, 48-29 189th Street, Fresh Meadow, NY 11365-1205. Authorization No. WH0915. Effective November 25, 2002.

Franco, Wilfredo, 13 Lincoln Street, Haverstraw, NY 10927. Authorization No. WH0686. Effective November 26, 2002.

Dively, Ronald L., 5306 Montrose Avenue, Altoona, PA 16602. Authorization No. WH0850. Effective November 26, 2002.

Transfer Trailer Service Inc., 115 Jacobus Avenue, South Kearny, NJ 07032-4512. Authorization No. WH0851. Effective November 26, 2002.

Tangredi, Peter C. d/b/a Coco Trucking, 5189 Business Route 220, Bedford, PA 15522. Authorization No. WH0853. Effective November 26, 2002.

A C Fling Trucking Inc., 113 West Broad Street, New Bethlehem, PA 16242. Authorization No. WH0855. Effective November 26, 2002.

Top Job Disposal Inc., Suite 216, 3301 South Galloway Street, Philadelphia, PA 19148. Authorization No. WH0856. Effective November 26, 2002.

Folcroft Borough, Delaware County, 1555 Elmwood Avenue, Folcroft, PA 19032. Authorization No. WH0857. Effective November 26, 2002.

CPC Transport Corporation, 249 North 6th Street, Newark, NJ 07107. Authorization No. WH0858. Effective November 26, 2002.

R E Pierson Construction Company, 426 Swedesboro Road, P. O. Box 430, Woodstown, NJ 08098-0430. Authorization No. WH0859. Effective November 26, 2002.

Karr Dumpster & Flatbed Service, 140 Evanston Road, Irwin, PA 15642. Authorization No. WH0860. Effective November 26, 2002.

Staiman Brothers Inc., 201 Hepburn Street, P. O. Box 1235, Williamsport, PA 17703-1235. Authorization No. WH0861. Effective November 26, 2002.

Staiman Recycling, Hanover Division, P. O. Box 1235, Williamsport, PA 17703-1235. Authorization No. WH0862. Effective November 26, 2002.

Mangat, Gurcharan S., 302 Mill Road, Womelsdorf, PA 19567. Authorization No. WH0863. Effective November 26, 2002.

B & W Disposal Inc., P. O. Box 190, Dewart, PA 17730-0190. Authorization No. WH0864. Effective November 26, 2002.

Lloyd, Adam W., P. O. Box 9, 279 Executive Drive, Fallentimber, PA 16639. Authorization No. WH0865. Effective November 26, 2002.

Smith, Shawn M., R. R. 1 Box 100, Olanta, PA 16863. Authorization No. WH0866. Effective November 26, 2002.

Fye, Robert, 202 Elm Road, Moshannon, PA 16859. Authorization No. WH0867. Effective November 26, 2002.

DTX Inc., 60 East Main Street, P. O. Box 546, Leola, PA 17540-0546. Authorization No. WH0868. Effective November 26, 2002.

IESI PA Bethlehem Landfill Corporation, 2335 Applebutter Road, Bethlehem, PA 18015. Authorization No. WH0869. Effective November 26, 2002.

Polonia Trucking, 389 Janidlo Road, Holsopple, PA 15935. Authorization No. WH0870. Effective November 26, 2002.

Galvez Marco P., Apt. GE 2, 114 Franklin St., Morristown, NJ 07960. Authorization No. WH0793. Effective November 18, 2002.

G J Transport Inc., 48-45 189 St., Fresh Meadows, NY 11365-1205. Authorization No. WH0914. Effective November 20, 2002.

William E. Jury, 1199 Harvey Road, Ligonier, PA 15658. Authorization No. WH0916. Effective November 20, 2002.

Beegle, Terry L., 3333 Main Road, Bedford, PA 15522. Authorization No. WH0917. Effective November 26, 2002.

Laboy, Teofilo, 1469 Hiawatha Avenue, Hillside, NJ 07205. Authorization No. WH0794. Effective November 26, 2002.

Salomao, Gilsimar, 13 Davis Street, Danbury, CT 06810. Authorization No. WH0910. Effective November 26, 2002.

Ahmed, Fayyaz, Apt. C3, 214 Gelston Avenue, Brooklyn, NY 11209. Authorization No. WH0913. Effective November 26, 2002.

Huron Recovery of NY Inc., 300 Greene St., Buffalo, NY 14206. Authorization No. WH0394. Effective November 19, 2002.

Envirite of PA Inc., 730 Vogelsong Road, York, PA 17404. Authorization No. WH0572. Effective November 19, 2002.

BFI Waste Service of Pittsburgh, P. O. Box 448, 73A West Noblestown Road, Carnegie, PA 15106. Authorization No. WH0852. Effective November 19, 2002.

Keith Titus Corp., P. O. Box 920, Weedsport, NY 13166. Authorization No. WH0887. Effective November 19, 2002.

Page Transp. Inc., P. O. Box 920, Weedsport, NY 13166. Authorization No. WH0888. Effective November 19, 2002.

Whitt, Gordon, 2758 Trombley Road, P. O. Box 920, Weedsport, NY 13166. Authorization No. WH0889. Effective November 19, 2002.

Vonvalkenburgh, John E., 2962 Putnam Road, Schenectady, NY 12306. Authorization No. WH0890. Effective November 19, 2002.

Thompson, Steven M., 9707 Columbus Road, Louisville, OH 44641. Authorization No. WH0891. Effective November 19, 2002.

RMC Trucking Inc., 324 Constitutional Ave., Renfre, PA 16053. Authorization No. WH0892. Effective November 19, 2002.

Nunn, Lewis G., Route 46 469B, Great Meadows, NJ 07838. Authorization No. WH0893. Effective November 19, 2002.

Montague, Michael, R. R. 1 Box 1159, Dingmans Ferry, PA 18328. Authorization No. WH0894. Effective November 19, 2002.

McFarlane, Eric A., 204 Harris Road, Corinth, NY 12822. Authorization No. WH0895. Effective November 19, 2002.

Vankeuren, Richard, 203 E. Elm St., Penn Yan, NY 14527. Authorization No. WH0896. Effective November 19, 2002.

Jankowski, John J., 11 N. Whispering Lane, Hamburg, NY 14075. Authorization No. WH0897. Effective November 19, 2002.

Henshaw, Ronald B., 2758 Trombley Road, Weedsport, NY 13166. Authorization No. WH0898. Effective November 19, 2002.

Homeny, Lawrence S., 2 Inman Road, New Egypt, NJ 08533. Authorization No. WH0899. Effective November 19, 2002.

Holcomb, Harry A., Jr., 143 New Road, Montague, NJ 07827. Authorization No. WH0900. Effective November 19, 2002.

Evins, Charles, R. R. 2 Box 23C, Uniondale, PA 18470. Authorization No. WH0901. Effective November 19, 2002.

DeJohn, Raymond F., 1359 Fuller Road, Port Byron, NY 13140. Authorization No. WH0902. Effective November 19, 2002.

Bean, Larry C., R. R. 1 Box 134A, Forest City, PA 18421. Authorization No. WH0903. Effective November 19, 2002.

B & K Trucking, R. R. 1 Box 170, Kingsley, PA 18826. Authorization No. WH0904. Effective November 19, 2002.

A & E Consolidated Inc., 194 Martin St., Apopka, FL 32712. Authorization No. WH0905. Effective November 19, 2002.

Anderson, Frank P., 79 Oak Leaf Drive, Tuckerton, NJ 08087. Authorization No. WH0906. Effective November 19, 2002.

John Pfrommer LLC, P. O. Box 1290, Weedsport, NY 13166. Authorization No. WH0907. Effective November 19, 2002.

Kephart Trucking Co., 983 Woodland Bilger Highway, P. O. Box 386, Bigler, PA 16825. Authorization No. WH1113. Effective November 19, 2002.

J. Marlin Ernst, 15 Pinedale View Drive, R. R. 1 Box 1498, Orwigsburg, PA 17961. Authorization No. WH1140. Effective November 19, 2002.

Olexion Hauling Inc., P. O. Box 197, 1308 Centennial Ave., Piscatanay, NJ 08854. Authorization No. WH1163. Effective November 19, 2002.

Coulibaly, Bourlaye, Apt. 86l, 3001 Route 130 S., Delran, NJ 08075. Authorization No. WH0787. Effective November 21, 2002.

Laboy, Teofilo, 1469 Hiawatha Ave., Hillside, NJ 07205. Authorization No. WH0794. Effective November 21, 2002.

Ulutas, Zafer, Apt. J-7, 215 E. Camden Avenue, Morristown, NJ 08057. Authorization No. WH0795. Effective November 21, 2002.

Jackson, Orlando, 317 W. Broadway, Paterson, NJ 07522. Authorization No. WH0796. Effective November 21, 2002.

Montaleza, Miguel, Apt. E4, 435 72nd St., North Bergen, NJ 07047. Authorization No. WH0797. Effective November 21, 2002.

Trumbull Corp., 1020 Lebanon Road, West Mifflin, PA 15122-0500. Authorization No. WH0840. Effective November 21, 2002.

Bulk Transportation Services Inc., 234 Merlo Road, Mineral Point, PA 15942-9719. Authorization No. WH0841. Effective November 21, 2002.

Feathers, Timothy M., 166 Shoemaker Circle, Portage, PA 15946. Authorization No. WH0842. Effective November 21, 2002.

George, Allen Brown, 610 N. 2nd St., Philipsburg, PA 16866. Authorization No. WH0847. Effective November 21, 2002.

Latocha, Adam, 30 Pine Brook Road, Lincoln Park, NJ 07035. Authorization No. WH0848. Effective November 21, 2002.

Tri County Disposal Inc., 206 Rocky Run Road, Glen Gardner, NJ 08826. Authorization No. WH0786. Effective November 18, 2002.

Garcia, Angel L., 887 Mt. Prospect Ave., Newark, NJ 07104. Authorization No. WH0821. Effective November 20, 2002.

Martinez, Antonio, 36 Cortright Road, Whippany, NJ 07981. Authorization No. WH0837. Effective November 20, 2002.

Corazzi, David, R. R. 5 Box 5323A, Moscow, PA 18444. Authorization No. WH0838. Effective November 20, 2002.

Dynamite Disposal, Inc., R. R. 2, Box 555, New Bloomfield, PA 17068-9645. Authorization No. WH0332. Effective November 22, 2002.

Hatch, Christopher J., 5359 Hoppenville Road, Green Lane, PA 18054. Authorization No. WH0575. Effective November 20, 2002.

Miller, Clair R., 107 East 3rd Avenue, Altoona, PA 16602-3929. Authorization No. WH0701. Effective November 22, 2002.

Muth Trucking LLC, R. R. 1 Box 177A, Luthersburg, PA 15848-9715. Authorization No. WH0590. Effective November 20, 2002.

Brubaker Trucking, 360 Cave Road, New Enterprise, PA 16664. Authorization No. WH0711. Effective November 20, 2002.

M & C Trucking, 169 M & C Lane, P. O. Box 66, Grassflat, PA 16839. Authorization No. WH0725. Effective November 20, 2002.

Jon Lafferty Trucking, 141 Starlight Lane, Imler, PA 16655. Authorization No. WH0727. Effective November 20, 2002.

Pettaway, Henry E. Jr., P. O. Box 2126, Willingboro, NJ 08046. Authorization No. WH0729. Effective November 20, 2002.

Dantas, Sergio M., 194 Ferry Street, Newark, NJ 07105. Authorization No. WH0730. Effective November 20, 2002.

White, Shawn C., 672 Ridgebury Road, Slatehill, NY 10973. Authorization No. WH0799. Effective November 20, 2002.

Curtis, Alan R., R. R. 2 Box 1435, Honesdale, PA 18431. Authorization No. WH0800. Effective November 20, 2002.

Schane, Terry T. and Tammy I., P. O. Box 232, Cemetary Road, Hamlin, PA 17427. Authorization No. WH0801. Effective November 20, 2002.

Davis, Jack R., 8 Hollywood Boulevard North, Forked River, NJ 08731. Authorization No. WH0802. Effective November 20, 2002.

Ilgazi, Agim, 193 Capital Avenue, Waterbury, CT 06705. Authorization No. WH0803. Effective November 20, 2002.

Salas, Carlos J., 28 Third Street, Glen Cove, NY 11542. Authorization No. WH0804. Effective November 20, 2002.

Reyhan Toleli d/b/a A&T Trucking, 74 Gardenia Drive, Maple Shade, NJ 08052. Authorization No. WH0805. Effective November 20, 2002.

Johannes, Michael, P. O. Box 521, Hamlin, PA 18427. Authorization No. WH0806. Effective November 20, 2002.

Degraffenreid, Bill J., 205 State Street, Nanticoke, PA 18634. Authorization No. WH0807. Effective November 20, 2002.

Bean, David L., R. R. 3, Box 3419, Union Dale, PA 18470. Authorization No. WH0808. Effective November 20, 2002.

Wisniewski, Scott A., P. O. Box 170, Bloomingburgh, NY 12721. Authorization No. WH0809. Effective November 20, 2002.

Cicek, Mehmet K., 2108 Church Road, Cinnaminson, NJ 08077. Authorization No. WH0810. Effective November 20, 2002.

Sanchez, Gustavo A., 11 Hewitt Street, Trenton, NJ 08611. Authorization No. WH0811. Effective November 20, 2002.

R. Sullivan Trucking, Inc., P. O. Box 325, Holland Road, Sussex, NJ 07461. Authorization No. WH0812. Effective November 20, 2002.

Pieteron, Charles, One Burdock Court, New Castle, DE 19720. Authorization No. WH0813. Effective November 20, 2002.

Madden, David M., 374 Old Dutch Hollow Road, Monoe, NY 10950. Authorization No. WH0814. Effective November 20, 2002.

Lucas, Jonathan C., 161B Bear Creek Road, Andover, NJ 07821. Authorization No. WH0815. Effective November 20, 2002.

Onyx Transportation, Inc., 154 Long Avenue, Hillside, NJ 07205. Authorization No. WH0816. Effective November 20, 2002.

Whitfield, Ricky L., 526 West 6th Street, Plainfield, NJ 07060. Authorization No. WH0817. Effective November 20, 2002.

Suazo, Oscar R., 588 Onderdonk Avenue, Ridgewood, NY 11385. Authorization No. WH0818. Effective November 20, 2002.

Suazo, Alejandro, 1113 Mayberry Circle, Waterbury, CT 06705. Authorization No. WH0819. Effective November 20, 2002.

Yavuz, Erol, 2206 Holland Avenue, 5E, Bronx, NY 10467. Authorization No. WH0820. Effective November 20, 2002.

Cuzzi, Carlo V., P. O. Box 103, Schellsburg, PA 15559. Authorization No. WH0872. Effective November 22, 2002.

Singh, Jasvir, Apt. B11, 250 Ann Street, Easton, PA 18042. Authorization No. WH0873. Effective November 22, 2002.

Tuscano-Maher Roofing, 373 Moween Road, R. R. 3 Box 29, Saltsburg, PA 15681-9103. Authorization No. WH0874. Effective November 22, 2002.

R & D Disposal, 1026 Cemetary Road, Williamsport, PA 17701. Authorization No. WH0875. Effective November 22, 2002.

Barry M. Bartley Trucking, 745 Market Street, Bellefonte, PA 16823. Authorization No. WH0876. Effective November 22, 2002.

Johnston Construction Co., 4331 Fox Run Road, P. O. Box 98, Dover, PA 17315-0098. Authorization No. WH0877. Effective November 22, 2002.

Dan's Disposal, P. O. Box 82, Sunbury, PA 17801. Authorization No. WH0879. Effective November 22, 2002.

Eio Hauling, R. R. 3, Box 157M, Wyoming, PA 18644-9381. Authorization No. WH0880. Effective November 22, 2002.

1st Choice Disposal, Inc., R. R. 1, Box 271, Alexandria, PA 16611. Authorization No. WH0882. Effective November 22, 2002.

John Hruska Trucking, 4320 Dark Shade Drive, Windber, PA 15963. Authorization No. WH0883. Effective November 22, 2002.

Maradiaga, Jose E., 578 57th Street, Brooklyn, NY 11220. Authorization No. WH0884. Effective November 22, 2002.

Reyes, Walter A., Apt. 1R, 5613 6th Avenue, Brooklyn, NY 11220. Authorization No. WH0885. Effective November 22, 2002.

Alton A. Ashmeade, 1557 Cotton Street, Reading, PA 19606. Authorization No. WH0785. Effective November 19, 2002.

Midway Trucking, 10 W. Henry Place, Iselin, NJ 08830. Authorization No. WH0792. Effective November 19, 2002.

Cindy Glover Trucking Inc., 13983 French Creek Road, Waterford, PA 16441. Authorization No. WH2167. Effective November 19, 2002.

Rohrer Trucking Inc., 3180 Rt. 6, Waterford, PA 16441. Authorization No. WH0784. Effective November 19, 2002.

Karbowski, Marek, 53 Mercer St., South River, NJ 08882. Authorization No. WH0831. Effective November 19, 2002.

Guneyusu, Halil, 8 Jefferson Drive Fox Meadow, Maple Shade, NJ 08052. Authorization No. WH0829. Effective November 19, 2002.

Fortak, Michael W., 79 Amboy Road, Matawan, NJ 07747. Authorization No. WH0835. Effective November 20, 2002.

Pietraka, Richard, 283 Sylvan Road, Bloomfield, NJ 07003. Authorization No. WH0836. Effective November 20, 2002.

Beniak, Tomasz, Apt. D, 1053 Sheridan Ave., Elizabeth, NJ 07208. Authorization No. WH0833. Effective November 20, 2002.

Canturk, Suha, 12 Fawn Hollow Road, Burlington, NJ 08016. Authorization No. WH0823. Effective November 20, 2002.

Ince, Mehmet, 95 Cedar Lane Apt. B18, Florence, NJ 08518. Authorization No. WH0824. Effective November 20, 2002.

Rajkumar, Ricardaku, 402 E. Third St., Plainfield, NJ 07060. Authorization No. WH0822. Effective November 20, 2002.

Mayo, Larry C., 53 Division St., Pittsburgh, PA 15205. Authorization No. WH0783. Effective November 20, 2002.

Kahya, Unal, 26 Clemens Blvd., Mt. Holly, NJ 08060. Authorization No. WH0825. Effective November 20, 2002.

Yilmaz Trucking, 120 Elm St., Edgewater, NJ 08010. Authorization No. WH0826. Effective November 20, 2002.

Kahyaoglu, Refik, 28 Clemens Blvd., Mt Holly, NJ 08060. Authorization No. WH0827. Effective November 20, 2002.

Haynes, Gifford J., 184-02, 141 Ave., Queens, NY 11413. Authorization No. WH0828. Effective November 20, 2002.

Megivern, Bradley, P. O. Box 281, Clifford, PA 18413. Authorization No. WH0830. Effective November 20, 2002.

Singh, Avtar, 9 Jonathan Dr., Tinton Falls, NJ 07753. Authorization No. WH0832. Effective November 20, 2002.

Eagan Trucking Inc., P. O. Box 50, 129 Route 539, Cream Ridge, NJ 08514. Authorization No. WH0834. Effective November 20, 2002.

Galante Hauling Inc., 565 Trestle Pl., Downingtown, PA 19335-3459. Authorization No. WH0919 Effective November 25, 2002.

Machuca, Jose, M., 708 Ridge St., Newark, NJ 07104. Authorization No. WH0920. Effective November 25, 2002.

Singh, Sukhjinder, 102 Central Ave., Jersey City, NJ 07306. Authorization No. WH0922. Effective November 25, 2002.

Lemon, Refuse, P. O. Box 19, 7 Wilson Ave., Canonsburg, PA 15317-1004. Authorization No. WH0923. Effective November 25, 2002.

Benitez, Fredy A., Apt. 7N, 300 Parsippany Rd., Parsippany, NJ 07054. Authorization No. WH0924. Effective November 25, 2002.

Oliviera, Gleisson, R. D. 12 Lincoln Ave., Kearny NJ 07032. Authorization No. WH0925. Effective November 25, 2002.

Charles, Brady, Lot 15, 43 Fallkill Road, Hyde Park, NY 12538. Authorization No. WH0926. Effective November 25, 2002.

Aston Township Delaware County, 233 Pennell Road, Aston, PA 19014-1853. Authorization No. WH0761. Effective November 18, 2002.

Shriver, William V., 202 Locust Street, Martinsburg, PA 16662. Authorization No. WH0762. Effective November 18, 2002.

Oherron, Patrick J., 66 Demorest Avenue, Avenel, NJ 27001. Authorization No. WH0763. Effective November 18, 2002.

Toor, Gurdial Singh, 250 Ann Street Apt. B9, Easton, PA 18042. Authorization No. WH0764. Effective November 18, 2002.

Church, Douglas D., 280 Timberline Drive, Cresson, PA 16630. Authorization No. WH0765. Effective November 18, 2002.

J C L Trucking Inc., 2380 Farragut Avenue, Bristol, PA 19007. Authorization No. WH0767. Effective November 18, 2002.

Hi Tech Repair, 303 Bond Street, Brooklyn, NY 11231-2603. Authorization No. WH0768. Effective November 18, 2002.

J & K Singh Trucking Corporation, 157-04 Powells Cove Boulevard, Whitestone, NY 11357-1332. Authorization No. WH0769. Effective November 18, 2002.

Navarez Trucking Company, 596 Vista Drive, Easton, PA 18042. Authorization No. WH0770. Effective November 18, 2002.

Upper Dublin Township, 801 Loch Alsh Avenue, Fort Washington, PA 19034-1651. Authorization No. WH0771. Effective November 18, 2002.

Vaughns Hauling, P. O. Box 83, Altoona, PA 16603-0083. Authorization No. WH0772. Effective November 18, 2002.

Rhodes, Mark A., 155 Salem Church Road Lot 58, Mechanicsburg, PA 17055. Authorization No. WH0773. Effective November 18, 2002.

Ray Craft & Sons Inc., 16 Mckeen Street, Phillipsburg, NJ 08865-3110. Authorization No. WH0774. Effective November 18, 2002.

Bruce N. George Inc., R. R. 2 Box 331, Kunkletown, PA 18058-0331. Authorization No. WH0775. Effective November 18, 2002.

S W Inc., 1020 Broad Run Road, Landenberg, PA 19350-1562. Authorization No. WH0776. Effective November 18, 2002.

B & D Trucking Inc., School House Road (Munson), P. O. Box 384, Winburne, PA 16879. Authorization No. WH0777. Effective November 18, 2002.

Springside Trucking LLC, 300 Weidmansville Road, Ephrata, PA 17522-9677. Authorization No. WH0778. Effective November 18, 2002.

Lansdale Borough, Montgomery County, 1 Vine Street, Lansdale, PA 19446-3670. Authorization No. WH0779. Effective November 18, 2002.

Magnus Environmental Corporation, 1000 South Heald Street, Wilmington, DE 19801. Authorization No. WH0780. Effective November 18, 2002.

Mann & Parker Lumber Company, 335 North Constitution Avenue, New Freedom, PA 17349. Authorization No. WH0671. Effective November 18, 2002.

Dover Roofing, 5630 North Salem Church Road, Dover, PA 17315. Authorization No. WH0672. Effective November 18, 2002.

Norbill Disposal Service, 5610 Harring Road, Doylestown, PA 18901-9134. Authorization No. WH0673. Effective November 18, 2002.

Dan's Tires, 219 Hollow Road, P. O. Box 155, Dicker-run, PA 15430-0155. Authorization No. WH0674. Effective November 18, 2002.

Carson, Fred, 519 South Pugh Street, State College, PA 16801. Authorization No. WH0675. Effective November 18, 2002.

West Shore School District, P. O. Box 803, New Cumberland, PA 17070-0803. Authorization No. WH0676. Effective November 18, 2002.

D & L Disposal Inc., R. R. 1 Box 88A, Monroeton, PA 18832-9737. Authorization No. WH0677. Effective November 18, 2002.

Mazzante Disposal Inc., 605 Willow Street, Montoursville, PA 17754. Authorization No. WH0678. Effective November 18, 2002.

Franc Environmental Inc., 13 Farber Drive, P. O. Box 5098, New Britain, PA 18901. Authorization No. WH0679. Effective November 18, 2002.

Slifer's Truck Service, 1443 Farmington Avenue, Pottstown, PA 19464. Authorization No. WH0680. Effective November 18, 2002.

R B Excavating, 1001 Hall Road, Julian, PA 16844. Authorization No. WH0681. Effective November 18, 2002.

Thomas Trucking Inc., 743 Beaver Valley Pike, Lancaster, PA 17602. Authorization No. WH0682. Effective November 18, 2002.

Middletown Township, Delaware County, 27 North Pennell Road, P. O. Box 157, Lima, PA 19037. Authorization No. WH0683. Effective November 18, 2002.

Singh, Jasbir, 21 Maryann Terrace, Sciota, PA 18354. Authorization No. WH0684. Effective November 18, 2002.

A & R Disposal, R. R. 1 Box 241C, Milton, PA 17847. Authorization No. WH0685. Effective November 18, 2002.

Swarthmore Borough, Delaware County, 121 Park Avenue, Swarthmore, PA 19081. Authorization No. WH0687. Effective November 18, 2002.

Hunsberger Sanitation, 555 May Road, Knox, PA 16232-9313. Authorization No. WH0688. Effective November 18, 2002.

Martin, Glenn R., 345 Auburn Avenue, Lebanon, PA 17042. Authorization No. WH0689. Effective November 18, 2002.

Tat Trucking Inc., 3482 Wrangle Hill Road, Bear, DE 19701-1845. Authorization No. WH0690. Effective November 18, 2002.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

GP1-01-03028: Pilgrim's Pride Corp. (P. O. Box 7275, Broadway, VA 22815) on November 22, 2002, was authorized to operate a small gas and no. 2 oil fired combustion unit under GP1 in New Oxford Borough, **Adams County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

61-194: Great Lakes Energy Partners, LLC—Toonerville Station (SR 1009, Petroleum Center Road, Titusville, PA 16354) on November 30, 2002, for operation of a natural gas production facility in Cherrytree Township, **Venango County**.

61-195: Great Lakes Energy Partners, LLC—Haslet Station (SR 4009, Bethel Church Road, Titusville, PA 16354) on November 30, 2002, for operation of a natural gas production facility in Jackson Township, **Venango County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

09-0087B: Air Prod and Chem, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on November 26, 2002, for operation of a SiF₄ process scrubber in Falls Township, **Bucks County**.

46-0036F: Visteon SYS LLC (2750 Morris Road, Lansdale, PA 19446) on November 26, 2002, for operation of a wave solder no. 13 in Worcester Township, **Montgomery County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejksznier, Acting New Source Review Chief, (570) 826-2531.

39-304-007B: Ranson Industries LP (101 North Church Street, Macungie, PA 18062) on November 18, 2002, for installation of an air cleaning device to control emissions from the sand handling system and casting cooler conveyor at the Tyler Pipe facility in Macungie Borough, **Lehigh County**.

48-399-051: Elementis Pigments, Inc. (1525 Wood Avenue, Easton, PA 18042) on November 20, 2002, for construction of a product packing operation and associated air cleaning device at their Easton Plant in Wilson Borough, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

01-05016B: ISP Minerals, Inc. (P. O. Box O, Blue Ridge Summit, PA 17214-0914) on November 22, 2002, for construction of a rock crushing and coloring facility controlled by fabric collectors at the Charmian Plant in Hamiltonban Township, **Adams County**. This facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

67-03115: Garrod Hydraulics, Inc. (3466 Board Road, York, PA 17402-3466) on November 22, 2002, for construction of a hydraulic cylinder manufacture/repair and industrial hard chrome plating facility in East Manchester Township, **York County**. This source is subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

25-995A: Alliance Plastics, Inc. (3123 Station Road, Erie, PA 16510) on November 8, 2002, for a dip operation in Erie, **Erie County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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.

46-0036A: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) on November 22, 2002, for operation of a urea selective catalytic reduction in Worcester Township, **Montgomery County**.

46-0191A: Merck and Co., Inc. (351 North Summerytown Pike, North Wales, PA 19454) on November 22, 2002, for operation of a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

46-0191B: Merck and Co. Inc. (351 North Summerytown Pike, North Wales, PA 19454) on November 22, 2002, for operation of a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

46-0059: Handelok Bag Co. (701A West Fifth Street, Lansdale, PA 19446) on December 2, 2002, for operation of seven flexographic printing presses in Lansdale Borough, **Montgomery County**.

09-0059: Saint Mary Medical Center (1201 Langhorne-Newtown Road, Langhorne, PA 19047) on December 2, 2002, for operation of three emergency generators in Langhorne Borough, **Bucks County**.

46-0005J: Merck and Co., Inc. (770 Summerytown Pike, West Point, PA 19486) on December 2, 2002, for operation of a 1,040 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

22-301-058: Department of Agriculture (2301 North Cameron Street, Harrisburg, PA 17110) on September 12, 2002, for construction of an animal health laboratory multi-chambered incinerator, controlled by a venturi wet scrubber and a mist eliminator in Susquehanna Township, **Dauphin County**. This plan approval was extended.

36-310-013E: Compass Quarries, Inc. (47 McIlvaine Road, Paradise, PA 17562) on November 25, 2002, for modification of an existing stone crushing plant at the Paradise Quarry facility in Paradise Township, **Lancaster County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performances for Nonmetallic Mineral Processing Plants. This plan approval was extended.

36-310-023F: Compass Quarries, Inc. (47 McIlvaine Road, Paradise, PA 17562) on November 25, 2002, for modification of an existing agricultural limestone pulverizing plant at the Paradise Quarry facility in Paradise Township, **Lancaster County**. This source is subject to

40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. This plan approval was extended.

67-03028A: Dentsply International—Trubyte Division (570 West College Avenue, York, PA 17405-0872) on November 23, 2002, for construction of a new multi-stage mist eliminator for the hard chromium electroplating unit at the facility in the City of York, **York County**. This source is subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. This plan approval has been extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-322-001D: Northern Tier Solid Waste Authority (P. O. Box 10, Burlington, PA 18814) on November 14, 2002, for operation of a landfill gas-fired reciprocating internal combustion engine on a temporary basis until March 14, 2003, at the Northern Tier Landfill in West Burlington Township, **Bradford County**. The plan approval was extended.

08-318-027: Mill's Pride—Pennsylvania (100 Lamoka Road, Sayre, PA 18840) on November 20, 2002, for operation of a wood kitchen cabinet finishing line and associated air cleaning device (a thermal oxidizer), various pieces of woodworking equipment and associated air cleaning devices (fabric collectors) and various other pieces of equipment on a temporary basis until March 20, 2003, in Athens Township, **Bradford County**. The plan approval was extended.

08-318-027A: Mill's Pride—Pennsylvania (100 Lamoka Road, Sayre, PA 18840) on November 20, 2002, for operation of a wood kitchen cabinet glazing line, the air contaminant emissions from which are controlled by a thermal oxidizer, on a temporary basis until March 20, 2003, in Athens Township, **Bradford County**. The plan approval was extended.

55-399-005: Professional Building Systems, Inc. (72 East Market Street, Middleburg, PA 17842) to correct an erroneously-stated surface coating VOC content limitation, to authorize the use of an additional adhesive component and establish best available technology limitations for the use of the additional component and to increase the allowable facility-wide VOC and hazardous air pollutant emission limitations by .5 ton in any 12 consecutive month period for a modular home manufacturing facility in Middleburg Borough, **Snyder County**.

08-316-013A: CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848) on November 19, 2002, to extend the deadline for the submission of the stack test report to November 28, 2002, in Wysox Township, **Bradford County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

24-313-086A: Carbide Graphite Group, Inc. (800 Theresia Street, St. Marys, PA 15857) on October 30, 2002, for carbottom kilns in St. Marys, **Elk County**.

37-003C: Essroc Cement Co. (Second Street, Bessemer, PA 16112) on September 30, 2002, for installation of baghouses on clinker coolers in Bessemer Borough, **Lawrence County**.

42-176E: Temple Inland Forest Products Corp.—MDF Plant (Hutchins Road, Mt. Jewett, PA 16740) on

November 30, 2002, for construction of a cyclone in Sargeant Township, **McKean County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

28-05005: York International Corp. (100 CV Avenue, Waynesboro, PA 17268) on November 21, 2002, for operation of a refrigeration equipment manufacturing facility at its Waynesboro Plant in Waynesboro Borough, **Franklin County**. This is renewal no. 1 of the operating permit.

28-05012: Ingersoll Rand Co. (312 Ingersoll Drive, Shippensburg, PA 17257) on November 21, 2002, for operation of a construction equipment manufacturing facility at its Shippensburg Plant in Shippensburg Borough, **Franklin County**. This is renewal no. 1 of the operating permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00235: First Energy—Pennsylvania Power (P. O. Box 128, Shippingport, PA 15077) for their coal fired power plant in Shippingport Borough, **Beaver County**. As a result of the potential levels of NO_x, PM and SO_x emitted from this facility, it is a major stationary source as defined in Title I, Part D, of the Clean Air Amendments. The facility is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-00064: CRC Industries, Inc. (885 Louis Drive, Warminster, PA 18974) on December 2, 2002, for operation of a Natural Minor Operating Permit in Warminster Township, **Bucks County**.

46-00150: Montgomery County SPCA (1059 Sweiford Road, Perkiomenville, PA 18074) on December 3, 2002, for operation of a Natural Minor Operating Permit in Upper Frederick Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-03056: Bodycote Lindberg Corp. (10543 Doric Street, Dallas, TX 75220) on November 26, 2002, for operation of its metal heat treating facility in Exeter Township, **Berks County**.

06-03059: Charles Evans Cemetery Corp. (1119 Centre Avenue, Reading, PA 19606) on November 25, 2002, for operation of two crematories in the City of Reading, **Berks County**.

38-03019: Allied Vet Cremation Ltd. (719 Lawn Road, Palmyra, PA 17078-9734) on November 25, 2002,

for operation of two crematories in South Londonderry Township, **Lebanon County**.

67-03001: Frito Lay, Inc. (3553 Gillespie Drive, York, PA 17404) on November 21, 2002, for operation of a snack food manufacturing plant in West Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00080: Duraloy Technologies (120 Bridge Street, Scottdale, PA 15683) for operation to manufacture specialty steel cast tubular and molded products at their Scottdale facility in **Westmoreland 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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

18-00011: Croda, Inc. (8 Croda Way, Mill Hall, PA 17751) for issuance of a revised operating permit, Revision No. 1, on November 18, 2002, for the synthesized organic chemical intermediates manufacturing facility in Bald Eagle Township, **Clinton County**. The revision of this permit is to incorporate terms and conditions from Plan Approvals 49-313-019D, 18-00011A and 18-00011C, which authorized the installation of a new reactor and air cleaning system (that is, a thermal oxidizer, water quench and packed bed scrubber) for the production of quaternary ammonium compounds and the control of air contaminant emissions from the quaternary ammonium compound production operation, the construction of 15 VOCs containing storage tanks and the construction of 49 VOCs containing storage tanks. This Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

41-00013: Coastal Aluminum Rolling Mills, Inc. (2475 Trenton Avenue, Williamsport, PA 17701) for issuance of a revised operating permit, Revision No. 1, on November 20, 2002, for the aluminum rolling and metal coil coating facility in the City of Williamsport, **Lycoming County**. The revision of this permit is to incorporate terms and conditions from Plan Approval OP-41-0007A, which authorized the construction of a new cold aluminum rolling mill. A filter system and a regenerative thermal oxidizer will control air contaminant emissions from this mill. This Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

49-00002: ConAgra Grocery Products Co. (30 Marr Street, Milton, PA 17847) for issuance of a revised Title V Operating Permit on October 4, 2002, incorporating a minor operating permit modification, which established a new maximum operating capacity of 92 mmBtu/hr for boiler No. 7, a natural gas/No. 2 fuel oil fired boiler in Milton Borough, **Northumberland County**. This Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

53-00005: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222) for issuance of a revised Title V Operating Permit on November 13, 2002, to include terms and conditions for the operation of a 765

kilowatt auxiliary generator constructed under plan approval TVOP 53-00005A. This revision also includes terms and conditions for the operation of two 3,200 horsepower natural gas fired internal combustion engines (Engines 6 and 7), a 5.125 mmBtu/hr natural gas fired hot water boiler, a 12.6 mmBtu/hr natural gas fired regeneration heater and an emergency generator constructed under plan approval OP 53-0003D at the Greenlick gas compressor station in Stewardson Township, **Potter County**. This Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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); and The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and 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.

54970101C. JC Coal, Inc. (P. O. Box 161, Minersville, PA 17954), correction to a surface mine operation to add refuse disposal in Schuylkill Township, **Schuylkill County** affecting 632.0 acres, receiving stream: none. Application received March 18, 1999. Correction issued November 26, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

10970103 and NPDES Permit No. PA0227374. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous strip operation in Oakland Township, **Butler County** affecting 77.0 acres. This renewal is issued for reclamation only. Receiving streams: two unnamed tributaries to Pine Run and one unnamed tributary to Connoquenessing Creek. Application received September 25, 2002. Permit issued November 19, 2002

33970109 and NPDES Permit No. PA0227498. MSM Coal Company, Inc. (P. O. Box 243, DuBois, PA 15801) Renewal of an existing bituminous strip operation in Oliver Township, **Jefferson County** affecting 85.2 acres. This renewal is issued for reclamation only. Receiving streams: unnamed tributaries to Lick Run and unnamed tributaries to Little Sandy Creek. Application received September 25, 2002. Permit issued November 19, 2002.

33960105 and NPDES Permit No. PA0227234. MSM Coal Company, Inc. (P. O. Box 243, DuBois, PA 15801) Renewal of an existing bituminous strip operation in Oliver Township, **Jefferson County** affecting 21.2 acres.

This renewal is issued for reclamation only. Receiving streams: unnamed tributary to Lick Run. Application received September 25, 2002. Permit issued November 19, 2002.

10920107 and NPDES Permit No. PA0211295. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous strip and auger operation in Clay and Cherry Townships, **Butler County** affecting 94.3 acres. This renewal is issued for reclamation only. Receiving streams: two unnamed tributaries to South Branch Slippery Rock Creek. Application received September 25, 2002. Permit issued November 19, 2002.

33960109 and NPDES Permit No. PA0227331. TDK Coal Sales, Incorporated (P. O. Box 259, Brockway, PA 15824) Renewal of an existing bituminous strip and auger operation in Union Township, **Jefferson County** affecting 157.4 acres. Receiving streams: unnamed tributary to Little Mill Creek. Application received August 20, 2002. Permit issued November 19, 2002.

16970103 and NPDES Permit No. PA0227421. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous strip operation in Clarion Township, **Clarion County** affecting 104.2 acres. This renewal is issued for reclamation only. Receiving streams: unnamed tributaries to Brush Run. Application received September 20, 2002. Permit issued November 20, 2002.

24020102 and NPDES Permit No. PA0242080. P. and N. Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767) Commencement, operation and restoration of a bituminous strip operation in Benetzette Township, **Elk County** affecting 118.9 acres. Receiving streams: unnamed tributaries to Porcupine Hollow Run and unnamed tributary to Chase Hollow. Application received March 5, 2002. Permit issued November 19, 2002.

Noncoal Permits Actions

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

37920306. Neshannock Sand & Gravel, Inc. (R. D. 6, Box 344, New Castle, PA 16101) Renewal of NPDES No. PA0211320, Neshannock Township, **Lawrence County**. Receiving streams: unnamed tributary to Shenango River and Shenango River. Application received October 16, 2002. Permit issued November 20, 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.

39024025. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Lower Macungie Township, **Lehigh County** with an expiration date of December 10, 2003. Permit issued November 26, 2002.

46024065. PACT Construction, Inc. (P. O. Box 74, Ringoes, NJ 08551), construction blasting in Lower Provi-

dence Township, **Montgomery County** with an expiration date of June 10, 2003. Permit issued November 26, 2002.

46024066. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Upper Providence Township, **Montgomery County** with an expiration date of December 7, 2003. Permit issued November 26, 2002.

360240137. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Leacock Township, **Lancaster County** with an expiration date of March 31, 2003. Permit issued November 26, 2002.

06024047. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Amity Township, **Berks County** with an expiration date of December 31, 2003. Permit issued November 27, 2002.

360240136. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Earl Township, **Lancaster County** with an expiration date of December 12, 2003. Permit issued November 27, 2002.

40024026. Scott Kresge Enterprises (P. O. Box 2762, Wilkes-Barre, PA 18703) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting in Bear Creek Township, **Luzerne County** with an expiration date of December 31, 2002. Permit issued November 27, 2002.

40024027. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Hazle Township, **Luzerne County** with an expiration date of October 28, 2003. Permit issued November 27, 2002.

01014015. Brubacher Excavating, Inc. (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Straban Township, **Adams County** with an expiration date of November 30, 2003. Permit issued November 27, 2002.

28024037. Brubacher Excavating, Inc. (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Chambersburg Borough, **Franklin County** with an expiration date of November 30, 2003. Permit issued November 27, 2003.

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.

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.)

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.

E15-589. Philadelphia Suburban Water Company, 762 Lancaster Avenue, Bryn Mawr, PA 19010-3489, Wallace Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain an approximately 28-foot wide raw water intake and associated appurtenances, including a trash rack and gabion streambank protection, on the East Branch Brandywine Creek (HQ-TSF-MF) for transferring water from the creek to the Cornog Quarry during periods of elevated stream flows and a 48-inch intake tunnel to pump water from the quarry to the water treatment plant for treatment before distributing to customers of the Water Company. The permit also authorizes the construction and maintenance of a surface swale and 16-inch outfall structure to direct water into Cornog Quarry, which shall be done in accordance with the conditions of General Permit No. 4. The site is located about 1,500 feet east of the intersection of Marshall Road and Creek Road (Downingtown USGS Quadrangle N: 13.70 inches, W: 17.50 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E48-329. Department of Conservation and Natural Resources, Bureau of State Parks, P. O. Box 8451, Harrisburg, PA 17105-8451. City of Easton, **Northampton County**, Army Corps of Engineers Philadelphia District.

To remove the existing structures and to construct and maintain an amphitheater consisting of a series of terraces constructed as low retaining walls in a semi-circle around a circular concrete stage in the floodway of the Delaware River. The project is located at Delaware Canal State Park, southwest of the confluence of the Lehigh and Delaware Rivers (Easton, PA-NJ Quadrangle N: 11.4 inches; W: 11.2 inches).

E13-134. Raymond R. Veas, P. O. Box 102, Fountainville, PA 18923-0102. Towamensing Township, **Carbon County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a road crossing of Hunter Creek consisting of a 57-inch x 38-inch corrugated metal arch pipe for the purpose of providing access to a residential house. The project is located approximately 260 feet west of the intersection of Spruce Hollow Road and Beers Lane (Palmerston, PA Quadrangle N: 20.6 inches; W: 6.0 inches).

E35-362. Robert Burke, 1510 Electric Street, Dunmore, PA 18512. City of Scranton, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To construct and maintain building and parking facilities associated with the proposed Scranton Skating Complex within the floodway of the Lackawanna River. The project is located immediately north of Olive Street and Love Road (Scranton, PA Quadrangle N: 7.6 inches; W: 5.4 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E01-237. Lake Heritage Property Owners & Associates, Incorporated, 1000 Heritage Drive, Gettysburg, PA 17325 in Mount Joy Township, **Adams County**, ACOE Baltimore District.

To construct and maintain cast-in-place concrete, concrete block, segmental block, pressure treated timber seawalls, rip-rap stone bank protection and docks in Lake Heritage (WWF) (Gettysburg, PA Quadrangle N: 10.75 inches; W: 8.75 inches) in Mount Joy Township, Adams County.

E05-306. Department of Transportation, Engineering District 9-0, 1620 N. Juniata Street, Hollidaysburg, PA 16648 in Juniata Township, **Bedford County**, ACOE Baltimore District.

To remove the existing bridge and to construct and maintain a prestressed concrete bridge having a clear span of 48.5 feet with a minimum underclearance of 4.26 feet across Kegg Run (WWF) on SR 3039 Section 018 Segment 0180 Offset 2141 located about 1.3 miles north of North Buena Vista Village (Schellsburg, PA Quadrangle N: 5.0 inches; W: 10.2 inches) in Juniata Township, Bedford County.

E07-361. Department of Transportation, Engineering District 9-0, 1620 N. Juniata Street, Hollidaysburg, PA 16648 in Frankstown Township, **Blair County**, ACOE Baltimore District.

To construct and maintain a 70-foot clear span and an 8.8-foot minimum underclearance bridge replacement across Old Town Run (WWF) located at the crossing of SR 2007, Section 001 and to fill in 0.03 acre of de minimis wetlands (Frankstown, PA Quadrangle N: 9.9 inches; W: 15.1 inches) in Frankstown Township, Blair County. The applicant will provide 0.03 acre of replacement wetlands at the Huntingdon County advanced wetland replacement site.

E67-726. Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in York Township, **York County**, ACOE Baltimore District.

To: (1) extend and maintain the length at the upstream end of an existing 8-foot by 5-foot box culvert by 225 feet; (2) remove 5-feet long at the downstream end of the same box culvert; (3) construct and maintain a 50-foot long channel of Tyler Run (WWF); and (4) fill in 0.01 acre of de minimis wetland in an unnamed tributary to East Branch Codorus Creek (CWF) to rehabilitate SR 0083, Section 025, Segment 0142 Offset 2447 located between Interchanges 14 and 15 (York, PA Quadrangle N: 5.3 inches; W: 11.1 inches) in York Township, York County. The amount of wetland impact is considered a de minimis impact of 0.01 acre and wetland mitigation is not required.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E14-433. Bellefonte Borough, 236b West Lamb Street, Bellefonte, PA 16823. Spring Creek Floodway Fill, in Bellefonte Borough, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 7.5 inches; W: 4.9 inches).

To stabilize and maintain: (1) three sewer interceptor manhole access pads with of 35.5 cubic yards of clean topsoil and limestone shot rock; and (2) a 600-foot long existing access road in the right floodway of Spring Creek to provide sewer truck access to sewer manholes located 750 feet north of the intersection of West Lamb and North Water Streets in the Borough of Bellefonte and Spring Township, Centre County (Bellefonte, PA Quadrangle N: 7.5 inches; W: 4.9 inches). This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E17-372. Department of Transportation, Engineering District 2-0, P. O. Box 342, Clearfield, PA 16830. SR 0219, Section 229 Bridge Replacement, in the City of DuBois and Sandy Township, **Clearfield County**, ACOE Pittsburgh District (Falls Creek, PA Quadrangle N: 0.9 inch; W: 4.8 inches).

To realign 90-feet of Clear Run channel, remove two existing bridges and construct, operate and maintain a single span concrete adjacent box beam bridge to carry SR 0219, Section 229 across Clear Run to improve public

highway safety. The prestressed concrete bridge shall be constructed with a minimum normal span of 32.8 feet, underclearance of 4.4 feet and skew of 83 degrees. The realignment of Clear Run shall be limited to 70-foot upstream and 20-foot downstream of the Section 229 bridge. Realignment of the channel shall be in smooth transition between existing and proposed sections of the relocation with a minimum side slope of 2 foot horizontal to 1 foot vertical. The project is located on SR 0219 approximately 1.1-mile east of SR 0830 and SR 0219 intersection.

E49-264. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Benny's Run bridge replacement, in Shamokin Township, **Northumberland County**, ACOE Susquehanna River Basin District (Treverton, PA Quadrangle N: 10.7 inches; W: 0.75 inch).

To remove an existing structure and construct and maintain a 15-foot long by 5.5-foot high by 32-foot wide reinforced concrete box culvert in Benny's Run (CWF). The project is located along SR 4026 approximately 2.5 miles west of SR 4026 and SR 61 intersection in Shamokin Township, Northumberland County. This permit also authorizes the construction, operation, maintenance and removal of temporary cofferdams. All temporary structures shall be constructed of clean rock that is free of fines. Upon completion of culvert construction, all temporary structures shall be removed with the areas of river channel and floodplain restored to original geometry, contours and elevations. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E53-379. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830. Kettle Creek Wetland Creation/Restoration Project, in Stewardson Township, **Potter County**, ACOE Baltimore District (Tamarack, PA Quadrangle N: 22.0 inches; W: 6.5 inches).

To affect 0.10-acre of exceptional value palustrine wetlands to facilitate the creation of a 1.15-acre advanced wetland mitigation site along Kettle Creek. The site is located along SR 144 about 1.5 miles north of Cross Forks (Tamarack, PA Quadrangle N: 22 inches; W: 6.5 inches) in Stewardson Township, Potter County.

E60-157. Department of Transportation, 315 Jordan Avenue, Montoursville, PA 17754. SR 3020/004 Bridge Replacement, in Hartley Township, **Union County**, ACOE Baltimore District (Hartleton, PA Quadrangle N: 1.1 inches; W: 13.8 inches).

To: (1) remove the existing SR 3020/004 bridge; (2) construct and maintain a reinforced concrete box culvert with a 16-foot span, a 5-foot rise and 1-foot high baffles to be depressed 1 foot into the streambed; and (3) construct and maintain a temporary diversion channel around the construction area in an unnamed tributary to Whitehorn Run located 175 feet from SR 3002 on SR 3020.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E03-410. Department of Transportation, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. West Franklin Township, **Armstrong County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a 1.0-foot depressed 8.0-foot x 9.0-foot reinforced concrete culvert in an unnamed tributary to Buffalo Creek (TSF) on a 60 degree skew for the purpose of

improving transportation safety and roadway standards. The project is located on SR 4033, Segment 0010, Offset 0605, Section 150, Station 5+85 (Kittanning, PA Quadrangle N: 18.3 inches; W: 17.2 inches).

E26-297. Fayette County Commissioners, Courthouse, 61 East Main Street, Uniontown, PA 15401. Luzerne and Redstone Townships, **Fayette County**, ACOE Pittsburgh District.

To remove the existing structure (Fayette County Bridge No. 147) and to construct and maintain a reinforced concrete box beam bridge having a normal clear span of 46.0 feet and an underclearance of 12.0 feet across Dunlap Creek (WWF). Also to construct and maintain two 18-inch diameter stormwater outfalls in Dunlap Creek (WWF). The project is located on Township Road 326 (Merrittstown Road) near its intersection with Thompson No. 2 Road and Main Street (Carmichaels, PA Quadrangle N: 16.8 inches; W: 1.6 inches).

E26-298. Indian Creek Valley Water Authority, P. O. Box 486, 2068 Indian Head Road, Indian Head, PA 15446-0486. Stewart Township, **Fayette County**, ACOE Pittsburgh District.

To install and maintain waterline crossings in Laurel Run (HQ-CWF) and unnamed tributary to Laurel Run (HQ-CWF), Bear Run (EV), two unnamed tributaries to Bear Run (EV), an unnamed tributary to Stulls Run (WWF), an unnamed tributary to Youghiogheny River (WWF), Jim Run and two unnamed tributaries to Jim Run (CWF), as part of a water system extension project. The project is located off of SR 0381 (Mill Run, PA Quadrangle N: 5.1 inches; W: 12.6 inches).

E56-304-A1. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. Somerset Borough and Township, **Somerset County**, ACOE Pittsburgh District.

To amend Permit No. E56-304 to include the construction and maintenance of a 0.3-meter depressed, three cell concrete box culvert having three normal spans of 7.0 meters and an underclearance of 2.14 meters in an unnamed tributary to East Branch Coxes Creek (WWF) located approximately 120 meters upstream from Bridge B-343 at Milepost 109.72 for the purpose of improving the Pennsylvania Turnpike Somerset Interchange to meet current design specifications and safety standards. The authorized work includes extending and maintaining existing bridge No. B-343 having a normal span of 10.36 meters and an underclearance of 1.9 meters across an unnamed tributary to Coxes Creek (WWF) 14.04 meters upstream and 1.31 meters downstream and the placement and maintenance of fill in 2.73 acres of wetlands. The impacted wetlands have been replaced at the Louie-Beach Advanced Wetland Compensation site in Somerset County. The project is located at the Pennsylvania Turnpike Somerset Interchange (Exit 10) (Somerset, PA Quadrangle N: 3.7 inches; W: 11.5 inches).

E56-311. Gene E. and Linda M. Churchel, 1186 Herne Avenue, Palm Bay, FL 32907. Northampton Township, **Somerset County**, ACOE Pittsburgh District.

To construct and maintain a bridge having a clear span of 42.0 feet and an underclearance of 8.0 feet across Brush Creek (HQ-CWF) on a proposed driveway. The project is located approximately 200 feet south of Brush Creek Road (Berlin, PA Quadrangle N: 0.23 inch; W: 2.19 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E20-522, Department of Transportation, District 1-0, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. SR 1017, Segment 0050, Offset 0142 Across Boles Run, in Venango Township, **Crawford County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 11.0 inches; W: 15.3 inches).

To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having a clear, normal span of 76 feet and an average underclearance of 10.8 feet across Boles Run on SR 1017, Segment 0050, Offset 0142 at the Village of Skelton town.

E25-658, Amity Township Supervisors, 15030 Casler Road, Union City, PA 16438. T-788 Messenger Road Across Beaver Run, in Amity Township, **Erie County**, ACOE Pittsburgh District (Union City, PA Quadrangle N: 13.2 inches; W: 2.4 inches).

To operate and maintain a 40-foot long, 8-foot wide by 5.6-foot high corrugated metal plate pipe arch culvert with concrete block headwall and endwall installed under the Department Emergency Permit No. EP2502604 issued on April 23, 2002, in Beaver Run (EV) on Messenger Road (T-788) approximately 500 feet south of the intersection of Fenno Road and Messenger Road (T-788).

SPECIAL NOTICES

Submission Date for Grant Applications under the Solid Waste-Resource Recovery Development Act of 1974 (Act 198)

The Department of Environmental Protection (Department) announces that it is accepting Resource Recovery Demonstration Grant applications from counties, municipalities and municipal authorities within this Commonwealth under Act 198. Projects must be capable of demonstrating, for a minimum of 2 years, the production of energy or the recovery of materials from solid waste (except sewage sludge). Grant applications must meet the terms and conditions established in 25 Pa. Code Chapter 76 adopted under Act 198.

Priority in selecting successful applicants during this application solicitation will be given to unique and innovative resource recovery projects not previously demonstrated or currently being demonstrated in this Commonwealth. Priority in selecting successful applicants during this application solicitation will also be given to unique and innovative resource recovery demonstration projects involving regional cooperative projects involving more than one county or municipality. Other types of resource recovery projects may also be considered. All projects must be capable of being replicated in other areas of this Commonwealth.

Applicants must provide a business plan and market commitments for energy or materials produced by the demonstration project. Projects should be capable of reaching full scale production within 12 months of notice of a grant award.

A lead municipality or county serving as the development agency for regional projects must have resolutions from other participating counties or municipalities in support of the project. Counties and municipalities may sponsor cooperative projects with private sector entities provided that a minimum of 5% equity in the project is maintained by the development agency for the term of the demonstration period.

The Department will award no more than three grants from applications received during this grant solicitation period. The Department will award no more than \$100,000 for any demonstration project selected for funding.

The deadline for submission of grant applications is 3 p.m. on March 20, 2003. Applications must be on forms provided by the Department. Applications received by the Department or post marked after the deadline will not be considered during this application solicitation.

Counties and municipalities must contact the appropriate Department Planning and Recycling Coordinator listed to obtain a grant application. A preapplication conference with the Department Regional Planning and Recycling Coordinator is required. Inquiries concerning this notice should be directed to John Lundsted, Recycling Technical Assistance Coordinator, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

Regional Planning and Recycling Coordinators

Southeast Region

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
Lee Park, Suite 6010, 555 North Lane
Conshohocken, PA 19428-2233
(610) 832-6212
(610) 832-6143 (fax)

Calvin Ligons (cligons@state.pa.us)
Ann Ryan (aryan@state.pa.us)
MaryAlice Reisse (mreisse@state.pa.us)

Northeast Region

Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
2 Public Square
Wilkes-Barre, PA 18711-0790
(570) 826-2516
(570) 826-5448 (fax)

Chris Fritz (cfritz@state.pa.us)

Southcentral Region

Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York Counties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4706
(717) 705-4930 (fax)

Mark Vottero (mvottero@state.pa.us)

Northcentral Region

Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
208 W. 3rd Street, Suite 101
Williamsport, PA 17701
(570) 327-3653
(570) 327-3420 (fax)

Ron Sommers (rsommers@state.pa.us)

Southwest Region

Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene,
Indiana, Somerset, Washington and Westmoreland Coun-
ties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-4000
(412) 442-4194 (fax)

Sharon Svitek (ssvitek@state.pa.us)
Bob Emmert (remmert@state.pa.us)
Stephen Sales (ssales@state.pa.us)

Northwest Region

Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson,
Lawrence, McKean, Mercer, Venango and Warren Coun-
ties

Department of Environmental Protection
Bureau of Land Recycling and Waste Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6848
(814) 332-6117 fax

Guy McUmbert (gmcumber@state.pa.us)

Certification to Perform Radon-Related Activities in this Commonwealth

In the month of November 2002, the Department of Environmental Protection (Department), under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Sam Azar	529 Bethlehem Road Catasauqua, PA 18032	Testing Mitigation
Kevin Buckley	2575 Giant Oaks Drive Pittsburgh, PA 15241	Testing
Roger Burens, Jr.	241 King Manor Drive, Suite D King of Prussia, PA 19406	Mitigation
Daniel Cicio	542 Sherwood Circle Youngwood, PA 15697	Testing
Daryl Festa Festa Radon Technologies Co.	634 North Avenue Pittsburgh, PA 15209	Testing
Michael Fleck	5843 Little Spring Court Frederick, MD 21704	Testing
Rick Hynes	1037 Carnes School Road Seneca, PA 16346	Mitigation
Scott Jacobs	618 North Maple Avenue Ridgway, PA 15853	Testing
Stanley Kuhn	2843 North Front Street Harrisburg, PA 17110	Testing
Allan Lenhardt	R. R. 3 Box 406 Bloomsburg, PA 17815	Mitigation Testing
Mark Matrozza Microbac Laboratories, Inc.	4580 McKnight Road Pittsburgh, PA 15237	Testing
Theresa Pulone	107 Maple Shade Avenue Washington Crossing, PA 18977	Testing
Radon Specialists, Inc.	800 Sunset Lane Stroudsburg, PA 18360	Testing
Raymond Rowe	735 Municipal Street Pittsburgh, PA 15204	Mitigation
Charles Sala	315 Richey Drive Verona, PA 15147	Testing
Lloyd Scarborough	111 Liberty Street Newtown, PA 18940	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Kenneth Struder Pennsylvania Home Inspections	P. O. Box 72722 Thorndale, PA 19372	Testing Laboratory
Matthew Thomson	103 Maywood Road Thomasville, PA 17364	Testing
Todd Ziegler	826 North Lewis Road Limerick, PA 19468	Mitigation

Public Meeting and Public Hearing Invitation
Beachel NPDES CAFO General Permit Application
Derry Township, Montour County

The Department of Environmental Protection (Department) will hold a public meeting, followed by a public hearing, to discuss the NPDES Concentrated Animal Feeding Operation (CAFO) General Permit application by Doug W. Beachel for a facility proposed in Derry Township, Montour County. The public meeting will be held at 6:30 p.m. on Thursday, January 23, 2003, at the PPL Montour Preserve, 700 Preserve Road, Danville, PA. A public hearing will follow the meeting and will begin at 8 p.m. at the same location.

During the public meeting, Department staff will review the information submitted in the Notice of Intent for Coverage under the NPDES CAFO General Permit (PAG-12) for the proposed facility and answer questions from the public. The meeting is also intended as an opportunity for the public to obtain information regarding the Department's permitting and inspection programs for CAFOs in general. Presentations and testimony will not be permitted during the meeting.

During the public hearing, individuals may present oral testimony for a maximum of 5 minutes regarding the application. Written testimony of any length also will be accepted. The oral testimony will be recorded by a court reporter and transcribed into a written document. The Department will respond in writing to all pertinent questions or comments at the time it makes a final decision on the applications.

The permit application is available for public review at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA, Monday through Friday between 8 a.m. and 4 p.m. An appointment to review the application at the Department office must be made by contacting Kathy Arndt at (570) 327-3693.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act should contact Daniel T. Spadoni at (570) 327-3659 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Public Hearing for NPDES Permit No. PAS10S119
Proposed Alpine Rose Resorts, Eldred Township,
Monroe County

The Department will hold a public hearing to accept comment on individual NPDES Permit Application No. PAS10S119 for the discharge of stormwater from construction activities at the proposed Alpine Rose Resorts, Eldred Township, Monroe County.

The public hearing will be conducted on Thursday, January 23, 2003, at 7 p.m. in the auditorium of the Pleasant Valley Elementary School, Polk Township Road, Kresgeville, Polk Township, Monroe County by the Water Management Program, Soils and Waterways Section, 2

Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553. The hearing is in response to an application submitted by Richard Muller, Jr., President, Alpine Rose Resorts, Inc. The NPDES permit application proposes the discharge of stormwater from construction activities to Aquashicola Creek.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Alpine Rose Resorts Hearing, Department of Environmental Protection, Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to NPDES Permit Application No. PAS10S119. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire; however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Richard Shudak at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Monroe County Conservation District Office, Stroudsburg, PA, (570) 629-3600. For further information, contact Mark Carmon of the Department's Northeast Regional Office at (570) 826-2511.

Categorical Exclusions

Southwest Regional Office, Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Location: Borough of Edgewood, 2 Race Street, Edgewood, PA 15218. Edgewood Borough, Allegheny County.

Description: The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Borough proposes to replace existing sewers to prevent sanitary sewer overflows. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Location: Borough of Ambridge Municipal Authority, 600 Eleventh Street, Ambridge, PA 15003. Ambridge Borough, Beaver County.

Description: PENNVEST is intended to be the funding source for this project. The Authority proposes treatment plant improvements to reduce bypassing of untreated sewage. The Department's review of the project and the information received has not identified any significant,

adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Location: Youngwood Borough Authority, 17 South Sixth Street, Youngwood, PA 15697. Youngwood Borough, Westmoreland County.

Description: PENNVEST is intended to be the funding source for this project. The Authority proposes to rehabilitate existing sewers to prevent sewer overflows. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Location: Leechburg Borough, 260 Market Street, Leechburg, PA 15656. Leechburg Borough, Armstrong County.

Description: PENNVEST is intended to be the funding source for this project. The Borough proposes a sewer separation project to eliminate a combined sewer overflow. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Location: Borough of Baldwin, 3334 Churchview Avenue, Pittsburgh, PA 15227. Baldwin Borough, Allegheny County.

Description: PENNVEST is intended to be the funding source for this project. The Borough proposes to rehabilitate existing sewers to prevent basement flooding and sewer overflows. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

BUREAU OF DEEP MINE SAFETY

Request for Variance

The Department, Bureau of Deep Mine Safety (Bureau), has received a request for variance from Anita Mining Company. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida, (724) 439-7469 or from the Bureau website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

The Department is publishing a summary of the request to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted by Paul L. Hummel, Acting Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (act) (52 P. S. § 702) provides a mechanism for operators to obtain variances from specific requirements of the Act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 242(c) of the act states that where belt conveyors are installed, main stoppings and regulators shall be arranged as to reduce the quantity of air traveling in the belt conveyor entry to a minimum for effective ventilation and to provide an intake air split as an escapeway from the face are to the main air current.

Summary of the Request: Anita Mining Company requests a variance to use a point carbon monoxide early warning fire detection system and a pressurized intake escapeway entry when utilizing entries in common with the belt conveyor entry at the Ondo Extension Mine.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Fowler Run Watershed

The Department of Environmental Protection (Department) is holding a public meeting on Thursday, December 12, 2002, at 6 p.m. at the Jennings Environmental Education Center in Butler County to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of the 1996 Section 303(d) of the Clean Water Act (act). This meeting will precede the monthly meeting of the Slippery Rock Watershed Coalition.

One stream segment in the Fowler Run Watershed has been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
51125	Fowler Run	3.35

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations (LA) which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation (MCS) to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Barbara Hajel, Licensed Professional Geologist, Knox District Mining Office, P. O. Box 669, Knox, PA 16232, (814) 797-1191, bhajel@state.pa.us. Directions to the Jennings Environmental Education Center meeting place can also be obtained by contacting this address.

The TMDL can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and by clicking "GO." A copy of the TMDL, supporting information and an information sheet can be obtained by contacting Lori Odenthal, Knox Office, Department of Environmental Protection, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

Persons with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should call (814) 797-1191 and ask for the ADA Coordinator to discuss how their needs may be best accommodated. If needed, individuals may use the AT&T Relay Service, (800) 654-5984 (TDD Users) or (800) 654-5988 (voice users) and request that the call be relayed to the ADA Coordinator at (814) 797-1191.

Written comments will be accepted at the previous address and must be postmarked by February 12, 2003. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. on Thursday, December 5, 2002. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Request for Comment and Notice of Public Meeting for the Proposed TMDL for the Beaver Run Watershed

The Department is holding a public meeting on Monday, January 13, 2003, at 6 p.m. at the Jefferson County Conservation District Office to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of the 1996 Section 303(d) of the act.

One stream segment in the Beaver Run Watershed has been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
48447	Beaver Run	6.36

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are LA which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no

critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Timothy Gillen, Licensed Professional Geologist, Knox District Mining Office, P. O. Box 669, Knox, PA 16232, (814) 797-119, tgillen@state.pa.us. Directions to the Jennings Environmental Education Center meeting place can also be obtained by contacting this address.

The TMDL can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and by clicking "GO." A copy of the TMDL, supporting information and an information sheet can be obtained by contacting Lori Odenthal, Knox Office, Department of Environmental Protection, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

Persons with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should call (814) 797-1191 and ask for the ADA Coordinator to discuss how their needs may be best accommodated. If needed, individuals may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed to the ADA Coordinator at (814) 797-1191.

Written comments will be accepted at the previous address and must be postmarked by February 12, 2003. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. on Thursday, December 5, 2002. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Public Meeting and Request for Comment for the TMDL for the Anderson Creek Watershed in Clearfield County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Anderson Creek Watershed in Clearfield County. The meeting will be held on Thursday, January 9, 2003, at 7:30 p.m. at the Pike Township Municipal Building outside of Curwensville, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

The proposed TMDL for the Anderson Creek Watershed was established in accordance with the requirements of section 303(d) of the act. Twenty stream segments in the Anderson Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to high levels of metals and low pH. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26657	Anderson Creek	10.32
26658	Anderson Creek, UNT	2.12
26680	Anderson Creek, UNT	1.28

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>	<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26681	Anderson Creek, UNT	0.85	26688	Little Anderson Creek, UNT	0.59
26682	Anderson Creek, UNT	0.86	26691	Little Anderson Creek, UNT	0.37
26660	Bilger Run	1.08	26692	Little Anderson Creek, UNT	0.73
26659	Kratzer Run	6.37	26693	Little Anderson Creek, UNT	0.67
26665	Kratzer Run, UNT	1.14	26694	Little Anderson Creek, UNT	1.18
26670	Kratzer Run, UNT	1.02	26695	Little Anderson Creek, UNT	1.19
26671	Kratzer Run, UNT	1.33	26689	Rock Run	3.67
26672	Kratzer Run, UNT	0.61	26690	Rock Run, UNT	0.57
26687	Little Anderson Creek	6.57			

The proposed plan provides calculations of the stream's total capacity to accept metals (iron, manganese and aluminum) and acidity (used as a surrogate for pH) and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Duration</i>	<i>Total Recoverable/Dissolved</i>
Iron	1.50	1 day average	Total Recoverable
	0.3	Maximum	Dissolved
Manganese	1.00	Maximum	Total Recoverable
Aluminum	0.75	1 hour	Total Recoverable
pH*	6—9	At all times	N/A

*According to research conducted by the Department, at pH = 6.0 the net alkalinity of a stream has been found to be zero. Therefore, the water quality standard for pH will vary based on in-stream alkalinity at that site with a minimum net alkalinity of zero being maintained. In the case of freestone streams with little or no buffering capacity, the TMDL endpoint for pH will be the alkalinity contained in natural background water quality.

Reference: Coal Mine Drainage Prediction and Pollution Prevention in Pennsylvania. 1998. Chapter 1: Geochemistry of Coal Mine Drainage. Figure 1.2 Chemical data for water samples collected from 794 surface mine discharges in Pennsylvania, Graph C: Net Alkalinity vs. pH, p. 1.5.

The primary pollutant for the watershed is abandoned mine workings. The downstream portion of the Anderson Creek Watershed was mined heavily for bituminous coal in the late 19th and early 20th centuries. The effects of this mining are still present. All of the allocations made in the TMDL are LA that are made to nonpoint sources of pollution.

The TMDL was developed using mass balance modeling techniques coupled with MCS to determine the long-term daily average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria was exceeded, the Department used the average flow to express the loading values in the TMDL. All analyses were started at the headwaters of each stream segment and a mass balance of pollutant concentration was conducted moving downstream accounting for all sources of pollutants. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected from 1972 to 2000 was the basis of information used to establish the proposed TMDL for the Anderson Creek Watershed. Data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Anderson Creek Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Pike Township Municipal Building meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDL for the Anderson Creek Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Chartiers Creek Watershed in Washington and Allegheny Counties

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Chartiers Creek Watershed in Washington and Allegheny Counties. The meeting will be held on Wednesday, January 15, 2003, at 6:30 p.m. at the Chartiers Valley High School, Bridgeville, PA. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2938, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for this watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Chartiers Creek Watershed was established in accordance with the requirements of section 303(d) of the act. Twenty nine stream segments in the Chartiers Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals.

The listed streams and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
37086	Allison Hollow	1.76
37039	Brush Run	2.09
36786	Cambells Run	2.0
36787	UNT Cambells Run	0.8
36777	Chartiers Creek	9.61
37043	Chartiers Run	13.03
36858	Coal Run	0.8
36832	Dolphin Run	2.21
36833	Fishing Run	3.47
33001	Cross Creek	0.6
63300	Half Crown Run	1.1
36943	Little Chartiers Creek	12.54
36827	Millers Run	15.76
63294	North Branch Robinson Run	6.0
63295	North Branch Robinson Run UNT	4.2
36823	Thoms Run	4.32

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th to mid 20th centuries. The effects of this mining are still present. All of the allocations made in the TMDL are LA, which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 10 years was the basis of information used in establishing the TMDL for the Chartiers Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

In addition to the acid mine drainage listings, TMDLs were completed for Brush Run, an unnamed tributary to Brush Run and Plum Run. The listing of these waterbodies was due to use impairments caused by excessive nutrients and suspended solids from urban runoff and storm sewers. Agricultural land uses have also been identified as a source of impairment in the Plum Run Watershed.

There are currently no State or Federal instream numerical water quality criteria for nutrients and suspended solids. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. These TMDLs set allowable loadings of

sediment and phosphorous in the Brush Run, unnamed tributary to Brush Run and Plum Run Watersheds. Phosphorous was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in these watersheds. The sediment and phosphorous loadings were allocated among all of the 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 listed segments and the miles degraded.

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
36873	Brush Run	37.11
36938	Unnamed tributary to Brush Run	0.52
37044	Plum Run	6.32

The Department will accept written comments on the proposed TMDL for the Chartiers Creek Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in finalizing the TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnel@state.pa.us.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Chartiers Valley High School meeting place, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDL can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2938 or the Pennsylvania AT&T Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Cooks Run Watershed and Milligan Run Watershed in Cameron and Clinton Counties

The Department will hold a public meeting during the monthly meeting of the Allegheny Mountain Chapter, Trout Unlimited to discuss and accept comments on the proposed TMDL for the Cooks Run Watershed and Milligan Run Watershed in Cameron and Clinton Counties. The meeting will be held on January 8, 2003, at 7:30 p.m. at the First Christian Church in Big Run, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for the Cooks Run Watershed and the Milligan Run Watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Cooks Run Watershed and the Milligan Run Watershed were established in accordance with the requirements of section 303(d) of the act. Five stream segments in the Cooks Run Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
23988	Cooks Run	3.33
23994	Rock Run	1.2
23992	Camp Run	2.0
23989	Crowley Hollow	3.14
23993	Cow Hole	0.79

Two stream segments in the Milligan Run Watershed have been identified as impaired on the 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
23986	Milligan Run	2.21
23987	Milligan Run	0.26

The proposed plan for the Cooks Run Watershed and the Milligan Run Watershed provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	30-day average
	0.3	Total Recoverable Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the Cooks Run Watershed and the Milligan Run Watershed is abandoned mine workings. These watersheds were heavily mined for coal in the late 19th to mid 20th centuries. The effects of this mining are still present in these watersheds. All of the allocations made in the TMDLs are LA, which are made to nonpoint sources of pollution.

The TMDLs for the Cooks Run Watershed and the Milligan Run Watershed were developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDLs. The proposed TMDLs for the Cooks Run Watershed and the Milligan Run Watershed set allowable loading rates for metals and acidity at specified points in the watersheds. Field data collected from 1983—2001 was used as the basis of information to establish the proposed TMDL for the Cooks Run Watershed, while field data collected from 2000-2001 were used to establish the proposed TMDL for the Milligan Run Watershed. Data and all supporting information used to develop the proposed TMDLs for the Cooks Run Watershed and the Milligan Run Watershed are available from the Department.

The Department will accept written comments on the proposed TMDLs for the Cooks Run Watershed and Milligan Run Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDLs and associated information or to obtain directions to the First Christian Church meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDLs for the Cooks Run Watershed and the Milligan Run Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Dutch Fork Lake in Washington County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for Dutch Fork Lake in Washington County. The meeting will be held on Tuesday, January 14, 2003, at 6:30 p.m. at the Buffalo Township Building, 400 Buffalo Center Lane, Washington, PA. Individuals who plan to make a presentation at the public meeting should contact Joe Boylan, (412) 442-4049, jboylan@state.pa.us by 4 p.m. Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for Dutch Fork Lake, which will be submitted to the EPA for approval.

The proposed TMDL for Dutch Fork Lake was established in accordance with the section 303(d) of the act. Dutch Fork Lake was listed on the Commonwealth's 1996 and 1998 Section 303(d) list because of impairments of designated uses due to excess nutrient (Phosphorus) loads to the lake.

The Department currently does not have water quality criteria for nutrients. Therefore, the Department established a water quality objective for nutrients. The water quality objective for phosphorus was established using the Trophic Status Index (TSI) rating system established by Carlson. The water quality objective was set with the expectation that it could be reasonably achieved.

The Department will accept written comments on the proposed TMDL for Dutch Fork Lake. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Joseph Boylan, Water Management Program, Southwest Regional Office, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Buffalo Township Building meeting place, contact Joseph Boylan at the previous phone number or e-mail address.

The proposed TMDL for Dutch Fork Lake can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (570) 826-2310 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Glanraffan Creek Watershed in Montgomery County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the

Glanraffan Creek Watershed in Montgomery County. The meeting will be held on Friday, January 17, 2003, at 2 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA. Individuals who plan to make a presentation at the public meeting should contact Mike Boyer, (610) 832-6072, miboyer@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for this watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Glanraffan Creek Watershed was established in accordance with the requirements of section 303(d) of the act. Glanraffan Creek has been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to high concentrations of metals and suspended solids. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
901	Glanraffan Creek	0.46

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron and manganese) and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable

The primary pollutant source for the watershed is leachate from an abandoned landfill. The landfill was in operation until the middle of the century and was closed down before any regulations were enacted. The effects of this are still present. All of the allocations made in the TMDL are LA, which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals at specified points in the watershed. Field data collected over the last few months was used to establish the TMDL for Glanraffan Creek Watershed. Data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Glanraffan Creek Watershed. Comments will not be accepted through facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Mike

Boyer, Regional Biologist, Department of Environmental Protection, Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

To request a copy of the proposed TMDL for Glanraffan Creek Watershed or to obtain directions to the Department's Southeast Regional Office meeting place, contact Mike Boyer at the previous phone number or e-mail address.

The proposed TMDL for the Glanraffan Creek Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (610) 832-6072 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Greenlane Reservoir, Berks, Lehigh and Montgomery Counties

The Department will hold a public meeting to discuss and accept comments on the proposed TMDLs for the Greenlane Reservoir in Berks, Lehigh and Montgomery Counties. The meeting will be held on Tuesday, January 28, 2003, at 1 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA. Individuals who plan to make a presentation at the public meeting should contact Mike Boyer, (610) 832-6072, miboyer@state.pa.us by 4 p.m. Friday, January 17, 2003. The Department will consider all comments in developing the final TMDL for the Greenlane Reservoir, which will be submitted to the EPA for approval.

The proposed TMDL for Greenlane Reservoir was established in accordance with the requirements of section 303(d) of the act. Greenlane Reservoir was listed on Pennsylvania's 1996 Section 303(d) list because of use impairments due to organic enrichment/low dissolved oxygen.

The Department currently does not have water quality criteria for organic enrichment (total phosphorus). Therefore, the Department established lake specific water quality objectives. The water quality objective for phosphorus is established using the Trophic State Classification established by Thomann and Mueller. The Department does have water quality criteria for dissolved oxygen in lakes. However, data analysis indicated that Greenlane Reservoir is not currently impaired due to low dissolved oxygen. Therefore, a TMDL to address low dissolved oxygen is not necessary at this time.

The TMDL sets an allowable total phosphorus load for each significant source to Greenlane Reservoir. The basis of information used to establish the TMDL include the Phase I Clean Lakes Study performed by FX Browne, Inc., TSI Studies performed by the Department and data provided by the Philadelphia Suburban Water Company. The allowable total phosphorus loads are being developed and allocations will be contained in the report.

<i>Waterbody</i>	<i>Listing Date</i>	<i>Acres Affected</i>	<i>Pollutant</i>	<i>Source</i>
Greenlane Reservoir	1996	814	Organic enrichment/low dissolved oxygen	Agriculture

The Department will accept written comments on the proposed TMDL for Greenlane Reservoir. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Mike Boyer, Regional Biologist, Department of Environmental Protection, Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Department's Southeast Regional Office, contact Mike Boyer at the previous phone number or e-mail address.

The proposed TMDL can be accessed through the Department website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Note that attachments and appendices must be requested through paper mail. Persons with a disability who require accommodations to attend this meeting should contact the Department at (610) 83-6072 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Harveys Lake in Luzerne County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for Harveys Lake in Luzerne County. The meeting will be held on

Tuesday, January 14, 2003, at 8 p.m. at the Harveys Lake General Municipal Authority Building, Route 415-Sunset, Harveys Lake, PA 18618. Individuals who plan to make a presentation at the public meeting should contact Raymond Kempa, (570) 826-2310, rkempa@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for Harveys Lake, which will be submitted to the EPA for approval.

The proposed TMDL for Harveys Lake was established in accordance with the requirements of section 303(d) of the act. Harvey's Lake was listed on the Commonwealth's 1998 Section 303(d) list because of impairments of designated uses due to excess nutrient (phosphorus) loads to the lake.

The Department currently does not have water quality criteria for nutrients. Therefore, the Department established a water quality objective for nutrients. The water quality objective for phosphorus was established using the TSI rating system established by Carlson. The water quality objective was set with the expectation that it could be reasonably achieved.

The TMDL sets allowable loading rates for phosphorus for each land use category identified. The basis of information used in establishment of this TMDL is the Phase One Clean Lakes Study completed by Coastal Environmental in 1996.

The following table shows the current loading to the lake and the necessary reductions to meet the TMDL. The loads are expressed in pounds per year.

<i>Parameter</i>	<i>Existing Load (lb/yr)</i>	<i>TMDL Load (lb/yr)</i>	<i>Percent reduction to meet TMDL</i>
Total Phosphorus	1,619	1,471	9

The Department will accept written comments on the proposed TMDL for Harveys Lake. Comments will not be accepted by facsimile or voice mail. Written comment, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Raymond Kempa, P. E., Sanitary Engineer, Water Management Program, Northeast Regional Office, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 17110.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Harveys Lake General Municipal Authority Building, contact Raymond Kempa at the previous phone number or e-mail address.

The proposed TMDL for Harveys Lake can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (570) 826-2310 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Lake Nockamixon in Bucks County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for Lake

Nockamixon in Bucks County. The meeting will be held on Thursday, January 30, 2003, at 1 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA. Individuals who plan to make a presentation at the public meeting should contact Mike Boyer, (610) 832-6072, miboyer@state.pa.us by 4 p.m. on Friday, January 17, 2003. The Department will consider all comments in developing the final TMDL for Lake Nockamixon, which will be submitted to the EPA for approval.

The proposed TMDL for Lake Nockamixon was established in accordance with the requirements of section 303(d) of the act. Lake Nockamixon was listed on the Commonwealth's 1996 Section 303(d) list because of use impairments due to excessive suspended solids and nutrient (phosphorus) loads to the lake.

The Department currently does not have water quality criteria for nutrients or suspended solids. Therefore, the Department established lake specific water quality objectives. The water quality objective for phosphorus is established using the Trophic State Classification established by Thomann and Mueller. The TMDL analysis indicated that Lake Nockamixon is not currently impaired due to suspended solids. Therefore, a TMDL for suspended solids is not necessary at this time.

The TMDL sets an allowable total phosphorus load for each significant source to Lake Nockamixon. The basis of

information used to establish the TMDL include the Phase I and II Clean Lakes Study performed by FX Browne, Inc., TSI Studies performed by the Department and Lake Nockamixon Water Quality Summary Reports performed by FX Browne for the Bucks County Conservation District.

The following table shows the current loading to the lake and the necessary reduction to meet the TMDL. The loads are expressed in pounds per year.

<i>Parameter</i>	<i>Existing Load (lb/yr)</i>	<i>TMDL Load (lb/yr)</i>	<i>Percent reduction to meet TMDL</i>
Total Phosphorus	13,431.4	10,354.9	22.9

The Department will accept written comments on the proposed TMDL for Lake Nockamixon. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Mike Boyer, Regional Biologist, Department of Environmental Protection, Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Department's Southeast Regional Office meeting place, contact Mike Boyer at the previous phone number or e-mail address.

The proposed TMDL for Lake Nockamixon can be accessed through the Department website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Note that attachments and appendices must be requested through paper mail. Persons with a disability who require accommodations to attend this meeting should contact the Department at (610) 832-6072 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Mahanoy Creek Watershed in Columbia, Northumberland and Schuylkill Counties

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Mahanoy Creek Watershed in Columbia, Northumberland and Schuylkill Counties. The meeting will be held on Thursday, January 16, 2003, at 7 p.m. at the Girardville Borough Hall in Girardville, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for this watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Mahanoy Creek Watershed was established in accordance with the requirements of section 303(d) of the act. Four stream segments in the Mahanoy Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. One stream segment has been identified as impaired in the 2002 305(b) report due to high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
17556	Mahanoy Creek	53.66
17683	Shenandoah Creek	4.66
17670	Crab Run	1.3

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
17639	Zerbe Run	5.8
17673	UNT Mahanoy Creek	2.3

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	30-Day Average
	0.3	Total Recoverable Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th to mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are LA, which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected from 1985—2002 was used to establish the proposed TMDL for the Mahanoy Creek Watershed. Data and all supporting information used to develop the proposed TMDL for the Mahanoy Creek Watershed is available from the Department.

The Department will accept written comments on the proposed TMDL for the Mahanoy Creek Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Girardville Borough Hall meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDL for the Mahanoy Creek Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link

field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Montgomery Creek Watershed in Clearfield County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Montgomery Creek Watershed in Clearfield County. The meeting will be held on Tuesday, January 14, 2003, at 6:30 p.m. at the Hyde Fire Company Social Hall in Hyde, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m. Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for this watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Montgomery Creek Watershed was established in accordance with the requirements of section 303(d) of the act. Two stream segments in the Montgomery Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals, as well as three unlisted segments. The segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26623	Montgomery Creek	3.12
26624	Montgomery Creek, UNT	0.78
26626	Montgomery Creek, UNT	1.35
26627	Montgomery Creek, UNT	0.49
26628	Montgomery Creek, UNT	1.06

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	30-Day Average Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th and 20th centuries. The effects of this mining are still present. Most of the allocations made in the TMDL are LA that are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 10 years was used to establish the TMDL for Montgomery Creek.

Data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Montgomery Creek Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Hyde Fire Company Social Hall meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDL for the Montgomery Creek Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the Proposed TMDLs Developed for the Neshaminy Creek, Little Neshaminy Creek, Park Creek, Cooks Run, West Branch Neshaminy Branch, an Unnamed Tributary to West Branch Neshaminy Branch and Two Unnamed Tributaries to Neshaminy Creek in Bucks and Montgomery Counties

The Department will hold a public meeting to discuss and accept comments on proposed TMDLs for the Neshaminy Creek Watershed in Bucks and Montgomery Counties. The meeting will be held on Monday, February 10, 2003, at 1 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2938, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 31, 2003. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA.

These TMDLs were established in accordance with the requirements of section 303(d) of the act. The Commonwealth's 1996 and 1998 Section 303(d) lists included stream segments in all of these watersheds. The listings of these waterbodies were due to use impairments caused by excessive nutrients and organic enrichment and low dissolved oxygen from municipal point sources. Agriculture has been identified as a source of nutrient impairment in one of the unnamed tributaries to Neshaminy Creek and suspended solids has been identified as a cause of impairment in the other unnamed tributary to Neshaminy Creek. Urban runoff has also been identified as a source of impairment in the Cooks Run Watershed.

There are currently no State or Federal instream numerical water quality criteria for nutrients and suspended solids. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. These TMDLs set allowable loadings of sediment and phosphorous in the Neshaminy Creek Watershed. Phosphorous was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in these watersheds. The sediment and phosphorous loadings were allocated among all of the land use categories present in the watersheds. Data used in estab-

lishing these TMDLs was generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University. The following table shows the listed streams and miles degraded.

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
2776	Cooks Run	4.6
2543	Core Creek	15.8
2638	Little Neshaminy Creek	37.9
2741	Mill Creek	8.7
2484	Neshaminy Creek	84.52
2868	West Branch Neshaminy Creek	29.5
2789	North Branch Neshaminy Creek	3.3
2490	Unnamed tributary Neshaminy Creek	0.5
2701	Unnamed tributary Neshaminy Creek	0.58
2889	Unnamed tributary West Branch Neshaminy Branch	0.2
2661	Park Creek	9.3
2790	Pine Run	8.4

The Department will accept written comments on the proposed TMDLs. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnel@state.pa.us.

To request a copy of the proposed TMDLs and associated information or to obtain directions to the Department Southeast Regional Office meeting place, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDLs can be accessed through the Department website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2938 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the Proposed TMDLs Developed for a Segment of Oil Creek in York County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDLs developed for a segment of Oil Creek in York County. The meeting will be held on Wednesday, January 8, 2003, at 7 p.m. in the Penn Township Municipal Building, 20 Wayne Avenue, Hanover, PA. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2951, lmcdonnel@state.pa.us by 4 p.m. on Friday, December 27, 2002. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

The TMDL was established in accordance with the requirements of section 303(d) of the act. The Commonwealth's 1996 and 1998 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by sediment as a result of stream bank erosion.

There are currently no State or Federal instream numerical water quality criteria for sediment. Therefore,

the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the Oil Creek watershed. The sediment loadings were allocated among all land use categories present in the watersheds. Data used in establishing this TMDL were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current sediment loading for the segment of Oil Creek addressed in this TMDL. The overall load reduction necessary to meet the TMDL is also identified.

<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>Percent Reduction</i>
Sediment	1,549,618	1,039,943	33%

The Department will accept written comments on the proposed TMDL. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnel@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Penn Township Municipal Building meeting place, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDL can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2951 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Oven Run Watershed in Somerset County

The Department will hold a public meeting to discuss and accept comments on a proposed TMDL for the Oven Run Watershed in Somerset County. The meeting will be held on Thursday, January 23, 2003, at 6:30 p.m. at the Hooversville Community Building in Hooversville, PA. Individuals who plan to make a presentation at the public meeting should contact Tim Kania, Cambria District Mining Office, (814) 472-1900, tkania@state.pa.us by 4 p.m. on Wednesday, January 15, 2003. The Department will consider all comments in developing the final TMDL for the Oven Run Watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Oven Run Watershed was established in accordance with the requirements of section 303(d) of the act. One stream segment in the Oven Run Watershed has been identified as impaired on the 1996, 1998 and draft 2002 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
45621	Oven Run	1.86

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th through 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are LA, which are made to nonpoint sources of pollution.

The proposed TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Oven Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 10 years was used to establish the proposed TMDL for the Oven Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Oven Run Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Tim Kania, Permits Chief, Department of Environmental Protection, Cambria District Mining Office, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Hooversville Community Building meeting place, contact Tim Kania at the previous phone number or e-mail address.

The proposed TMDL for the Oven Run Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Pinchot Lake in York County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for Pinchot Lake in York County. The meeting will be held on Thursday, January 23, 2003, at 7 p.m. at the Warrington

Township Building, 3345 Rosstown Road, Wellsville, PA 17365. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2938, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 10, 2003. The Department will consider all comments in developing the final TMDL for Pinchot Lake, which will be submitted to the EPA for approval.

The proposed TMDL for Pinchot Lake was established in accordance with the requirements of section 303(d) of the act. Pinchot Lake was listed on the Commonwealth's 1996 and 1998 Section 303(d) lists because of impairments of designated uses due to organic enrichment/low dissolved oxygen.

The Department utilized a combination of watershed and lake models in developing the TMDL. The proposed TMDL sets the allowable loading of phosphorus in the Pinchot Lake watershed. Phosphorus was chosen as the TMDL endpoint for organic enrichment/low dissolved oxygen, due to it being the limiting nutrient in the lake. The phosphorus loading was allocated among all land use categories present in the watershed. Data used in establishing these TMDLs was generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University and the BATHTUB lake model developed by USACE.

The Department will accept written comments on the proposed TMDL for Pinchot Lake. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnell@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Warrington Township Building, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDL for Pinchot Lake can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (570) 826-2310 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Rock Run Watershed in Cambria County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Rock Run Watershed in Cambria County. The meeting will be held on Wednesday, January 15, 2003, at 7 p.m. at the Patton Ambulance Association Building in Patton, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m., Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for this watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Rock Run Watershed was established in accordance with the requirements of section 303(d) of the act. One stream segment in the Rock Run Watershed has been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) lists due to high

levels of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26872	Rock Run	3

The proposed plan provides calculations of the stream's total capacity to accept metals (iron, manganese and aluminum) and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Duration</i>	<i>Total Recoverable/Dissolved</i>
Iron	1.50	1 Day Average Maximum	Total Recoverable Dissolved
	0.3		
Manganese	1.00	Maximum	Total Recoverable
Aluminum	0.75	1 Hour	Total Recoverable
pH*	6—9	At all times	N/A

*According to research conducted by the Department, at pH = 6.0 the net alkalinity of a stream has been found to be zero. Therefore, the water quality standard for pH will vary based on in-stream alkalinity at that site with a minimum net alkalinity of zero being maintained. In the case of freestone streams with little or no buffering capacity, the TMDL endpoint for pH will be the alkalinity contained in natural background water quality.

The primary pollutant for the watershed is abandoned mine workings. The downstream portion of the Rock Run Watershed was mined heavily for bituminous coal in the late 19th and early 20th centuries. Strip mining had continued in the watershed until the year 2000. The effects of this mining are still present. There are two types of allocations made in the TMDL: load allocations that are made to nonpoint sources of pollution and wasteload allocations that are associated with the active permits in the watershed.

The TMDL was developed using mass balance modeling techniques coupled with MCS to determine the long-term daily average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. All analyses were started at the headwaters of each stream segment and a mass balance of pollutant concentration was conducted moving downstream accounting for all sources of pollutants. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected from 1980 to 2002 was used to establish the TMDL for the Rock Run Watershed. Data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Rock Run Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Patton Ambulance Association Building meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDL for the Rock Run Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link

field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed in Bedford County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed in Bedford County. The meeting will be held on Monday, January 27, 2003, at 6:30 p.m. at the Sixmile Run Fire Hall in Broad Top Township, Bedford County. Individuals who plan to make a presentation at the public meeting should contact Tim Kania, (814) 342-8200, tkania@state.pa.us by 4 p.m. on Friday, January 17, 2003. The Department will consider all comments in developing the final TMDL for these watersheds, which will be submitted to the EPA for approval.

The proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed were established in accordance with the requirements of section 303(d) of the act. One stream segment in the Sixmile Run Watershed has been identified as impaired on the 1996, 1998 and draft 2002 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
13791	Sixmile Run	6.16

Two stream segments in the Longs Run/Sandy Run Watershed have been identified as impaired on the 1996, 1998 and draft 2002 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
14031	Longs Run	5.26
14030	Sandy Run	6.26

The proposed plan for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed is abandoned mine workings. These watersheds were heavily mined for coal throughout the 19th and late 20th centuries. The effects of this mining are still present in these watersheds. All of the allocations made in the TMDLs are LA, which are made to nonpoint sources of pollution.

The TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed were developed using a MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDLs. The proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed set allowable loading rates for metals and acidity at specified points in the watersheds. Field data collected over the past 2 years was used to establish the proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed. Data and all supporting information used to develop the proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed are available from the Department.

The Department will accept written comments on the proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDLs, must be postmarked by February 12, 2003, and sent to Tim Kania, Permits Chief, Department of Environmental Protection, Cambria District Mining

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

To request a copy of the proposed TMDLs and associated information sheets or to obtain directions to the Sixmile Run Fire Hall meeting place, contact Tim Kania at the previous phone number or e-mail address.

The proposed TMDLs for the Sixmile Run Watershed and the Longs Run/Sandy Run Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2938 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for South Branch Codorus Creek in York County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the South Branch Codorus Creek in York County. The meeting will be held on Wednesday, January 29, 2003, at 7 p.m. in the Nature Center, Nixon County Park, 5922 Nixon Drive, York, PA. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2951, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 17, 2003. The Department will consider all comments in developing the final TMDL for the South Branch Codorus Creek, which will be submitted to the EPA for approval.

The proposed TMDL developed for the South Branch Codorus Creek in York County was established in accordance with the requirements of section 303(d) of the act. The Commonwealth's 1996 and 1998 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by nutrients and siltation as a result of agricultural and urban runoff.

There currently are no State or Federal instream numerical water quality criteria for nutrients and sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of phosphorus and sediment in the South Branch Codorus Creek watershed. Phosphorus was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in the watershed. The phosphorus and sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing these TMDLs were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current phosphorus and sediment loadings for two subbasins within the watershed. Overall load reductions necessary to meet the TMDLs are also identified.

<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>Percent Reduction</i>
Subbasin 1	Phosphorus	33,852	16,367	52%
	Sediment	29,141,794	13,773,460	53%
Subbasin 2	Phosphorus	24,269	13,493	44%
	Sediment	17,753,092	11,355,391	36%

The Department will accept written comments on the proposed TMDL for South Branch Codorus Creek. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnel@state.pa.us.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Nature Center at Nixon County Park, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDL for the South Branch Codorus Creek can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2951 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comments for the TMDL for the Tioga River Watershed in Tioga and Bradford Counties

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Tioga River Watershed in Tioga and Bradford Counties. The meeting will be held on Tuesday, January 28, 2003, at 7 p.m. at the Hillside Rod and Gun Club in Blossburg, PA. Individuals who plan to make a presentation at the public meeting should contact Chuck Yingling, (717) 783-2300, cyingling@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL for the Tioga River Watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Tioga River Watershed was established in accordance with the requirements of section 303(d) of the act. Three stream segments in the Tioga River Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) lists due to depressed pH and/or high concentrations of metals, as well as an additional 14 segments. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
30990	Tioga River	19.71
31442	Bear Creek	1.14
31443	Johnson Creek	8.0
31476	Coal Creek	2.36
31477	Coal Creek, UNT	0.36
31480	Morris Run	2.27
31481	Morris Run, UNT	0.56
31483	Morris Run, UNT	0.67
31484	Morris Run, UNT	1.4
31485	Morris Run, UNT	0.59
31486	Morris Run, UNT	0.36
31487	Morris Run, UNT	0.35
31488	Morris Run, UNT	0.2
31506	Fall Brook	6.83
31519	Fall Brook, UNT	1.15
31521	Fall Brook, UNT	0.98
31522	Fall Brook, UNT	0.91
31523	Fall Brook, UNT	0.15
31534	Fellows Creek	3.38

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	30-Day Average Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0–9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal from the 19th to the late 20th centuries. The effects of this mining are still present. All of the allocations made in the TMDL are LA that are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 10 years was the basis of information used in the establishment of this TMDL for the Tioga River Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Tioga River Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Chuck Yingling, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105-8555.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Hillside Rod and Gun Club meeting place, contact Chuck Yingling at the previous phone number or e-mail address.

The proposed TMDL for Tioga River Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2300 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL Developed for the Unnamed Tributary to Schuylkill River in Chester County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the unnamed tributary to Schuylkill River in Chester County. The meeting will be held on Monday, February 3, 2003, at 1 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA. Individuals who plan to make a presentation at the public

meeting should contact Lee McDonnell, (717) 783-2938, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 24, 2003. The Department will consider all comments in developing the final TMDL for this tributary to the Schuylkill River, which will be submitted to the EPA for approval.

This TMDL was established in accordance with the requirements of section 303(d) of the act. The Commonwealth's 1996 and 1998 Section 303(d) lists included the stream segment. The listing of this waterbody was due to use impairments caused by excessive nutrients from agricultural land uses.

There are currently no State or Federal instream numerical water quality criteria for nutrients and sediments. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. These TMDLs set allowable loadings of sediment and phosphorous in the unnamed tributary to the Schuylkill River watershed. Phosphorous was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in these watersheds. The sediment and phosphorous loadings were allocated among all of the land use categories present in the watershed. Data used in establishing this TMDL was generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University. The following table shows the listed segment and miles degraded.

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
1622	Unnamed tributary to Schuylkill River	2.6

The Department will accept written comments on the proposed TMDL. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnell@state.pa.us.

To request a copy of the proposed TMDL and associated information or to obtain directions to the Department's Southeast Regional Office, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDL can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-2938 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the Proposed TMDLs Developed for an Unnamed Tributary to Swatara Creek in Lebanon County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for an unnamed tributary to Swatara Creek in Lebanon County. The meeting will be held on Monday, January 13, 2003, at 7 p.m. in the East Hanover Township Building, Lebanon County. Individuals who plan to make a presentation at the public meeting should contact Lee McDonnell, (717) 783-2951, lmcdonnell@state.pa.us by 4 p.m. on Friday, January 3, 2003. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

The proposed TMDLs developed for an unnamed tributary to Swatara Creek in Lebanon County were established in accordance with the requirements of section 303(d) of the act. The Commonwealth's 1996 and 1998 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by organic enrichment and low dissolved oxygen as a result of agricultural land use practices.

There are currently no State or Federal instream numerical water quality criteria for nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of phosphorus in the unnamed tributary to the Swatara Creek watershed. Phosphorus was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in these watersheds. The phosphorus loadings were allocated among all land use categories present in the watersheds. Data used in establishing these TMDLs were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current phosphorus loadings for two sub-basins within the watershed. Overall load reductions necessary to meet the TMDLs are also identified.

<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>Percent Reduction</i>
Subbasin 1	Phosphorus	1,865	1,575	16%
Subbasin 2	Phosphorus	1,816	1,218	33%

The Department will accept written comments on the proposed TMDL. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Lee A. McDonnell, P. E., Chief, TMDL and Modeling Section, Division of Water Quality Assessment and Standards, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105, (717) 783-2938, lmcdonnell@state.pa.us.

To request a copy of the proposed TMDLs and associated information sheets or to obtain directions to the East Hanover Township Building meeting place, contact Lee McDonnell at the previous phone number or e-mail address.

The proposed TMDLs can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to

attend this meeting should contact the Department at (717) 783-2951 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Public Meeting and Request for Comment for the TMDL for Upper Schuylkill River Watershed in Schuylkill County

The Department will hold a public meeting to discuss and accept comments on the proposed TMDL for the Upper Schuylkill River Watershed in Schuylkill County. The meeting will be held on Wednesday, January 22, 2003, at 6 p.m. at the Tamaqua Community Center in Tamaqua, PA. Individuals who plan to make a presentation at the public meeting should contact Michael Hill, (570) 621-3118, mihill@state.pa.us by 4 p.m. on Friday, January 17, 2003. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

The proposed TMDL for the Uppers Schuylkill River Watershed was established in accordance with the requirements of section 303(d) of the act. Panther and Wabash Creeks in the Upper Schuylkill River Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) lists due to high concentrations of metals. The listed streams and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
02252	Panther Creek	6.47
02251	Wabash Creek	2.03

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.1 of the 96 hour LC 50 0.75	Total Recoverable
Iron	1.5 0.3	Total Recoverable Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. The majority of the watersheds had been affected by underground and surface mining activities dating back at least 200 years. The effects of this are still present. All of the allocations made in the TMDL are LA, which are made to nonpoint sources of pollution.

The proposed TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 10 years was used to establish the proposed TMDL for the Upper Schuylkill River Watershed. Data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Upper Schuylkill River Watershed. Comments will not be accepted by facsimile or voice mail. Written comments, which will be considered by the Department in developing the final TMDL, must be postmarked by February 12, 2003, and sent to Michael Hill, Geologic Specialist, Department of Environmental Protection, Pottsville District Mining Office, 5 West Laurel Blvd., Pottsville, PA 17901.

To request a copy of the proposed TMDL for the Upper Schuylkill River Watershed or to obtain directions to the Tamaqua Community Center meeting place, contact Michael Hill at the previous phone number or e-mail address.

The proposed TMDL for the Upper Schuylkill River Watershed can be accessed through the Department's website (<http://www.dep.state.pa.us>) by typing "TMDL" in the direct link field and clicking "GO." Persons with a disability who require accommodations to attend this meeting should contact the Department at (570) 621-3118 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 02-2235. Filed for public inspection December 13, 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) 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.

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 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

DEP ID: 562-4180-101. Title: Noncoal Civil Penalty Assessments. Description: This document addresses the prescription/methodology used in determining civil penalties for orders issued for noncoal mining operations. Comment Period Ends: January 13, 2003. Anticipated

Effective Date: January 27, 2003. Contact: William Allen at (717) 787-5103 or e-mail wallen@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2236. Filed for public inspection December 13, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Allegheny General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Allegheny General Hospital has requested an exception to the requirements of 28 Pa. Code §§ 107.64 and 117.30 (relating to administration of drugs; and emergency paramedic services).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2237. Filed for public inspection December 13, 2002, 9:00 a.m.]

Application of Alle-Kiski Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Alle-Kiski Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.3(g)(4) (relating to notification).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2238. Filed for public inspection December 13, 2002, 9:00 a.m.]

Application of Bariatric Care Centers for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Bariatric Care Centers has requested an exception to the requirements of 28 Pa. Code §§ 107.25(b)(8) and 107.32 (relating to medical staff executive committee; and meetings and attendance).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2239. Filed for public inspection December 13, 2002, 9:00 a.m.]

Application of Brownsville General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Brownsville General Hospital has requested an exception to the requirements of 28 Pa. Code § 109.2 (relating to director of nursing services).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute

and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2240. Filed for public inspection December 13, 2002, 9:00 a.m.]

Application of Central Montgomery Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Central Montgomery Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 10.6.A (relating to inpatient and residents dining, recreation and day spaces).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be

reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2241. Filed for public inspection December 13, 2002, 9:00 a.m.]

Application of UPMC Braddock for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Braddock has requested an exception to the requirements of 28 Pa. Code § 51.3(g)(4) (relating to notification).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2242. Filed for public inspection December 13, 2002, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Fee Increase for Home Health Agency Services

The Department of Public Welfare (Department) announces that the fees for the following home health agency services, provided in accordance with 55 Pa. Code Chapter 1249 (relating to home health agency services), are increased, effective with dates of service on and after January 1, 2003.

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>Increased Fee Effective 1/1/03</i>
W0520	Physical therapy (days 1-28) by a Physical Therapist	\$67.00	\$77.00
W0521	Physical therapy (29th day and beyond) by a Physical Therapist	\$67.00	\$77.00
W0522	Occupational therapy (days 1-28) by an Occupational Therapist	\$67.00	\$77.00

<i>Procedure Code</i>	<i>Description</i>	<i>Current Fee</i>	<i>Increased Fee Effective 1/1/03</i>
W0523	Occupational therapy (29th day and beyond) by an Occupational Therapist	\$67.00	\$77.00
W0524	Speech therapy (days 1-28) by a Speech Therapist	\$67.00	\$77.00
W0526	Audiological therapy (days 1-28) by an Audiologist	\$67.00	\$77.00
W0527	Audiological therapy (29th day and beyond) by an Audiologist	\$67.00	\$77.00
W0529	Home Health Agency visit to patient's home (days 1-28) by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0530	Home Health Agency visit to patient's home (29th day and beyond) by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0531	Home Health Agency visit to patient's home for prenatal care by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0532	Home Health Agency visit to patient's home to provide assistance in planning for hospital or home delivery by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0533	Home Health Agency visit to patient's home for postpartum instruction and demonstration by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0534	Home Health Agency visit to patient's home for the purpose of giving instructions on special procedures, including the administration of medications and the use of prescribed appliances and equipment by a Registered Nurse/Licensed Practical Nurse	\$67.00	\$77.00
W0938	Home Health Agency visit to patient's home (days 1-28) by a Home Health Aide	\$37.00	\$40.00
W0939	Home Health Agency visit to patient's home (29th day and beyond) by a Home Health Aide	\$37.00	\$40.00
W0965	Speech therapy (29th day and beyond) by a Speech Therapist	\$67.00	\$77.00

The Department will issue a Medical Assistance Bulletin to home health agency service providers before the effective date of the fee increase.

Fiscal Impact

The fiscal impact of these fee increases is estimated at \$1.375 million (\$0.668 million in State funds) for Fiscal Year 2002-2003. The estimated cost for Fiscal Year 2003-2004 is \$3.2 million (\$1.563 million in State funds).

Contact Person

Interested persons are invited to submit written comments to this notice within 30 days of this publication. Comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be considered for subsequent fee schedule revisions.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-341. (1) General Fund;

	Outpatient	Capitation
(2) Implementing Year 2002-03 is	\$112,000	\$556,000
(3) 1st Succeeding Year 2003-04 is	\$333,000	\$1,230,000
2nd Succeeding Year 2004-05 is	\$334,000	\$1,353,000
3rd Succeeding Year 2005-06 is	\$334,000	\$1,488,000
4th Succeeding Year 2006-07 is	\$334,000	\$1,637,000
5th Succeeding Year 2007-08 is	\$334,000	\$1,801,000
	Outpatient	Capitation
(4) 2001-02 Program—	\$649,055,000	\$2,037,376,000
2000-01 Program—	\$668,586,000	\$1,487,944,000
1999-00 Program—	\$622,669,000	\$1,384,763,000

(7) MA—Outpatient and MA—Capitation; (8) recommends adoption. The additional costs have been included in the current budget.

DEPARTMENT OF REVENUE

Interest Rate

Under the provisions of section 806 of the Fiscal Code (72 P. S. § 806), the Secretary of Revenue announces that, for the year commencing January 1, 2003, all unpaid taxes which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 5% per annum. This rate will remain constant until December 31, 2003. Under the provisions of section 6621(a)(2) of the Internal Revenue Code, this rate has been established by the Secretary of the Treasury of the United States, to be effective January 1, 2003. This rate will be codified under 61 Pa. Code § 4.2(a) (relating to rate of interest).

Although the Tax Reform Act of 1986 amended section 6621 of the Internal Revenue Code, by requiring that the Secretary of the Treasury of the United States establish quarterly rates of interest to become effective for Federal purposes on the first month of each calendar quarter, these amendments do not affect Commonwealth law. The Fiscal Code requires that the interest rate be established effective January 1 of each calendar year without regard to any change in the Federal interest rate during the calendar year.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2244. Filed for public inspection December 13, 2002, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Availability of Local Real Estate Tax Reimbursement Grants for Taxes Paid in 2002

The Department of Transportation (Department), Bureau of Aviation, is accepting applications for tax reimbursement grants from qualifying owners of public airports who have paid local real estate taxes for the calendar year ending December 31, 2002.

Each year, under 74 Pa.C.S. §§ 6121—6124 (relating to reimbursement of local real estate taxes for public airports) and 67 Pa. Code Chapter 477 (relating to local real estate tax reimbursement grants), the owner of a public airport shall be eligible for a grant from the local real estate tax reimbursement portion of the Aviation Restricted Account. These grants are available to reimburse airport owners for local real estate taxes paid on those portions of an airport which are aviation related areas, as defined in 74 Pa.C.S. § 5102 (relating to definitions). Prior to applying for a grant, each public airport owner shall enter into an agreement with the Department. This agreement shall specify that the owner shall continue, for a period of not less than 10 years, to maintain the property, for which the grant will be sought, as an airport at least equal in size and capacity as that indicated in the owner's initial grant application. This agreement shall be a covenant, which runs with the land and shall apply to subsequent purchases of land. Upon acceptance of a grant, the covenant shall be deemed extended for 1

additional year. A violation of the agreement shall make the owner liable for the repayment of the total appropriation for the year plus a penalty of two times the grant. In an action wherein the owner is found to have violated the agreement, the Department shall receive all costs of prosecution.

The final date for submission of applications for reimbursement of local real estate taxes paid in calendar year ending December 31, 2002, is the close of business on February 1, 2003. Applications shall be filed with the Department of Transportation, Bureau of Aviation, P. O. Box 3457, Harrisburg, PA 17101-3457.

Interested persons may direct their request for applications, inquiries or comments regarding the local real estate tax reimbursement program to Edward Buczeskie, (717) 705-1223.

BRADLEY L. MALLORY
Secretary

[Pa.B. Doc. No. 02-2245. Filed for public inspection December 13, 2002, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Molycorp, Inc. v. DEP; EHB Doc. No 2002-293-R

Molycorp, Inc. has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Canton Township, Washington, County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 02-2246. Filed for public inspection December 13, 2002, 9:00 a.m.]

Nazareth Borough Municipal Authority v. DEP; EHB Doc. No. 2002-300-C

Nazareth Borough Municipal Authority has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA0041742 (October 29, 2002) for a facility in Lower Nazareth Township, Northampton County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 02-2247. Filed for public inspection December 13, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) provides that the designated standing Committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the Committee comment period. The Commission comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. Each agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
2-141	Department of Agriculture Milk Sanitation (32 Pa.B. 4717 (September 28, 2002))	10/28/02	12/2/02
12-59	Department of Labor and Industry Appeals from Determinations of Department (32 Pa.B. 4720 (September 28, 2002))	10/28/02	12/2/02

Department of Agriculture Regulation No. 2-141 Milk Sanitation December 2, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Agriculture (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

Section 59.22. Milk dating.—Reasonableness; Implementation procedures; Clarity.

Subsection (e)

There are three concerns with this subsection.

The first sentence of the subsection reads: "The Department will *periodically* sample containers of pasteurized milk in the possession of the processor or distributor" (emphasis added). The specific time frame for sampling of product should be included in the final-form regulation.

Second, the final sentence provides that after two or more samples demonstrate a processor cannot produce pasteurized milk that meets the referenced bacterial limits, the processor is required to use a sell-by date that is less than the new 17-day sell-by date. It is our understanding that a processor may regain use of the 17-day period when it submits samples for additional tests and demonstrates compliance with acceptable standards. The procedure for reestablishing the 17-day sell-by date should be set forth in the final-form regulation.

Third, when a processor cannot produce pasteurized milk within acceptable parameters and is not allowed to use the 17-day sell-by date, the processor is required to "use a sell-by date of something less than the 17-day period described in subsection (a)." We understand the shorter sell-by date period will be determined by specific laboratory test methods. The process for determining the shorter period should be included in the final-form regulation.

Department of Labor and Industry Regulation No. 12-59

Appeals From Determinations of Department

December 2, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Labor and Industry (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 101.81. Filing of appeal from determination of Department.—Reasonableness; and Clarity.

Subsection (a)

This subsection describes the process for obtaining Department-provided appeal forms. We have three concerns.

First, this subsection, as well as § 101.81(c), includes the term “Department office responsible for unemployment compensation.” This term is unclear. How will a petitioner know if a Department office is responsible for unemployment compensation? For clarity, the Department should define the term “Department office responsible for unemployment compensation” in the final-form regulation.

Second, the phrase “Department-provided” is redundant and should be eliminated, as the forms can be obtained from a Department office.

Third, could an individual obtain these forms from any other source, including the Department’s website? This should be specified in the final-form regulation.

Subsection (b)

This subsection reveals where an individual would obtain information about filing an appeal. We have five concerns.

First, this subsection provides that the aforementioned information may be “obtained from a Department office responsible for unemployment compensation or an office of the Board.” Are there any other places where an individual could obtain this information?

Second, this subsection states, “Information about filing an appeal may be obtained from a Department office responsible for unemployment compensation or an office of the Board.” We understand that assistance will be available at service centers. These centers are reachable only by phone. For clarification, the Unemployment Compensation Board of Review (Board) should include information on how to receive assistance with the appeal instructions that accompany the notice of determination.

Third, is the Department able to make available this information on its website? The Department should explain.

Fourth, subsection (a) states that an appeal form may be obtained from a workforce investment office (WIO). Yet, subsection (b) does not include a WIO as a place where an individual can obtain information about filing an appeal. Can one obtain this information from a WIO?

Finally, current subsection (b) states that assistance can be obtained in completing an appeal form at a local employment office or at an office of the Board. Why doesn’t the revised subsection (b) allow for similar assistance?

Subsection (c)

Under this subsection, the Department describes the process for filing an appeal and the content of the appeal forms. Why is the signature of the local employment office representative, formerly found in § 101.81(b)(7), being deleted? The Department should explain.

2. Section 101.82. Time for filing appeal from determination of Department.—Clarity; Reasonableness; Implementation procedures.

Subsection (b)(1)

This subsection sets forth the requirements for personal delivery of an appeal. We understand that the Board considers deliveries from private couriers “personal delivery.” For clarity, the term “private courier” should be included as a method of personal delivery in this subsection.

For further clarity, the Board should consider defining the term “personal delivery,” and including the term “private courier.”

Subsection (b)(3)

This subsection allows for delivery by common carrier. It states the following:

An appeal may be delivered by a common carrier of property which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Transportation Board. The date of the filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business.

We have four concerns.

First, the phrase, “subject to the authority” is vague. We understand that common carriers are not registered, but are regulated by the Pennsylvania Public Utility Commission (PUC). How would a person know if the carrier they are using is subject to the authority of the PUC?

Second, the phrase “or other record” is vague. The final-form regulation should specify what other type of proof of delivery is acceptable.

Third, we question the reasonableness of allowing the filing date to be established by the delivery date to a third party. To illustrate this concern, we have reviewed delivery documentation included in a package delivered to our office by a major common carrier. The documentation includes a “ship date” and a “deliver by” date. It does not include the date that the package was delivered to the common carrier. How would the Department resolve this discrepancy?

Finally, if the delivery date cannot be established by documents or other records of the common carrier, how will the Department determine a filing date? We recommend that this paragraph include a provision similar to § 101.82(b)(2)(iii), which states that if the date cannot be determined, the filing date will be the date the appeal was received by the Department.

Subsection (b)(4)

This subsection allows for filing by fax transmission. We have three concerns.

First, if there is a discrepancy between the time noted by the Department’s fax machine and the sender’s fax machine, how will that discrepancy be resolved?

Second, will faxes received after the close of normal business hours be considered timely?

Third, we believe that the sender should be aware of the risk involved with sending an appeal by fax transmission. We recommend that this subsection include a provision similar to the provision found in subsection (b)(5), relating to electronic transmission other than fax transmission, which states that the sender “accepts the risk that the appeal may not be properly or timely filed.”

Subsection (b)(5)

This subsection allows for filing by electronic transmission other than fax transmission. We have three concerns.

First, the phrase “information processing system” is vague. Does this include e-mail and voice mail? The

final-form regulation should specify what types of electronic transmission are acceptable.

Second, this paragraph requires a person filing electronically to "comply with Department instructions concerning format." The final-form regulation should include the necessary instructions.

Third, would an electronic transmission have to be sent to a specific e-mail address? If so, that e-mail address should be included in the final-form regulation. In addition, if the transmission is sent to an incorrect e-mail address at the Department, would it be considered properly filed?

3. Miscellaneous.—Clarity.

Section 101.102 of 34 Pa. Code references §§ 101.81 and 101.82 and should be revised to reflect the new titles included in this rulemaking.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-2248. Filed for public inspection December 13, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

American Independent Insurance Company; Private Passenger Automobile Insurance Rate Filing

On November 22, 2002, the Insurance Department (Department) received from American Independent Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 8.2% increase amounting to \$6.409 million annually, to be effective January 1, 2003.

Unless formal administrative action is taken prior to January 21, 2003, 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.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, e-mail 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. 02-2249. Filed for public inspection December 13, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Cancellation Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Enron Energy Services, Inc.
(2002.0277); Doc. No. C-20028513; A-125004*

Cancellation Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against Enron Energy Services, Inc. (Respondent), a natural gas supplier (NGS) licensed at A-125004. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipt requested, that Respondent had failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

Service of the complaint was perfected on September 23, 2002. Respondent filed an answer on October 25, 2002, in which it admitted the allegations in the Complaint and stated that it does not object to the cancellation of its NGS license. Furthermore, Respondent informed the Commission that it no longer has retail natural gas customers within Pennsylvania, is no longer marketing any service within Pennsylvania, has no intention of doing so in the future, and as a result wishes to abandon its Pennsylvania natural gas license.

Based upon the foregoing, it is appropriate to cancel the NGS license of Enron Energy Services, Inc.; *Therefore, It Is Ordered That:*

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The NGS license held by Enron Energy Services, Inc. at A-125004 is hereby cancelled.
3. The Secretary strike the name of Enron Energy Services, Inc. from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Cancellation Order shall be published in the *Pennsylvania Bulletin*.
5. The Secretary serve a copy of this Cancellation Order upon all jurisdictional natural gas distribution companies as well as the Pennsylvania Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2250. Filed for public inspection December 13, 2002, 9:00 a.m.]

Default Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Clinton Energy Management Services
(2002.0277); Doc. No. C-20028514; A-125001*

Default Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against Clinton Energy Management Services (Respondent), a natural gas supplier (NGS) licensed at A-125001. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipts requested, that it failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

According to the United States Postal Service return receipt, service of the Complaint was not perfected because the Postal Service's forwarding order expired. To date, more than 30 days later, no answer has been filed to the Complaint and the 2001 Annual Report has not been filed; *Therefore,*

It Is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The NGS license held by Clinton Energy Management Services at A-125001 is hereby cancelled.
3. The Secretary strike the name of Clinton Energy Management Services from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Default Order shall be published in the *Pennsylvania Bulletin*.
5. The Secretary serve a copy of this Default Order upon all jurisdictional natural gas distribution companies as well as the Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2251. Filed for public inspection December 13, 2002, 9:00 a.m.]

Default Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Essential.com, Inc. (2002.0277); Doc.
No. C-20028517; A-125024*

Default Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against Essential.com, Inc. (Respondent), a natural gas supplier (NGS) licensed at A-125024. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipts requested, that it failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

According to the United States Postal Service return receipt, service was perfected on September 23, 2002. To date, more than 30 days later, no answer has been filed to the Complaint and the 2001 Annual Report has not been filed; *Therefore,*

It is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The NGS license held by Essential.com, Inc. at A-125024 is hereby cancelled.
3. The Secretary strike the name of Essential.com, Inc. from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Default Order shall be published in the *Pennsylvania Bulletin*.
5. The Secretary serve a copy of this Default Order upon all jurisdictional natural gas distribution companies as well as the Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2252. Filed for public inspection December 13, 2002, 9:00 a.m.]

Default Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. OnlineChoice.com, Inc. (2002.0277);
Doc. No. C-20028519; A-125074*

Default Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against OnlineChoice.com, Inc. (Respondent), a natural gas supplier (NGS) licensed at A-125074. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipts requested, that it failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

According to the United States Postal Service return receipt, service of the Complaint was not perfected because the Postal Service's forwarding order expired. To date, more than 30 days later, no answer has been filed to the Complaint and the 2001 Annual Report has not been filed; *Therefore,*

It Is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The NGS license held by OnlineChoice.com, Inc. at A-125074 is hereby cancelled.
3. The Secretary strike the name of OnlineChoice.com, Inc. from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Default Order shall be published in the *Pennsylvania Bulletin*.
5. The Secretary serve a copy of this Default Order upon all jurisdictional natural gas distribution companies as well as the Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2253. Filed for public inspection December 13, 2002, 9:00 a.m.]

Default Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. PG&E Energy Services (2002.0277);
Doc. No. C-20028516; A-125009*

Default Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against PG&E Energy Services. (Respondent), a natural gas supplier (NGS) licensed at A-125009. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by first class and certified mail, return receipts requested, that it failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

According to the United States Postal Service return receipt, service of the Complaint was not perfected because the Postal Service's forwarding order expired. To date, more than 30 days later, no answer has been filed to the Complaint and the 2001 Annual Report has not been filed; *Therefore,*

It Is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.
2. The NGS license held by PG&E Energy Services at A-125009 is hereby cancelled.
3. The Secretary strike the name of PG&E Energy Services from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.
4. Notice of this Default Order shall be published in the *Pennsylvania Bulletin*.
5. The Secretary serve a copy of this Default Order upon all jurisdictional natural gas distribution companies as well as the Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2254. Filed for public inspection December 13, 2002, 9:00 a.m.]

Default Order

Public Meeting held
November 21, 2002

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. V-P Energy, Inc. (2002.0277); Doc. No.
C-20028518; A-125047*

Default Order

By the Commission:

On September 17, 2002, Law Bureau Prosecutory Staff filed a Formal Complaint against V-P Energy, Inc. (Respondent), a natural gas supplier (NGS) licensed at A-125047. In the Complaint, Prosecutory Staff alleged that Commission staff had notified Respondent by both first class and certified mail, return receipts requested, that it failed to file its 2001 Annual Report.

The Complaint requested that the Commission issue an order canceling the Respondent's NGS license for failure to file its 2001 Annual Report in violation of 66 Pa.C.S. § 2208(c)(2) and 52 Pa. Code § 62.110.

According to the United States Postal Service return receipt, service of the Complaint was not perfected because service was refused. To date, more than 30 days later, no answer has been filed to the Complaint and the 2001 Annual Report has not been filed; *Therefore,*

It Is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is hereby sustained.

2. The NGS license held by V-P Energy, Inc. at A-125047 is hereby cancelled.

3. The Secretary strike the name of V-P Energy, Inc. from all active-utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.

4. Notice of this Default Order shall be published in the *Pennsylvania Bulletin*.

5. The Secretary serve a copy of this Default Order upon all jurisdictional natural gas distribution companies as well as the Department of Revenue.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2255. Filed for public inspection December 13, 2002, 9:00 a.m.]

En Banc Hearing Concerning Demand Side Response Programs

Following is an agenda for the Pennsylvania Public Utility Commission's (Commission) en banc hearing concerning Demand Side Response (DSR) Programs. The hearing will cover the following topics: structure of current DSR Programs; success/failure of current DSR Programs; deployment of advanced metering technology; comparison of the Commonwealth to other states; future of DSR programs; and real or perceived obstacles to successful DSR Programs.

The hearing is open to the public and will be held on December 19, 2002, from 1:30 p.m. to 4:45 p.m. in Hearing Room 1, Commonwealth Keystone Building 400 North Street, Harrisburg, PA.

PJM Interconnection will be afforded a maximum of 15 minutes for its presentation. Other presenters will be afforded a maximum of 10 minutes each for their presentations. The additional time allotted for each panel will be taken up with a "Question and Answer" session from Commissioners to the panelists. Audience members will not be permitted to ask questions.

Presenters who require specific audio-visual aids, such as a PowerPoint setup, should contact Elaine Deichmiller, Assistant Secretary of the Commission, (717) 787-8147 by December 5, 2002.

Interested persons or entities may file written comments with the Commission regarding the hearing topics. Comments must be filed by January 9, 2003. Filings should be sent to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Reference Doc. No. M-00021689. An electronic version of comments (PDF format preferred) can also be e-mailed to Ra-dsrcomments@state.pa.us.

Questions should be addressed to Dave Zambito, Counsel to the Chairperson, (717) 783-7349, dzambito@state.pa.us.

GLEN R. THOMAS,
Chairperson

Time	Name	Company/Organization
1:30—1:40	<i>Introductory Remarks</i> Chairperson and Commissioners	Pennsylvania Public Utility Commission
1:40—2:00	<i>Independent System Operator</i> Stu Bresler, Manager, Market Development	PJM Interconnection
2:00—3:00	<i>Panel One</i> Ed Johnstonbaugh, Project Coordinator Nancy J. Krajovic, Manager, Regulatory Affairs Chris Siebens, Manager, Demand Response Programs William J. Patterer, Engineer John F. Sipics, VP Asset Management	Allegheny Power Duquesne Light FirstEnergy PECO Energy Company PPL Electric Utilities

Time	Name	Company/Organization
3:00—3:10	<i>Break</i>	
3:10—4:00	<i>Panel Two</i>	
	Dan Griffiths, Senior Public Policy Research Analyst	Office of Consumer Advocate
	Carol Pennington, Acting Small Business Advocate	Office of Small Business Advocate
	David Kleppinger, Esq.	Industrial Energy Consumers of PA and PJM Industrial Customer Coalition
	Peter Adels, General Counsel	PennFuture
4:00—4:40	<i>Panel Three</i>	
	Paul Dwyer, Regional Director of Regulatory Affairs	Green Mountain Energy
	Bruce Bleiweis, Director of Asset Commercialization	Reliant Energy
	Mark Bowen, VP, Sales and Marketing	Honeywell DMC Services
4:40—4:45	<i>Closing Remarks</i>	
	Chairperson	Pennsylvania Public Utility Commission

[Pa.B. Doc. No. 02-2256. Filed for public inspection December 13, 2002, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code § 3.381 (relating to the applications for transportation of property, household goods in use and persons). Each protest should indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 6, 2003. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary from 8 a.m. to 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carrier for transportation of persons as described under each application.*

A-00119403. Barneston Management Group t/d/b/a Beacon Medical Transport (350 East Market Street, Suite 200, West Chester, Chester County, PA 19382), a Pennsylvania corporation—persons in paratransit service, between points in the City and County of Philadelphia, and the Counties of Bucks, Chester, Delaware and Montgomery, and from points in said city and counties, to points in Pennsylvania, and return.

A-00119365. Parkway Limo, Inc. (1100 Spring Garden Street, City and County of Philadelphia, PA 19123), a corporation of the Commonwealth—persons in limousine service, between points in the City and County of Philadelphia, and the Counties of Delaware, Chester, Montgomery and Bucks.

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-00119405. Shawn M. Giordano and Howard J. Giordano, Copartner t/d/b/a All Occasions Limo Service (1501 Pleasant Valley Boulevard, Altoona, Blair County, PA 16602)—persons in limousine service, between points in Pennsylvania; which is to be a transfer of the right authorized under the certificate at A-00115503, F.2 issued to George E. Sullenberger t/d/b/a All Occasions Limo Service, subject to the same limitations and conditions. *Attorney:* Thomas J. Lowery, 1500 Grant Building, Pittsburgh, PA 15219.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.*

A-00112823, Folder 2. John D. Salaki t/d/b/a Red Sled Cab Company (527 Blue Mountain Road, Schuylkill Haven, Schuylkill County, PA 17972)—additional right—persons upon call or demand in the County of Schuylkill. *Attorney:* Michael P. Halcovage, 240 Sunbury St. Minersville PA 17954.

Application of the following for certificate of public convenience approving the operation of motor vehicles as common carriers for the transportation of household goods as described under the application.

A-00119404. Lawson Group, Inc. (1025 Orange Street, Steelton, Dauphin County, PA 17113), a Pennsylvania corporation—household goods in use, between points in the Counties of Cumberland and Dauphin, and from points in said counties, to points in Pennsylvania, and vice versa. *Attorney:* Arnold B. Kogan, P. O. Box 1268, Harrisburg, PA 17108-1268.

Application of the following for the approval of the *transfer of stock as described under the application.*

A-00118466, F.5000. Rachel Limo Services, Inc. (7 Mallard Pond Circle, Newtown, Bucks County, PA 18940),

a corporation of the Commonwealth—stock transfer—for the approval of the transfer of all of the issued and outstanding stock, from Christopher R. Stewart (100 shares) to American Luxury Limousine, Inc. (100 shares).

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2257. Filed for public inspection December 13, 2002, 9:00 a.m.]

Telecommunications

A-310863F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Comm South Companies, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Comm South Companies, Inc. for approval of a master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Comm South Companies, Inc., by its counsel, filed on November 19, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection and resale 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 United Telephone Company of Pennsylvania d/b/a Sprint and Comm South Companies, 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. 02-2258. Filed for public inspection December 13, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Friday, December 27, 2002, for Project #02-122.P, Purchase of Fencing Materials (no installation). 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 Tuesday, December 17, 2002. PRPA is an equal opportunity employer. Contractor

must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-2259. Filed for public inspection December 13, 2002, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

January 8, 2003	Francis P. Burns, Jr. (Disability Eligibility)	1 p.m.
	Wayne Walton (Purchase of Service)	2:30 p.m.
January 22, 2003	Paul Robert Barbadoro (Class T-D)	1 p.m.
	Wilma DeSoto (Class T-D)	2:30 p.m.
February 10, 2003	Lucy Lake (Disability)	1:30 p.m.
February 12, 2003	David N. McCall (Purchase of Service)	10 a.m.
February 24, 2003	Helen M. Kulp (Disability)	1:30 p.m.
February 26, 2003	Walter S. Trout (D) (Death Benefit)	10 a.m.
	Virgil H. Bohren (Disability Eligibility)	11:30 a.m.
March 17, 2003	Darlene D. Green (Disability)	1:30 p.m.
March 26, 2003	Delrio Antoinette Ligons-Berry (Change of Option)	1 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1

Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

DALE H. EVERHART,
Secretary

[Pa.B. Doc. No. 02-2260. Filed for public inspection December 13, 2002, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Engineering Firm

Construction Materials Inspection and Testing

Southern Beltway Project PA 60 to US 22—Findlay Connector Allegheny and Washington Counties

Reference No. E-032

The Turnpike Commission (Commission) will retain an engineering firm on an open-end contract basis for off-site construction materials inspection and acceptance testing services at related plant and laboratory locations for sections of the Southern Beltway Project from PA 60 to US 22 under construction in Allegheny and Washington Counties. Construction of these sections will include earthwork, drainage, structures, concrete and bituminous paving, signing, roadway lighting and toll plaza building construction. A testing laboratory participating in the AASHTO Accreditation Program, capable of performing concrete, bituminous, soils, aggregate and other construction materials tests in a timely manner and must be available throughout the duration of the Open-End Contract. Construction projects may be financed with Federal, State and Turnpike funds and applicable Federal requirements will apply, when appropriate.

The contract will be for a maximum cost of \$750,000 or for a 36 month period.

The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical personnel to support the laboratory functions. In addition, the firm selected may be required to attend the prebid meetings and preconstruction conferences for each project with the Commission.

The selected firm may be required to test materials at offsite aggregate, concrete, asphalt, supply and precast plants, perform soils testing or testing associated with the manufacture of selected construction materials. Duties may also include the witnessing of testing by the material producers, suppliers, manufactures, fabricators or contractors. In addition, the selected firm may be required to keep records of material inspections and tests, document the testing program, attend job conferences when requested and perform other duties as may be required.

The selected firm or any of its subconsultants may not be a prime contractor, subcontractor, consultant or have any financial interest in any construction contract, inspection contract or management contract on the Southern Beltway Project from PA 60 to US 22.

The Commission is committed to the inclusion of disadvantaged, minority and woman firms in contracting opportunities. The minimum participation level for DBE/MBE/WBEs in these contracts will be 10% each. Responding firms shall clearly identify DBE/MBE/WBE firms expected to participate in these contracts in their

letters of interest. If the selected firm does not meet the minimum requirement for DBE/MBE/WBE participation, they will be required to demonstrate good faith efforts to achieve the required level. Proposed DBE/MBE/WBE firms must be certified by the Department of Transportation (Department) at the time of the submission of the letter of interest. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Office of Equal Opportunity Development, (717) 939-9551 ext. 4241.

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 an ability to analyze available data to make decisions and develop plans to complete the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Workload of the prime consultant and subconsultants for all 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.

Direct inquiries about this advertisement to Eugene C. Mattson at (717) 939-9551 ext. 3502, emattson@paturnpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737, ghatalow@paturnpike.com.

General Requirements and Information

Firms interested in providing the previous 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 subconsultant 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, either 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. on Friday, January 10, 2003. 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 this 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. 02-2261. Filed for public inspection December 13, 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.

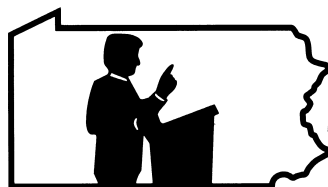
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

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.

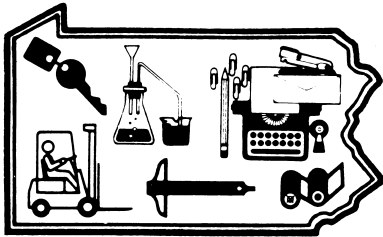
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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



Commodities

2-2-00056 Eight (8) electric tailgate liquid dispensing systems (Hydraulic Return Drive Systems). Each system shall be 12 Volt and have a 100-gallon minimum capacity polypropylene tank. System shall be complete with pump, pump control, nozzles, hoses, fittings wiring and mounting hardware as required. All associated wiring necessary for the application shall be of the thermoplastic elastomer jacketed type. System must have the capability of being controlled with electronic spreader controls. Systems will be installed by Department force.

Department: Transportation
Location: District 0220, Clearfield County, PO Box 245, Corner of Washington Avenue and Hall St, Hyde, PA 16843
Duration: 12/30/02 through 12/29/03
Contact: Debbie Swank, (814) 765-0524

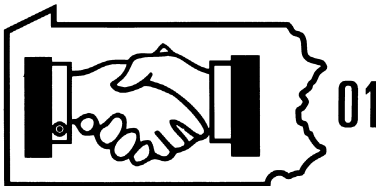
2-2-00057 PA Department of Transportation, District 2-2, Clearfield County is requesting bids to provide 300 Ton Solar Evaporated Salt Crystals, for water softening/resin regeneration, packaging: Bulk, PCID NO.1085 Eff. 8/8/02. Multiple deliveries shall be required within 5 days after request. All deliveries shall be made to PENNDOT Maintenance Building located Washington Ave & Hall St, Hyde, PA.

Department: Transportation
Location: PA Department of Transportation, District 2-2, Clearfield County, Washington Ave & Hall St, Hyde, PA 16843
Duration: 01/01/03 through 06/30/03
Contact: Debbie Swank or Roger Thomas, (814) 765-0524

102068 Furnish and install operable partitions and suspension system. Provide all labor, materials, tools, equipment, and services for operable walls in accordance with provisions of contract documents.

Department: Transportation
Location: Pa. Department of Transportation—Fayette County Maintenance Classroom
Duration: February 3, 2003, through April 30, 2003
Contact: April Jackson/Mike Kisko, (724) 439-7471 ext. 320

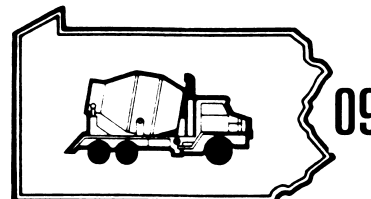
SERVICES



Advertising

RFP 351R19 (Rebid) The Pennsylvania Department of Transportation (PENNDOT) is reissuing a Request for Proposals to solicit an experienced and qualified contractor to perform a variety of tasks relating to promotional, marketing, and educational strategies to significantly reduce littering and improve the overall scenic beauty of the Commonwealth and to promote and augment PENNDOT's FIX-ROAD hotline. Key to this effort is a uniform marketing theme that can be used to increase public awareness as to the littering problem and its impact, and the availability of the hotline. Interested contractors may request a copy of the RFP by faxing name, company name, address, phone and fax numbers to Kathy Joy-Brosius at 717 783-7971. Please reference RFP 351R19 (Rebid) on your request.

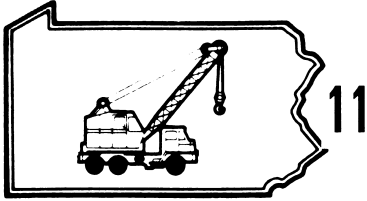
Department: Transportation
Location: Throughout the Commonwealth of Pennsylvania
Duration: 36 months with possibility of renewal.
Contact: John Goertz, (717) 783-8912



Construction & Construction Maintenance

IN-836 Elevator Renovations—Folger Hall Elevator Renovations in Folger Hall at Indiana University of Pennsylvania consists of removing existing elevator controllers, elevator power unit, signal fixtures, wiring, etc; installation of new power unit, elevator controllers, inspection station, signal fixtures, elevator cab, doors and frames, etc. Work shall include, but is not necessarily limited to, furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary to complete all elevator construction at satisfaction of, and subject to approval of, IUP and PA State System of Higher Education.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Engineering & Construction Group, Robertshaw Bldg, 650 So. 13th Street, Indiana, PA 15705
Duration: Plans and Specs available at IUP E&C Office, Indiana PA. Pre-Construction Conference December 18, 2002, at 10 a.m.
Contact: Ronald E. Wolf, (724) 357-2289



Demolition—Structural Only

1002-L02 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of two residential structures located along State Route 1002 (also known as East Maitland Lane) in the Township of Hickory, Lawrence County. Contractor will be required to demolish or remove all structures, outbuildings and site improvements. He will also be required to comply with FHWA and State regulations. For bid information, specifications and further information, contact Michael Sudar, District Property Manager at (412) 429-4830.

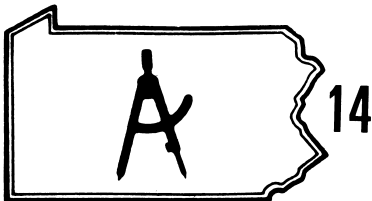
Department: Transportation
Location: Township of Hickory
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0008-A05 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of both commercial and residential dwellings located along State Route 0008 (also known as William Flynn Highway) in the Borough of Etna and Shaler Township, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. Contractors will also be required to comply with FHWA and State regulations. For bid information, specifications and further information, contact Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: Borough of Etna and Shaler Township
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0028-A09 & A10 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of both commercial and residential dwellings located along State Route 0028 (also known as East Ohio Street) in the City of Pittsburgh, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. Contractors will also be required to comply with FHWA and State regulations. For bid information, specifications and further information, contact Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: City of Pittsburgh
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830



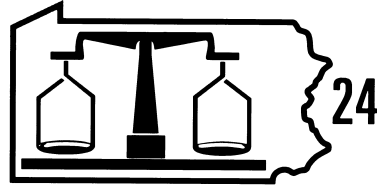
Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us

RFP 1R-14 RFP 1R-14 "Closed Circuit Television (CCTV) Surveillance System PENNDOT District 5-0 Intelligent Transportation System Project". Acquire services to provide the Lehigh Valley Area with an ITS project to enable District 5-0 to monitor traffic. Phase I anticipates installation of minimum of eight (8) Closed Circuit Television (CCTV) cameras and associated communications subsystem along the I-78 and US 22 corridors; and the necessary equipment, hardware and software to view and control the camera system at the Traffic Operations Center (TOC). For information on this project, fax to Vikki Mahoney at (717) 783-7971 the following: your name, company name, address, phone number, fax number, and e-mail address. Please reference "RFP 1R-14" in your request.

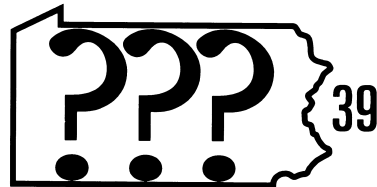
Department: Transportation
Location: District 5-0 (Lehigh Valley)
Duration: Phase I of this project is anticipated to last 1 year. The total project timeframe is 5 years.
Contact: Vikki Mahoney, (717) 787-7001



Laboratory Services

RFP #PBPP-25-02-07 The PA Board of Probation & Parole (PBPP) is soliciting proposals to satisfy a need for laboratory services to provide urinalysis testing statewide of persons, who are and or become, under the supervision of the PBPP. The successful bidder shall provide qualitative analysis of urine specimens for substances of abuse submitted by PBPP locations statewide.

Department: Probation and Parole Board
Location: Statewide (67 Counties)
Duration: Contract(s) will be awarded for a period of three years with renewal options and are contingent upon receipt of funding.
Contact: Michelle Flynn, (717) 787-8879



Miscellaneous

SC160944 Millersville University is seeking a signage consultant who can provide a unified signage system on campus. Consultant will perform a site audit of the campus and its existing buildings and advise the University on the types and styles required for campus directions and building identification. Consultant will also provide design and construction documents for the new signage system. Bidders must fax or e-mail their requests to be placed on a bidders list to Anna Stauffer (FAX: 717-871-2000 and e-mail: astauffer@millersville.edu) no later than 11 AM, Thursday, 12/19/02. The University encourages responses from small and disadvantaged, minority and woman-owned firms.

Department: State System of Higher Education
Location: Millersville, PA
Duration: Approx. February 1, 2003, to approx. November 2003
Contact: Anna Stauffer, (717) 872-3041

[Pa.B. Doc. No. 02-2262. Filed for public inspection December 13, 2002, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
7210-01 Rebid	12/02/02	Chestnut Ridge Foam	\$190,998.93
7210-01 Rebid	12/02/02	Leggett & Platt	204,352.00
4500011249	12/02/02	Hologic	55,000.00
1086212-01	12/02/02	Atlantic Equipment Soecialists	29,700.00
8150600-01	12/02/02	Pompei & Sons	199,200.00
8254300-01	12/02/02	River's Truck Center	110,265.00
8254420-01	12/02/02	J & J Truck Equipment	52,470.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
8254430-01	12/02/02	Five Star Intern'l	38,622.00
8506510-01	12/02/02	Harvey's Supply	29,495.00
8506520-01	12/02/02	Rhomar Industries	18,790.00
8506530-01	12/02/02	J D Lucas Printing	228,960.00

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-2263. Filed for public inspection December 13, 2002, 9:00 a.m.]

