

PENNSYLVANIA BULLETIN

Volume 33
Saturday, August 30, 2003 • Harrisburg, Pa.
Number 35
Pages 4277—4420

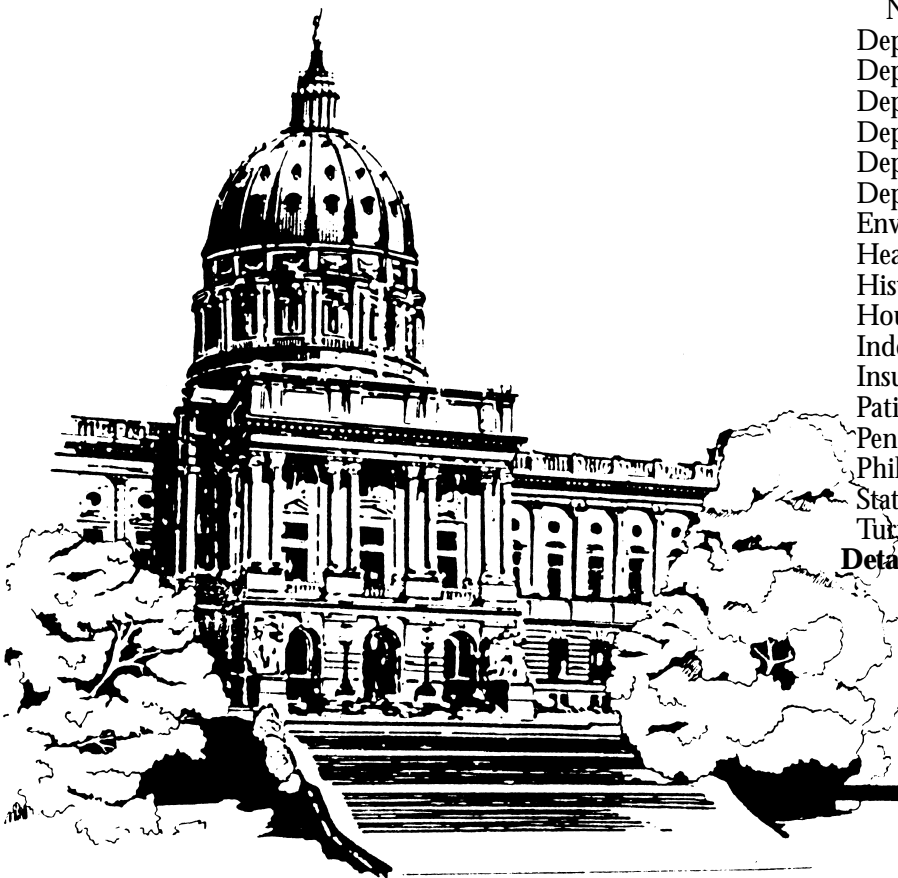
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No. 345, August 2003

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PENNSYLVANIA



BULLETIN

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

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(800) 524-3232 ext. 2340 (toll free, in State)

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Mechanicsburg, PA 17055-3198

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Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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THE GENERAL ASSEMBLY

Recent Actions during the 2003 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2003 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2003 GENERAL ACTS ENACTED—ACT 020 through 021					
020	Aug 14	SB442	PN1044	immediately	Municipal Claim and Tax Lien Law—omnibus amendments
021	Aug 14	SB521	PN1108	180 days	Judicial Code (42 Pa.C.S.)—assessment and commitment of certain sexually violent persons

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore-PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT W. ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 03-1688. Filed for public inspection August 29, 2003, 9:00 a.m.]

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Promulgating New Rule 118; No. 295 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining new Rule 118. The new rule provides the procedures generally authorizing a court or issuing authority to use two-way simultaneous audio-visual communication, which is a form of advanced communication technology (ACT), in criminal proceedings, and makes it clear there are certain proceedings in which the use of two-way simultaneous audio-visual communication would not be permitted. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 11th day of August, 2003, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 32 Pa.B. 2197 (May 4, 2002), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 795), 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 of Criminal Procedure 118 is promulgated in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective September 1, 2003.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 118. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.

(A) The court or issuing authority may use two-way simultaneous audio-visual communication at any criminal proceeding except:

- (1) preliminary hearings;
- (2) trials;
- (3) sentencing hearings;
- (4) parole, probation, and intermediate punishment revocation hearings; and
- (5) any proceeding in which the defendant has a constitutional or statutory right to be physically present.

(B) The defendant may consent to any proceeding being conducted using two-way simultaneous audio-visual communication.

(C) When counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the proceeding.

Comment

This rule was adopted in 2003 to make it clear that unless the case comes within one of the exceptions in

paragraph (A), the court or issuing authority may use two-way simultaneous audio-visual communication in any criminal proceeding. Two-way simultaneous audio-visual communication is a type of advanced communication technology as defined in Rule 103.

Nothing in this rule is intended to limit any right of a defendant to waive his or her presence at a criminal proceeding in the same manner as the defendant may waive other rights. See, e.g., Rule 602 Comment. Negotiated guilty pleas when the defendant has agreed to the sentence and probation revocation hearings are examples of hearings in which the defendant's consent to proceed using two-way simultaneous audio-visual communication would be required. Hearings on post-sentence motions, bail hearings, extradition hearings, and *Gagnon I* hearings are examples of proceedings that may be conducted using two-way simultaneous audio-visual communication without the defendant's consent. It is expected the court or issuing authority would conduct a colloquy for the defendant's consent when the defendant's constitutional right to be physically present is implicated.

Within the meaning of this rule, counsel is present when physically with the defendant or with the judicial officer conducting the criminal proceeding.

This rule does not apply to preliminary arraignments (Rule 540), arraignments (Rule 571), or to search warrant (Rule 203) and arrest warrant (Chapter 5 Part B(3)) procedures.

This rule is not intended to preclude the use of advanced communication technology for the preservation of testimony as permitted by Rules 500 and 501.

See Rule 542 for the procedures governing preliminary hearings.

See Chapter 6 for the procedures governing trials.

See Chapter 7 for the procedures governing sentencing hearings.

See Rule 708 for the procedures governing revocation of probation, intermediate punishment, and parole.

The paragraph (A)(4) reference to revocation hearings addresses *Gagnon II*-type probation (*Gagnon v. Scarpelli*, 411 U.S. 778 (1973)) and parole (*Morrissey v. Brewer*, 408 U.S. 471 (1972)) revocation hearings, and is not intended to prohibit the use of two-way simultaneous audio-visual communication in hearings to determine probable cause (*Gagnon I*).

Official Note: New Rule 118 adopted August 7, 2003, effective September 1, 2003.

Committee Explanatory Reports:

Final Report explaining new Rule 118 published with the Court's Order at 33 Pa.B. 4287 (August 30, 2003).

FINAL REPORT¹

New Pa.R.Crim.P. 118

Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings

A. Introduction

On August 7, 2003, effective September 1, 2003, upon the recommendation of the Criminal Procedural Rules

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

Committee, the Court promulgated new Rule 118 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings). The new rule provides the procedures generally authorizing a court or issuing authority to use two-way simultaneous audio-visual communication, which is a form of advanced communication technology (ACT),² in criminal proceedings, and makes it clear there are certain proceedings in which the use of two-way simultaneous audio-visual communication would not be permitted.

B. Background

Over the past several years, the Committee has been monitoring the use of ACT in criminal proceedings in Pennsylvania, and the need to include in the Criminal Rules provisions that specifically permit its expanding use as well as specifically limit its use in certain criminal proceedings. In developing its proposals concerning ACT, the Committee has focused on its belief that the implementation of provisions for the use of ACT in criminal proceedings furthers the goals of 1) achieving statewide uniform procedures in criminal proceedings, 2) providing quick and efficient administration of justice, and 3) bringing convenience to the parties.³ During the development of these proposals, through various communications to the Committee from AOPC Staff, Common Pleas Court Management System staff (CPCMS), and members of the bench and bar, we became aware that the uses of ACT are expanding rapidly throughout Pennsylvania. To confirm these "reports" and to learn of the ways ACT is being used in the judicial districts, the Committee conducted a survey of the president judges concerning their uses of ACT,⁴ and learned that, in those judicial districts that have ACT capabilities, its uses are rapidly expanding to include all types of criminal proceedings. Several other president judges who perceive a need to use ACT are 1) reluctant to invest the resources in ACT until the Criminal Rules provide guidance for its use, or 2) not using ACT because of concerns about the "face to face" constitutional provision.⁵ In view of the survey responses and the general communications concerning when ACT should be used in criminal proceedings, the Committee agreed that it is imperative to have a general rule governing the use of ACT in all criminal proceedings.⁶

The Committee, in favor of encouraging the use of ACT generally, and recognizing the need to pursue a general rule, was concerned on the one hand about the implications of having certain criminal proceedings, including, inter alia, preliminary hearings, trials, and sentencing hearings, conducted by using ACT, and concerned on the other hand about protecting the defendant's rights, including the defendant's participation in the defense of his or her case and access to defense counsel. The Committee agreed that, when the criminal proceeding is one that requires rigid protection of the defendant's rights and the integrity and fairness of the judicial process, any rules addressing this type of procedure must be one capable of providing two-way simultaneous audio-visual communica-

tion, and allow for confidential communications between the defendant and defendant's counsel.

The Committee also agreed the scope of new Rule 118 should be broad enough to cover all types of hearings. In addition, when developing the procedures for the new rule, the Committee agreed that the proposed new rule should preserve the status quo, i.e., the new rule should not create nor abridge existing rights of the defendant to appear at a criminal proceeding; rather the new rule merely should be permissive of the use of two-way simultaneous audio-visual communication in criminal proceedings. The Committee recognized that the rule also should not alter a defendant's right to effectively waive his or her right to be present at a hearing, nor address whether the parties must agree to its use. Finally, the Committee agreed that although the scope of the new rule should be broad, the rule should be clear that in those criminal proceedings in which the use of two-way simultaneous audio-visual communication would not be appropriate, no other form of ACT may be used to conduct the proceeding.

C. Discussion of New Rule 118

New Rule 118 is divided into three paragraphs. Paragraph (A) provides the general rule that a court or issuing authority may use two-way simultaneous audio-visual communication at any criminal proceeding. Paragraph (A) also provides several enumerated exceptions to the general rule. These exceptions, which are the proceedings the Committee expressed serious concerns about the defendants' rights to be physically present, are (1) preliminary hearings, (2) trials, (3) sentencing hearings, (4) parole, probation, and intermediate punishment revocation hearings, and (5) any proceeding in which the defendant has a constitutional or statutory right to be physically present.

Following the Committee's publication of our proposal for new Rule 118, some correspondents raised the question whether the new rule would permit a defendant to consent to having any proceeding, including those specifically listed as an exception in paragraph (A), conducted by using two-way simultaneous audio-visual communication. The Committee agreed with this point concerning the defendant's consent raised in the correspondence. Accordingly, paragraph (B) permits the defendant to consent to having any criminal proceeding conducted using two-way simultaneous audio-visual communication, including the proceedings in paragraph (A). The types of proceedings that require the defendant's consent are further clarified in the Comment.

Paragraph (C) makes it clear that when counsel for the defendant is present for the criminal proceeding, the defendant must be permitted to communicate fully and confidentially with him or her immediately prior to and during the proceeding. This language is consistent with the language included in the earlier ACT-related rule changes and recognizes the importance of the defendant's access to defense counsel, and the confidentiality of communications between the defendant and defense counsel, and allays our concerns about the defendant's ability to participate in his or her defense.

The Comment also:

1) highlights that the criminal proceedings contemplated by the rule require two-way simultaneous audio-visual communication;

2) makes it clear that the new rule is not intended to alter the right of a defendant to waive his or her presence at a criminal proceeding and provides examples concerning when the defendant's consent to having a criminal

² See Rule 103 (Definitions).

³ The Committee's first published proposals concerned providing the procedures for ACT in, inter alia, the rules governing preliminary arraignments, arraignments, search warrants, and arrest warrants. The Court adopted these rule changes on May 10, 2002, effective September 1, 2002. See 32 Pa.B. 2582 (May 25, 2002).

⁴ We received 41 responses to our survey: 17 judicial districts reported that they experimenting with ACT; 16 would like to begin to use ACT in criminal proceedings; and 8 report no plans nor needs for using ACT. Some judicial districts use ACT for a large number of criminal cases and a panoply of criminal proceedings. In many instances, funding was reported to be a problem, but the anticipation is that the judicial districts would achieve ACT capabilities and use it in the same way as the judicial districts already using ACT.

⁵ See PA. CONST. art. I, § 9.

⁶ We agreed the new rule should be Rule 118 in the general provisions chapter because of its application. We published the proposal at 32 Pa.B. 2197 (May 4, 2002).

proceeding conducted using two-way simultaneous audio-visual communication is required;

3) explains that the "counsel for the defendant is present" requirement is satisfied when counsel is physically with the defendant or with the judicial officer presiding over the criminal proceeding;

4) explains that the rule does not apply to preliminary arraignments and arraignments, or to search warrant and arrest warrant procedures, which are addressed in other rules;

5) makes it clear that the rule is not intended to preclude the use of ACT for the preservation of testimony as permitted by Rules 500 and 501; and

6) explains that the paragraph (A)(4) exception for revocation hearings addresses *Gagnon* II-type hearings, in which there may be a sentencing for a violation of the defendant's probation or parole, and not the *Gagnon* I-type hearings in which there only is a probable cause finding that a violation has occurred.

[Pa.B. Doc. No. 03-1689. Filed for public inspection August 29, 2003, 9:00 a.m.]

[234 PA. CODE CH. 4]

Order Amending Rules 403, 431 and 441, and Approving the Revision of the Comments to Rules 400, 409, 414, 424, 430, 454, 455 and 456; No. 296 Criminal Procedural Rules; Doc. No. 2

On August 7, 2003, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.Rs.Crim.P. 403 (Contents of Citation), 431 (Procedure When Defendant Arrested With Warrant), and 441 (Procedure Following Arrest Without Warrant), and approved the revisions of the Comments to Pa.Rs.Crim.P. 400 (Means of Instituting Proceedings in Summary Cases), 409 (Guilty Pleas), 414 (Guilty Pleas), 424 (Guilty Pleas), 430 (Issuance of Arrest Warrant), 454 (Trial in Summary Cases), 455 (Trial in Defendant's Absence) and 456 (Default Procedures: Restitution, Fines, and Costs). These rule changes clarify the procedures in summary cases when the defendant is under the age of 18 at the time a summary offense is committed, and make other correlative and conforming changes.

Order

Per Curiam:

Now, this 11th day of August, 2003, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 30 Pa.B. 5531 (October 28, 2000), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 759), 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:

(1) Rules of Criminal Procedure 403, 431, and 441 are hereby amended; and

(2) the revisions of the Comments to Rules of Criminal Procedure 400, 409, 414, 424, 430, 454, 455, and 456 are hereby approved

all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 4. PROCEDURES IN SUMMARY CASES
PART A. Instituting Proceedings**

Rule 400. Means of Instituting Proceedings In Summary Cases.

* * * * *

Comment

* * * * *

The Rules of Criminal Procedure generally do not apply to juvenile proceedings, but these rules do apply to proceedings in summary cases involving [juveniles] defendants under 18 years of age to the extent that the Juvenile Act does not apply to such proceedings. See, e.g., Juvenile Act [§§ 6302—6303], 42 Pa.C.S. §§ 6302[—], 6303, and 6326; Vehicle Code [§ 6303], 75 Pa.C.S. § 6303. See also 42 Pa.C.S. §§ 1515(a)(1) and 6303(a)(5) concerning jurisdiction of summary offenses arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed.

See Section 1522 of the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving [juveniles] defendants under 18 years of age.

Official Note: Previous Rule 51 adopted January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; Comment revised December 15, 1983, effective January 1, 1984; rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rules 3, 51, 52, 55, 60, 65, 70, 75, and 95. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised January 31, 1991, effective July 1, 1991; Comment revised January 16, 1996, effective immediately; Comment revised June 6, 1997, effective immediately; renumbered Rule 400 and amended March 1, 2000, effective April 1, 2001; Comment revised February 6, 2003, effective July 1, 2003; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes to the last two paragraphs of the Comment concerning the Juvenile Act and the rules published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART B. Citation Procedures

Rule 403. Contents of Citation.

(A) Every citation shall contain:

* * * * *

(3) a notation if the defendant is [a juvenile] under 18 years of age and whether the parents or guardians have been notified of the charge(s);

* * * * *

(B) The copy delivered to the defendant shall also contain a notice to the defendant:

* * * * *

(4) that failure to respond to the citation as provided above within the time specified:

(a) shall result in the issuance of a summons when a violation of an ordinance or any parking offense is charged, or when the defendant is under 18 years of age, and in all other cases shall result in the issuance of a warrant for the arrest of the defendant; and

* * * * *
Comment
* * * * *

Paragraph (B)(4)(a) provides for notice to the defendant who is under 18 years of age that a summons will be issued if the defendant fails to respond to the citation.

Paragraph (B)(4)(b) provides notice to the defendant that his or her license will be suspended if the defendant fails to respond to the citation or summons within the time specified in the rules. See 75 Pa.C.S. § 1533.

* * * * *

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; Comment revised February 6, 2003, effective July 1, 2003; amended August 7, 2003, effective July 1, 2004.

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 amendments to paragraph (B)(4)(a) concerning juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

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

Rule 409. Guilty Pleas.

* * * * *
Comment
* * * * *

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303. For procedure upon default in payment of fine or costs, see Rule 456.

For procedure upon default in payment of fine or costs, see Rule 456.

* * * * *

Official Note: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 75. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 409 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004.

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART B(2). Procedures When Citation Filed
Rule 414. Guilty Pleas.

* * * * *
Comment
* * * * *

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

For procedure upon default in payment of fine or costs, see Rule 456.

* * * * *

Official Note: Previous rule, originally numbered Rule 136, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 64 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 84. Present Rule 64 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 414 and amended March 1, 2000, effective April 1, 2001; Comment revised August 7, 2003, effective July 1, 2004.

Committee Explanatory Reports:

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Final Report explaining the August 7, 2002 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART C. Procedures in Summary Cases When Complaint Filed

Rule 424. Guilty Pleas.

* * * * *
Comment
* * * * *

When the defendant is under 18 years of age at the time of the offense and appears as provided in paragraph (C), if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority

must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

For procedure upon default in payment of fine or costs, see Rule 456.

* * * * *

Official Note: Previous rule, originally numbered Rule 140, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 69 September 18, 1973, effective January 1, 1974; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 69 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; renumbered Rule 424 and amended March 1, 2000, effective April 1, 2001; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 new Comment language concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART D. Arrest Procedures in Summary Cases

PART D(1). Arrests With a Warrant

Rule 430. Issuance of Arrest Warrant.

* * * * *

Comment

* * * * *

When the defendant is under 18 years of age, and the defendant has failed to respond to the citation, the issuing authority must issue a summons as provided in Rule 403(B)(4)(a). If the juvenile fails to respond to the summons, the issuing authority should issue an arrest warrant as provided in paragraph (A)(1) and (2).

An arrest warrant may not be issued under paragraph (A)(1) when a defendant fails to respond to a citation or summons that was served by first class mail. See Rule 451.

* * * * *

If the defendant is under 18 years of age and has not paid the fine and costs, the issuing authority must issue the notice required by paragraph (D) to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. (6302, definition of "delinquent act," paragraph (2)(iv). Thereafter, the case will proceed pursuant to the Juvenile Act instead of these rules.

If the defendant is 18 years of age or older when the default in payment occurs, the issuing authority must proceed under these rules.

When contempt proceedings are also involved, see Chapter 1 Part D for the issuance of arrest warrants.

* * * * *

Official Note: Rule 75 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 430 and amended March 1, 2000, effective April 1, 2001; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 new Comment language concerning failure to pay fines and costs by juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Rule 431. Procedure When Defendant Arrested With Warrant.

* * * * *

(D) When the defendant is taken before the issuing authority under paragraph (B)(4),

(1) the defendant shall enter a plea; and

(2) if the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the defendant shall be given an immediate trial unless:

[(1)] (a) the Commonwealth is not ready to proceed, or the defendant requests a postponement or is not capable of proceeding, [in which event] and in any of these circumstances, the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial;

[(2)] (b) * * *

[(3)] (c) * * *

(3) If the defendant is under 18 years of age and cannot be given an immediate trial, the issuing authority promptly shall notify the defendant and defendant's parents, guardian, or other custodian of the date set for the summary trial, and shall release the defendant on his or her own recognition.

Comment

* * * * *

Delay of trial under paragraph (D)[(1)] (2)(b) is required by statutes such as 18 Pa.C.S. § 3929 (pretrial fingerprinting and record-ascertainment requirements).

Although the defendant's trial may be delayed under this rule, the requirement that an arrested defendant be taken without unnecessary delay before the proper issuing authority remains unaffected.

In cases in which a defendant who is under 18 years of age has failed to "comply with a lawful sentence" imposed by the issuing authority, the Juvenile Act requires the issuing authority to certify notice of the failure to comply to the court of common pleas. See the definition of "delinquent act," paragraph (2)(iv), in 42 Pa.C.S. § 6302. Following the certification, the case is to proceed pursuant to the Juvenile Act instead of these rules.

* * * * *

Official Note: Rule 76 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; amended August 9, 1994, effective January 1, 1995; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 431 and amended March 1, 2000, effective April 1, 2001; **amended August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes to paragraph (D) and Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART D(2). Arrests Without a Warrant

Rule 441. Procedure Following Arrest Without Warrant.

* * * * *

(C) When the defendant has not been released from custody under paragraph (B), the defendant shall be taken without unnecessary delay before the issuing authority where a citation shall be filed against the defendant [. The], and

(1) the defendant shall enter a plea.

(2) If the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, [The] the defendant shall be given an immediate trial unless:

[(1)] (a) * * *

[(2)] (b) * * *

(3) If the defendant is under 18 years of age and cannot be given an immediate trial, the issuing authority promptly shall notify the defendant and defendant's parents, guardian, or other custodian of the date set for the summary trial, and shall release the defendant on his or her own recognizance.

Comment

* * * * *

Delay of trial under [subparagraph] paragraph (C)(2)(b) is required by statutes such as 18 Pa.C.S. § 3929 (pretrial fingerprinting and record-ascertainment requirements). Although the defendant's trial may be delayed under this [subparagraph] paragraph, the requirement that the defendant be taken without unnecessary delay before the proper issuing authority remains unaffected. See also Rules 408, 413, and 423.

On the defendant's right to counsel and waiver of counsel, see Rules [122 and 121] 121 and 122.

* * * * *

Official Note: Rule 71 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended August 9, 1994, effective January 1, 1995; amended May 14, 1999, effective July 1, 1999; renumbered Rule 441 and amended March 1, 2000, effective April 1, 2001; **amended August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes the Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

PART E. General Procedures in Summary Cases

Rule 454. Trial in Summary Cases.

* * * * *

Comment

* * * * *

When the defendant was under 18 years of age at the time of the offense, if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority may not conduct the trial, but must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

Under paragraph (E)(2)(a), the issuing authority should explain to the defendant that if an appeal is filed, any sentence, including imprisonment, fines, or restitution, will be stayed.

* * * * *

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; **January 1, 1986** effective [date] dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes to the Comment concerning defendants under the age of 18 published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Rule 455. Trial in Defendant's Absence.

* * * * *

Comment

* * * * *

When the defendant was under 18 years of age at the time of the offense, if a mandatory sentence of imprisonment is prescribed by statute, the issuing authority may not conduct the trial, but must forward the case to the court of common pleas for disposition. See the Juvenile Act, 42 Pa.C.S. §§ 6302 and 6303.

Paragraph (D) provides notice to the defendant of conviction and sentence after trial in absentia to alert the defendant that the time for filing an appeal has begun to run. See Rule 413(B)(3).

If the defendant is under 18 years of age, the notice in paragraph (D) must inform the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defen-

dant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv), and the case will proceed pursuant to the Juvenile Act instead of these rules.

If the defendant is 18 years of age or older and fails to pay or appear as required in paragraph (D), the issuing authority must proceed under these rules.

* * * * *

Official Note: Rule 84 adopted July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; renumbered Rule 455 and Comment revised March 1, 2000, effective April 1, 2001; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes to the Comment concerning failure to pay and juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

Rule 456. Default Procedures: Restitution, Fines, and Costs.

* * * * *

Comment

* * * * *

If the defendant is under 18 years of age, the notice in paragraph (B) must inform the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv), and the case will proceed pursuant to the Juvenile Act instead of these rules.

If the defendant is 18 years or older when the default in payment occurs, the issuing authority must proceed under these rules.

Pursuant to paragraph (C), the issuing authority must conduct a default hearing when a defendant responds to the 10-day notice as provided in paragraph (B), or when the defendant is arrested for failing to respond to the 10-day notice. If the default hearing cannot be held immediately, the issuing authority may set bail as provided in Chapter 5 Part C.

* * * * *

[When a "child" fails to pay a fine levied for a summary offense, notice of that fact must be certified by the court of common pleas and the Juvenile Act would then apply, rather than these rules. See 42 Pa.C.S. §§ 6302—6303.]

When a defendant is in default of an installment payment, the issuing authority on his or her own motion or at the request of the defendant or the attorney for the Commonwealth must schedule a rehearing to determine the cause of the default. Before an issuing authority may

impose a sentence of imprisonment as provided by law for nonpayment of restitution, fines, or costs, a hearing or rehearing must be held whenever a defendant alleges that his or her ability to pay has been diminished. See 42 Pa.C.S. § 9730(b). See also Rules [122 and 121] 121 and 122 (dealing with the right to counsel).

* * * * *

Official Note: Adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; rescinded October 1, 1997, effective October 1, 1998. New Rule 85 adopted October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 456 and amended March 1, 2000, effective April 1, 2001; **Comment revised August 7, 2003, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the August 7, 2003 changes to the Comment concerning failure to pay and juveniles published with the Court's Order at 33 Pa.B. 4293 (August 30, 2003).

FINAL REPORT¹

Proposed Amendments to Pa.Rs.Crim.P. 403, 431, and 441, and Revision of the Comments to Pa.Rs.Crim.P. 400, 409, 414, 424, 430, 454, 455, and 456

Summary Case Procedures When Defendant Is A Juvenile

I. Introduction

On August 7, 2003, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.Rs.Crim.P. 403 (Contents of Citation), 431 (Procedure When Defendant Arrested With Warrant), and 441 (Procedure Following Arrest Without Warrant), and approved the revisions of the Comments to Pa.Rs.Crim.P. 400 (Means of Instituting Proceedings in Summary Cases), 409 (Guilty Pleas), 414 (Guilty Pleas), 424 (Guilty Pleas), 430 (Issuance of Arrest Warrant), 454 (Trial in Summary Cases), 455 (Trial in Defendant's Absence) and 456 (Default Procedures: Restitution, Fines, and Costs). These rule changes clarify the procedures in summary cases when the defendant is under the age of 18 at the time a summary offense is committed, and make other correlative and conforming changes.

II. Background

One area of criminal practice that continues to be a source of confusion for the bench, bar, and minor judiciary concerns the handling of summary cases in which the defendant is under the age of 18 (a juvenile) at the time a summary offense is committed. The confusion arises from how the Juvenile Act, 42 Pa.C.S. § 6301 et seq., is interpreted, the interplay of Sections 6302, 6303, and 6326, and how these sections relate to the rules. Section 6302 defines "delinquent act," and paragraph (iv) of the definition specifically excludes "summary offenses unless the child² fails to comply with a lawful sentence imposed thereunder." Paragraph (a)(5) of Section 6303 (Scope of

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

² "Child" is defined, inter alia, as "an individual who is under the age of 18 years" or "is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years." 42 Pa.C.S. § 6302.

Chapter) provides the chapter will apply to "proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under the Act," and paragraph (b) limits the ability of a district justice to detain, commit, or sentence to imprisonment a defendant who is a juvenile for those offenses enumerated in Section 6302(2) other than summary offenses. Finally, Section 6326 (Release or Delivery to Court) provides for taking the child into custody, and the release of the child to his or her parents or guardian or for custody in certain limited circumstances.

Other than some cross-references to the Juvenile Act³, and the requirement in paragraph (A)(3) of Rule 403 (Contents of Citation) that the citation include a notation if the defendant is a juvenile and whether the parents or guardians have been notified of the charges, the Criminal Rules do not provide procedures for handling cases when the defendant is a juvenile, which also has contributed to the confusion. For example, the Committee has received several inquiries asking whether, when a defendant who is a juvenile fails to respond to a citation, the issuing authority should proceed pursuant to Rule 430 (Issuance of Arrest Warrant) and issue a warrant, and, if such a warrant is issued, how the issuing authority should proceed when the juvenile is apprehended. Others have asked whether the issuing authority should issue a warrant or the notice required by Rule 430(D) when a juvenile has failed to pay fines and costs, and how to accomplish the certification of the fact of the non-compliance as required by Section 6302 of the Act.

In view of the questions that continue to arise and the confusion about the interpretation of the Juvenile Act, the Committee agreed that the minor judiciary, the bar, law enforcement, and the criminal justice system in general would achieve great benefit if the Criminal Rules were amended to clarify the summary case procedures when the defendant is a juvenile, particularly when a warrant is issued.

III. Discussion

A. JUVENILE ACT-RELATED CHANGES

The Committee initiated this project by reviewing the Juvenile Act, 42 Pa.C.S. §§ 6301 et seq. As noted in the Comments to Rules 100 (Scope of Rules) and 400,⁴ the Criminal Rules apply to proceedings involving juveniles "only to the extent the Juvenile Act does not vest jurisdiction in the Juvenile Court." It is clear from Section 6302 (Definitions) that summary cases involving juveniles ordinarily are not within the scope of the Juvenile Act. Section 6302 provides, inter alia:

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"DELINQUENT ACT."

* * * * *

(2) The term shall not include:

³ See, e.g., the Comments to Rules 101 (Scope of Rules) and 400 (Means of Instituting Proceedings in Summary Cases).

⁴ The Comment to Rule 400 (Means of Instituting Proceedings in Summary Cases) includes cross-references to Sections 6302 and 6303 of the Act. In view of the other changes included in the package, the Committee agreed that a reference to Section 6326 should be added because of its provisions concerning detention of juveniles arrested in summary cases.

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.⁵

The confusion the correspondents noted arises because of several other provisions of the Act. Section 6303 (Scope of Chapter), paragraph (b), provides, inter alia:

(b) Minor Judiciary.—No child shall be detained, committed or sentenced to imprisonment by a district justice or a judge of the minor judiciary unless the child is charged with an act set forth in paragraph (2)(i), (ii), (iii) or (v) of the definition of "delinquent act" in Section 6302 (relating to definitions).⁶

Because this provision makes specific reference to paragraphs that are excluded from the definition of "delinquent act," but does not refer to the exclusion of summary offenses in paragraph (2)(iv), this provision has been interpreted as meaning that the minor judiciary may not sentence a juvenile in a summary case to imprisonment, nor may they detain these juveniles.

On the other hand, Section 6324 (Taking into custody) provides that a child may be taken into custody (1) pursuant to an order of the court under this chapter and (2) pursuant to the laws of arrest, and Section 6326 (Release or delivery to court) provides, inter alia,

(a) General rule—A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:

(1) notify the parent, guardian or other custodian of the apprehension of the child and his whereabouts;

(2) release the child to his parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 6325 (relating to detention of child); or

(3) bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court.

(b) Detention in police lockup generally prohibited—Unless a child taken into custody is alleged to have committed a crime or *summary offense* or to be in violation of conditions of probation or other supervision following an adjudication of delinquency, the child may not be detained in a municipal police lockup or cell or otherwise held securely within a law enforcement facility or structure which houses an adult lockup.

(c) Detention in police lockup under certain circumstances—A child alleged to have committed a crime or *summary offense* or to be in violation of conditions of probation or other supervision following an adjudication of delinquency *may be held securely in a municipal police lockup or other facility which houses an adult lockup only under the following conditions:*

(1) the secure holding shall only be for the purpose of identification, investigation, processing, releasing

⁵ "Court" is defined by the Act as "court of common pleas."

⁶ Paragraph (2)(i)-(iii) and (v) pertains to murder and the enumerated crimes committed by a defendant 15 years and older that would be tried in adult court.

or transferring the child to a parent, guardian, other custodian, or juvenile court or county children and youth official, or to a shelter care or juvenile detention center;

(2) the secure holding shall be limited to the minimum time necessary to complete the procedures listed in paragraph (1), but in no case may such holding exceed six hours; and

(3) if so held, a child must be separated by sight and sound from incarcerated adult offenders and must be under the continuous visual supervision of law enforcement officials or facility staff.

(emphasis added)

In evaluating these two provisions, the Committee observed the provision permitting a child to be taken into custody pursuant to the laws of arrest could be interpreted as encompassing the Criminal Rules, and the provision in Section 6326(c) that does permit a juvenile in a summary case to be taken into custody also could be interpreted as encompassing the Criminal Rules. Notwithstanding these interpretations of the Act, the Committee noted the continuing confusion among law enforcement officers and members of the minor judiciary concerning how to proceed in a summary case when a defendant who is under the age of 18 is subject to an arrest.

After reviewing these provisions of the Act and the concerns raised by the correspondents, the Committee agreed the rules should be amended to provide clarification about how to proceed in summary cases when the defendant is under the age of 18, thereby providing guidance in the rules for the minor judiciary, the bar, and law enforcement officers.

(1) *Failure to Comply with Lawful Sentence*⁷

Rule 430(C) permits an arrest warrant to be issued when a defendant fails to pay the fines and costs. Rule 430(D) requires that, before the warrant is issued for failure to pay, a notice of the default must be sent to the defendant. This notice requirement was added to the rules in 1997 to give the defendant notice of the consequence of failing to pay the fines and costs, and to give the defendant a 10-day window of opportunity to comply before the warrant is issued. The Committee decided that it made sense in cases involving a juvenile to provide comparable safeguards, which have been incorporated into the seventh paragraph of the Rule 430 Comment. The change explains what the issuing authority is to do when a defendant is under the age of 18 at the time he or she fails to pay the fine and costs: the issuing authority is to give the 10-day notice provided by the rule, but the notice would advise the defendant that failure to pay or appear within the 10-day time period will result in a notice of the non-compliance being given to the court of common pleas rather than issuance of a warrant. The Committee agreed in these cases the notice also should be given to the defendant's parents, guardian, or other custodian, consistent with the other notice requirements of the Act. A comparable revision explaining the Act's certification requirement has been added to the Comment to Rule 431 (Procedure When Defendant Arrested with Warrant).

(2) *Failure to Respond to Citation*

Rule 430(A) requires when a defendant fails to respond that a warrant should be issued. An exception to this warrant requirement is set forth in Rule 403 (Contents of

Citation) for cases involving a violation of an ordinance or any parking offense. In these cases, a summons must be issued before a warrant, giving the defendant a second opportunity to respond. The Committee agreed, given the confusion about arresting juveniles in summary cases, that it makes sense to have a comparable exception apply to juveniles. Rule 403(B)(4)(a) has been amended by the addition of "or when the defendant is a juvenile," with a brief explanation of this change in the Comment to Rule 403. If the juvenile fails to respond to the summons, the case would proceed in the same manner as any summary case, and a warrant would be issued pursuant to Rule 430(A). This concept also is explained in a new second paragraph in the Rule 430 Comment.

(3) *Detention, Commitment, Sentences of Imprisonment*

The part of the Act that was the most complicated to address in the rules was the provision in Section 6303 that "no child shall be detained, committed or sentenced to imprisonment by a district justice or a judge of the minor judiciary . . . ," and the provision in Section 6324 that a child may be taken into custody pursuant to the laws of arrest.

(a) *Detention or Commitment*

Considering first the prohibition on detaining and committing a juvenile, the Committee noted the rules provide, as options in lieu of arresting a defendant in a summary case, for the payment of fines and costs or collateral, Rule 431(B), and for the prompt release of a defendant when certain criteria are satisfied following an arrest without a warrant, Rule 441(B). Because the rules give the police officers some options and do not mandate an arrest in every case, the Committee concluded nothing additional in the rules is necessary concerning these arrest procedures when a juvenile is involved.⁸

On the other hand, Rules 431(D) and 441(C) provide that the defendant, arrested with or without a warrant, be taken without unnecessary delay before the issuing authority for an immediate trial, and, in cases in which an immediate trial cannot be held, that the defendant be given an opportunity to deposit collateral for appearance on a new date. In order to avoid a possible conflict with the detention provisions of the Act, the Committee agreed when the defendant is under the age of 18, the defendant must be released promptly on his or her own recognizance. To accomplish this, Rule 431 has been amended by the addition of a new paragraph (D)(3) and Rule 441 has been amended by the addition of a new paragraph (C)(3), both requiring, in cases in which the juvenile cannot be given an immediate trial, that the issuing authority promptly give notice of the date and time for the summary trial to the defendant and defendant's parents, guardian, or other custodian, and release the juvenile on recognizance. The Committee believes the requirement of notice to the parents as well as the juvenile of the new date and time for the trial adds some insurance that the juvenile will appear.

(b) *Sentence to Imprisonment*

The second prong of the Section 6303 prohibition—no child shall be sentenced to imprisonment—presented the most difficulty for the Committee. As we reviewed the language of the Act, the members considered several possible interpretations for how to handle a summary case under the Act when it is determined there was a

⁸ The Committee, relying on the provision in Section 6324 that a child may be taken into custody pursuant to the laws of arrest, reasoned that it is appropriate for police officers to arrest defendants who are juveniles for summary offenses when the arrest is authorized by law. Furthermore, Section 6326(b) appears to authorize the police to take a defendant who is a juvenile into custody, albeit with a number of limitations.

⁷ For additional discussion concerning failure to pay, see Section 4 below.

likelihood of imprisonment and how this would work under the rules: (1) a summary trial would be conducted by the district justice but the sentence would be imposed in the common pleas court; (2) the trial would be conducted by the district justice only if the district justice determines there is no likelihood of imprisonment, and in these cases, the district justice would be prohibited from imposing a sentence of imprisonment; or (3) when the district justice determines there is a likelihood of imprisonment, the district justice would be required to send the entire matter to the common pleas court. The version of the proposal that the Committee published utilized the last option—sending the case to the common pleas court for the trial—because the Committee thought this option created the least confusion while ensuring no juvenile would be sentenced to imprisonment by a member of the minor judiciary.

In response to publication, the Committee received correspondence opposing the proposed changes that would require the district justice to forward a case to the common pleas court for disposition when the defendant is a juvenile and there is a likelihood of imprisonment, explaining that, in the opinion of the correspondents, the Court of Common Pleas has no authority to sentence a child to imprisonment. The correspondents noted “the Juvenile Act provides at 42 Pa.C.S. § 6352(b) that ‘A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences for adults convicted of a crime.’ Moreover, the residential facilities available to the Courts of Common Pleas can accept children for service in conjunction with the disposition of a case only if such children have been adjudicated dependent or delinquent.”

Other communications with the Committee revealed concerns about the Committee’s interpretation of this portion of the Act, particularly when considered together with the statutes imposing mandatory sentences of imprisonment in summary cases,⁹ and suggested, because it is likely that the juvenile is under the supervision of the Juvenile Court due to the DUI conviction, that the mandatory sentence of imprisonment for driving under suspension, DUI related cases should be sent to the common pleas court. The juvenile judge supervising the case would want to know as soon as possible that the juvenile has been charged with driving under suspension. The Committee agreed with this suggestion and modified the published proposal so the Comments to Rules 409, 414, 424, 454, and 455 explain when there is a mandatory sentence of imprisonment and the defendant is under 18 years of age, that the case must be sent to the common pleas court.

(4) *Age of Defendant at Time of Default*

Another issue that arose post-publication concerns how to handle a summary case when the defendant is under

⁹For example, the mandatory sentence of imprisonment for driving under suspension, DUI related cases required by 75 Pa.C.S. § 1543.

18 years of age when he or she is convicted of a summary offense, but is over 18 when he or she defaults on paying the fine, costs, or restitution. Based on the provisions of the Juvenile Act, 42 Pa.C.S. § 6302, which specifically excludes from the definition of “delinquent act” “summary offenses, unless the child fails to comply with a lawful sentence imposed there under, in which event notice of such fact shall be certified to the court,” the Committee concluded the age of the defendant at the time of the failure to pay, which is the event that determines whether the case is to be certified to the common pleas court, is the crucial factor. In these cases, because the defendant is no longer a juvenile/child (i.e., is not under 18 years of age) at the time of the failure to pay, the case would remain with the district justice to deal with the default. This point is clarified in the Comments to Rules 430, 455, and 456. Because the age of the defendant is the critical issue in these failure to pay cases, instead of using the phrase “a defendant who is a juvenile,” which was the published version, the Committee agreed to use the more specific phrase “defendant is under 18 years of age.” In addition, as a further clarification, these Comment provisions explain that when the defendant is under the age of 18, the case will proceed under the Juvenile Act, and if the defendant is 18 years or older when the default occurs, then the case proceeds under the Criminal Rules.

The Committee also agreed after reviewing the proposal relative to the issue concerning the age of the defendant when there is a default that the rules would be clearer if the references to “the juvenile” in all the rules were replaced with “defendant who is under 18 years of age.”

B. MISCELLANEOUS CHANGES

During the review of Rules 431 and 441, the Committee noted several other changes should be made to conform the rules with comparable provisions of Rule 454 and with each other. The changes to Rule 431(D)(1) and (D)(2) and Rule 441(C)(1) and (C)(2), which apply to all summary cases not just those involving juveniles, conform these rules with the provisions in Rule 454 to provide guidance to the minor judiciary about how to proceed when a defendant is brought before the issuing authority following an arrest either with or without a warrant. If a defendant is taken before an issuing authority, the defendant must enter a plea. If the defendant pleads guilty, the issuing authority imposes sentence, or, if the defendant pleads not guilty, the defendant is given an immediate trial.

Rule 431(D)(2)(a) has been amended by the addition of “not capable of proceeding” to be consistent with the comparable provision in Rule 441(C)(2)(a) that was amended in 1999 to make it clear that the district justice may decide not to conduct the trial immediately when a defendant is incapacitated in some way and not able to proceed with the trial.

[Pa.B. Doc. No. 03-1690. Filed for public inspection August 29, 2003, 9:00 a.m.]

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 84d]

Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

The Insurance Department (Department) proposes to add Chapter 84d (relating to recognition of the 2001 CSO mortality table for use in determining minimum nonforfeiture standards and minimum standards for valuation) to read as set forth in Annex A. The proposal is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), section 301(c)(1) of The Insurance Department Act of 1921 (act) (40 P. S. § 71(c)(1)), section 410A (e)(8)(F) of The Insurance Company Law (law) (40 P. S. § 510.1(e)(8)(F)) and 31 Pa. Code § 84c.5(a) and (b) (relating to basic reserves minimum standard; and deficiency reserves minimum standard). Likewise, this proposal is made under the Department's rulemaking authority under the Unfair Insurance Practices Act (UIPA) (40 P. S. §§ 1171.1—1171.15) (as such authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Insurance Commissioner (Commissioner) has determined that, in and of itself, it is not a violation of the UIPA for a company to determine nonforfeiture benefits for the same type of policy of life on both a sex-distinct and sex-neutral basis. See section 5(a)(7) of the UIPA (40 P. S. § 1171.5(a)(7)).

Purpose

Section 301(c)(1) of the act, section 410A (e)(8)(F) of the law and 31 Pa. Code § 84c.5(a) and (b) authorize the Commissioner to promulgate regulations specifying new mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC) for use in determining minimum valuation standards and minimum nonforfeiture standards for life insurance policies. The purpose of this rulemaking is to add Chapter 84d to specify the 2001 CSO Mortality Table as a new mortality table. The 2001 CSO Mortality Table shall be used by January 1, 2009, but may be used earlier upon election by an insurer.

The 2001 CSO Mortality Table is based on historical experience and has been developed by the American Academy of Actuaries. In December 2002, the NAIC adopted the proposed mortality table in its "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation." This proposed rulemaking was patterned after the NAIC model regulation. Changes to the model regulation of an editorial nature were made for consistency with current Commonwealth regulations relating to valuation standards and nonforfeiture standards, and for wording clarification. The language of § 84d.6 (relating to permitted issuance) of the proposed rulemaking was modified because the NAIC language is vague and subject to interpretation that would conflict with the UIPA. See section 5(a)(7) of the UIPA. The section was modified to relate to the determination of nonforfeiture benefits under the same type of policy.

The use of the 2001 CSO Mortality Table will allow insurers to provide minimum reserves and nonforfeiture benefits based on a table recognizing current mortality.

A copy of this proposed rulemaking was shared with the Insurance Federation of Pennsylvania, Inc. (IFP), the Pennsylvania Association of Mutual Insurance Companies (PAMIC) and the Fraternal Insurance Organization. There were no negative comments received and the IFP, representing a substantial portion of the life insurance industry operating in this Commonwealth, expressed a desire that the 2001 CSO Mortality Table be recognized in this Commonwealth for use in determining minimum reserves and nonforfeiture benefits.

Explanation of Regulatory Requirements

Section 84d.1 (relating to purpose) explains the purpose of the rulemaking.

Section 84d.2 (relating to definitions) defines the terms used in the rulemaking.

Section 84d.3 (relating to 2001 CSO mortality table) provides for the use of the 2001 CSO Mortality Table as an additional mortality table which may be used, upon election by the insurer, to determine minimum reserves and nonforfeiture benefits for life insurance issued prior to January 1, 2009, and as the mortality table that shall be used to determine minimum reserves and nonforfeiture benefits for life insurance issued on and after January 1, 2009.

Section 84d.4 (relating to applicability of the 2001 CSO mortality table to Chapter 84c (relating to valuation of life insurance policies)). This section provides specific rules for using the 2001 CSO Mortality Table in applying the requirements of Chapter 84c in the determination of reserves for life insurance policies.

Section 84d.5 (relating to gender-blended tables). This section provides for the use in determining minimum nonforfeiture benefits of a mortality table that is a blend of the 2001 sex distinct tables.

Section 84d.6 (relating to permitted usage). This section establishes that the determination of nonforfeiture benefits for the same kind of life insurance policy on both a sex-distinct and sex-neutral basis is not, in and of itself, a violation of the UIPA.

Affected Parties

This proposed rulemaking will apply to insurers issuing life insurance coverage in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the use of the new mortality table since the extent of the analysis performed by the Department is not affected by the mortality table used in the calculation of nonforfeiture benefits and reserves.

General Public

It is unlikely that there will be any adverse fiscal impact on consumers who purchase life insurance coverage. The use of the 1980 CSO table may result in a reduction in nonforfeiture benefit amounts; however, with the highly competitive life insurance market in this Commonwealth there will most likely be a reduction in the cost of insurance due to improved mortality recognized by the 2001 CSO Mortality Table.

Political Subdivisions

There will be no fiscal impact on political subdivisions as insurers will continue to maintain adequate reserves and provide adequate nonforfeiture benefits. Adequate reserves have the potential to minimize insurer insolvencies that could result in less erosion of the tax base since insurers pay premium taxes on premium income and pay salaries that are taxed.

Private Sector

The proposed rulemaking may have some fiscal impact on insurance companies issuing life insurance coverage. Insurers will be required to expend some time to prepare and submit to the Department forms using the 2001 CSO Mortality Table.

Paperwork

The proposed rulemaking will not impose additional paperwork on the Department and the insurance industry. The proposed rulemaking provides for the use of an additional mortality table and does not impose additional requirements resulting in additional paperwork.

Effectiveness/Sunset Date

The proposed rulemaking will become effective upon final adoption and publication in the *Pennsylvania Bulletin* as final-form rulemaking. No sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the Department is required to write to all commentators, requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve our stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to the Independent Regulatory Review Commission (IRRC) and the legislative standing committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 19, 2003, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has, as required by the Regulatory Review Act, provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

IRRC will notify the Department of any objections to any portion of the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the

Governor, and the General Assembly to review these objections before final publication of the regulations.

M. DIANE KOKEN,
Insurance Commissioner

(Fiscal Note: 11-218. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 31. INSURANCE****PART VI. LIFE INSURANCE**

CHAPTER 84d. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

Sec.

- 84d.1. Definitions.
- 84d.2. Purpose.
- 84d.3. 2001 CSO Mortality Table.
- 84d.4. Applicability of the 2001 CSO Mortality Table to chapter 84c (relating to valuation of life insurance policies).
- 84d.5. Gender-blended tables.
- 84d.6. Permitted issuance.

§ 84d.1. Purpose.

This chapter implements section 301(c)(1) of the act (40 P. S. § 71(c)(1)), section 410A(e)(8)(F) of the law (40 P. S. § 510.1(e)(8)(F)) and § 84c.5(a) and (b) (relating to general requirements for basic reserves and premium deficiency reserves) which authorize the Commissioner to promulgate regulations specifying tables adopted after 1980 by the NAIC for use in determining minimum nonforfeiture standards and minimum valuation standards.

§ 84d.2. Definitions.

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

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1—324).

Actuarial Standards Board—The board established by the American Academy of Actuaries, or a successor thereto, to develop and promulgate standards of actuarial practice.

Commissioner—The Insurance Commissioner of the Commonwealth.

Composite Mortality Tables—The mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

Law—The Insurance Company Law of 1921 (40 P. S. §§ 341—991).

NAIC—The National Association of Insurance Commissioners.

Smoker and nonsmoker mortality tables—The mortality tables with separate rates of mortality for smokers and nonsmokers.

2001 CSO Mortality Table—The mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality

Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the 2001 CSO Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

2001 CSO Mortality Table (F)—The mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2001 CSO Mortality Table (M)—The mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

§ 84d.3. 2001 CSO Mortality Table.

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this section, the 2001 CSO Mortality Table may be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on or after January 1, 2004, and before the date specified in subsection (b). If the company elects to use the 2001 CSO Mortality Table, it shall do so for both nonforfeiture and valuation purposes.

(b) Subject to the conditions stated in this chapter, the 2001 CSO Mortality Table shall be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on and after January 1, 2009.

(c) For each policy form with separate rates for smokers and nonsmokers a company may use the 2001 CSO Mortality Tables in one of the following ways:

(1) The Composite Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(2) The Composite Mortality Tables as the minimum nonforfeiture standard and to determine the minimum reserves required by section 301 of the act (40 P. S. § 71) and the Smoker and Nonsmoker Mortality Tables as the minimum valuation standard to determine the additional minimum reserves, if any, required by section 303 of the act (40 P. S. § 73).

(3) The Smoker and Nonsmoker Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(d) For each policy form without separate rates for smokers and nonsmokers the Composite Mortality Tables shall be used as the minimum nonforfeiture standard and the minimum valuation standard.

(e) Subject to the restrictions of § 84d.4 (relating to applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies)) and Chapter 84c (relating to valuation of life insurance policies), the 2001 CSO Mortality Table may, at the option of the company for each policy form, be used in its ultimate or select and ultimate form as the minimum nonforfeiture standard and the minimum valuation standard.

(f) When the 2001 CSO Mortality Table is the minimum reserve standard for any policy form for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Chapter 84b (relating to actuarial opinion and memorandum). The Commissioner may exempt a company from this requirement if it only does business in this Commonwealth.

§ 84d.4. Applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies).

(a) The 2001 CSO Mortality Table shall be used in applying Chapter 84c (relating to valuation of life insurance policies) in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in § 84d.3(a) (relating to 2001 CSO mortality table) and § 84d.3(b).

(1) The net level reserve premium referenced in § 84c.2(b)(2)(ii) (relating to applicability) shall be based on the ultimate mortality rates in the 2001 CSO Mortality Table.

(2) All calculations in § 84c.4(b)(1) (relating to segmented and unitary reserve methods) shall be made using the 2001 CSO Mortality Table. The value of " $q_{x+k+t-1}$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(3) The basic reserves minimum standard in § 84c.5(a) (relating to general requirements for basic reserves and premium deficiency reserves) shall be the 2001 CSO Mortality Table.

(4) The deficiency reserves minimum standard in § 84c.5(b) shall be the 2001 CSO Mortality Table. If select mortality rates are used, they may be multiplied by $X\%$ for durations in the first segment, subject to the conditions specified in § 84c.5(b)(3)(i)—(ix). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant standards of practice as promulgated by the Actuarial Standards Board.

(5) The valuation mortality table used in determining the tabular cost of insurance in § 84c.6(c) (relating to minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies)) shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

(6) The calculations specified in § 84c.6(e)(4) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(7) The calculations specified in § 84c.6(f)(4) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(8) The net premiums referenced in § 84c.6(g)(2) shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(9) The 1-year valuation premium in § 84c.7(a)(1)(ii) (relating to minimum valuation standard for universal life insurance policies that contain provisions resulting in the ability of a policy owner to keep a policy in force over a secondary guarantee period) shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this section expands the applicability of Chapter 84c to include life insurance policies exempted under § 84c.2(b).

§ 84d.5. Gender-blended tables.

(a) For any ordinary life insurance policy delivered or issued for delivery in this Commonwealth on and after January 1, 2004, that utilizes the same premium rates

and charges for male and female lives or is issued in circumstances when applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each policy form, be substituted for the 2001 CSO Mortality Table as the minimum nonforfeiture standard. The blended tables may not be used as the minimum valuation standard.

(b) If blended tables are used as the minimum nonforfeiture standard, the company shall choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

§ 84d.6. Permitted usage.

In and of itself, it is not a violation of the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) for a company to determine nonforfeiture benefits for the same type of policy of life insurance on both a sex-distinct and sex-neutral basis.

[Pa.B. Doc. No. 03-1691. Filed for public inspection August 29, 2003, 9:00 a.m.]

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 11]

Pupil Attendance

The State Board of Education (State Board) proposes to amend Chapter 11 (relating to pupil attendance) to read as set forth in Annex A. The authority for this proposed rulemaking is section 2603-B of the Public School Code of 1949 (24 P. S. § 26-2603-B) (code).

Purpose

Chapter 11 sets forth requirements for student attendance in public schools. Proposed revisions to the regulations reflect current statutory provisions, court decisions and practices.

Requirements of the Proposed Amendments

Section 11.3 (relating to minimum required hours)

Under the current regulation, school districts are penalized in the receipt of subsidies from the Commonwealth when they do not meet the minimum daily hours of instruction, even when they far exceed the annual minimum. The State Board proposes to revise this section to provide additional flexibility to school districts in meeting the statutory-based minimum annual hours of instruction that must be offered by schools.

Section 11.5 (relating to part-time attendance for potential graduates)

The State Board proposes to revise this section to reflect the current practice of the Department of Education (Department) allowing a school district to count students enrolled in courses at postsecondary institutions in the district's average daily membership when the district pays the cost of tuition, fees and textbooks.

Section 11.6 (relating to part-time enrollment of alternative education students)

The State Board proposes to amend this section to conform it to amendments to the code made by the act of

November 23, 1999 (P. L. 529, No. 48) (Act 148). In enacting Act 48, the General Assembly added a new Article XIX-E of the code (24 P. S. §§ 19-1901-E—19-1903-E).

Section 11.7. (relating to religious objections)

The State Board proposes to revise this section to conform Chapter 11 to language now contained in Chapter 4 (relating to academic standards and assessment) regarding excusals from instruction due to a conflict with religious beliefs.

Section 11.11 (relating to entitlement of resident children to attend public schools)

The State Board proposes to revise subsection (a) to address student enrollment issues when a child's parents, who are divorced, separated or live apart for other reasons, live in different school districts. The State Board proposes to add subsections (b) and (c) to establish consistent student enrollment procedures across this Commonwealth. The intent is to limit delays in student enrollment that are common for many students, particularly those in foster care, students living with a relative or other adult who is not their natural parent, and students living in families who relocate frequently throughout the year. The State Board proposes to add a new § 11.11(d) to reflect the decision of the United States Supreme Court in the case of *Plyler v. Doe*, 457 U.S. 202 (1982). In *Plyler v. Doe*, the Supreme Court held that it is unconstitutional to deny free public education to children who are not legally admitted into the United States. Therefore, school districts must provide a free public education to children whose immigration status is not documented. The Federal Immigration Reform and Control Act of 1986 (Pub. L. No. 99-603) requires that students with F-1 Visas pay tuition to attend school.

The State Board proposes to add a new § 11.11(e) to put existing practice and Department policy, as outlined in a Basic Education Circular, into regulatory form.

Section 11.12 (relating to school age)

The State Board proposes to amend this section to reflect section 10 of act of June 28, 2002 (P. L. 524, No. 88), which amended section 1301 of the code (24 P. S. § 13-1301). The new provision permits students who attain age 21 while still enrolled in school to continue school enrollment through the end of the school term.

Section 11.16 (relating to early admission of beginners)

The State Board proposes to amend this section to delete the mental age test as a mandatory criteria used by schools in determining early school admission for beginners. This provision currently limits the discretion of school districts in permitting early enrollment of children in school and presents expensive and inappropriate burdens on school officials in determining the mental age of children.

Section 11.19 (relating to nonresident child living with a district resident)

The State Board proposes to amend this section to reflect section 12 of the act of June 22, 2001 (P. L. 530, No. 35) (Act 35) which amended section 1302 of the code (24 P. S. § 13-1302). This provision permits school boards to require that residents seeking to enroll a child in school, who is not their own, to provide reasonable information that substantiates their sworn statement as required by section 1302. Act 35 authorizes school boards to request additional information based on guidelines issued by the Department.

Section 11.20 (relating to nonimmunized children)

The State Board proposes to amend this section to clarify that children who are not immunized or for whom an exemption is obtained may not attend any educational program that meets compulsory school attendance requirements regardless of the type of educational institution or program. This provision would be revised to insure that all children, regardless of where they are educated, obtain necessary childhood immunizations or are exempted from doing so. This change fills a gap that exists in the current regulations.

Section 11.25 (relating to temporary excusals due to illness or other urgent reasons)

The State Board proposes to amend this section to insure that all students who are excused from school attendance or who are provided homebound instruction are returned to the regular school program as soon as appropriate, and that the excusals are not used to avoid addressing the educational needs of students.

Section 11.27 (relating to graduation)

The State Board proposes to amend paragraph (3) to put into regulatory form existing Department practice and policy as outlined in a Basic Education Circular. The State Board proposes to add a new paragraph (4) to permit schools to count students in their average daily membership—a number that helps to determine State subsidy amounts—students with disabilities who participate in the graduation ceremony with their class even though the student might continue to attend school in the next and subsequent school terms.

Section 11.31 (relating to students not enrolled in public schools due to private tutoring)

The State Board proposes to amend subsection (a) to reflect provisions of the act of December 21, 1988 (P. L. 1321, No. 169), which amended section 1327 of the code (24 P. S. § 13-1327) and Chapter 4. Subsection (b) would be amended to clarify the role of school districts in approving private tutoring programs.

Section 11.31a (relating to students not enrolled in public schools due to participation in a home education program)

The State Board proposes add this new section to clarify the role of school districts in approving home education programs.

Section 11.33 (relating to dual enrollment)

The State Board proposes to update this section to permit students who are home educated or privately tutored, and who also are enrolled part-time in the public schools, to be counted for State reimbursement purposes on a prorated basis. In doing so, the child's attendance would be included in the calculation of the school district's average daily membership, which is one factor in determining the amount of a school district's State subsidy.

Section 11.41 (relating to school district policies and rules)

The State Board proposes to revise subsection (c) to incorporate the provisions of section 13 of Act 35, which amended section 1329 of code (24 P. S. § 13-1329) regarding excusal of students to attend agricultural fairs.

Affected Parties

This proposed rulemaking would affect the students and professional employees of the public schools of this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alterna-

tive schools). Provisions contained in §§ 11.13, 11.20, 11.22, 11.31, 11.31a and 11.32 also affect students who meet compulsory school attendance laws through enrollment in a private or religious school or through home education or private tutoring.

Cost and Paperwork Estimates

Since these regulations largely reflect changes in State and Federal statutes, court decisions and regulations, the costs associated with compliance will be negligible. Schools traditionally update enrollment and attendance policies annually, since they provide their policies to students and their parents each school year. Some schools may need to improve student recordkeeping and retrieval to comply with the requirement that student records be transmitted within 5 days to the school to which a student transferred. Any costs associated with this policy will depend upon the school's current record keeping procedures and support. In cases where a transferred student has a disability, the new school may be required to incur costs in conducting a new evaluation of the student when records are not promptly received. Any costs associated with compliance with this change will be outweighed by the benefits provided to students and schools receiving student records.

Changes to § 11.3 would result in indeterminate cost savings to schools, by permitting additional flexibility in meeting the minimum hours of instruction required to be conducted in schools each year. The current regulation limits this flexibility by establishing minimal daily and weekly hourly requirements. Changes to the requirement that schools provide a minimum number of hours of instruction per day, week and month also will provide additional flexibility to schools in meeting the statutorily established minimum 900 hours of instruction for elementary schools and 990 for secondary schools, and might impact State subsidy payments to a small number of school districts.

Schools might need to update their policies regarding enrollment and attendance as a result of these changes. Since many of the changes, such as permitting students to remain in school through the end of the school term in which they turn 21 years of age and allowing students with excused absences to participate in agricultural fairs, are as a result of statutory changes, court decisions or Federal requirements, schools should have already revised their policies to reflect these changes as they occurred over the past several years. Schools also normally update their enrollment and attendance policies annually, since this area also is frequently changed due to statutory amendments and court decisions. Therefore, any costs associated with updating local policies to reflect the regulations should be negligible.

Effective Date

This proposed rulemaking would become effective upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

In accordance with its policy and practice respecting all regulations promulgated by it, the State Board will review the effectiveness of Chapter 11 after 4 years. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2003, the State Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chair-

persons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Patricia A. White, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Patricia White at (717) 787-3787 or TDD (717) 787-7367.

PATRICIA A. WHITE,
Executive Director

Fiscal Note: 6-279. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 11. PUPIL ATTENDANCE

GENERAL PROVISIONS

§ 11.1. School term.

Public kindergartens, elementary and secondary schools shall be kept open each school [year] term for a minimum of 180 days of instruction for [pupils] students. No days may be counted as days taught on which the schools are closed, and no time may be counted as a [pupil] student session for an activity to which admission is charged. However, [upon request] when a meritorious educational program warrants, the Secretary may, [when a meritorious educational program warrants] upon request, approve a school [year] term containing a minimum of 990 secondary or 900 elementary and 450 kindergarten hours of instruction as the equivalent of 180 school days.

§ 11.2. School day.

Instruction time for [pupils] students shall be time in the school day devoted to instruction and instructional activities provided as an integral part of the school program under the direction of [certificated] certified school employees.

§ 11.3. Minimum required hours.

(a) Minimum hours of instruction time for [pupils based on a school term of 180 days] students shall be as follows:

[Grade	Day	Week	Year
K	2.5	12.5	450
1-6	5.0	25.0	900
7-12	5.5	27.5	990]

Grade Hours

K	2 hours, 30 minutes, each day of the school term
1-6	900 hours for the school term
7-12	990 hours for the school term

(b) Schools with grade level configurations that differ from those outlined in subsection (a) (for example, K-8), are required to meet the minimum annual hourly requirements for each specified grade level.

§ 11.4. Early withdrawal for postsecondary institution attendance.

[Pupils] Students attending a postsecondary institution full-time prior to graduation from high school shall be dropped from the membership roll of the district at the time they stop attending school.

§ 11.5. Part-time attendance for potential graduates.

(a) [A pupil] Students of school age may qualify for graduation by attending the public school part-time when lawfully employed part-time or when officially enrolled in a postsecondary institution part-time. For reimbursement purposes, membership in the public school shall be calculated by counting the time the [pupils] students spend in the public school on a pro rata basis.

(b) Public schools that offer students enrollment at a postsecondary institution as part of the high school program and pay the tuition, fees and textbooks on behalf of students may continue to include the students in their average daily membership.

§ 11.6. Part-time enrollment of alternative education students.

Students may be allowed to attend public school less than full-time because of participation in a Department approved alternative [educational] program operated by a public school or a private alternative education institution as provided by section 1903-E of the Public School Code of 1949 (24 P. S. § 19-1903-E). For reimbursement purposes, the students may be counted as in full membership.

§ 11.7. Religious objections.

[Upon written parental request, a school district may excuse a pupil from instruction in those portions of science and health courses which conflict with the religious beliefs of the pupil.] Students shall be excused from instruction as provided by § 4.4(d)(3) (relating to general policies).

ADMISSION TO PUBLIC SCHOOLS

§ 11.11. Entitlement of resident children to attend public schools.

(a) A school age child is entitled to attend the public schools of the child's district of residence. A child's district of residence is that in which the parents or the guardian resides [, or, if]. When the parents reside in differ-

ent school districts due to separation, divorce or other reason, the child may attend school in the district of residence of the parent with whom the child lives for a majority of the time, unless a court order or court approved custody agreement specifies otherwise. If the parents have joint custody and time is evenly divided, the parents may choose which of the two school districts the child will enroll for the school year. If the child is an emancipated minor, the resident school district is the one in which the child is then living. For purposes of this section, an emancipated minor is a person [below the age of] under 21 years of age who has chosen to establish a domicile apart from the continued control and support of parents or guardians. A minor living with a spouse is deemed emancipated.

(b) A school district or charter school shall normally enroll a child the next business day, but no later than 5 business days from application. The school district or charter school has no obligation to enroll a child until the parent, guardian or other person having control or charge of the student applying has supplied proof of the child's age, residence, and immunizations as required by law; completed a sworn statement in accordance with section 1304-A of the Public School Code of 1949 (24 P. S. § 13-1304-A); and supplied any other documentation specifically required by law. School districts and charter schools receiving requests for educational records from another school district or charter school shall forward the records within 5 business days of receipt of the request.

(c) The requirement of subsection (b) applies equally to nonresident children who are children living in facilities, institutions or foster homes as defined in § 11.18 (relating to nonresident child living in facilities or institutions), or with a district resident who is supporting the child without personal compensation as defined in § 11.19 (relating to nonresident child living with a district resident), provided that the person making the application has supplied the documentation required by law.

(d) A child's right to be admitted to school may not be conditioned on the child's immigration status. A school may not inquire regarding the immigration status of a student as part of the admission process. This provision does not relieve a student who has obtained an F-1 visa from the student's obligation to pay tuition under Federal law.

(e) A school entity shall administer a home language survey to all students seeking first time enrollment in its schools in accordance with requirements of the United States Department of Education's Office for Civil Rights.

§ 11.12. School age.

School age is the period of a child's life from the earliest admission age to a school district's [kindergarten] educational program [or, when no kindergarten program is provided, to the district's earliest admission age for beginners,] until [the age of 21 years or] graduation from high school or the end of the school term in which a student reaches the age of 21 years, whichever [occurs first] should first occur.

§ 11.13. Compulsory school age.

Compulsory school age refers to the period of a child's life from the time the child enters school as a beginner (which may be no later than at the age of 8 years), until the age of 17 or graduation from a high school, whichever [occurs first] should first occur. A beginner is a child who enters a public school district's lowest elementary school grade that is above kindergarten.

§ 11.14. Admission to kindergarten when provided.

When kindergarten is provided, the board of school directors shall establish the district's minimum entry age to kindergarten [which may]. The minimum entry age to kindergarten may not be less than 4 years, no months, before the first day of the school term. [and the] The district's maximum entry age to kindergarten[, which] shall be less than the district's entry age for beginners.

§ 11.15. Admission of beginners.

The board of school directors shall establish the district's minimum entry age for beginners, which may not be less than a chronological age of 5 years and 7 months before September 1, nor more than 6 years, no months, before the first day of the school term of the district. The board of school directors shall permit a child of beginners' age to attend the district's first grade and may not require the child to attend kindergarten, prefirst grade, transitional class or other grade or class that is not regular first grade without parental consent.

§ 11.16. Early admission of beginners.

The board of school directors of a school district may, upon parental request[,] and when recommended by a public school psychologist and approved by the district superintendent of schools, admit as a beginner a child with a chronological age of 5 years [and a mental age of 7 years or more] as of the first day of the district's school term. A board of school directors is not required to admit a child as a beginner whose chronological age is less than the district's established admission age for beginners.

§ 11.18. Nonresident children living in facilities or institutions.

(a) The board of school directors of a school district in which there is located [an agency supervised or] a licensed shelter, group home, maternity home, residence, facility, orphanage or other institution for the care or training of children or adolescents, shall admit to the district's public schools schoolage children who are living at or assigned to the facility or institution and who are residents of the district or another school district in this Commonwealth.

(b) The board of school directors of a school district[,] in which a day treatment program, operated under approval from the Department of Public Welfare by a private children and youth agency, is located[,] may purchase educational services for a child referred to the program under section 1310(b) of the Public School Code of 1949 (24 P. S. § 13-1310(b)).

* * * * *

§ 11.19. Nonresident child living with a district resident.

A nonresident child is entitled to attend the district's public schools if that child is maintained and supported in the home of a district resident as if the child were the resident's own child and if the resident receives no

personal compensation for maintaining the student in the district. Before accepting the child as a **[pupil] student**, the board of school directors of the district **[may] shall** require the resident to file with the secretary of the board of school directors **either appropriate legal documentation to show dependency or guardianship or** a sworn statement that **[he] the child** is a resident of the district, **[that he] the child** is **[supporting the child] supported** without personal compensation or gain, **[that he] and that the resident** will assume personal obligations for the child relative to school requirements and **[that he]** intends to so keep and support the child continuously and not merely through the school term. The resident's receipt of public payments, such as Supplemental Security Income (SSI), **[Aid to Families of Dependent Children (AFDC)] Temporary Assistance for Needy Families (TANF), maintenance on public or private health insurance, preadoptive support or other payments for or on account of the child, may not be deemed to be personal compensation or gain under this section. The school board may require other reasonable information to be submitted by the resident to substantiate the sworn statement in accordance with guidelines established by the Department.**

§ 11.20. Nonimmunized children.

(a) No child may be admitted to or permitted to attend **[the] a public [schools unless the child has received immunizations required by], private, nonpublic, special education, or vocational school or to participate in a home education or private tutoring program in a district unless the immunization, exemption or provisional admission requirements of the Department of Health, at 28 Pa. Code Chapter 23, Subchapter C (relating to immunization) have been met or the child has received from the [or school district superintendent]; chief school administrator of the public, private, nonpublic, special education or vocational school a medical or religious exemption from immunization under 28 Pa. Code § 23.84 (relating to exemption for immunization).**

(b) A child who has not received all doses of the required immunizations or who has not been exempted from immunization, but who has received at least one dose of each of the required immunizations, may be provisionally admitted and attend public school for a period of up to 8 months. Provisional admission or continued attendance shall be conditioned upon the **[parents'] parent's** or guardian's submission to the superintendent of a plan for the **[pupil's] student's** completion of the required immunization doses. The plan shall be reviewed by the school district at least every 60 calendar days. If, after 8 months, the child has not received all doses of the required immunizations, the child thereafter may not be further admitted to or be permitted to attend the public schools until all doses have been received.

[(c) No school age child may be admitted to or permitted to attend a private, nonpublic, special education or vocational school unless the immunization, exemption or provisional admission requirements of the Department of Health at 28 Pa. Code Chapter 23, Subchapter C have been met.

(d)] (c) * * *

ABSENCES FOR TEMPORARY PERIODS

§ 11.21. Religious holidays and religious instruction.

(a) Upon written parental request, and in accordance with the policies of the district's board of school directors, **[pupils] students** may be excused from school for religious holidays observed by bona fide religious groups.

(b) Upon written parental request, a **[pupil] student** shall be excused from school **[in order]** to attend classes for religious instruction under section 1546 of the Public School Code of 1949 (24 P.S. § 15-1546). The excusal shall be limited to a total of not more than 36 hours per school year.

(c) A **[pupil's] student's** absence from school for religious holidays or for religious instruction shall be recorded as an excused absence. **[There shall be] No penalty may be** attached to an absence for religious holidays or instruction.

§ 11.22. Tutorial work.

(a) Upon written parental request, a **[pupil] student** may be excused during school hours for the purpose of receiving tutorial instruction in a field not offered in the district's curricula only if the following requirements are met:

(1) The excusal does not interfere with the **[pupil's] student's** regular program of studies.

* * * * *

§ 11.23. Health care.

Upon written parental request, a **[pupil] student** may be excused during school hours for the purpose of obtaining professional health care or therapy service only if the following requirements are met:

* * * * *

(2) It is not practical or possible for the **[pupil] student** to receive the services outside of school hours.

(3) The time of necessary absence from school involves a minimum of interference with the **[pupil's] student's** regular program of studies.

§ 11.24. Unaccounted absences.

[Children] Students whose names are on the active membership roll, who are at anytime in the school term absent from school for 10 consecutive school days, shall thereafter be removed from the active membership roll unless one of the following **[occurs] should occur:**

* * * * *

§ 11.25. Temporary excusals due to illness or other urgent reasons.

(a) A principal or teacher may, upon receipt of satisfactory evidence of mental, physical or other urgent reasons, excuse a **[child] student** for nonattendance during a temporary period, but the term "urgent reasons" **[is] shall be** strictly construed and does not permit irregular attendance. A school district shall adopt rules and procedures governing temporary excusals **[which] that** may be granted by principals and teachers under this section. **Temporary excusals may not exceed 3 months.**

(b) Students temporarily excused under this section may be provided with homebound instruction, **for a period not to exceed 3 months. Department of**

Education approval is required to extend the provision of homebound instruction and shall be re-evaluated every 3 months. When a student receives homebound instruction, the student may be counted for attendance purposes as if in school. A school district shall be reimbursed for homebound instruction provided to a student under section 2510.1 of the Public School Code of 1949 (24 P. S. § 25-2510.1).

(c) A school district shall adopt policies **[which]** that describe **[its]** the instructional services that are available to students who have been excused under this section. The policies shall include statements **[which]** that define the responsibilities of both the district and the **[pupil]** student with regard to these instructional services.

§ 11.26. Nonschool district sponsored educational tours and trips.

(a) A school district may excuse a **[pupil]** student from school attendance **[in order]** to participate in a nonschool district sponsored educational tour or trip, if the following conditions are met:

(1) The **[pupil's]** student's parents or guardian prior to the trip submits to the school district a written request for the excusal.

(2) The **[pupil's]** student's participation on the **[trip or]** tour or trip has been approved by the district superintendent or a designee.

(3) There is an adult who is directing and supervising the **[pupil]** student during the **[trip or]** tour or trip who is acceptable to both the parents or guardian and the district superintendent.

(b) A school district may limit the number and duration of **[trips or]** tours or trips for which excused absences may be granted **[pupils]** students during the school term.

§ 11.27. Graduation.

The intent of this section is to specify the effect of graduation on membership for the purpose of calculating school subsidies **[and not to impose limits on the right to a free and appropriate public education for special education students who participate in graduation ceremonies but who are not being graduated]**.

(1) A **[pupil's]** student's graduation from high school signifies both the **[pupil's]** student's fulfillment of the high school graduation requirements set forth in Chapter **[5 (Reserved)]** 4 (relating to academic standards and assessment) and the end of the **[pupil's]** student's membership in a school district for the purpose of State subsidy reimbursement. A graduating **[pupil's]** student's date of graduation shall be that of the commencement ceremony of the **[pupil's]** student's high school.

(2) This subsection applies to a graduating high school **[pupil]** student who is attending an area vocational technical school (AVTS). If the AVTS instructional calendar extends beyond the **[pupil's]** student's high school commencement date, for purposes of determining whether the **[pupil]** student has received 180 days of instruction and for purposes of determining State subsidy com-

putation, the **[pupil]** student may be maintained in membership at the AVTS until the end of the AVTS calendar.

(3) Graduating **[pupils]** students may be counted as in attendance for no more than 3 days of commencement preparation. **Commencement preparation may be held on Saturdays within 60 days of the commencement ceremony.** During commencement preparation days, **[pupils]** students shall be under the supervision of certificated school district **[employees]** employees.

(4) **School districts, AVTSs and charter schools may include in their average daily membership count students with disabilities identified under Chapter 14 (relating to special education services and programs) who choose to participate in graduation ceremonies with their graduating class and continue to receive education services but are not awarded a diploma.**

§ 11.28. Out-of-school programs and part-time employment.

(a) **[Cooperative education and community exploration programs]** *Out-of-school programs.* For reimbursement purposes, **[pupils]** students engaged part-time in **[a cooperative education or community exploration]** an out-of-school program shall be counted as if in regular school attendance. The programs shall be arranged as an integral part of the school curricula and shall be properly supervised by a certificated **[employee of the district]** employee. **[Pupils]** Students attending school and enrolled in supervised programs may be counted as in full membership.

(b) **[Work experience programs]** *Part-time employment.* A **[pupil]** student may be excused on a part-time basis from public school attendance **[in order]** to pursue non-school district supervised outside employment. For reimbursement purposes, membership in the public schools shall be calculated by counting the **[pupils]** students only for those periods while they are in school. Excusal of **[pupils in order]** students to pursue nonschool district supervised outside employment shall be consistent with the applicable provisions of section 1330 of the Public School Code of 1949 (24 P. S. § 13-1330) as they relate to excusals from compulsory attendance for purposes of employment and with the school district's rules governing excusals. **[Pupils]** Students excused on a full-time basis may not be counted as in membership.

EXCUSALS FROM PUBLIC SCHOOL ATTENDANCE

§ 11.31. [Pupils] Students not enrolled in public schools due to private tutoring.

(a) **[Private tutoring by a properly qualified tutor shall be subject to the annual approval of the district superintendent of schools.]** The instruction of students not enrolled in public schools due to private tutoring by a qualified tutor under section 1327 of the Public School Code of 1949 (24 P. S. § 13-1327) shall include for elementary school level students: English, including spelling, reading and writing[,]; arithmetic[,]; geography[,]; the history of the United States and Pennsylvania[,]; science[,]; civics[,], including loyalty to the State and National Government,]; safety education, **[and the humane treatment**

of birds and animals,] including regular and continuous instruction in the dangers and prevention of fires; health, including physical education and physiology[,]; music; and art. For secondary school level students, the instruction shall include: art[,]; English[,]; health[,]; mathematics[,]; music[,]; physical education[,]; science; and social studies, including civics, world history, United States and Pennsylvania history. The instruction may include, at the discretion of the tutor, economics, biology, chemistry, foreign languages, trigonometry, or other age appropriate planned instruction as contained in Chapter 4 (relating to academic standards and assessment). The instruction shall be given during the school year for a minimum of 180 days of instruction or for a minimum of 900 hours of instruction for an elementary level student and a minimum of 990 hours of instruction for a secondary level student as the equivalent of 180 days of instruction.

(b) [The superintendent's approval of the tutor shall be by acceptable evidence of the tutor's ability to teach the program to the pupil and by written assurance from the parent that the instructional requirements listed in this section shall be met. If approval is granted, the] School district approval is not required to commence private tutoring. The parent shall provide written assurance that the instructional requirements listed in this section have been met. The superintendent may [afterwards also] require evidence deemed necessary to demonstrate that the [pupil] student is making satisfactory progress in the tutoring program and that the required subjects are being taught for the time prescribed.

§ 11.31a. Students not enrolled in public schools due to participation in a home education program.

Students of compulsory school age participating in a home education program are subject to section 1327.1 of the Public School Code of 1949 (24 P. S. § 13-1327.1). School district approval is not required to commence home education programs.

§ 11.32. [Pupils] Students attending nonpublic or private schools.

A child of compulsory school age regularly attending full-time a nonpublic school [which] that is in compliance with [§ 5.14 (reserved)] section 1327(b) of the Public School Code of 1949 (24 P. S. § 13-1327(b)) or an accredited or licensed private school, in which the instruction prescribed by statute and this part is taught, shall be in compliance with the compulsory attendance requirements.

§ 11.33. Dual enrollment [—nonpublic school pupils] students enrolled part-time in the public schools.

For reimbursement purposes, membership and attendance of nonpublic school [pupils] students, students in a private tutoring program under section 1327 of the Public School Code of 1949 (24 P. S. § 13-1327), and students in a home education program under section 1327.1 of the Public School Code of 1949 (24 P. S. § 13-1327.1), lawfully enrolled part-time in the public schools, shall be calculated by counting the time the [pupils] students spend in the public school program on a pro rata basis.

§ 11.34. Excusals from attendance for other than temporary reasons.

* * * * *

(b) Prior to seeking excusal and the Secretary's approval, the school district shall provide the child's parents with written notice of both the proposed excusal, including the reasons for the excusal, and an opportunity to be heard. For a child enrolled in special education, the notice and opportunity to be heard shall be governed by §§ [14.61 and 14.64 (Reserved)] 14.161 and 14.162 (relating to prehearing conferences; and impartial due process hearing and expedited due process hearing).

APPLICABILITY

§ 11.41. School district policies and rules.

(a) Each school board shall adopt written policies concerning district child accounting, attendance, admission, excusal and program procedures as necessary to implement this chapter. The policies shall be a matter of public record.

(b) Each school [district] board shall adopt, and distribute yearly to parents, written rules governing [pupil] student admissions, attendance, absences and excusals, that are in conformity with this chapter.

(c) Each school board shall adopt a written policy permitting students to be excused for participation in agricultural fairs in conformity with section 1329(b) of the Public School Code of 1949 (24 P. S. § 13-1329(b)).

[Pa.B. Doc. No. 03-1692. Filed for public inspection August 29, 2003, 9:00 a.m.]

[22 PA. CODE CH. 14]

Special Education Services and Programs

The State Board of Education (State Board) proposes to amend Chapter 14 (relating to special education services and programs) to read as set forth in Annex A. The State Board takes this action under the authority of sections 1372 and 2603-B of the Public School Code of 1949 (24 P. S. §§ 13-1372 and 26-2603-B).

Purpose

The State Board proposes to amend § 14.162(c) (relating to impartial due process hearing and expedited due process hearing). The purpose of amending § 14.162(c) is to align the Commonwealth's special education regulations with the requirements imposed by the United States Department of Education's Office of Special Education Programs (OSEP) relating to parental consent and the initiation of educational services.

Requirements of the Proposed Amendment

The OSEP sent correspondence to the Department of Education (Education) indicating that § 14.162(c) is inconsistent with Federal regulatory requirements. The OSEP is requiring all states to revise conflicting regulations to remain eligible for Federal grant funds under the Individuals with Disabilities Education Act (IDEA). The OSEP maintains that when the requisite written parental consent is not forthcoming for an evaluation and initial education placement, under Federal regulations a local education agency (LEA) may not seek the approval of an impartial hearing officer to initiate the services and

override the parents' withholding of consent. In short, OSEP contends that the LEA may not invoke the hearing process when the parents do not want special education services initiated for their child.

To align with Federal regulations and continue the Commonwealth's eligibility for the IDEA grant funds, the State Board proposes to amend § 14.162(c) so that it will no longer allow an "initial educational placement" when the district has not obtained written parental consent.

Affected Parties

The proposed regulations affect the students and professional employees of the public schools of this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alternative schools).

Cost and Paperwork Estimates

Without proper alignment with Federal requirements, the Department might lose its Federal funding for special education, the current total exceeding \$310 million.

Effective Date

The proposed amendment will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

In accordance with its policy and practice respecting all of its regulations, the State Board will review the effectiveness of Chapter 14 every 4 years. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2003, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department,

the General Assembly and the Governor, of comments, recommendations or objections raised.

Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Patricia A. White, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333. Comments, suggestions or objections must be received by the State Board within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Patricia White at (717) 787-3787 or TDD (717) 787-7367.

PATRICIA A. WHITE,
Executive Director

Fiscal Note: 6-287. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

§ 14.162. Impartial due process hearing and expedited due process hearing.

* * * * *

(c) A school district may request a hearing to proceed with an initial evaluation[, **an initial educational placement**] or a reevaluation when the district has not obtained parental consent as required by 34 CFR 300.505(c) (relating to parental consent). When a parent rejects the district's proposed identification of a child, proposed evaluation, proposed provision of a free appropriate public education or proposed educational placement, **other than the initial placement**, the school district may request an impartial due process hearing.

* * * * *

[Pa.B. Doc. No. 03-1693. Filed for public inspection August 29, 2003, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, September 3, 2003. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's offices at 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 9:30 a.m. Topics of discussion will include: an update on development of the Water Resources Plan for the Delaware River Basin; an update on the Tri-State Initiative for watershed management in the 300-square mile area surrounding Port Jervis, NY; a presentation by a representative of the Wildlands Conservancy on the conservation management plan for the Lehigh River Watershed; consideration of whether toxics criteria should be extended to Commission Water Quality Management Zones 1 and 6; consideration of whether the Commission should make additional designations of intrastate tributaries as Outstanding Basin Waters; and a presentation on the proposed submittal to the Environmental Protection Agency (EPA) Regions II and III, of four total maximum daily loads (TMDLs) for polychlorinated biphenyls (PCBs) in Delaware River Zones 2—5.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the following dockets, consideration of a petition submitted by the Pennsylvania Suburban Water Company to suspend Commission approval of Docket D-98-11(CP), the "Cornog Quarry" surface water withdrawal project in the East Branch Brandywine Creek Watershed in Wallace Township, Chester County.

1. *Borough of Weatherly D-80-80 CP Renewal* 3. A ground water renewal project with an increase of withdrawal from 12 million gallons (mg)/30 days to 14.2 mg/30 days to supply the applicant's distribution system from existing Wells Nos. 1—3 in the Black Creek Watershed. The project is located in Weatherly Borough, Carbon County.

2. *Town of Clayton D-84-34 CP Renewal* 3. A ground water withdrawal renewal project to continue pumping 8.5 mg/30 days of water to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2R and 3 in the Smyrna River Watershed. The project is located in the Town of Clayton, Kent County, Delaware.

3. *Pottstown Plating Works, Inc. D-86-68 Renewal* 2. A ground water withdrawal project to continue withdrawal of 6.0 mg/30 days of water to supply the applicant's manufacturing facility from existing Well No. 3 in the Schuylkill River Watershed. The project is located in Pottstown Borough, Montgomery County, in the South-eastern Pennsylvania Ground Water Protected Area.

4. *Motiva Enterprises, LLC D-87-91 Renewal* 2. A ground water renewal project to continue withdrawal of 3.0 mg/30 days from an interceptor trench as part of the applicant's oil recovery/groundwater decontamination project in the Red Lion Creek Watershed. The project is located in New Castle County, Delaware.

5. *Longwood Gardens, Inc. D-92-52 Renewal*. A ground water renewal project to continue withdrawal of 8.4 mg/30 days to supply the applicant's ornamental display gardens from existing Wells Nos. B170, B172, 6, 27, B169A and B161WG and new Wells Nos. 169B, Red Lion 28 and B46 in the West Branch Red Clay Creek and West Branch Brandywine Creek watersheds. The project is located in East Marlborough Township, Chester County.

6. *Atlantic City Electric Company-Deepwater Generating Station D-92-57 Renewal*. A ground water withdrawal project to continue withdrawal of 42 mg/30 days of water to supply the applicant's electric generating facility from existing Wells Nos. 2, 3R, 5 and 7 in the Middle Potomac-Raritan-Magothy aquifer. The project is located in the Delaware River Watershed in Pennsville Township, Salem County, New Jersey.

7. *Motiva Enterprises, LLC D-93-4 Renewal*. A ground water renewal project to continue withdrawal of 180 mg/30 days to supply the applicant's refinery and electric generation station from existing Wells Nos. P-1A, P-3B, P-4A, P-5B, P-6A, P-9, P-10A, R-15 and P-16A. The project is located in the C & D Canal East Watershed in New Castle County, Delaware.

8. *United Corrstack, Inc. D-93-40 Renewal*. A ground water withdrawal project to continue withdrawal of 17.28 mg/30 days of water to supply the applicant's manufacturing facility from existing Well No. 1 in the Schuylkill River Watershed. The project is located in the City of Reading, Berks County.

9. *Pennsylvania American Water Company D-97-34 CP*. A project to replace Well No. 10 in the applicant's water supply system, which has become an unreliable source of supply. The withdrawal from replacement Well No. 10A is proposed to be limited to 17.2 mg/30 days and the total withdrawal from all wells is proposed to be limited to 22.8 mg/30 days. The project is located in the Saw Creek Watershed in Lehman Township, Pike County.

10. *Nestle Waters North America, Inc. D-98-27 Renewal*. A project renewing the withdrawal of 9.0 mg/30 days from Hoffman Springs Nos. 1—3 to supply the applicant's bottled water operations. The project is located in the Ontelaunee Creek Watershed in Lynn Township, Lehigh County.

11. *Lower Perkiomen Valley Regional Sewer Authority D-2001-42 CP*. An application to rerate the Oaks Sewage Treatment Plant (STP) from 9.17 million gallons per day (mgd) to 9.5 mgd. The plant will continue to provide advanced secondary treatment via an anoxic/oxic process. The Oaks STP is located at the confluence of the Perkiomen Creek and the Schuylkill River in Upper Providence Township, Montgomery County. The project will continue to serve portions of Upper Providence, Lower Providence, Perkiomen and Skippack Townships, Collegeville and Trappe Boroughs, Montgomery County. STP effluent will continue to be discharged to the Schuylkill River through the existing outfall.

12. *City of Newark D-2002-2 CP*. An application to increase the surface water withdrawal allocation from White Clay Creek from 150 mg per 30 days to 317 mg per 30 days (18 mg daily maximum) for direct diversion to the City of Newark's Curtis Filtration Plant and for storage in its new 317 mg off-stream reservoir. The City is also renewing allocation for its existing well supply system and adding replacement Well 17R, for a total

combined increase in its groundwater allocation from 144 mg/30 days to 160.5 mg/30 days from Wells 10—16, 17R, 19, 20, 21, 23 and 25. The project is located in, and will continue to provide public water supply to, the City of Newark and portions of New Castle County, Delaware. The proposed off-stream earthen reservoir will be located on a 112-acre property along and to the north of Old Paper Mill Road.

13. *Artesian Water Company, Inc. D-2002-34 CP.* A revised application for approval of a ground water withdrawal project to supply up to 19.44 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 2 in the Middle Run Wellfield and new Well No. fASR in the Fairwinds Wellfield and to increase the combined withdrawal from all 15 wellfields to 593.06 mg/30 days. The project is located in the White Clay Creek Watershed in New Castle County, Delaware.

14. *Nazareth Borough Municipal Authority D-2002-38 CP.* An application to rerate a 1.3 mgd STP to treat 1.6 mgd while continuing to provide advanced secondary treatment from a sequencing batch reactor process. The plant is located just southeast of the intersection of Van Buren and Nazareth Roads in Lower Nazareth Township, Northampton County. No new treatment facilities are proposed and the STP will continue to discharge to Shoeneck Creek in the Bushkill Creek Watershed from the existing outfall. The STP will continue to serve Nazareth Borough and portions of Lower Nazareth, Bushkill and Upper Nazareth Townships, Northampton County.

15. *Farda Associates, Inc. D-2003-7.* A project to construct a 0.1 mgd STP to serve outlet stores and a food court at the proposed Tannersville Factory Stores Complex located just west of Interstate Route 80 at Pennsylvania Route 715 in Pocono Township, Monroe County. An existing 10,000 gallon per day septic system, formerly utilized for the Summit Resort, will be used to treat a portion of the proposed development. The proposed STP will be constructed in phases and will provide tertiary treatment from an activate sludge process, sand filtration and ultraviolet light disinfection prior to discharge to an unnamed tributary of Pocono Creek in the Brodhead Creek Watershed.

16. *Arrowhead Sewer Co., Inc. D-2003-10.* A project to upgrade and expand a 0.25 mgd secondary STP to provide tertiary treatment of 0.4 mgd. The plant is located in western Coolbaugh Township, Monroe County, 2,000 feet southwest of the Thornhurst area. The project will continue to serve the Arrowhead Lakes residential development in Coolbaugh Township. The project will continue to discharge to the adjacent Lehigh River.

17. *Bedminster Municipal Authority D-2003-14 CP.* A project to construct a 0.26 mgd tertiary STP to replace a

0.1 mgd secondary STP. The STP will continue to serve the Stone Bridge Estates housing development and may serve other homes in portions of Bedminster Township, all in Bucks County. STP effluent will continue to be discharged to Deep Run in the Tohickon Creek Watershed through the existing outfall.

18. *Citgo Asphalt Refining Company D-2003-21.* A project to increase surface water withdrawal from the tidal portion of Mantua Creek from 4.69 mg/30 days to 7.79 mg/30 days to serve the applicant's asphalt manufacturing process. The project is located in West Deptford Township, Gloucester County, New Jersey. The project intake is situated on Mantua Creek approximately 4,000 feet from its confluence with the Delaware River.

In addition to the public hearing items, the Commission will address the following at its 1 p.m. business meeting: minutes of the May 8, 2003, and June 26, 2003, business meetings; announcements; a report on Basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; a resolution supporting the use of a formal process for developing and evaluating the feasibility of achieving flow targets to address instream flow and freshwater inflow requirements for aquatic ecosystems in the Delaware River Basin and recognizing a subcommittee on ecological flows to assist in the development of scientifically based ecological flow requirements; and a resolution directing the executive director to submit the proposed TMDLs for PCBs in Delaware River Zones 2—5 to EPA Regions II and III on behalf of the estuary states.

Draft dockets scheduled for public hearing on September 3, 2003, are posted on the Commission's website (<http://www.drbc.net>), where they can be accessed through "Notice of Commission Meeting and Public Hearing." Additional documents relating to the dockets and other items may be examined at the Commission's offices. Contact Thomas L. Brand at (609) 883-9500, Ext. 221, with docket-related questions.

Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at (609) 883-9500, Ext. 203. Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary at (609) 883-9500, Ext. 203, or through the Telecommunications Relay Services at 711 to discuss how the Commission may accommodate their needs.

PAMELA M. BUSH,
Secretary

[Pa.B. Doc. No. 03-1694. Filed for public inspection August 29, 2003, 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 August 19, 2003.

BANKING INSTITUTIONS**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-13-03	Marquette Savings Bank Erie Erie County	East 38th and Stanton Erie Erie County	Filed
8-13-03	Abington Savings Bank Jenkintown Montgomery County	Ann's Choice Retirement Community 235 East Street Road Warminster Bucks County	Opened

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-15-03	Minersville Safe Deposit Bank and Trust Company Minersville Schuylkill County Purchase of assets/assumption of liabilities of one branch of Community Banks, Millersburg, Located at: 29 East Main Street Tremont Schuylkill County	Minersville	Filed

SAVINGS INSTITUTIONS**Voluntary Dissolutions**

<i>Date</i>	<i>Name of Association</i>	<i>Action</i>
8-14-03	Devon Building and Loan Association Berwyn Chester County	Articles of Dissolution filed with Department of State. Corporate existence terminated.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-18-03	Post Office Employees Credit Union of Pittsburgh, PA, and U. S. Postal Service Federal Credit Union, Clinton, MD Surviving Institution— U. S. Postal Service Federal Credit Union, Clinton, MD	Pittsburgh	Approved

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 03-1695. Filed for public inspection August 29, 2003, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of September 2003

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of September 2003 is 7 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law,

the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is

determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.76 to which was added 2.50 percentage points for a total of 7.26 that by law is rounded off to the nearest quarter at 7 1/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 03-1696. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Monday, September 8, 2003, at 9:30 a.m. in Room 105, First Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to Cindy Dunn at (717) 772-9101.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cindy Dunn at (717) 772-9101 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 03-1697. Filed for public inspection August 29, 2003, 9:00 a.m.]

Turtle Creek Watershed Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Turtle Creek Watershed Conservation Plan (Plan) and is placing Turtle Creek, the watershed and all tributaries covered in the Plan in Allegheny and Westmoreland Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Turtle Creek Watershed Association submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Turtle Creek (Allegheny and Westmoreland Counties), from the headwaters to its confluence with the Monongehela River—147.41 square miles.

2. All tributary streams within the Turtle Creek Watershed.

This action becomes effective August 30, 2003. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Pennsylvania Rivers Conservation Program.

A copy of the final Plan is available for review at the Turtle Creek Watershed Association, 325 Commerce Street, Suite 204, Wilmerding, PA 15148-1260, (412) 829-2817, and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Turtle Creek Watershed Association.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 03-1698. Filed for public inspection August 29, 2003, 9:00 a.m.]

Upper Lackawanna Watershed Conservation Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation has approved the Upper Lackawanna Watershed Conservation Plan (Plan) and is placing a portion of the Lackawanna Watershed in Lackawanna, Susquehanna and Wayne Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Trails Conservation Corporation submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the Department has determined that the Pennsylvania Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. A portion of the Lackawanna Watershed, located north of the State Route 171 Bridge in the village of Simpson, Fell Township, Lackawanna County—56 square miles.

2. All tributary streams within the Lackawanna Watershed, located north of the State Route 171 Bridge in the village of Simpson, Fell Township, Lackawanna County.

This action becomes effective August 30, 2003. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Pennsylvania Rivers Conservation Program.

A copy of the final Plan is available for review at Trails Conservation Corporation, P. O. Box 123, Forest City, PA 18421, (570) 785-7245, and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Trails Conservation Corporation.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 03-1699. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Eligible Partnerships Postsecondary Grant Application Guidelines for Conducting Literacy Professional Development for Pennsylvania Educators

The Department of Education (Department) has established Eligible Partnerships Postsecondary Grant Application (EPPGA) guidelines to provide direction to eligible partnerships for submitting applications targeting the quality of teachers, principals and paraprofessionals. An eligible partnership that receives a grant under EPPGA guidelines shall use the grant for designing and implementing literacy professional development for this Commonwealth which provides assistance to high need local educational agencies (LEAs), their teachers, principals and paraprofessionals to ensure that they are able to use Pennsylvania's Reading, Writing, Speaking and Listening content standards and Pennsylvania System of School Assessment data to strengthen and enhance instructional practices for improving student academic achievement. The EPPGA guidelines define a partnership that is eligible to apply. Each partnership must designate either an institution of higher education or an intermediate unit as the lead organization to execute a contract or memorandum of understanding with the Commonwealth. Ap-

proximately \$600,000 is available on a competitive basis under these guidelines. Three to four contracts or memoranda of understanding will be awarded.

Copies of EPPGA guidelines are available on the Department's web page at <http://www.pde.state.pa.us> or from the Issuing Office, Division of Program Services, Bureau of Postsecondary Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623, TDD (717) 783-8445.

A preproposal conference is scheduled for Friday, September 12, 2003, at 10 a.m. in the Honors Suite, 1st Floor, 333 Market Street, Harrisburg. Attendance by a representative of the partnership (potential applicant, regional site, LEA, IU, other) is a prerequisite for submitting an application. If special accommodations are required to participate in the preproposal conference, contact the Division of Program Services. Written questions are to be submitted by September 10, 2003, on PDE-4658 available on the Department's web page at <http://www.pde.state.pa.us>.

Applications submitted in response to the EPPGA guidelines are due in the Division of Program Services no later than 5 p.m., Monday, September 29, 2003.

VICKI L. PHILLIPS,
Secretary

[Pa.B. Doc. No. 03-1700. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications 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 applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the

Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. 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 proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit 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 the respective comment periods will be considered in the final determinations regarding the applications. 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 will also accept requests for a public hearing on applications. A public hearing may be held 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 within the relevant geographical area. The Department will postpone its final determination until after any public hearings are held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0055280	Mr. and Mrs. Van Ellis 6179 Covered Bridge Road Pipersville, PA 18947-1307	Bucks County Plumstead Township	UNT to Tohickon Creek	Y

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

NPDES No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0085740	Mill Creek Area Municipal Authority P. O. Box 4 Mill Creek, PA 17060	Huntingdon County Brady Township	Juniata River/12-C	Y

Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

NPDES No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0208728 Sewerage Public	Mountaintop Area Municipal Authority P. O. Box 275 Snowshoe, PA 16874	Centre Snowshoe Township Centre County	North Fork Beech Creek (8C)	Y
PA0114201 Sewerage Non Public	Bradford County Humane Society P. O. Box 179 Ulster, PA 18850-0179	Bradford Ulster Township	UNT of Susquehanna River (4B)	Y

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. PA0058726, Industrial Waste, **Turkey Hill Minit Market**, 257 Centerville Road, Lancaster, PA 17603.

This application is for issuance of an NPDES permit to discharge treated groundwater from a groundwater remediation system in City of Coatesville, **Chester County**. This is a new discharge to a UNT to West Branch Brandywine Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.032 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>
Total Suspended Solids	Non Detect	Non Detect	Non Detect
Oil and Grease	Non Detect	Non Detect	Non Detect
pH	Within limits of 6.0—9.0 Standard Units at all times		
Benzene	Non Detect	Non Detect	Non Detect
Total BETX	Non Detect	Non Detect	Non Detect
Ethyl Benzene	Non Detect	Non Detect	Non Detect
Toluene	Non Detect	Non Detect	Non Detect
Xylenes, Total	Non Detect	Non Detect	Non Detect
MTBE	Non Detect	Non Detect	Non Detect
Iron, Dissolved	Non Detect	Non Detect	Non Detect

The EPA waiver is in effect.

PA0052221, Industrial Waste, SIC 4911, **Exelon Generation Company**, 200 Exelon Way, Kennett Square, PA 19348.

This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Activity: Renewal of the NPDES permit to divert 42 MGD of Delaware River Water from the Bradshaw Reservoir Perkiomen Creek.

The receiving stream, East Branch Perkiomen Creek, is in the State Water Plan watershed 3E Watershed and is classified for: trout stocking fishery. The nearest downstream public water supply intake for Philadelphia Suburban Water Company is located on Perkiomen Creek and is 33.90 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 42 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen (02/15 to 07/31)			5 minimum	6	MONITOR
Fecal Coliform (05/01 to 09/30)			200# col/100 ml		
pH (STD) (05/1 to 09/30)		Inst. Minimum	6.0		9.0

In addition to the effluent limits, the permit contains the following major special conditions:

1. DMR Submission
2. No Chemical Addition
3. TMDL/WLA Analysis
4. Test Method
5. Change in Ownership

No. PA0011681, Industrial Waste, **PECO Energy Company**, 300 Front Street, West Conshohocken, PA 19428.

This application is for renewal of an NPDES permit to discharge treated cooling water blow-down from a natural gas liquification plant in West Conshohocken Borough, **Montgomery County**. This is an existing discharge to Schuylkill River (Outfall 002). The gas compressor cooling water, roof drain, and the like, discharges outfall 001 to the Gulf Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbons			Monitor and Report
Diesel Range Organics			Monitor and Report
Gasoline Range Organics			Monitor and Report

No. PA0054607, Sewage, **Debra and Michael Dell'Orefice**, 65 Willits Way, Glen Mills, PA 19342.

This application is for renewal of an NPDES permit to discharge treated sewage from Dell'Orefice's SRSTP in Concord Township, **Delaware County**. This is an existing discharge to UNT to Green Creek.

The receiving stream is classified for the following uses: trout stocking fishes, aquatic life, water supply, and recreation.

The proposed effluent limits for Outfall 002, based on an average flow of 400 GPD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N) (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	Monitor and Report	Monitor and Report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is not in effect.

No. PA0020575, Sewage, **Rose Valley Borough**, P. O. Box 198, Rose Valley, PA 19065.

This application is for renewal of an NPDES permit to discharge treated sewage from Rose Valley STP in Borough of Rose Valley, **Delaware County**. This is an existing discharge to Ridley Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.13 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Total Residual Chlorine	0.5		1.6
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 2 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is in effect.

PA0026018A1, Sewage, SIC 4952, **Borough of West Chester**, 401 East Gay Street, West Chester, PA 19380.

This facility is located in East Bradford Township, **Chester County**.

Description of proposed activity: the facility is a municipal sewage treatment plant. This permit amendment is to include stormwater outfall of this facility.

The receiving stream, Taylor Run, is in the State Water Plan watershed 3H and is classified for: TSF and MF. The nearest downstream public water supply intake for Wilmington Water Treatment Plant is located on Brandywine Creek and is more than 10 miles below the point of discharge.

The proposed effluent limits for Outfalls 002, 003 and 004 are based on an average rainfall event are as follows:

<i>Parameters</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Monitor and Report
COD	Monitor and Report
Oil and Grease	Monitor and Report
Total Suspended Solids	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Total Phosphorus	Monitor and Report
Fecal Coliform	Monitor and Report
pH	Monitor and Report
Iron (Dissolved)	Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions:

1. Stormwater runoff management

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA0209228, Sewerage, SIC 4952, **Lycoming County Water and Sewer Authority**, 216 Old Cement Road, Montoursville, PA 17754.

This existing facility is located in Fairfield Township, **Lycoming County**.

Description of proposed activity: Issuance of an amended NPDES permit to include discharge of site stormwater through Outfalls S01 and S02. Existing limits for treated effluent through Outfall 001 remain unchanged.

The receiving stream for Outfall 001, the West Branch of the Susquehanna River, is in the State Water Plan watershed 10D and is classified for: WWF. The nearest public water supply surface water intake, owned by PA American Water Company, is located on the West Branch of the Susquehanna River approximately 22.5 miles below the point of discharge.

The existing effluent limits for Outfall 001 will remain the same and were based on a design flow of 1.5 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Chlorine Residual	0.5		1.6
Fecal Coliforms: (05/01-09/30) (10/01-04/30)	200 colonies/100 ml as a geometric mean (2000 colonies/100 ml) as a geometric mean		
pH	within the range of 6.0 to 9.0		

The receiving stream for Outfall S01, Tules Run, is in the State Water Plan watershed 10D and is classified for: WWF. The nearest public water supply surface water intake, owned by PA American Water Company, is located on the West Branch of the Susquehanna River approximately 23 miles below the point of discharge. Approximately 0.021 MGD of stormwater will be discharged through Outfall S01 from an average storm event. Annual inspection certification will be required.

The receiving stream for Outfall S02, an UNT to Tules Run, is in the State Water Plan watershed 10D and is classified for: WWF. The nearest public water supply surface water intake, owned by PA American Water Company, is located on the West Branch of the Susquehanna River approximately 23 miles below the point of discharge. Approximately 0.019 MGD of stormwater will be discharged through Outfall S02 from an average storm event. Annual Inspection Certification will be required.

PA0228702, Industrial Waste, SIC 8221, **The Pennsylvania State University**, Office of Physical Plant, Room 101P, University Park, PA 16802-0118.

This proposed facility is located in State College Borough, **Centre County**.

Description of proposed activity: Construction of open storage facility for landscape equipment and a diesel/gasoline fueling station.

The receiving stream, Thompson Run, is in the State Water Plan watershed 9C and is classified for: HQ-CWF. The nearest downstream public water supply intake is PA American Water Company, in White Deer, is located on the West Branch of the Susquehanna River approximately 108 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.216 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (MGD)			Monitor and Report		
pH (Std units)			Within the range of 6.0 and 9.0		
C-BOD ₅			Monitor and Report		
Chemical Oxygen Demand			Monitor and Report		
Oil and Grease			Monitor and Report		
Total Suspended Solids			Monitor and Report		
Total Kjeldahl Nitrogen (TKN)			Monitor and Report		
Total Phosphorus			Monitor and Report		
Iron (Dissolved)			Monitor and Report		
Benzene			Monitor and Report		
Toluene			Monitor and Report		
Ethyl Benzene			Monitor and Report		
Xylenes (Total)			Monitor and Report		
Cumene			Monitor and Report		
Methyl Tert-Butyl Ether (MTBE)			Monitor and Report		
Naphthalene			Monitor and Report		
Fluorene			Monitor and Report		
Phenanthrene			Monitor and Report		

PA0028738, Sewerage SIC, 4952, **Ralpho Township Municipal Authority**, 32 A South Market Street, Elysburg, PA 17824

This existing facility is located in Shamokin Township, **Northumberland County**.

Description of proposed activity: This proposed action is for amendment of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, Shamokin Creek, is in the State Water Plan watershed 6B and classified for: CWF. The nearest downstream public water supply intake for United Water Pennsylvania is located on Susquehanna River is 60 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.719 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
TSS	30	45		60
Total Cl ₂ Residual	1.0			2.3
Fecal Coliforms: (5/1-9/30)		200 colonies/100 ml as a geometric mean		
(10/1-4/30)		2000 colonies/100 ml as a geometric mean		
pH		within 6.0 to 9.0 at all times		

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

PA0026841-A3, Sewage, **Borough of Oakmont**. This application is for Amendment of an NPDES permit to discharge treated sewage from Oakmont Wastewater Treatment Plant in Oakmont Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Allegheny River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Fox Chapel Water Authority.

The permit is being amended to include Outfalls SW1, SW2 and SW3 which discharge to the receiving waters known as the Allegheny River. These are storm water outfalls at the sewage treatment plant. There are at this time no numerical effluent limitations on the outfalls. This discharge must meet the storm water discharge requirements in Part C of the NPDES permit.

The EPA waiver is not in effect.

PA0032611, Amendment No. 1, Sewage, **Portage Area Sewer Authority**, 606 Cambria Street, Portage, PA 15946.

This application is for amendment of an NPDES permit to discharge treated sewage from Portage Area Sewage Treatment Plant in Portage Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Little Conemaugh River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Saltsburg Municipal Water Works.

Outfall SW1 is being added to the permit. This is a stormwater outfall that serves areas in and around the treatment plant. There are at this time no numerical effluent limitations on the outfall. The discharge must meet the storm water discharge requirements in Part C of the NPDES permit.

The EPA waiver is not in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0239241, Sewage, **Carol Millett SRSTP**, 9213 Old State Road, Conneaut Lake, PA 16316.

This proposed facility is located in Sadsbury Township, **Crawford County**.

Description of proposed activity: A new existing discharge of treated sewage.

The receiving water is UNT to Conneaut Outlet. The receiving stream is in State Water Plan 16-D and is classified for the following uses: WWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Emlenton Water Company, is located on the Allegheny River and is approximately 90 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitoring Only		
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a geometric average		
Total Residual Chlorine	Monitor and Report		
pH	within 6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

III. WQM 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. 0903414, Sewerage, **Girl Scout of Freedom Valley**, 100 Juliette Low Way, P. O. Box 814, Valley Forge, PA 19482-0814.

This proposed facility is located in Haycock and East Rockhill Townships, **Bucks County**.

Description of proposed action/activity: Construction of onsite wastewater treatment facilities to serve existing campground.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 5503403, Sewerage 4952, **Beavertown Municipal Authority**, 419 Old Orchard Drive, Beavertown, PA 17813.

This proposed facility is located in Beavertown Borough, **Snyder County**.

Description of proposed action/activity: Applicant is requesting a Water Quality Management Part II Permit for construction of a new Ball Field pump station, rehabilitation of a large portion of the sewage collection system, and replacement of the existing wastewater treatment plant with a sequencing batch reactor plant.

WQM Permit No. 5903402, Sewerage, SIC 4952, **Bakercrest Home for the Elderly**, R. D. 2, Box 195, Millerton, PA 16936.

This proposed facility will be located in one Rutland Township, **Tioga County**.

Description of proposed action/activity: The applicant proposes the construction and operation of a sewage treatment facility to serve a home for the elderly. The discharge will be to an UNT to Bear Creek.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 8282-S-A1, Sewerage, **Municipal Authority of the City of McKeesport**, 100 Atlantic Avenue, McKeesport, PA 15132.

This proposed facility is located in City of McKeesport, **Allegheny County**.

Description of proposed action/activity: Application for the Construction and Replacement of the Perry Street Ejector Station with a submersible Pumping Station.

WQM Permit No. 0203407, Sewerage, **Shipleigh Brothers Development Inc.**, 12300 Perry Highway, Suite 211, Wexford, PA 15090.

This proposed facility is located in Pine Township, **Allegheny County**.

Description of proposed action/activity: Application for the Construction and Operation of a Sewerage Extension to serve Lake MacLeod Plan of Lots.

WQM Permit No. 0303403, Sewerage, **Rayburn Township Municipal Authority**, 454B R. D. 6, Kittanning, PA 16201.

This proposed facility is located in Rayburn Township, **Armstrong County**.

Description of proposed action/activity: Application for the construction and operation of a sewage treatment plant expansion of the Armsdale sewage treatment plant.

WQM Permit No. 2685407-A2, Sewerage, **Fairchance Georges Joint Municipal Sewage Authority**, 141 Big Six Road, Smithfield, PA 15478.

This proposed facility is located in Georges Township, **Fayette County**.

Description of proposed action/activity: Application for the construction and modification of the Fairchance Georges Joint Municipal Sewage Authority Treatment Plant.

The Pennsylvania Infrastructure Investment Authority (PENNVEST) which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 6203414, Sewerage, **Jerome V. Kobzowicz**, 9470 Cherokee Tr., Streetsboro, OH 44241.

This proposed facility is located in Pittsfield Township, **Warren County**.

Description of proposed action/activity: A single residence sewage treatment plant.

WQM Permit No. 2003425, Sewerage, **Michael Phelan**, 18126 State Highway 98, Meadville, PA 16335.

This proposed facility is located in Hayfield Township, **Crawford County**.

Description of proposed action/activity: A single residence sewage treatment plant.

WQM Permit No. 2503419, Sewerage, **Raymond Stempka**, 230 Zwilling Road West, Erie, PA 16509.

This proposed facility is located in Summit Township, **Erie County**.

Description of proposed action/activity: A single residence sewage treatment plant.

WQM Permit No. 3703406, Sewerage, **North Beaver Township**, 861 Mount Jackson Road, New Castle, PA 16102.

This proposed facility is located in North Beaver Township, **Lawrence County**.

Description of proposed action/activity: This project is for a sewer extension for the William Gwin 5 lot subdivision.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133693	Allegheny Township Supervisors 3131 Old Sixth Avenue Road North Duncansville, PA 16635	Blair	Allegheny Township	Blair Gap Run and Tributaries/TSF Gillans Run/CWF Spencer Run/WWF Sugar Run/CWF Burgoon Run/TSF Beaverdam Branch/TSF Beaverdam Branch Tributaries/WWF Brush Run/WWF Mill Run/WWF	Yes
PAG133695	Don Boyer Borough of Jonestown 37 West Market Street Jonestown, PA 17038-9628	Lebanon	Jonestown Borough	Swatara Creek/WWF Little Swatara Creek/WWF	Yes

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAI136116	North Versailles Township 1401 Greensburg Avenue North Versailles, PA 15137	Allegheny	North Versailles Township		Y

V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133693	Allegheny Township Supervisors 3131 Old Sixth Avenue Road North Duncansville, PA 16635	Blair	Allegheny Township	Blair Gap Run and Tributaries/TSF Gillans Run/CWF Spencer Run/WWF Sugar Run/CWF Burgoon Run/TSF Beaverdam Branch/TSF Beaverdam Branch Tributaries/WWF Brush Run/WWF Mill Run/WWF	Yes

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG136248	Tarentum Borough 318 E. Second Avenue Tarentum, PA 15084	Allegheny	Tarentum Borough		Y

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503075	Gambone Brother Development Michael Gambone Saylor Tract 1030 West Germantown Pike Fairview Village, PA	Chester	South Coventry Township	Rock Run (EV)
PAI01 0903007	Heritage Building Group, Inc. Mark Elser Fox Field Estates 3326 Old York Road, Suite A100 Furlong, PA 18925	Bucks	Milford Township	Unami Creek (HQ-TSF)
PAI01 0903012	Flamingo Enterprises, LLC Schuyler Riley Wolfstone Stables 12564 Mallet Circle Wellington, FL 33414	Bucks	Solebury Township	Aquetong Creek (HQ-CWF)

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes Barre, PA 18711-0790.

Lehigh County Conservation District: Lehigh Ag. Ctr., Suite. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903027	Dale Roth 1173 Troupe Rd. Harbor Creek, PA 16421	Lehigh	Lowhill Township	Lyon Creek HQ-CWF, MF

Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903028	Lehigh County Authority 1053 Spruce St. P. O. Box 3348 Allentown, PA 18106	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

Luzerne County Conservation District: R485 Smith Pond Road, Lehman, PA 18627-0250, (570) 674-7991.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024003003	Back Mountain Recreation, Inc. 1183 Old Route 115 P. O. Box 244 Lehman, PA 18627	Luzerne	Lehman Township	Harveys Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024503014	Arrowhead Sewer Company, Inc. HC88, Box 305 Pocono Lake, PA 18347	Monroe	Coolbaugh Township and Tobyhanna Township	Trout Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI-0321-03-005	Carlisle HMA, Inc. c/o UCMC 1530 North Limestone Street Gaffney, SC 29340	Cumberland	South Middleton Township	Letort Spring Run EV

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI-0020-03-001	Wal-Mart Stores Inc. 2001 South East 100th Street Bentonville, AR 72716	Crawford	Oil Creek Township	Oil Creek (WWF)

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

MS4 Notices of Intent Received

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG136247	Indiana Borough 80 North 8th Street Indiana, PA 15701	Indiana	Indiana Borough		Y
PAG136248	Tarentum Borough 318 E. Second Avenue Tarentum, PA 15084	Allegheny	Tarentum Borough		Y
PAG136249	Richland Township 322 Schoolhouse Road Johnstown, PA 15904	Cambria	Richland Township		Y
PAG136250	West Pike Run Township 238 Pike Run Road Daisytown, PA 15427	Washington	West Pike Run Township		Y
PAG136251	Youngstown Borough P. O. Box 56 Youngstown, PA 15696	Westmoreland	Youngstown Borough		Y
PAG136252	Rostraver Township 201 Port Royal Road Belle Vernon, PA 15012	Westmoreland	Rostraver Township		Y

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 a 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 the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (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 are

available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

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

Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 4603503 , Public Water Supply.	
Applicant	Audubon Water Company
Township	Lower Providence
Responsible Official	J. H. Russell 2650 Eisenhower Drive Suite 104A Norristown, PA 19403
Type of Facility	PWS

Consulting Engineer Evans Mill Environmental, Inc.
101 Fellowship Road
Uwchland, PA 19480

Application Received August 8, 2003
Date

Description of Action Upgrades to the Audubon Water System. The project includes a new well as an additional source, install a air stripper to remove VOCs, and disinfection equipment supply pumps.

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes Barre, PA 18711-0790.

Permit No. 5203505, Public Water Supply.

Applicant **Pennsylvania American Water**

Township or Borough Lehman Township
Pike County

Responsible Official John J. Yamona
Water Quality Superintendent
100 North Pennsylvania Avenue
Wilkes-Barre, PA 18701
(570) 830-6543

Type of Facility Community Water System

Consulting Engineer Michael D. Youshock, P. E.
Pennsylvania American Water Co.
100 North Pennsylvania Avenue
Wilkes-Barre, PA 18701
(570) 830-6538

Application Received July 21, 2003
Date

Description of Action Application for the addition of caustic soda at Well Nos. 4 and 5 and Well No. 12 for pH control, along with continuation of the addition of AquaMag C10 at Well Nos. 9 and 10 for treatment of iron and manganese, as approved under the Emergency Permit of June 5, 2003.

Central Office: Bureau Director, Water Supply and Wastewater Management, PO Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996518, Public Water Supply.

Applicant **Absopure Water Company**

Township or Borough Plymouth, Michigan

Responsible Official Glen Davis, QA Manager

Type of Facility Out of State Bottled Water System

Application Received August 5, 2003
Date

Description of Action Applicant requesting Department approval to sell bottled water in Pennsylvania under the brand name; Absopure Natural Spring 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 **Three Lane Utilities**

Township or Borough Westfall Township

Responsible Official Richard Snyder
Three Lane Utilities
P. O. Box 927
Milford, PA 18337

Type of Facility PWS

Consulting Engineer Samuel D'Alessandro, P. E.
RKR Hess Associates
P. O. Box 268
East Stroudsburg, PA 18301

Application Received August 13, 2003
Date

Description of Action The permit application proposes PWS system improvements including expanding the distribution system, replacing existing corrosion control treatment facilities, replacing booster system control facilities, providing circulation pumps for the water storage tower, providing fire flow delivery pump and upgrading control and electrical systems.

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 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 after 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. 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.

Former Cartex Facility, Doylestown Borough, **Bucks County**. Kevin J. Davis, P. E., Pennoni Associates, Inc., 3001 Market St., Suite 200, Philadelphia PA 19104, on behalf of Catherine M. Ward, Esq., attorney for owner, 160 Veterans Lane, Doylestown PA 18901, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with chlorinated solvents. 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 *Intelligencer* on August 12, 2003.

Andela Site, Warwick Township, **Bucks County**. Joe Casey, P. G., Mignatti Companies, 2310 Terwood Drive, P. O. Box 249, Huntingdon Valley PA 19006, has submitted a Notice of Intent to Remediate soil contaminated with lead and PCB. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Intelligencer* on June 18, 2003.

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

Kerr-McGee Chemical LLC—Avoca Property, Avoca Borough, **Luzerne County**. David R. Kerschner, P. G., Principal, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 has submitted a Notice of Intent to Remediate (on behalf of his client, Kerr-McGee Chemical LLC, P. O. Box 25861, Oklahoma City, OK 73125) concerning the characterization and remediation of site soils found or suspected to be contaminated with lead and other inorganics, PAHs (polycyclic aromatic hydrocarbons), and other organics. The applicant proposes to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been

published in the *Scranton-Times Tribune* on August 5, 2003.

Exide Technologies Property—Dunmore Plant, Dunmore Borough, **Lackawanna County**. Sean Gallagher, Project Manager, Gannett Fleming Inc., 202 Wall Street, Princeton, NJ 08540 has submitted a Notice of Intent to Remediate (on behalf of his client, Exide Technologies, 3000 Montrose Avenue, Reading, PA 19605) concerning the characterization and remediation of site soils found or suspected to be contaminated with lead, chlorinated solvents and other organics, and fuel oil nos. 2, 4, 5 and 6. The applicant proposes to meet a combination of the non-residential Statewide health standard and the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Scranton-Times Tribune* on August 1, 2003.

Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.

Pennsylvania State University—Fire Training Station, College Township, **Centre County**. EPSYS Corporation, on behalf of its client, Pennsylvania State University, 208 Old Main, University Park, PA 16802, has submitted an amended Notice of Intent to Remediate site soils contaminated with inorganics, fuel oil no. 2, and chlorinated solvents. The applicant proposes to remediate the site to meet a combination of the Background and Statewide Health Standards. A summary of this amended Notice of Intent to Remediate was reported to have been published in the *Centre Daily Times* on July 2, 2003. Please see additional information in the Actions section of this *Pennsylvania Bulletin*.

MUNICIPAL WASTE GENERAL PERMITS

Application 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 Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM024. Riverside Materials, Inc., 2870 East Allegheny Avenue, Philadelphia, PA 19134.

The Department of Environmental Protection, Bureau of Land Recycling and Waste Management has received an application for a municipal waste general permit from Riverside Materials, Inc. The application is for the processing and beneficial use of highway construction and demolition waste (that is, concrete and asphalt) as a subbase, shoulder backup, aggregate, rip-rap and cold mix material. The Department determined the application to be administratively complete on August 15, 2003.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application may contact the Division at (717) 787-7381. TDD users may contact the Depart-

ment 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 the 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 a 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. 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 before the application. 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 (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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

01-05016D: ISP Minerals, Inc. (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for installation of a new 250 ton per hour bucket elevator controlled by a fabric filter baghouse in Hamiltonban Township, **Adams County**.

67-03122: Key Plastics, LLC (3350 Farmtrail Road, York, PA 17402) for installation of two (2) automated paint lines controlled by dry filters in Manchester Township, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701 Contact: David Aldenderfer, Program Manager, (570) 327-3637.

59-00001A: Westfield Tanning Co. (360 Church Street, Westfield, PA 16950) for construction of a tannin recovery system in Westfield Borough, **Tioga County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745 Contact: William Charlton, New Source Review Chief, (412) 442-4174.

03-00229C: Rosebud Mining Co. (301 Market Street, Kittanning PA 16201-9642) for installation of an air jig, baghouse, crusher, crushed coal stockpiled and coal screen for increase in production at their Logansport Mine in Bethel Township, **Armstrong County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481 Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

25-025F: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room. 9-201, Erie, PA 16531), for installation of a new paint and cure booth in Building No. 12 in Lawrence Park Township, **Erie County**. This is a Title V facility.

62-150A: Superior Tire and Rubber (1818 Pennsylvania Ave, Warren, PA 16365) for post construction plan approval of an existing adhesive spray and finish coating operation of metal parts using a HVLP gun in an associated spray booth in the City of Warren, **Warren County**.

61-205A: IA Construction Corp.—Nectarine Aggregate Plant (State Route 3003, Harrisville, PA 16038) for plan approval to modify an existing portable non-metallic crushing/screening plant at their Ben Hal Nectarine mining operation in Irwin Township, **Venango County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104 Contact: Thomas Barsley, Chief, (215) 685-9428.

AMS 03071: Arway Linen and Rental (1696 Foulkrod Street, Philadelphia, PA 19124) for permitting one boiler, two dryers and one garment tunnel in Philadelphia, **Philadelphia County**.

AMS 03075: Defense Energy Support (8725 John J Kingman Road, Suite 2833, Fort Belvoir, VA 22060) for installation of a soil vapor extraction and treatment system with two recuperative thermal oxidizers at their former defense supply center, 2800 S 20th Street in Philadelphia, **Philadelphia County**.

AMS 03082: Purolite Co. (3620 G Street, Philadelphia, PA 19134) for replacement of an acid diluter vessel in Philadelphia, **Philadelphia County**.

AMS 03091: Naval Surface Warfare Center (5001 South Broad Street, Code 357, Philadelphia, PA 19112)

for replacement of a gas turbine in Philadelphia, **Philadelphia 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.

46-0036I: Visteon Systems, LLC (2750 Morris Road, Lansdale, PA 19446) for the installation and construction of Selective Soldering Machine Nos. 12 and 13 at their facility in Worcester Township, **Montgomery County**. These sources will result in a facility wide emission increase of 0.007 tons of lead and 2.72 tons of VOCs per 12-month rolling sum. Although the facility is classified as a major facility for VOCs, actual emissions of VOCs are below 25 tons per year. Selective Soldering Machine Nos. 12 and 13 shall only be used for soldering electronic circuit boards. The plan approval will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0239: SEI Investments (1 Freedom Valley Drive, Oaks, PA 19456) for the installation two 1,250 kW emergency generators, at an existing facility in Upper Providence Township, **Montgomery County**. This facility is a non-Title V facility. The Plan Approval will contain record keeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

09-0024C: Waste Management of Pennsylvania, Inc.—Tullytown Resource Recovery Facility (1121 Bordentown Road, Morrisville, Pa 19067) for the construction of a Western Expansion and modification of the facility's landfill gas management system. The landfill is in Tullytown Borough, **Bucks County**. The approval will allow the owner/operator to direct landfill gas generated at the Western Expansion to Exelon Generation Company's Fairless Hills Steam Generating Station. There is an enclosed flare as backup. The flare shall have a minimum destruction and removal (DRE) efficiency for VOC of 98% (by weight) or the VOC concentration in the exhaust gas shall be less than 20 ppmv (dry basis as hexane at 3 percent oxygen), whichever is less stringent. The facility is a major facility. The landfill is subject to 40 CFR Part 60 Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills. Under this approval, fugitive emissions of VOC from the Western Expansion shall not exceed 13.1 tons/year (on a 12-month rolling basis), calculated after they are closed in accordance with 40 CFR 60.751. The owner/operator will comply with the monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager, (570) 327-3637.

60-399-002: Ritz-Craft Corp. (15 Industrial Park Road, Mifflinburg, PA 17844) for construction of mobile/modular home manufacturing operations at their facility at in Mifflinburg Borough, **Union County**.

The respective mobile/modular home manufacturing operations, identified as Plant Nos. 2 and 3 and the

Specialty Paint Shop, house various mobile/modular home manufacturing and assembly activities which involve the use of adhesives, paints, cleaning solvents, and the like. These mobile/modular home manufacturing operations will result in the emission of up to 33.35 tons of volatile organic compounds and 7.39 tons of hazardous air pollutants per year.

The Department of Environmental Protection has determined that the mobile/modular home manufacturing operations will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The Department of consequently intends to approve the application and issue plan approval to construct the respective mobile/modular home manufacturing operations.

The Department intends to place conditions in the plan approval to be issued to assure compliance with all applicable regulatory requirements. The following is a summary of these conditions:

1. The total combined volatile organic compound emissions from Plant Nos. 2 and 3 and the Specialty Paint Shop shall not exceed 33.35 tons in any 12 consecutive month period and the total combined hazardous air pollutant emissions shall not exceed 7.39 tons in any 12 consecutive month period.

2. Only those specific adhesives, coatings (paints, stains, lacquers, and the like.), cleaning solvents, insulating foams and vapor barriers identified in the plan approval application (or an alternate material determined by the Department to have an equivalent, or lower, air contaminant emission potential) shall be used.

3. "Enerbond BA" shall be the only adhesive used to secure floor decking to joists. "Dow Voramar CE" and "Dow Voramar MB" shall be the only adhesives used to secure ceiling board to trusses. "Henkel Glue" shall be the only adhesive used to secure wallboard to studs. "Sun White Wood Glue" shall be the only general purpose adhesive used. "Con-Bond 3498" shall be the only adhesive used to secure laminate to countertops. "Oatley Cement" shall be the only adhesive used to make PVC plumbing connections. "Duron Supreme White Paint" shall be the only coating or paint used to coat interior walls and surfaces. "Reynolds Frame Paint" shall be the only coating or paint used to coat metal surfaces. "Enerbond Head Cleaner" shall be the only solvent used to clean application heads. "Koch DCP-30" shall be the only general purpose adhesive solvent used. "Con-Bond Solvent" shall be the only solvent used to clean excessive adhesive from laminated countertops. "Oatley Purple Primer" shall be the only solvent used to clean PVC plumbing. "Enario Cleaner" shall be the only general purpose coating solvent used. "Sun Vapor Barrier" shall be the only material used to seal ceiling/roof cavities. "Enerfoam NBS" shall be the only foam insulation that shall be used. In each case, the only exception shall be that an alternate material may be used if the Department has first determined that it has an equivalent, or lower, air contaminant emission potential than the material it replaces.

4. All materials listed below shall comply with the usage limitation identified as applying to that material:

<i>Material</i>	<i>Maximum Gallons Used/ 12 Consecutive Month Period</i>
Con-Bond 3498 (and any alternate materials)	122
Oatley Cement (and any alternate materials)	597
Duron Supreme White Paint (and any alternate materials)	28,485
Reynolds Frame Paint (and any alternate materials)	5,000
Enerbond Head Cleaner (and any alternate materials)	23
Koch DCP-30 (and any alternate materials)	810
Con-Bond Solvent (and any alternate materials)	122
Oatley Purple Primer (and any alternate materials)	295
Enario Cleaner (and any alternate materials)	45
Sun Vapor Barrier (and any alternate materials)	8,316

5. All materials listed below shall comply with the volatile organic compound and hazardous air pollutant content limitations identified as applying to that material:

<i>Material</i>	<i>Maximum Pounds VOCs/ Gallon Material</i>	<i>Maximum Pounds HAPs/ Gallon Material</i>
Con-Bond 3498 (and any alternate materials)	3.41	9.75
Oatley Cement (and any alternate materials)	7.31	1.96
Duron Supreme White Paint (and any alternate materials)	1.07	.03
Reynolds Frame Paint (and any alternate materials)	3.30	zero
Enerbond Head Cleaner (and any alternate materials)	6.27	zero
Koch DCP-30 (and any alternate materials)	7.25	7.25
Con-Bond Solvent (and any alternate materials)	zero	11.0
Oatley Purple Primer (and any alternate materials)	7.02	5.68
Enario Cleaner (and any alternate materials)	1.88	zero
Sun Vapor Barrier (and any alternate materials)	.07	zero

6. The total combined volatile organic compound and hazardous air pollutant emissions resulting from the use of Enerbond BA, Dow Voramer CE, Dow Voramer MB, Henkel Glue, Sun White Wood Glue and Enerfoam NBS shall not exceed 1.0 pound in any 12 consecutive month period.

7. The spray booth in the Specialty Paint Shop shall be equipped with filters and instrumentation to monitor the pressure differential across the filters. The resultant particulate matter emission concentration shall be no greater than .01 grains per dry standard cubic foot of exhaust.

8. Only airless or high volume low pressure spray technology shall be used to apply coatings except for stains which shall be hand applied by brush or cloth.

9. The volatile organic compound and hazardous air pollutant contents of any solvent-based lacquer used shall be no greater than 5.36 and 3.05 pounds per gallon, respectively, and the volatile organic compound and hazardous air pollutant contents of any water-based lacquer used shall be no greater than 1.87 and zero pounds per gallon, respectively. The total combined volatile organic compound and hazardous air pollutant emissions from the use of lacquer shall be no greater than 2.39 and 1.32 tons, respectively, in any 12 consecutive month period.

10. The volatile organic compound and hazardous air pollutant contents of all stains used shall be no greater than 2.10 and zero pounds per gallon, respectively, and

the total combined volatile organic compound emissions from the use of stains shall not exceed .66 tons in any 12 consecutive month period. All stains must be applied by brush or cloth; stains shall not be spray applied.

11. The volatile organic compound and hazardous air pollutant contents of all cleanup solvents used in the Specialty Paint Shop shall not exceed 6.75 and 3.37 pounds per gallon, respectively, and the total combined volatile organic compound and hazardous air pollutant emissions resulting from the use of cleanup solvents in the Specialty Paint Shop shall not exceed .04 and .02 tons, respectively, in any 12 consecutive month period.

12. All containers of volatile organic compound-containing or volatile hazardous air pollutant-containing materials shall be kept closed except when in active use. Any solvent flushed from spray lines shall be flushed in a solid stream into containers. Solvent may not be removed from spray lines by spraying into the air or by spraying an atomized spray into a container. All solvent-wet rags shall be stored in closed containers.

13. Appropriate records shall be kept to demonstrate compliance with all plan approval conditions.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

10-230B: IA Construction—Zelienople Plant (158 Lindsay Road, Zelienople PA 16063) for modification of a plan approval to change stack testing conditions for an

asphalt plant burning alternative fuels in Jackson Township, **Butler County**. In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval which will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date.

42-192C: IA Construction—McKean Plant (Route 59, Lewis Run, PA 16738) for modification of a plan approval to change stack testing conditions for an asphalt plant burning alternative fuels in Lafayette Township, **McKean County**. In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval, which in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104
Contact: Edward Braun, Chief, (215) 685-9476.

AMS 3053: Mutual Pharmaceutical Co., Inc (1100 Orthodox Street Philadelphia, PA 19124) for installation of one catalytic oxidizer servicing ten electric tray dryers. Total volatile organic compound emissions from the facility shall be less than 25 tons in any rolling 12-month period. Single hazardous air pollutant emissions shall be less than 10 tons in any rolling 12-month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-05002: Lehigh Cement Co.—Evansville Plant (P. O. Box 619, Blandon, PA 19510-0619) for operation of a Portland cement manufacturing facility in Maiden Creek Township, **Berks County**. The facility is subject to 40 CFR Part 63, Subpart LLL—National Emission Standards for Hazardous Air Pollutants for Portland Cement Plants. This action is a renewal of the Title V Operating Permit issued in 1998.

28-05015: IESI Blue Ridge Landfill Corp. (3747 White Church Road, Chambersburg, PA 17201) for operation of a refuse disposal facility in Greene Township, **Franklin County**. This action is a renewal of the Title V Operating Permit issued in 1999. The facility's major sources of emissions include fugitive particulate matter and landfill gasses. The primary emissions also include combustion products from the flare used as a control device for the landfill gasses, which primarily emit NOx and CO from combustion of the landfill gasses as well as volatile organic compounds. The Title V operating permit contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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.

23-00102: Brandywine Veterinary Hospital (1270 Baltimore Pike, Chadds Ford, PA 19317) for operation of their veterinary hospital in Chadds Ford Township, **Delaware County**. The permit is for a non-Title V (State only) facility. The source of air emissions is an animal crematory with an attached after burner. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00090: MG Industries (One Steel Road East, Morrisville, PA 19067) for a non-Title V, State Only, Natural Minor Operating Permit in Falls Township, **Bucks County**. MG Industries owns and operates a gas cylinder filling and recycling facility. Residual gas from the gas cylinders is removed from the cylinders before they are recycled. Ethylene oxide, a volatile organic compound and hazardous air pollutant, is disposed of via a catalytic oxidizer. Seven caustic pre-scrubbers are used to control emissions of acid gas products. A hydrochloric acid pre-scrubber is used to control emissions of basic gas products. An emergency caustic scrubber controls emissions from the caustic pre-scrubbers and hydrochloric acid pre-scrubber. MG Industries also operates a thermal oxidizer. The thermal oxidizer uses a baghouse and a caustic scrubber to control particulate and acid emissions. Testing, monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-03040: Advanced Communications (3000 Canby Street, Harrisburg, PA 17103) for operation of their printing facility in the Borough of Penbrook, **Dauphin County**. The State-only operating permit will include monitoring, record keeping, reporting requirements, emission restrictions, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

28-05033: The Appalachian Mill, Inc. (11427 Church Hill Road, Mercersburg, PA 17236) for operation of their spray booth in Mercersburg Borough, **Franklin County**. This is a non-Title V (State-only) facility. The State-only operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

36-05131: Keystone Quality Products, LLC (82 South Groffdale Road, Leola, PA 17540) for operation of their surface coating facility for the painting of wood cabinets and furniture in Upper Leacock Township, **Lancaster County**. This surface coating, woodworking operation is a non-Title V facility. The operation will result in less than 25 tons of VOCs, less than 10 tons of a single HAP, and less than 25 tons of combined HAPs per year. Standard monitoring, recordkeeping, and work practice standards are included to keep the facility operating within all applicable requirements.

36-03006: Cadmus Professional Communications Science Press Division (300 West Chestnut Street, Ephrata, PA 17522) for the operation of their printing

facility in Ephrata Borough, **Lancaster County**. The facility's potential VOC emissions are less than 16 tons per year and HAPs emissions are less than 2 tons per year. The State-only operating permit shall contain emission restrictions, work practice standards, and monitoring, recordkeeping, and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-03010: Fleetwood Homes of PA, Inc. (P. O. Box 530, Elizabethtown, PA 17022) for application of adhesives and sealants in Elizabethtown Borough, **Lancaster County**. The facility has the potential to emit 6 tons per year of volatile organic compounds. The State-only operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

36-03021: J. Walter Miller Co. (411 East Chestnut Street, Lancaster, PA 17602) for operation of a foundry in the City of Lancaster, **Lancaster County**. The facility has the potential to emit 18 tons per year of particulate matter, 4 tons per year of volatile organic compounds and less than 1 ton per year of carbon monoxide, sulfur oxides, nitrogen oxides and combined hazardous air pollutants. The State-only operating permit will contain additional testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

36-03057: Reist Popcorn Co. (P. O. Box 155, Mt. Joy, PA 17552) for operation of their popcorn processing facility in Mt. Joy Borough, **Lancaster County**. The facility has a potential to emit 42 tons per year of particulate matter. This is a non-Title V (State-only) facility. The State-only operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

36-03080: Rohrer's Quarry, Inc. (P. O. Box 365, 70 Lititz Road, Lititz, PA 17543) for operation of their crushing, concrete and lime plants at their existing facility in Warwick Township, **Lancaster County**. The crushing and aglime plants are subject to 40 CFR 60 Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The State-only operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

67-03117: FES Systems, Inc. (3475 Board Road, York, PA 17405) for operation of their two paint spray booths in Manchester Township, **York County**. The facility has a potential to emit 10 tons per year of volatile organic compounds and less than 8 tons per year of combined HAPs. The State-only operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

16-00122: Northwestern PA Crematory (330 Wood Street, Clarion, PA 16214) to issue a Natural Minor operating permit for emissions from a human crematory in Clarion Borough, **Clarion County**.

43-00251: Component Intertechnologies, Inc. (2426 Perry Highway; Hadley, PA 16130) to issue a Natural Minor operating permit for emissions from a rubbish incinerator and a solvent cleaning machine in Perry Township, **Mercer County**.

25-00053: Urick Foundry Co., Inc. (1501 Cherry Street, P. O. Box 6027, Erie, PA 16512) to issue a Synthetic Minor Operating Permit to operate a foundry operation, in the City of Erie, **Erie County**. This was formerly a Title V facility but is now taking voluntary emission limits to become a Synthetic Minor Facility.

COAL AND NONCOAL 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 an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

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

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 identified in this notice for the respective coal and noncoal applications. 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 who 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 the person 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 wishes to have the conference conducted in the locality of the proposed mining activities.

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

40810108R4. Pioneer Aggregates, Inc. (202 Main Street, Laflin, PA 18702-2706), renewal of an existing anthracite surface mine operation in Plains Township, **Luzerne County** affecting 82.0 acres, receiving stream: none. Application received August 7, 2003.

54030103. Jett Contracting Company (P. O. Box 243, Brockton, PA 17925), commencement, operation and restoration of an anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 116.0 acres, receiving stream: Martin's Run. Application received August 8, 2003.

54980101R. Triple T Mining Co., LP (P. O. Box 487, New Philadelphia, PA 17959), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 140.0 acres, receiving stream: none. Application received August 12, 2003.

California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.

32971302. NPDES Permit No. PA0215040, Rosebud Mining Company (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Dutch Run Mine in Washington and Plumcreek Townships, **Indiana and Armstrong Counties**, Underground Acres Proposed 323.6, SCP Acres Proposed 323.6, no additional discharges, Application received July 30, 2003.

30743702. Consolidation Coal Company (1 Bridge Street, Monongah, WV 26554), to renew the permit for the Blacksville No. 1 Coal Refuse Disposal Area in Wayne Township, **Greene County**, no additional discharges, Application received August 1, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

10803018 and NPDES Permit No. PA 0126268. Western Hickory Coal Co., Inc. (R. R. 2, Box 2139, Wampum, PA 16157). Revision to use coal ash for low permeable material/placement/fill/liming material in

Coal Applications Received

Effluent Limits

The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

Venango Township, **Butler County** affecting 509.9 acres. Receiving streams: Three unnamed tributaries to Seaton Creek; two unnamed tributaries to Little Scrubgrass Creek and Little Scrubgrass Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 11, 2003.

16930101 and NPDES Permit No. PA0211541. Aspen Minerals, Inc. (P. O. Box 269, Shippensburg, PA 16254). Renewal of an existing bituminous surface strip and tippel refuse disposal operation in Redbank Township, **Clarion County** affecting 57 acres. Receiving streams: Leisure Run and three unnamed tributaries to Town Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Redbank Valley Municipal Authority. Application for reclamation only. Application received August 12, 2003.

16980103 and NPDES Permit No. PA 0227668. Milestone Crushed, Inc. (521 South Street, P. O. Box 644, Clarion, PA 16214). Renewal of an existing bituminous surface strip operation in Ashland Township, **Clarion County** affecting 48.1 acres. Receiving streams: Little East Sandy Creek and UNT to Little East Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received August 12, 2003.

16-03-04 and NPDES Permit No. PA 0242438. RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701). Proposal to enter into a Government Financed Reclamation Construction Contract on a 80 acre site in Perry Township, **Clarion County**. The proposal includes total reclamation of 64 acres of abandoned mine lands as well as 32.5 acres of coal removal incidental and necessary to the reclamation activities. This proposal also includes a request to reclaim and reconstruct approximately 800 feet of an UNT to the Allegheny River. Receiving streams: UNT to the Allegheny River, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is West Freedom Water Association. Application received August 6, 2003.

61980103 and NPDES Permit No. PA 0227846. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Renewal of an existing bituminous surface strip operation in Irwin Township, **Venango County** affecting 111 acres. Receiving streams: Five unnamed tributaries to Scrubgrass Creek, classified for the follow-

ing use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 14, 2003.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56930107 and NPDES Permit No. PA0212466. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for continued operation of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 78.5 acres. Receiving streams: unnamed tributaries to Buffalo Creek and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2003.

56870101 and NPDES Permit No. PA0597937. Hilltop Mining, Inc., 126 Bronco Drive, Berlin, PA 15530 permit revision to change the land use from woodland to pastureland in Brothersvalley Township, **Somerset County**, affecting 15.8 acres. Receiving streams: UNT to Buffalo Creek classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 12, 2003.

32980107 and NPDES Permit No. PA0234800. Fossil Fuel, Inc., 690 Weaver Road, Marion Center, PA

15759, permit renewal for continued operation of a bituminous surface and auger mine in Grant Township, **Indiana County**, affecting 120.0 acres. Receiving streams: UNT to Little Mahoning Creek classified for the following uses: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 12, 2003.

56030106 and NPDES Permit No. PA0249513. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, commencement, operation and restoration of a bituminous surface mine in Summit Township, **Somerset County**, affecting 370 acres. Receiving streams: Casselman River; unnamed tributaries; unnamed tributaries to/and Elk Lick Creek classified for the following uses: WWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 7, 2003.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

7775SM10C5 and NPDES Permit No. PA0011789. Allentown Cement Company (P. O. Box 619, Blandon, PA 19510-0619), renewal of NPDES Permit in Maiden Creek Township, **Berks County**, receiving stream: Maiden Creek, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Reading Municipal Water Authority. Application received August 8, 2003.

06910301C2 and NPDES Permit No. PA0595420. Berks Products Corporation (P. O. Box 421, Reading, PA 19604), renewal of NPDES Permit for discharge of treated mine drainage in Ontelaunee Township, **Berks County**, receiving stream: Maiden Creek and Schuylkill River. Classified for the following uses: WWF and migratory fishes. Application received August 13, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

16970307. Milestone Crushed, Inc. (521 South Street, P. O. Box 644, Clarion, PA 16214). Renewal of NPDES Permit No. PA 0227609 in Beaver, Licking and Richland Townships, **Clarion County**. Receiving streams: Turkey Run and UNT to Turkey Run, classified for the following use: HQ-CWF. There are no potable

surface water supply intakes within 10 miles downstream. NPDES Renewal application received August 15, 2003.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

53030803. Robert H. Ostrom, 2897 Route 6 West, Roulette, PA 16746. Commencement, operation and restoration of a small industrial minerals (bluestone) permit in Roulette Township, **Potter County** affecting 1 acre. Receiving streams: Carr Creek to Allegheny River. Application received June 23, 2003.

53032803. Donald R. Reed, 392 Ridge Road, Genesee, PA 16923. Commencement, operation and restoration of a Small Industrial Minerals (Sand/Gravel) permit in Genesee Township, **Potter County** affecting 5 acres. Receiving stream: None. Application received July 24, 2003.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 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) 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. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of

an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as 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. Individuals 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 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 a 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 FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E21-351. Shippensburg Properties, L. P., One Atlantic Ave., Pittsburgh, PA, 15202 in Shippensburg Township, **Cumberland County**, ACOE Baltimore District

To install and maintain an open bottom culvert, relocate and maintain existing utility lines, install and maintain new utility lines, and to remove and restore an existing culvert, all crossing Burd Run (CWF), located on a 53-acre parcel of land to the north side of PA Route 174 (Walnut Bottom, PA Quadrangle N: 11.15 inches; W: 17.2 inches) in Shippensburg Township, **Cumberland County**.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E27-048. Tionesta Borough, 621 Elm Street, P. O. Box 408, Tionesta, PA 16353-0408. Tionesta Borough Dry Fire Hydrants, in Tionesta Borough, **Forest County**, ACOE Pittsburgh District.

To re-issue Permit No. E27-048 which authorized Tionesta Borough to install and maintain four 6-inch diameter dry fire hydrants along the east (left) bank of the Allegheny River.

E43-300. Richard Van Buren, 17352 Highway 98, Meadville, PA 16335. Scott Kettering Site, in West Salem Township, **Mercer County**, ACOE Pittsburgh District (Greenville West, PA Quadrangle N: 1.9 inches; W: 8.8 inches).

The applicant proposes to construct and maintain a home partially within the right floodway and to place fill in the right floodway having dimensions of approximately 4,200 square feet and an average depth of 2 feet on a UNT (Greenville West, PA Quadrangle N: 1.9 inches; W: 8.8 inches) to Big Run in West Salem Township, **Mercer County**. The project has been constructed and this application is the result of an enforcement action. The UNT to Big Run is a perennial stream classified as WWF. The project proposes to directly affect approximately 0.09 acres of floodway.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent for coverage under General Permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted Notices of Intent (NOI) for coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit 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 permits 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 before the action.

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. NPDES Renewal Permit Actions

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PAS-10-H079R	Misty Meadows Partners 282 Alpat Drive Dillsburg, PA 17019	Cumberland County South Middleton Township	Yellow Breeches HQ-CWF	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0032824 Sewerage	PennDOT Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Mifflin Twp. Columbia County	Fishing Creek 5-D	Y
PA0209589 Sewerage Public	Girard Township Municipal Authority P. O. Box 36 LeContes Mills, PA 16850-0036	Girard Township Clearfield County	Bald Hill Run 8-C	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0042161	James M. Quinn 154 Pleasant Drive Aliquippa, PA 15001	Beaver County Raccoon Township	Draine Swale Tributary to UNT of Raccoon Creek	Y
PA0216160	Eighty Four Mining Company P. O. Box 355 Eighty Four, PA 15330	Washington County South Strabane Township	Pigeon Creek via Mine Borehole and Underground Mine Drainage System	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0252441. Sewage. **AMFIRE Mining Company, LLC**, One Energy Place, Suite 2800, Latrobe PA 15650.

This proposed facility is located in Brush Valley Township, **Indiana County**.

Description of proposed action/activity: Discharge of treated sewage from the Ondo Mine STP.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0239151, Sewage, **David F. Buchanan**, 706 Perkinswood Blvd. S. E., Warren, OH 44483.

This proposed facility is located in West Shenango Township, **Crawford County**. Description of proposed action/activity: A proposed single residence sewage treatment plant discharge to an UNT to Shenango River.

III. WQM Industrial Waste and Sewerage Actions Under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WQM Permit No. 2303405, Sewerage, **Linnere Homes, Inc.**, 605 Chadds Ford Drive, Chadds Ford, PA 19317.

This proposed facility is located in Edgmont Township, **Delaware County**.

Description of proposed action/activity: Construction and operation of a drip irrigation STP for a 30 new single family residence.

WQM Permit No. 4603403, Sewerage, **Rodney A. Beckstead**, 5760 Upper Ridge Road, Pennsburg, PA 18073-2649.

This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of proposed action/activity: Construction and operation of an onsite small flow wastewater treatment facility.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes Barre, PA 18711-0790.

WQM Permit No. 3903401, Sewerage, **Upper Saucon Sewage Treatment Authority**, 5500 Camp Meeting Road, Center Valley, PA 18034

This proposed facility is located in Upper Saucon Township, **Lehigh County**.

Description of proposed action: Issuance of Water Quality Management Permit to rerate the sewage treatment plant from 2.0 MGD up to 2.5 MGD.

Northwest Region: Water Management Program Manager; 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2003420, Sewerage, **Kenneth J. Deane**, 22487 Hobbs Road, Meadville, PA 16335.

This proposed facility is located in East Mead Township, **Crawford County**.

Description of proposed action/activity: Sewage discharge for a single residence.

WQM Permit No. 6203412, Sewerage, **Willard Foley**, 403 Quaker Hill Road, Warren, PA 16365.

This proposed facility is located in Glade Township, **Warren County**.

Description of proposed action/activity: Sewage discharge for a single residence.

WQM Permit No. 3303402, Sewerage, **Mark E. Gilmore**, 7245 West Market Street, Mercer, PA 16137.

This proposed facility is located in Jefferson Township, **Mercer County**.

Description of proposed action/activity: Sewage discharge for a single residence.

WQM Permit No. 2003419, Sewerage, **Robert L. Henry**, P. O. Box 295, Linesville, PA 16424.

This proposed facility is located in North Shenango Township, **Crawford County**.

Description of proposed action/activity: Sewage discharge for a single residence.

WQM Permit No. 1003412, Sewerage, **James Simmons**, 4521 William Flynn Highway, Harrisville, PA 16038.

This proposed facility is located in Mercer Township, **Butler County**.

Description of proposed action/activity: Sewage discharge for a single residence.

WQM Permit No. 2003407, Sewerage, **David F. Buchanan**, 706 Perkinswood Blvd. S. E., Warren, OH 44483.

This proposed facility is located in West Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

IV. NPDES Stormwater Discharges From Municipal Separate Storm Sewer Systems (Ms4) Permit Actions

V. NPDES Waiver Stormwater Discharges From Municipal Separate Storm Sewer Systems (Ms4) Actions

VI. NPDES Discharges Of Stormwater Associated With Construction Activities Individual Permit Actions

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G321-R	Malvern Preparatory School Athletic Fields 418 South Warren Avenue Malvern, PA 19355-2707	Chester	Malvern Borough	Crum Creek (HQ)
PAI01 1503032	Uwchlan Township SR013, 04L (Rt 113) Project 715 North Ship Road Exton, PA 19341	Chester	Uwchlan Township	Tributary to Pickering Creek (HQ-TSF)

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1503055	James E. Stanton Kathryn Stanton Subdivision 328 North Sandy Hill Road Coatesville, PA 19320-1007	Chester	West Caln Township	Birch Run (HQ) and West Branch Brandywine Creek (CWF)
PAI01 1503056	Glenn Gerber Sunset Hollow Minor Subdivision 250 Sunset Hollow Road West Chester, PA 19380-3840	Chester	West Goshen Township	Unnamed Tributary Broad Run (HQ)
PAI01 1503058	Chesterpoint Development, Inc. Beamer Levan Subdivision 13 Quail Hill Lane Downingtown, PA 19335	Chester	West Caln Township	Indian Spring Run (EV)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS-10-4513	Trinity Packaging 13 Industrial Park Road Lewistown, PA 17044	Mifflin	Granville Twp.	UNT to Juniata River HQ-CWF

Berks County Conservation District: 1238 County Welfare Rd., P. O. Box 520, Leesport, PA 19533, (610) 372-4657 ext. 201.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PA-R-10-C414, Valley View Estates	Barry McCamant 12 S. 7th St. Akron PA 17501	Berks	Greenwich Twp.	UNT to Maiden Creek (TSF)
PAG2-0006-03-072 Leisz's Bridge Rd. Whse.	Scott Landis, 2668 Leisz's Bridge Rd. Leesport, PA 19533	Berks	Bern Twp.	Tulpehocken Creek/Schuylkill River (TSF/CWF)
PAG2-0006-03-030 Kutztown Self Storage	Dennis Heffner 261 Wynview Rd. Kutztown, PA 19530	Berks	Richmond Twp.	Maiden Creek (WWF)
PAG2-0006-03-064 Woods Property	R. Bruce and Marcy B. Woods 167 Geiger Rd. Douglassville, PA 19518	Berks	Amity Twp.	Monocacy Creek (WWF)
PAG2-0006-03-036 Hoch Subdivision	Matthew Hoch 28 Chapel Rd. Boyertown, PA 19512	Berks	Earl	Manatawny Creek (CWF)

Cumberland County Conservation District: 43 Brookwood Avenue, Carlisle, PA 17013 (717) 240-7812.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2-0021-03-019	East Pennsboro Township Robert Gill 98 S. Enola Road Enola, PA 17025-2796	Cumberland County	East Pennsboro Township	UNT to Conodoguinet Creek-Wwf

Dauphin County Conservation District: 1451 Peters Mountain Rd., Dauphin, PA 17018, (717) 921-8100.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2-0022-03-016	Harrisburg School District 1201 N. 6th St. Harrisburg, PA 17102	Dauphin	Susquehanna Township	Swatara Creek WWF
PAG2-0022-03-017	Commerce Bank 100 Senate Ave. Camp Hill, PA 17011	Dauphin	Lower Paxton Township	Swatara Creek WWF
PAR10I317-1	Susquehanna Towne Center Union Deposit Properties 745 East Park Dr. Harrisburg, PA 17111	Dauphin	Susquehanna Township	Paxton Creek WWF

Huntingdon County Conservation District: R. D. 1 Box 7C Rt. 26S, Huntingdon, PA 16652, (814) 627-1627.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG 2003103008	Joseph Kovalchick P. O. Box 158 Rockhill Furnace Pennsylvania	Huntingdon	Cromwell Township	Shade Creek (WWF)

SR 522 Off-site Fill Area

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Jefferson Conservation District, RR5 Box 51, Brookville, PA 15825, (814) 849-7463.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS103315	Vance Oaks Falls Creek Borough Municipal Authority 117 Taylor Avenue Falls Creek, PA 15840	Jefferson	Falls Creek Borough and Washington Township	Falls Creek HQ-CWF

Warren Conservation District: 609 Rouse Avenue, Suite 203, Youngsville, PA 16371, (814) 563-3117.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS107206	Kinzua-Warren County Joint Authority throughout Mead Twp. and portions of Pleasant Twp. Mead Twp. Bldg, Mead Blvd. P. O. Box 412 Clarendon, PA 16313 (814) 726-1735	Warren	Mead Township and Pleasant Township	Allegheny River CWF W. Branch Tionesta HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

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).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage 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)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-02

<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>
Warrington Township Bucks County	PAG200 0903022	Walter and Michele Studley 1180 Bristol Road Warminster, PA 18974	Little Neshaminy Creek (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Bedminster Township Bucks County	PAG200 0903073	Richard and Kathleen Angello Angello Residence 136 Trappe Lane Langhorne, PA 19047-1434	Mink Run (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Bristol Borough Bucks County	PAG200 0903077	Island View Crossing Island View Site/Lot 1 Radcliff 1001 East Hector St. Ste 100 Conshohocken, PA 19428	Delaware River (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Richland Township Bucks County	PAR10-D679	Robert Rosenthal Arbours at Morgan Creek 370 Commerce Drive, Suite 100 Fort Washington, PA	Morgan Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Buckingham Township Bucks County	PAR10-D714	Kenneth Coles Windsor Square PO Box 245 2335 Holicong Road Holicong, PA 18928	Unnamed Tributary Mill Creek (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Rockhill Township Bucks County	PAG200 0903101	Charles R. Romano Charles and Brenda Romano 524 Mill Road Hatfield, PA 19440	Unnamed Tributary East Branch Perkiomen Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Newtown and Northampton Townships Bucks County	PAG200 0903073	PADOT—District 6-0 Richboro Rd. Bridge Replacement 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Neshaminy Creek (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Northampton Township Bucks County	PAG200 0903077	Northampton Township Council Rock Senior Center 55 Township Road Richboro, PA 18954	Iron Words Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Richland Township Bucks County	PAG200 0903057	Richard Beres Acres on Scholls School 303 B Airport Boulevard Doylestown, PA 18901	Morgan Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Nockamixon Township Bucks County	PAG200 0903088	Mark Sokol Sokol Minor Subdivision P. O. Box 124 Danboro, PA 18916	Tohickon Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

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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>
Warminster Township Bucks County	PAG200 0903026-1	Township of Warminster Warminster Park 401 Gibson Avenue Warminster, PA 18974	Little Neshaminy Creek (WWF, MF) and Pennypack Creek (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Bristol Township Buck County	PAG200 0903064	Robert Leipziger Rob's Truck and Trailer Repair 2700 New Rodgers Road Bristol, PA 19007	Mill Creek/Otter Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Doylestown Township Bucks County	PAG200 0903105	PENDOT—District 6-0 SR 202 and 3002 Section BIK 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Cooks Run (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Marlborough Township Chester County	PAG200 1503075	Waterbury Associates Willowdale Commons/Waterbury Office Park 818 East Baltimore Pike Kennett Square, PA 19348	West Branch Red Clay Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Bradford Township Chester County	PAG200 1503064	West Chester University Campus New Student Housing Park Campus Partners 10 Campus Drive Newtown Square, PA 19073	Plum Run (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Caln Township Chester County	PAG200 1503051	Wawa, Inc. Wawa Food Market 260 Baltimore Pike Wawa, PA 19063-5699	Valley Run (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Marlborough Township Chester County	PAR10-G465	Joseph F. Wallace Wallace Property P. O. Box 34 Kennett Square, PA 19348	Unnamed Tributary to Red Clay Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Coatesville Borough Chester County	PAG200 1503039	Denny Howell Cox Property II 1195 McDermott Drive West Chester, PA 19380-4042	West Branch Brandywine Creek (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
New Garden Township Chester County	PAG200 1503040	Charles Wilkinson Harrogate South 1020 Broad Run Road Landenberg, PA 19350	White Clay Creek (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Caln Township Chester County	PAG200 1503065	Bala Investments, Inc. 321 South Valley Forge Road Devon, PA 19333	Unnamed Tributary East Branch Brandywine Creek (WWF)	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>
West Brandywine Township Chester County	PAG200 1503073	Regional Building Committee No. 2 Kingdom Hall of Jehovah's Witnesses 55 Lakeview Drive Elverson, PA 19520	Unnamed Tributary Beaver Creek (MF, TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Avondale Borough Chester County	PAG200 1503061	Avondale Borough Wastewater Treatment Plant Upgrade and Expansion 110 Pomeroy Avenue P. O. Box 247 Avondale, PA 19311	Unnamed Tributary White Clay Creek (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Chester Township Delaware County	PAR10-J044-R	Murphy and Smith 274 Bodley Road Aston, PA 19014-1412	Chester Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Tinicum Township Delaware River	PAG200 2303018-1	Tinicum Township 629 N. Governor Prinze Boulevard Essington, PA 19029	Delaware River (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Aston Township Delaware County	PAG200 2303058	John D'Annunzio 104 Spring Valley Road Aston, PA 19014	West Branch Chester Creek (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAG200 4603031	Commerce Bank Proposed Commerce Bank 17000 Horizon Way, Ste. 100 Mt. Laurel, NJ 08054	Tributary Skippack Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pottstown Borough Montgomery County	PAG200 4603087	Borough of Pottstown Bicycle/Pedestrian Trail 100 East High Street Pottstown, PA 19464	Franch Creek and Manatawny Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Franconia Township Montgomery County	PAG200 4603061	James and Bonnie Depermentier 2890 Pinecroft Place Harleysville, PA 19438	Unnamed Tributary Skippack Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Providence Township Montgomery County	PAG200 4603078	Americo Moscariello Main Street Development 25 Donny Brook Way Collegeville, PA 19426	Perkiomen Township (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Plymouth Township Montgomery County	PAG200 4602004	Plymouth Township Gallagher Road Culvert 700 Belvoir Road Plymouth Meeting, PA 19462	Schuylkill River (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

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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>
City of Philadelphia Philadelphia County	PAG201 5103010	Monument Mews, LP 4300 Monument Mews 2042-48 Arch Street Philadelphia, PA 19103	Schuylkill River (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Philadelphia Philadelphia County	PAG01 5103011	GMH Associates City Avenue Residences Hall 10 Campus Boulevard Newtown Square, PA 19073	Schuylkill River (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lehigh Co. Borough of Slatington	PAG2003903014	Northern Lehigh Playground Assoc. P. O. Box 333 Slatington, PA 18080	Spring Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Monroe Co. East Stroudsburg Borough	PAG2004503002	Troy Nauman P. O. Box 775 East Stroudsburg, PA 18301	Sambo Creek CWF, MF	Monroe Co. Cons. Dist. (570) 629-3060
Northampton Co. Lower Saucon Twp.	PAG2004803029	L & L Management Co., LLC 559 Main St. Suite 300 Bethlehem, PA 18018	Black River, CWF	Northampton Co. Cons. Dist. (610) 746-1971
Northampton Co. Upper Mt. Bethel Twp.	PAG2004803034	Robert C. Teel 2418 N. Delaware Dr. Mt. Bethel, PA 18343	Jacoby Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
Centre County College Township	PAG2001403030	Centre Hills Village-Chestnut Ave. Squirrel Dr. State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County Sandy Township and City of Dubois	PAG2001703007	Pa. Dept. of Transportation 1924-30 Daisy St. Clearfield, PA 16830	Clear Run CWF	Clearfield County Conservation District 650 Leonard St Clearfield, PA 16830 (814) 765-2629
Clearfield County City of Dubois	PAG2001703009	City of DuBois P. O. Box 408 DuBois, PA 15801	Sandy Lick CWF	Clearfield County Conservation District 650 Leonard St Clearfield, PA 16830 (814) 765-2629
Northumberland County Ralpho Township	PAG2004903016	Fleetwood Motor Homes of PA P. O. Box 5 Paxinos, PA 17860-0096	Timber Creek CWF	Northumberland County Conservation District RR 3, Box 238C Sunbury, PA 17801 (570) 286-7114 X4
Northumberland County Mt. Carmel Township	PAG2004903014	Mt. Carmel Borough Mt. Carmel Recreation Complex 121 S. Oak St. Mt. Carmel, PA 17851	Shamokin Creek WWF	Northumberland County Conservation District RR 3, Box 238C Sunbury, PA 17801 (570) 286-7114 X4

Southwest Region: Regional Water Management Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<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>
Cambria County Cresson Township	PAG2001103008 (1)	Mount Aloysius College 7373 Admiral Peary Highway Cresson, PA 16630	Little Conemaugh River (CWF)	Cambria County CD (814) 472-2120
Cambria County Richland Township	PAG2001103016	Matthew Stever 106 R College Park Plaza Johnstown, PA 15904	Stonycreek River (WWF)	Cambria County CD (814) 472-2120

<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>
Washington County Amwell Township	PAG2006303029	Howard Johnson 1805 Vista Valley Road Washington, PA 15301	Little Ten Mile Creek (WWF)	Washington County CD (724) 228-6774
Butler Cranberry Township	PAG2001003010	Attn: William Steel St. John's Evangelical Luthern 1001 Freedom Road Cranberry Township 16066	Brush Creek (WWF) Big Sewickley Creek (TSF)	Butler County Conservation District (814) 724-284-5270
Clarion Limestone Township	PAG2061603002	PA Dept. of Transportation District 10-0 2550 Oakland Avenue P. O. Box 429 Indiana PA, 15701	Piney Creek (CWF)	Clarion County Conservation District (814) 226-4070
Crawford Vernon Township	PAG2002003007	Spiro Pappen 1198 Mullberry Lane Bridgewater, PA 15009	Conneaut Lake Marsh (WWF)	Crawford County Conservation District (814) 724-1793
McKean Bradford Township	PAG2064203002	University of Pittsburgh at Bradford 300 Campus Drive Bradford, PA 16701	Tunungwant Creek (WWF)	McKean County Conservation District (814) 368-2585
Mercer Jamestown Borough	PAG2004303007	Jamestown Area School Dist P. O. Box 217 204 Shenango Street Jamestown, PA 16134	Gamble Run Tributary to the Shenango River (WWF)	Mercer County Conservation District (724) 662-2242

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>
Berks County Bethel Township	PAG043709	Cheri and Doug Wright 131 Camp Strauss Road Bethel, PA 19597	Unt. Meck Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
East Mead Township Crawford County	PAG048916	Kenneth J. Deane 22487 Hobbs Road Meadville, PA 16335	Unnamed Tributary to Little Sugar Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Glade Township Warren County	PAG048917	Willard Foley 403 Quaker Hill Road Warren, PA 16365	Unnamed Tributary to Conewango Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Jefferson Township Mercer County	PAG048911	Mark E. Gilmore 7245 West Market Street Mercer, PA 16137	Unnamed Tributary to Daley Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North Shenango Township Crawford County	PAG048912	Robert L. Henry P. O. Box 295 Linesville, PA 16424	Unnamed Tributary to Bennett Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

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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>
Mercer Township Butler County	PAG048914	James Simmons 4521 William Flynn Highway Harrisville, PA 16038	Unnamed Tributary to McMurray Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
South Pymatuning Township Mercer County	PAG048576	Travis M. Young 2721 Gull Lane Transfer, PA 16154	Tributary Shenango Reservoir	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pymatuning Township Mercer County	PAG048554	Verna D. George 66 Birchwood Drive Transfer, PA 16154	Tributary Shenango Reservoir	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location: Municipality and County</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Catherman Mobil Facility ID No.14-70968 SR 150 and Gates Road Milesburg, PA 16853 Boggs Township, Centre County	054829	Robert Catherman P. O. Box 745 Milesburg, PA 16853	Unnamed tributary to Bald Eagle Creek	Northcentral Regional Office 208 West Third Street Suite 101 Williamsport, PA 17701-6448
Former Zippy Mart Facility ID No. 41-26771 Route 15 N Williamsport, PA 17701	054831	Dave Peter, Pres. Lycoming Gas & Oil Corp. 1450 E. Third Street Williamsport, PA 17701	Lycoming Creek (stream code #20501)	Northcentral Regional Office 208 West Third Street, Suite 101 Williamsport, PA 17701-6448

General Permit Type—PAG-8

<i>Facility Location: Municipality and County</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
North Annville Township Lebanon County	PAG083504	Annville Township P. O. Box 320 Annville, PA 17003	Pennsy Supply Farm North Annville Township Lebanon County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-9

<i>Facility Location: Municipality and County</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Concord Township Butler County	PAG098302	Louis E. Stoughton 155 Bish Road Chicora, PA 16025-2503	Louis E. Stoughton 155 Bish Road Chicora, PA 16025-2503	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY (PWS) 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).

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 4146426—Special Permit-By-Rule—Operation. Public Water Supply.

Applicant	H2O to Go William Brightman, President 49 Village Square Drive Marietta, PA 17547
Borough	Selinsgrove Borough
County	Snyder County
Type of Facility	Public Water Supply-Installation of a new vending machine at Weis Markets No. 26.
Consulting Engineer	None
Permit to Operate Issued	August 8, 2003

Permit No. Minor Amendment—Operation. Public Water Supply.

Applicant	Beech Creek Borough Authority c/o Larry Rupert, Chairman P. O. Box 216 Beech Creek, PA 16822
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Borough	Beech Creek Borough
County	Clinton County
Type of Facility	Public Water Supply-Operation of a new pump in Well No.2, relocated salt solution storage tanks, a new booster pump system, and an addition to the treatment building.
Consulting Engineer	N/A
Permit to Operate Issued	August 11, 2003

Permit No. Minor Amendment—Operation. Public Water Supply.

Applicant	Beech Creek Borough Authority c/o Larry Rupert, Chairman P. O. Box 216 Beech Creek, PA 16822
Borough	Beech Creek Borough
County	Clinton County
Type of Facility	Public Water Supply-Operation of a third water softener.
Consulting Engineer	N/A
Permit to Operate Issued	August 11, 2003

Permit No. 5503501—Construction. Public Water Supply.

Applicant	Pennsylvania Suburban Water Company Roaring Creek Division 204 East Sunbury Street Shamokin, PA 17872
Township	Monroe Township
County	Snyder County
Type of Facility	Public Water Supply-Proposing replacement of the disinfection facilities and installation of corrosion control/sequestration treatment equipment at two locations in the Monroe Water System.
Consulting Engineer	CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112-1788
Permit to Construct Issued	August 15, 2003

Permit No. 267W009-T1—Operation. Public Water Supply.

Applicant	Pennsylvania American Water Company 800 West Hershey Park Drive Hershey, PA 17033
Township	Boggs Township
County	Clearfield County
Type of Facility	Public Water Supply-Operation of the West Decatur distribution system and the existing 50,000 gallon storage tank.

Consulting Engineer N/A
 Permit to Operate August 15, 2003
 Issued

Permit No. 1789502—Cancellation. Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hershey Park Drive
 Hershey, PA 17033

Township Boggs Township
 County **Clearfield County**
 Type of Facility Public Water Supply-Straw Well (aka Well No. 3), greensand filtration, 6- 1,000 gallon backwash tanks, 2,000 gallon tank at well, Shan-No-Corr polyphosphate, hypochlorite feed pumps.

Consulting Engineer N/A
 Permit Cancellation August 15, 2003

Permit No. 262W017—Cancellation. Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hershey Park Drive
 Hershey, PA 17033

Township Boggs Township
 County **Clearfield County**
 Type of Facility Public Water Supply-New Spring

Consulting Engineer N/A
 Permit Cancellation August 15, 2003

Permit No. 8242-W—Cancellation. Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hershey Park Drive
 Hershey, PA 17033

Township Boggs Township
 County **Clearfield County**
 Type of Facility Public Water Supply-Hypochlorination

Consulting Engineer N/A
 Permit Cancellation August 15, 2003

Permit Issued April 28, 1930—Cancellation. Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hershey Park Drive
 Hershey, PA 17033

Township Boggs Township
 County **Clearfield County**
 Type of Facility Public Water Supply-Original distribution system, Morrow Spring, Straw Spring, 15,000 gallon reservoir

Consulting Engineer N/A
 Permit Cancellation August 15, 2003

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0203502, Minor Amendment. Public Water Supply.

Applicant **Borough of Sewickley Water Authority,**
 P. O. Box 190,
 Sewickley, PA 15143

Borough or Township Sewickley Borough
 County **Allegheny**
 Type of Facility Water system improvements

Consulting Engineer KLH Engineers, Inc.
 5173 Campbells Run Road
 Pittsburgh, PA 15205

Permit to Construct August 14, 2003
 Issued

Permit No. 1100503, Minor Amendment. Public Water Supply.

Applicant **Redevelopment Authority of Cambria County**
 401 Candlelight Drive
 Suite 209, P. O. Box 93
 Ebensburg, PA 15931

Borough or Township Onnalinda, Summerhill
 County **Cambria**
 Type of Facility Storage tank, booster station, transmission main, distribution piping

Consulting Engineer OFR Engineering Associates, Inc.
 347 Mansfield Avenue
 Pittsburgh, PA 15220

Permit to Operate August 18, 2003
 Issued

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit issued to: **Pinedale Mobile Home Park**, 3463 Pinedale Lane, Atlantic, PA 16111, PWS ID No. 6200076, East Fallowfield Township, **Crawford County** on August 18, 2003 for the operation of facilities approved under Construction Permit 2002503.

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>
Letterkenny Township	4924 Orrstown Rd. Orrstown, PA 17244	Franklin County

Plan Description: The approved plan provides for a Small Flow Treatment Facility to serve one residential dwelling with sewage flows of 400 GPD. The name of the project is Gress/Rosenberry. 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 applicant.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Shenango and South Shenango	North Shenango Township 11586 Linn Rd. Espyville, PA 16424	Crawford
	South Shenango Township 6865 Collins Rd. Jamestown, PA 16134	

Plan Description: The approved plan provides for the extension of municipal sewers in the Greentree, Colonial Estates 1, 5 and 6 and the Colonial Estates 3 allotments located in North and South Shenango Townships. 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

NOTICE OF PROPOSED INTERIM RESPONSE CORRECTION

Washington County Drum Dump, Robinson Township, Washington County.

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303), is proposing an interim response at Washington County Drum Dump, Robinson Township, Washington County, PA.

The Washington County Drum Dump Site is located in Robinson Township, Washington County, Pennsylvania. The site is located off of the Bulger-Candor Road approximately one mile southwest of the McDonald Interchange on U. S. Route 22. A disposal area located in a ravine affects approximately 2 acres of the property. There are approximately 30 drums disposed of at the site. The drums contain a white powder material, resin-like material or black liquid. Some of the drums are open and/or leaking. In addition to the drums, construction/demolition waste, household appliances, and trash are present. The Department completed an investigation of the site in March of 1999 and determined that a release or a threat of a release of hazardous substances exists from waste in open and leaking drums dumped in a ravine at this site. The waste disposed of at this site poses a direct contact threat to the public and a threat of soil and groundwater contamination.

The Department considered several alternatives at the site, including: no action, securing of the site, and removal and disposal of the hazardous substances located at the site. The Department has determined that removal and disposal of the hazardous materials at the site is the appropriate course of action. This alternative was selected because it complies with all applicable laws and regulations and is determined to be the most environmentally sound procedure for this site.

This notice is being provided pursuant to section 506(b) of HSCA (35 P. S. § 6020.506(b)). The administrative

record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the Department's Southwest Regional Office in Pittsburgh and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment from June 28 until November 1. Persons may submit written comments into the record during this time only, by sending them to Paul Vogel, Environmental Cleanup Program, 400 Waterfront Drive, Pittsburgh, PA 15222, or by delivering them to the Southwest Regional Office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing on October 1, 2003, at 7 p.m. at the Robinson Township Municipal Building, 8400 Noblestown Road, McDonald, PA. Persons wishing to present comments must register with Betsy Mallison before September 29, 2003 by telephone at (412) 442-4000 or in writing at 400 Waterfront Drive, Pittsburgh, PA 15222.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Betsy Mallison at (412) 442-4000 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 non-residential 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Region: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Andela Site, Warwick Township, Bucks County. Joe Casey, P. G., Mignatti Companies, 2310 Terwood Drive, P. O. Box 249, Huntingdon Valley, PA 19006, has submitted a Final Report concerning remediation of site soil contaminated with lead and PCB. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Riverbend Site, Warwick Township, Bucks County. Joe Casey, P. G., Mignatti Companies, 2310 Terwood Drive, P. O. Box 249, Huntingdon Valley, PA 19006, has submitted a Final Report concerning remediation of site soil contaminated with lead and PCB. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Penn Ventilation Co., Inc., City of Philadelphia, Philadelphia County. Erik W. Stephens, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of Don Silver, Silver Realty Co., 1370 Welsh Rd., North Wales, PA 19454, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with BTEX and PHC. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Vacant Parcel—Germantown Avenue, City of Philadelphia, Philadelphia County. Jeffrey T. Bauer, Whitestone Associates, Inc., 1120 Welsh Rd., Suite 100, North Wales, PA 19454, on behalf of Michael Young, 229 W. Upsal St., Philadelphia, PA 19119, has submitted a combined Remedial Investigation/Final Report concerning remediation of site soil and groundwater contaminated with lead and PAH. The report is intended to document remediation of the site to meet Site-specific Standards.

Philadelphia Phillies Ball Park and Parking Areas, City of Philadelphia, Philadelphia County. Keith M. Kowalski, P. G., URS Corp., 1400 Union Meeting Rd., Blue Bell, PA 19422-1972, on behalf of the City of Philadelphia, c/o Jonathan Rinde, Manko, Gold, Katcher and Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, has submitted a Remedial Investigation Report concerning remediation of site soil contaminated with PCB, lead, heavy metals, BTEX, PHC, PAH and solvents; and groundwater contaminated with lead, heavy metals, BTEX, PAH and solvents.

Rite Aid—Castor and Erie Site, City of Philadelphia, Philadelphia County. Kenneth M. Yoder, P. G., BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Rite Aid Corp., 30 Hunter Lane, Camp Hill, PA 17011, 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 Statewide Health and Site-specific Standards.

Northcentral Region: Environmental Cleanup Program Manager; 208 West Third Street, Williamsport, PA 17701.

Pennsylvania State University—Fire Training Station, College Township, Centre County. EPSYS Corporation, on behalf of its client, Pennsylvania State University, 208 Old Main, University Park, PA 16802, has submitted a Final Report concerning site soil contaminated with inorganics, fuel oil no. 2 and chlorinated solvents. This Final Report is intended to demonstrate remediation of the site to meet a combination of the

Background and Statewide Health Standards. Please see additional information in the Notices Section of this *Pennsylvania Bulletin*.

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 and the administration 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 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 after 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. 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.

Alterman Property, Solebury Township, **Bucks County**. Babu Sanji, ANCO Environmental Services, Inc., 35 Russo Place, P. O. Box 188, Berkeley Heights NJ 07922, on behalf of James Alterman, 5978 Atkinson Rd., New Hope, PA 18938, has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 Fuel Oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 5, 2003.

Former U. S. Magnet Site, Yardley Borough, **Bucks County**. Jeffery Fehr, P. G., Penn Environmental and Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440, on behalf of Redevelopment Authority of Bucks County, Robert White, Executive, Director., 1 N. Wilson Ave., Bristol, PA 19007, has submitted a revised Baseline Environmental Report concerning the remediation of site soil contaminated with Fuel Oils No. 2, 4 and 6, other organics, benzo(a)pyrene, lead and arsenic. The report demonstrated attainment of special industrial area requirements and was approved by the Department on August 8, 2003.

Willner Realty & Development Co., Upper Darby Township, **Delaware County**. Samuel J. Kucia, Environmental Consulting, Inc., 500 E. Washington St., Norristown, PA 19401, on behalf of Benjamin P. Willner, V. P., Willner Realty and Development Co., 140 S. 69th St., Upper Darby, PA 19082, has submitted a Final Report concerning remediation of site soil contaminated with Fuel Oil No. 2. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 8, 2003.

Mort's Auto Repair, City of Philadelphia, **Philadelphia County**. Joseph Diamadi, Marshall Geoscience, Inc., 219 W. Main St., Trappe, PA 19426, on behalf of Mort Lowenthal, 122 Benjamin Court, Bldg. F, Phila., PA 19114, has submitted a Final Report concerning remediation of site groundwater contaminated with MTBE and unleaded gasoline. The Final report demonstrated attainment of Statewide Health and Site-specific Standards and was approved by the Department on August 15, 2003.

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

Lockhardt Residence, City of Easton, **Northampton County**. Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of his client, Mr. Curtis Lockhardt, E. Wilkes-Barre Street, Easton, PA) concerning the remediation of soils found or suspected to have been accidentally contaminated with home heating oil as the result of an oil delivery to the wrong address. The report documented attainment of the Statewide Health Standard and was approved on July 25, 2003.

Laubach Farm Property, Bethlehem Township, **Northampton County**. James S. Meenan, III, Environmental Scientist, Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of his client, Mrs. George Laubach, Bethman Road, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with kerosene as the result of a vehicular accident on the property. The report documented attainment of the Statewide Health Standard and was approved on August 12, 2003.

Steven Johnson Property, Bethlehem Township, **Northampton County**. James S. Meenan, III, Environmental Scientist, Marshall Miller & Associates, 3913

Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of his client, Mr. and Mrs. Steven Johnson, Bethman Road, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with kerosene as the result of a vehicular accident on the property. The report documented attainment of the Statewide Health Standard and was approved on August 12, 2003.

Southcentral Region: Environmental Cleanup Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Robert Brandt Residence, Manheim Township, **Lancaster County**. Alternative Environmental Solutions, Inc., 930 Pointview Avenue, Suite B, Ephrata, PA 17522, on behalf of Robert Brandt, 2617 Mondamin Farm Road, Lancaster, PA 17601, submitted a Final Report concerning the remediation of site groundwater contaminated with benzene, cumene, ethylbenzene, fluorene, naphthalene, phenanthrene, and toluene. The final report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on August 14, 2003.

Agere Systems (formerly Lucent Technologies), Muhlenberg Township, **Berks County**. ARCADIS G & M, Inc., 3000 Cabot Boulevard West, Suite 3004, Langhorne, PA 19407, on behalf of Agere Systems, 2525 North 12th Street, Reading, PA 19604, submitted a Final Report concerning remediation of groundwater contaminated with chlorinated solvents. The final report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on August 14, 2003.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Proposed action on request for a bond reduction under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Intent to Reduce Bond:

Southwest Regional Office, Regional Solid Waste Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit No. PAD004835146. MAX Environmental Technologies, Inc., Cemetery Road, Yukon, South Huntingdon Township, **Westmoreland County**. On July 30, 2003 the Department of Environmental Protection received a request for a bond reduction for MAX Environmental Technologies, Inc. for its closed hazardous waste Impoundment No. 5. The Department has reviewed the request and has determined that it is consistent with 25 Pa. Code § 265a.165.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer; and concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this

determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

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

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

Registration under **General Permit No. WMGR090R006. Derry Construction Company, Inc.**, R. D. 5, Box 34, Latrobe, PA 15650-9624.

General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 19, 2003.

Registration Under **General Permit No. WMGR090R007. HRI, Inc.**, 1750 West College, Avenue, State College, PA 16801.

General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 19, 2003.

Registration under **General Permit No. WMGR090R008. Glasgow, Inc.**, P. O. Box 1089, Glenside, PA 19038.

General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 19, 2003.

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.A. §§ 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.

Istvar Hacker, 324 East North St., Bethlehem, PA 18018. Authorization No. WH5151. Effective August 11, 2003.

Mohamed E. Abdelgadir, 3027 Montrose Ave., Richmond, VA 23222-2509. Authorization No. WH5156. Effective August 11, 2003.

Chesterly Stevenson, 104 Marble City Road, Hopewell, PA 16650. Authorization No. WH5155. Effective August 11, 2003.

Hannah & Sons Construction Co., Inc., 2707 Federal St., Philadelphia, PA 19146-3830. Authorization No. WH5077. Effective August 12, 2003.

Jean J. Mintz and Jean Mintz, P. O. Box 6, Schuylkill Haven, PA 17972-0006. Authorization No. WH5078. Effective August 12, 2003.

Denny O. Oviedo, 16 Somerset, Garfield, NJ 07026. Authorization No. WH5157. Effective August 14, 2003.

Liotta & Sons Inc., 3966 Long Beach Road, Island Park, NY 11558. Authorization No. WH5159. Effective August 14, 2003.

CGM Excavating & Paving Inc., 39 E. Cherry Road, Quakertown, PA 18951. Authorization No. WH5160. Effective August 14, 2003.

J. L. Robinson Inc., P. O. Box 14111, Pittsburgh, PA 15239. Authorization No. WH5161. Effective August 14, 2003.

Big Oak Supplies Trucking Inc., 2 Viaduct Lane, Levittown, PA 19054. Authorization No. WH5163. Effective August 14, 2003.

George W. Lutz, 238 Shelby Drive, Greensburg, PA 15601. Authorization No. WH5165. Effective August 14, 2003.

Tocaima Transportation Corporation, 52-18 Meadow View Avenue, North Bergen, NJ 07047. Authorization No. WH5098. Effective August 11, 2003.

Salomon Plastering Company Inc., 3584 Park View Drive, Bensalem, PA 19020. Authorization No. WH5099. Effective August 11, 2003.

R. W. Altomose & Son, P. O. Box 98, Route 209, Broadheadsville, PA 18322-0098. Authorization No. WH5108. Effective August 11, 2003.

Daniels & Miller Inc., P. O. Box 848, 242 North Hamilton Avenue, Greensburg, PA 15601. Authorization No. WH5109. Effective August 11, 2003.

Booz Milk Transport Inc., 199 Booz Road, Shipensburg, PA 17257. Authorization No. WH5143. Effective August 14, 2003.

Mystery Ridge Trucking, R. R. 2 Box 365, Reynoldsville, PA 15851. Authorization No. WH5145. Effective August 14, 2003.

W. A. Miller Trucking, 2175 Foulkes Mill Road, Quakertown, PA 18951-3774. Authorization No. WH5146. Effective August 14, 2003.

Jerry Justice Excavating Inc., 31 Center Mills Road, Aspers, PA 17304. Authorization No. WH5147. Effective August 14, 2003.

Pennscapes Inc., 336 New Road, P. O. Box 135, Southampton, PA 18966. Authorization No. WH5148. Effective August 14, 2003.

Kightlinger Excavating Inc., P. O. Box 266, 30 Main Street, Lewis Run, PA 16738. Authorization No. WH5149. Effective August 14, 2003.

Evans Concrete, 26 Silverbell Road, Levittown, PA 19056-2237. Authorization No. WH5152. Effective August 14, 2003.

Confer Trucking Inc., 324 Mill Street, Howard, PA 16841. Authorization No. WH5153. Effective August 14, 2003.

J & N General Construction Inc., 339 North Hall Street, Allentown, PA 18107. Authorization No. WH5154. Effective August 14, 2003.

Benjamin J. Shroyer dba LCS Transport, 162 Blue Bird Lane, Hyndman, PA 15545. Authorization No. WH5166. Effective August 15, 2003.

Jeffrey J. Sency, 512 Round Head Dr., Weatherly, PA 18255. Authorization No. WH5167. Effective August 15, 2003.

Richard M. Fiori dba M & R Trucking, 646 New Texas Road, Pittsburgh, PA 15239-2269. Authorization No. WH5168. Effective August 15, 2003.

Silver Moon Furniture Inc., 211 Silvermoon Lane, Lewisburg, PA 17837. Authorization No. WH5170. Effective August 15, 2003.

Weleski Terminals Inc., P. O. Box 428, 140 W. 4th Ave., Tarentum, PA 15084-0428. Authorization No. WH5171. Effective August 15, 2003.

B & B Hauling Inc., 419 Carvin St., Clayton, NJ 08312. Authorization No. WH5172. Effective August 15, 2003.

Pocono Roll-Off, 109 Indian Mountain Lakes, Albrightsville, PA 18210-3007. Authorization No. WH5173. Effective August 15, 2003.

Voluntarily Terminated applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act, 27 Pa.C.S.A. §§ 6201—6209 and regulations to transport municipal or residual waste.

Chelita Transport Corp., 427 Hamilton St., Harrison, NJ 07029. Authorization No. WH3639. Voluntarily Terminated April 17, 2003.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

AQ-SE-0014: Haines and Kibblehouse, Inc. (394 Sanatoga Rd, Pottstown, PA 19464) on August 15, 2003, to relocate of portable crushing unit to Hilltown Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

GP1-01-03008: Gettysburg College (300 North Washington Street, Gettysburg, PA 17325) on August 11, 2003, authorized to operate a small gas and No. 2 oil fired combustion unit under GP1 in the Borough of Gettysburg, **Adams County**.

GP3-36-03042A: Haines and Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474-0196) on August 11, 2003, authorized to operate a portable nonmetallic mineral processing plant under GP3 in Fulton Township, **Lancaster 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.

09-0027E: Fres Co—SYS USA, Inc. (3005 State Road, Telford, PA 18969) on August 14, 2003 to operate a thermal oxidizer in West Rockhill Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05066C: Exide Technologies (P. O. Box 14294, Reading, PA 19612-4294) on August 13, 2003, to install a replacement fabric collector which controls particulate and lead emissions from their facility's No. 2 smelter system in the Borough of Laureldale and Muhlenberg Township, **Berks County**. The source is subject to 40 CFR Part 60, Subpart L—Standards of Performance for New Stationary Sources and Part 63, Subpart X—National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelters.

36-03105B: Binkley and Ober, Inc. (P. O. Box 7, East Petersburg, PA 17520) on August 11, 2003, to construct an air classifier controlled by knockout box and fabric filter in East Hempfield Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: William Charlton, New Source Review Chief, (412) 442-4174

65-00865B: Sony Chemicals Corp. of America (1001 Technology Drive, Mt. Pleasant, PA 15666) on August 12, 2003, to install a MEGTEC CleanSwitch Regenerative Thermal Oxidizer (RTO) System on the thermal transfer ribbon paint production and coating process at their Pittsburgh Manufacturing Center in Mount Pleasant Township, **Westmoreland County**. This is a Title V Facility.

65-00693A: USA Valley Facility, Inc. (R. D. 2, Box 282A, Irwin, PA 15642) on August 14, 2003 to install a new enclosed flare at their municipal solid waste landfill in Penn Township, **Westmoreland County**. This is a Title V Facility.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

24-131G: SGL Carbon Corp. (900 Theresia Street, Saint Marys, PA 15857) on August 5, 2003, for modifications to Plan Approval 24-131E in St. Marys, **Elk County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Thomas Barsley, Chief, (215) 685-9428.

AMS 02186: Household Metals, Inc. (645 E. Erie Ave., Philadelphia, PA 19134) authorized to install six spray booths, one washer and one batch oven in Philadelphia, **Philadelphia County**.

AMS 02188: Spectrum Arena LP (3601 S. Broad Street, Philadelphia, PA 19148) authorized to install two (2) emergency generators and several combustion units in Philadelphia, **Philadelphia 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.

09-0127: Bracalente Manufacturing Co., Inc. (20 West Creamery Road, Trumbauersville, PA 18970) on August 12, 2003, to operate a solvent recovery system in Trumbauersville Borough, **Bucks County**.

09-0061: Donaldson Company, Inc. dba Tetratex (1741 Loretta Avenue, Feasterville, PA 19053) on August 12, 2003, to operate an extrusion line in Northampton Township, **Bucks County**.

23-0074: GS Roofing Prod. Co., Inc. (800 West Front Street, Chester, PA 19013) on August 12, 2003, to operate a thermal oxidizer in City of Chester, **Delaware County**.

46-0048: Wyeth Pharm (500 Arcola Road, Collegeville, PA 19426) on August 14, 2003, to operate 3 (three) boilers in Upper Providence Township, **Montgomery County**.

46-0191B: Merck and Co., Inc. (351 North Summeytown Pike, North Wales, PA 19454) on August 15, 2003 to operate a 100 kW emergency generator in Upper Gwynedd Township.

15-0004B: Reynolds Metals Co. (520 Lincoln Avenue, Downingtown, PA 19335) on August 15, 2003, to operate a graphic arts rotogravure press in Downingtown Borough, **Chester County**.

15-0004C: Reynolds Metals Co. (520 Lincoln Avenue, Downingtown, PA 19335) on August 15, 2003, to operate a new rotogravure printing press in Downingtown Borough, **Chester County**.

15-0039: Highway Materials, Inc. (850 Quarry Road, Downingtown, PA 19355) on August 15, 2003, to operate a dryer burner in East Caln Township, **Chester County**.

46-0108A: Highway Materials, Inc. (1128 Crusher Road, Perkiomenville, PA 18074) on August 15, 2003, to operate a cyclone and baghouse in Marlborough Township, **Montgomery County**.

15-0054A: Highway Materials, Inc. (680 Morehall Rd, Malvern, PA 19355) on August 15, 2003, to operate a dryer burner in East Whiteland Township, **Chester County**.

15-0004D: Reynolds Metals Co. (520 Lincoln Avenue, Downingtown, PA 19335) on August 15, 2003, to operate four film seaming machines in Downingtown Borough, **Chester County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: William Charlton, New Source Review Chief, (412) 442-4174.

26-00534A: Fayette Thermal, LLC (755 Opossum Lake Road, Carlisle, PA 17013) on August 8, 2003, at their facility in Luzerne Township, **Fayette County** as follows:

Condition No. 3 was revised to reflect the modification.

Condition No. 5 was revised to reflect that a single bin vent collector was installed to control the sand and limestone silos rather than a bin vent collector for each silo.

Condition No. 14 the word source was changed to coal-fired boilers.

Conditions No. 16 and 17; the word PM was changed to preventative maintenance.

Condition No. 21 was revised to remove requirement to track hours of operation on the natural gas-fired boilers.

Old Condition No. 10 was deleted; restriction on natural gas-fired boiler hours of operation.

Conditions No.10 through 29 were renumbered from 11 through 30.

11-00507A: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on August 8, 2003 to construct a coal processing and loading plant in Blacklick Township, **Cambria County**. This plan approval was extended.

63-307-027: American Iron Oxide Co. (Foster Plaza, Number 7, 661 Andersen Drive, Pittsburgh, PA 15220) to install a baghouse in Allenport Borough, **Washington County**. This plan approval was extended.

65-302-071: Koppers Industries, Inc. (436 Seventh Avenue, Pittsburgh, PA 15219) to install two boilers at Monessen Coke Plant in Monessen, **Westmoreland County**. This plan approval was extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Vendra Verma, New Source Review Chief, (814) 332-6940.

61-203A: IA Construction—Nectarine Plant (State Route 3003, Nectarine, PA 16038) on August 31, 2003, to construct a drum mix asphalt plant in Irwin Township, **Venango County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00018: Brown Printing Co. (668 Gravel Pike, East Greenville, PA 18041) on August 15, 2003, in Upper Hanover Township, **Montgomery County**. This permit was revised to address an appeal of the Title V Permit that was issued on September 14, 2001, in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. Changes to this Title V Permit include updating throughputs and capacities, correcting typographical errors, conforming monitoring and recordkeeping with operational practices at the facility, adding sources to the permit that do not require a Plan Approval, and removing sources that are no longer operating at the facility.

46-00060: Norristown State Hospital—DPW (1001 E. Sterigere Street, Norristown, PA 19401) on August 13, 2003 in Norristown Borough, **Montgomery County** for an Administrative Amendment to Title V Operating Permit No. 46-00060. The previously issued Title V Operating Permit has been amended to incorporate changes approved under Plan Approval No. 46-0060A, for the installation and operation of two 56.25 MMBtu/hr boilers. The amended Title V Operating Permit also incorporates the following changes:

- The following sources and emission points, along with corresponding conditions, Permit Maps, and emissions limits have been omitted:

Source ID	Description (Corresponding Source ID)
031	Keeler Boiler
032	International Boiler Work

Source ID	Description (Corresponding Source ID)
033	Keeler Boiler
034	Keeler Boiler

• The following sources and emission points, along with corresponding conditions, Permit Maps, and emissions limits have been added:

Source ID	Description (Corresponding Source ID)
035	Zurn Boiler, Temp.
036	Cleaver Brooks Boiler, Temp.
S35	Zurn Boiler Stack (035)
S36	Cleaver Brooks Boiler Stack (036)
FML01	Natural Gas Line
FML02	No. 2 Fuel Oil

• A NO_x plant-wide applicability limit (PAL) of 98.5 tons/yr has been added to Section C (Site Level Requirements), of the permit.

• A NO_x emission tracking system recordkeeping requirement has been added to Section C (Site Level Requirements), of the permit.

• The number of emergency generators (Source ID 101) at the facility has changed from 12 to 10.

• The number of residential-style furnaces (Source ID 102) at the facility has changed from 23 to 4.

Administrative Amendment of Title V Operating Permit No. TVOP-09-00028 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05031: Community Refuse Service, Inc. (20 Vaughn Road, Shippensburg, PA 17257) on August 11, 2003, to operate a refuse disposal facility in Hopewell and North Newton Townships, **Cumberland County**. This action is a renewal of the Title V Operating Permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

43-00040: Wheatland Tube Co.—Division of John Maneely Co.—Sharon Plant (200 Clark Street, Sharon, PA 16146) on August 13, 2003, issued Title V Operating Permit in City of Sharon, **Mercer County**. Wheatland Tube Company, Division of John Maneely Company—Sharon Plant air emission sources are two 14.7 mmbtu/hr natural gas-fired boilers, miscellaneous natural gas combustion, a continuous weld furnace, pipe coating, two galvanizing lines with superheaters, three zinc coating lines, three emergency generators and VOC storage tanks. The facility, because it is a major source of PM, SO_x and VOC emissions, is a Title V facility and is therefore subject to the Title V Operating Permit 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.

46-00132: Lansdale Crematory, Inc. (Derstine and Cannon Avenue, Lansdale, PA 19446) on August 13, 2003, to operate a natural minor operating permit in Lansdale Borough, **Montgomery County**.

23-00065: General Chemical Corp. (6300 Philadelphia Pike, Marcus Hook, PA 19061) on August 13, 2003, to operate a natural minor operating permit in Marcus Hook Borough, **Delaware County**.

09-00025: Delbar Products, Inc. (601 West Spruce Street, Perkasio, PA 18944) on August 12, 2003, to operate a synthetic minor operating permit in Perkasio Borough, **Bucks County**.

15-00018: Wyeth Pharmaceuticals (31 Morehall Road, Frazer, PA 19355) on August 12, 2003, to operate a synthetic minor operating permit in East Whiteland Township, **Chester County**.

15-00088: National Foam Inc. (350 East Union Street, West Chester, PA 19382) on August 12, 2003, to operate a natural minor operating permit in West Chester Borough, **Chester County**.

09-00062: Rotondo Precast (514 Township Line Road, Telford, PA 18969) on August 13, 2003, to operate a synthetic minor operating permit in West Rockhill Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

01-03022: Agricultural Commodities, Inc. (1585 Granite Station Road, Gettysburg, PA 17325) on August 7, 2003, to operate a poultry feed mill in Straban Township, **Adams County**.

01-05020: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) on August 12, 2003, to operate their Biglerville fruit processing facility in the Borough of Biglerville, **Adams County**.

01-05030: Hanover Bituminous Products (240 Bender Road, Hanover, PA 17331) on August 13, 2003, to operate a batch asphalt plant in Mount Pleasant Township, **Adams County**.

01-05033: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) on August 12, 2003, to operate a fruit processing facility at their Peach Glen Plant in Tyrone Township, **Adams County**.

21-03046: Safety-Kleen Systems (10 Eleanor Drive, New Kingstown, PA 17072) on August 13, 2003, to operate their VOC storage tank facility in Silver Spring Township, **Cumberland County**.

21-05010: Reliant Energy Mid-Atlantic Power Holdings, LLC (1001 Broad Street, PO Box 1050, Johnstown, PA 15907-1050) on August 13, 2003, to operate a power generating facility at their Mountain Electric Generating Station in South Middleton Township, **Cumberland County**.

36-03051: Johnson and Johnson Merck Consumer Pharmaceutical Co. (1838 Colonial Village Lane, Lancaster, PA 17601) on August 13, 2003, to operate their

consumer pharmaceutical company in East Lampeter Township, **Lancaster County**.

36-05120: Nesso Enterprises, LLC—tba Meridian Products (124 Earland Drive, New Holland, PA 17557) on August 13, 2003, to operate their wood furniture surface coating facility in East Earl Township, **Lancaster County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

42-00198: Elkhorn Field Services—Kane Plant (60 B Kinzua Road, Warren, PA 16365) on August 13, 2003, a Natural Minor Operating Permit to operate a natural gas processing plant in Wetmore Township, **McKean County**.

24-00132: Elk County Heat Treaters, Inc. (316 Battery Street, PA 15857-1439) on August 14, 2003, a Natural Minor Operating Permit in the Borough of St. Marys, **Elk County**. The facility's primary emissions are from the 12 small boilers used to provide process steam and from the 12 heat treater furnaces.

24-00121: Industrial Timber and Lumber Co. (Box 54C, Montmorenci Road, Rt. 948 Ridgway, PA 15853) on August 13, 2003 a Natural Minor Operating Permit in Ridgway, **Elk County** for emissions from sawmill operations and a wood-fired boiler.

27-00019: PA Department of Corrections—SCI at Forest (Route 66, Marienville, PA 16239) on August 14, 2003, a Natural Minor Operating Permit in Jenks Township, **Forest County**. The facility's primary emissions are from four (4) boilers used to provide comfort heat and hot water.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00027: Dyneon (50 Milton Drive, Aston, PA 19014) on August 15, 2003, a State Only Operating Permit was issued as an Administrative Amendment due to a typographical error for Source 103 in Chester Township, **Delaware County**. The Administrative Amendment of the State Only Operating Permit was issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The initial permit was issued February 25, 2003.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05012: ISG Steelton, Inc. (215 South Front Street, Steelton, PA 17113) on August 12, 2003, to operate a steel mill facility at their Steelton Plant in Steelton Borough, **Dauphin County**. The Title V Operating Permit was administratively amended to reflect a change in ownership from Bethlehem Steel Corp. to ISG Steelton, Inc. This is Revision No. 1 of the operating permit.

34-05001: Armstrong Cabinet Products (P. O. Box 146, Thompsettown, PA 17094) on August 15, 2003, to operate their Thompsettown facility in Delaware Township, **Juniata County**. The Title V Operating Permit

was administratively amended to incorporate the requirements from Plan Approval No. 34-05001A. This is Revision No. 1 of the operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

61-00198: Handsome Lake Energy LLC (173 Cornplanter Lane, Kennerdell, PA 16374) on August 8, 2003, in Scrubbgrass Township, in **Venango County** to amend the Title V Operating Permit to incorporate an omitted monitoring requirement and to change the responsible official.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

TV-56—00181: Southern Alleghenies Landfill Inc. (843 Miller Picking Road, Davidsville, PA 15928) for their landfill in Conemaugh Township, **Somerset County** shall increase NOx emissions by 0.650 tons per year (tpy), CO emissions by 0.140 tpy, SOx emissions by 0.043 tpy, PM-10 emissions by 0.213 tpy, and VOC emissions by 0.051 tpy at this facility. These increases in emissions have been approved by the Department as de minimis emission increases in accordance with 25 Pa. Code 127.449.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to such 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 Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54900101C16. Blackwood, Inc. (P. O. Box 639, Wind Gap, PA 18091), correction to an existing surface mine operation to add additional area for coal ash disposal in Reilly and Tremont Townships, **Schuylkill County** affecting 1847.6 acres, receiving streams: Panther and Swatara Creeks. Application received March 6, 2003. Correction issued August 14, 2003.

54030201. Devil's Hole, Inc. (P. O. Box 559, Schuylkill Haven, PA 17972), commencement, operation and restoration of a coal refuse reprocessing operation in Frailey Township, **Schuylkill County** affecting 28.1 acres, re-

ceiving stream: none. Application received February 10, 2003. Permit issued August 14, 2003.

Noncoal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58020839. Litts & Sons Stone Co., Inc. (R. R. 3 Box 330, Moscow, PA 18444), commencement, operation and restoration of a quarry operation in Oakland Township, **Susquehanna County** affecting 3 acres, receiving stream: none. Application received August 7, 2003. Permit issued August 15, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

10850306. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0106453 in Marion Township, **Butler County** affecting 69 acres. Receiving streams: Two unnamed tributaries to Blacks Creek. Application received: June 17, 2003. Permit Issued: August 11, 2003.

37980304. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0227820 in Slippery Rock Township, **Lawrence County** affecting 56.5 acres. Receiving streams: Unnamed tributary to Slippery Rock Creek. Application received: June 17, 2003. Permit Issued: August 11, 2003.

37930302. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0211583 in Slippery Rock Township, **Lawrence County** affecting 140 acres. Receiving streams: Unnamed tributary to Slippery Rock Creek. Application received: June 17, 2003. Permit Issued: August 11, 2003.

16990803. David Mealy (R. R. 1, Box 107, Tionesta, PA 16353). Final bond release for a small noncoal mining operation in Washington Township, **Clarion County**. Restoration of 1.0 acre completed. Receiving streams: Step Run, classified for the following use: CWF. Application received: April 17, 2003. Final bond release approved: July 31, 2003.

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.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

46034031. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Lower Moreland Township, **Montgomery County** with an expiration date of August 29, 2005. Permit issued: August 11, 2003.

46034030. Labrador Construction (P. O. Box 1379, Marshalls Creek, PA 18335), construction blasting in Towamencin Township, **Montgomery County** with an expiration date of January 1, 2004. Permit issued: August 11, 2003.

09034020. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Newtown Town-

ship, **Bucks County** with an expiration date of September 5, 2005. Permit issued: August 11, 2003.

09034019. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Newtown Township, **Bucks County** with an expiration date of September 5, 2005. Permit issued: August 11, 2003.

45034032. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Jackson Township, **Monroe County** with an expiration date of July 22, 2004. Permit issued: August 11, 2003.

40034024. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Hazle Township, **Luzerne County** with an expiration date of July 22, 2004. Permit issued: August 11, 2003.

40034023. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Sugarloaf Township, **Luzerne County** with an expiration date of July 22, 2004. Permit issued: August 11, 2003.

22034018. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in Derry Township, **Dauphin County** with an expiration date of September 5, 2004. Permit issued: August 11, 2003.

67034051. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in Shrewsbury Borough, **York County** with an expiration date of April 30, 2004. Permit issued: August 11, 2003.

28034023. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting in Guilford Township, **Franklin County** with an expiration date of July 30, 2004. Permit issued: August 11, 2003.

36034077. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in West Lampeter Township, **Lancaster County** with an expiration date of August 30, 2004. Permit issued: August 12, 2003.

67034050. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Fairview Township, **York County** with an expiration date of March 30, 2004. Permit issued: August 12, 2003.

67034052. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Windsor Township, **York County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

06034040. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Richmond Township, **Berks County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

06034041. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Caernarvon Township, **Berks County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

06034039. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Jefferson Township, **Berks County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

06034038. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Lower Heidelberg Township, **Berks County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

15034031. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in East Whiteland Town-

ship, **Chester County** with an expiration date of December 31, 2004. Permit issued: August 12, 2003.

64034011. E. R. Linde Construction Corporation (R.R. 6 Box 6825, Honesdale, PA 18431), construction blasting in Berlin Township, **Wayne County** with an expiration date of September 7, 2004. Permit issued: August 12, 2003.

40034025. Michael Dombroski (151 Highland Boulevard, Dallas, PA 18612) and **Hayduk Enterprises**, (P. O. Box 554, Dalton, PA 18414), construction blasting in Dorrance Township, **Luzerne County** with an expiration date of October 22, 2003. Permit issued: August 12, 2003.

67034053. Hall Explosive, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Warrington Township, **York County** with an expiration date of April 5, 2004. Permit issued: August 13, 2003.

01034010. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Latimore Township, **Adams County** with an expiration date of April 4, 2004. Permit issued: August 13, 2003.

22034019. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting in Susquehanna Township, **Dauphin County** with an expiration date of March 5, 2004. Permit issued: August 13, 2003.

36034078. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in West Earl Township, **Lancaster County** with an expiration date of October 6, 2003. Permit issued: August 13, 2003.

38034020. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in South Lebanon Township, **Lebanon County** with an expiration date of March 4, 2004. Permit issued: August 13, 2003.

21034044. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in South Hampton Township, **Cumberland County** with an expiration date of October 4, 2003. Permit issued: August 13, 2003.

28034024. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting in South Hampton Township, **Franklin County** with an expiration date of December 4, 2003. Permit issued: August 13, 2003.

46034032. T. H. Properties (345 Main Street, Harleysville, PA 19438) and **Explo-Tech/AEEI** (401 West High Street, Suite 102, Pottstown, PA 19464), construction blasting in Upper Providence Township, **Montgomery County** with an expiration date of January 5, 2004. Permit issued: August 13, 2003.

48034026. Schlouch Incorporated (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Lower Saucon Township, **Northampton County** with an expiration date of September 30, 2005. Permit issued: August 18, 2003.

15034032. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting in Birmingham Township, **Chester County** with an expiration date of September 6, 2004. Permit issued: August 18, 2003.

09034021. T. H. Properties (345 Main Street, Harleysville, PA 19438) and **Explo-Tech/AEEI** (401 West High Street, Suite 102, Pottstown, PA 19464), construction blasting in Lower Southampton Township, **Bucks**

County with an expiration date of January 14, 2004. Permit issued: August 18, 2003.

36034080. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in East Hempfield Township, **Lancaster County** with an expiration date of September 11, 2008. Permit issued: August 18, 2003.

36034081. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in Warwick Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued: August 18, 2003.

38034021. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in North Cornwall Township, **Lebanon County** with an expiration date of September 6, 2008. Permit issued: August 18, 2003.

67034054. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in East Prospect Borough and Lower Windsor Township, **York County** with an expiration date of September 11, 2008. Permit issued: August 18, 2003.

06034044. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Bern Township, **Berks County** with an expiration date of December 31, 2004. Permit issued: August 18, 2003.

36034079. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in East Cocalico Township, **Lancaster County** with an expiration date of December 31, 2004. Permit issued: August 18, 2003.

48034027. Ed Wean Drilling & Blasting, Inc. (112 Ravine Road, Stewartsville, NJ 08886), construction blasting in South Whitehall Township, **Northampton County** with an expiration date of March 17, 2004. Permit issued: August 18, 2003.

64034012. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting in Cherry Ridge Township, **Wayne County** with an expiration date of September 30, 2003. Permit issued: August 18, 2003.

28034025. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting in Antrim Township, **Franklin County** with an expiration date of April 1, 2004. Permit issued: August 18, 2003.

36034082. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in East Earl Township, **Lancaster County** with an expiration date of October 11, 2003. Permit issued: August 18, 2003.

67034055. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting in Lower Windsor Township, **York County** with an expiration date of September 11, 2004. Permit issued: August 18, 2003.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63034001. Brentzel Contracting (217 Fifth St., Irwin, PA 15642) for blasting activity permit for construction, located in Peters Township, **Washington County**, with an expected duration of 45 days. Permit issued: August 14, 2003.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

14034015. Ameron Construction Company (2501 N. Atherton Street, State College, PA 16830) for construction blasting, located in College Township, **Centre County** with an expected duration of 135 days. Permit issued: August 13, 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).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation 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 these actions 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).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110

E36-757: Manheim Borough, 15 East High Street, Manheim, PA 17545 in Manheim Borough, **Lancaster County**, ACOE Baltimore District

To construct and maintain a pre-engineered wooden foot bridge having a clear span of 47.5 feet, a maximum rise of 5.61 feet and an instream width of 6 feet to make a crossing of Rife Run (WWF) at a point within Logan Park approximately 800 feet south of S. R. 772 (Manheim, PA Quadrangle N: 5.7 inches; W: 4.2 inches) in Manheim Borough, Lancaster County.

E22-444: Fishing Creek Valley Associates, Inc., 7100 Fishing Creek Valley Road, Harrisburg, PA 17112 in West Hanover Township, **Dauphin County**, ACOE Baltimore District

To construct and maintain a bridge having a span of 28 feet and an under clearance of eight feet across the channel of Walnut Run (CWF), a utility line crossing of a tributary to Walnut Run, and associated wetlands at a point approximately 1,900 feet downstream of Fairville Avenue (T-528) for the purpose of constructing the Walnut Run residential development (Hershey, PA Quadrangle N: 19.15 inches; W: 13.5 inches) in West Hanover Township, Dauphin County.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1017 A1. Borough of Plum, 4575 New Texas Road, Pittsburgh, PA 15239. Rustic Ridge Estates Phase 6 in Plum Borough, **Allegheny County**, Pittsburgh ACOE District (Latitude: 40° 30' 54"—Longitude: 79° 44' 45") (New Kensington East, PA Quadrangle N: 2.7 inches; W: 16.8 inches). To amend permit E02-1017 which authorized the removal of an existing structure and the construction and maintenance of a 60 inch diameter C.M.P. culvert with a length of 96 feet in a tributary to Little Pine Creek (WWF), located on Ross Hollow Road at Phase 6 of the Rustic Ridge Development. This amendment authorizes the excavation of approximately 320 feet of a tributary to Little Pine Creek (WWF) and 0.01 acres of deminimus wetland impact for the purpose of con-

structing a storm water detention facility. This amendment includes 401 Water Quality Certification and approves the Environmental Assessment for a non-jurisdictional dam.

E04-297. North Sewickley Township Sewer Authority, 893 Mercer Road, Beaver Falls, PA 15010. North Sewickley Township Sewer Project located in North Sewickley Township, **Beaver County**, Pittsburgh ACOE District (Latitude: 40° 49' 00"—Longitude: 80° 17' 23") (Project begins Beaver Falls, PA Quadrangle N: 18.8 inches; W: 8.3 inches—Project ends N: 3.2 inches; W: 3.6 inches). To construct and maintain 86 sanitary utility line crossings, 4 across an unnamed tributary to Thompson Run (WWF), 8 across an unnamed tributary to Brush Creek (WWF), 1 across an unnamed tributary to Connoquenessing Creek (WWF), 9 across an unnamed tributary to the Beaver River (WWF), 27 across Bennett Run (WWF) and 37 across an unnamed tributary to Bennett Run (WWF), to construct and maintain various temporary stream crossings across the same streams, to place and maintain fill in 0.026 acres of wetlands (PEM/PSS) and to temporarily impact 0.69 acre of wetlands (PEM/PSS). The impacts are part of a proposed sanitary sewer collection system which will consist of approximately 160,915 feet of gravity lines, 55,654 feet of low pressure sewer lines, 18,740 feet of force main lines and 7 pump stations. The project starts near the Lawrence and Beaver County border and ends near the North Sewickley and Daugherty Township border. The total proposed project impacts are approximately 1,835 feet of stream impacts, 0.026 acre of permanent wetland impacts and 0.69 acre of temporarily impacted wetlands.

E32-420A6. Reliant Energy Mid-Atlantic Power Holdings, LLC, 1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907-1050. Reliant Energy Permanent Stockpile Area in East Wheatfield Township, **Indiana County**, Pittsburgh ACOE District (Latitude: 40° 23' 38"—Longitude: 79° 02' 48") (New Florence, PA Quadrangle N: 5.0; W: 4.8 inches). To amend Permit No. E32-420 to include the placement and maintenance of fill in the 100-year floodplain of the Conemaugh River (CWF), near its confluence with Hieses Run (CWF) in association with the Seward Re-powering Project.

E56-320. Diamond Shine, Inc., P. O. Box 3107, LaVale, MD 21504. Diamond Shine Carwash in Somerset Borough, **Somerset County**, Pittsburgh ACOE District (Latitude: 40° 1' 1"—Longitude: 79° 4' 40") (Somerset, PA Quadrangle N: 3.1 inches; W: 10.9 inches). To operate and maintain a 42 foot x 42 foot carwash facility and the associated fill along the left bank and in the floodway of an unnamed tributary to East Branch Coxes Creek classified as a Warm Water Fishery. The project is located at the corner of S.R. 601 (North Center Avenue) and Middle Meadow Avenue.

E56-322. Somerset Township Supervisors, 2209 North Center Avenue, Somerset, PA 15501-9344. Sechler Road Bridge in Somerset Township, **Somerset County**, Pittsburgh ACOE District (Latitude: 40° 02' 22"—Longitude: 79° 03' 53") (Somerset, PA Quadrangle N: 7.43 inches; W: 9.06 inches). To extend an existing 20.1 foot long single span bridge having a normal span of 18.0 feet and an underclearance of 5.5 feet across an unnamed tributary to East Branch Coxes Creek (WWF), 4.0 feet upstream and 4.0 feet downstream, for the purpose of improving transportation safety and roadway standards. Total, permanent impacts to this watercourse, from the bridge and wingwalls, will be approximately 35-feet. The project is located on Sechler Road (T-524) in the Monongahela River Basin (Subbasin 19F).

E63-539. Authority of the Borough of Charleroi, 3 McKean Avenue, P. O. Box 211, Charleroi, PA 15022. Van Voorhis Waterline in Fallowfield Township, **Washington County**, Pittsburgh ACOE District (Latitude: 40° 08' 49"—Longitude: 79° 58' 44") (Monongahela, PA Quadrangle N: 2.4 inches; W: 15.7 inches). To construct and maintain a waterline in, across and along the channel of Pigeon Creek (WWF) and several unnamed tributaries to Pigeon Creek (WWF) for the purpose of extending the existing waterline. The project is located along Monongahela-Bentleyville Road, beginning at the intersection of Camway Lane and Bentleyville Road and extending downstream for a total distance of 9,896 linear feet. The project will impact 490 linear feet of stream channel.

E65-820. Hempfield Township Supervisors, R. D. 6, Box 500, Woodward Drive, Greensburg, PA 15601. Wilson Fox Road Culvert in Hempfield Township, **Westmoreland County**, Pittsburgh ACOE District (Latitude: 40° 14' 22"—Longitude: 79° 35' 46") (Mt. Pleasant, PA Quadrangle N: 20.8 inches; W: 13.4 inches). To remove the existing structure and to construct and maintain a 27.0 foot depressed, 10.0 foot x 6.0 foot concrete box culvert, with baffles, in an unnamed tributary to Sewickley Creek (WWF), for the purpose of improving transportation safety and roadway standards. With wingwalls and riprap apron, the project will permanently affect a reported 70 feet of watercourse. The project is located on Wilson Fox Road.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-367. James Nagy, 841 Saxonburg Road, Saxonburg, PA 16056. Nagy Bridge, in Jefferson Township, **Butler County**, ACOE Pittsburgh District (Saxonburg, PA Quadrangle N: 6.8 inches; W: 12.2 inches).

The applicant proposes to operate and maintain a single span steel beam bridge with concrete abutments and wood plank deck having a clear span of 18 feet and an underclearance of 5 feet across Thorn Creek on the E side of S. R. 2010 (Saxonburg Road) approximately 0.8 mile north of the intersection of S. R. 2010 (Saxonburg Road) and W. Jefferson Road in support of a private access driveway and a single family residence. Also, to construct and maintain a 14-foot wide shale fill and gravel top driveway of which approximately 190 feet of the driveway shall be constructed within 50 foot of the top of the bank of Thorn Creek. The project proposes to directly affect a total of approximately 14 linear feet of stream channel.

E10-375. PA Department of Transportation, District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. S. R. 3024, Segment 0030, Offset 0873 Across Tributary to Brush Creek, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Baden, PA Quadrangle N: 16.9 inches; W: 1.6 inches).

To remove the existing structure and to construct and maintain a 90-foot long precast concrete box culvert having a 14-foot wide by 8-foot high waterway opening in a tributary to Brush Creek on S. R. 3024, Segment 0030, Offset 0873 (Glen Eden Road) approximately 2,000 feet east of Powell Road.

E10-376. Butler County Family YMCA, 339 N. Washington, Butler, PA 16001. Southwest Butler YMCA, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 19.9 inches; W: 12.0 inches).

To conduct the following activities associated with the construction of Southwest Butler YMCA facility east of S. R. 19 immediately south of Ehrman Road:

1. To construct and maintain a 180-foot long, 84-inch diameter reinforced concrete pipe stream enclosure in a tributary to Brush Creek for an access road extending south from Ehrman Road approximately 600 feet east of S. R. 19.

2. To fill a total of 0.076 acre of two wetland areas (0.06 acre associated with the construction of the access road and 0.01 acre associated with a multi-purpose athletic field.

3. To impact a total of 775 feet of tributaries to Brush Creek having contributory drainage areas of less than 100 acres (275 feet from the construction of a parking area and 500 feet from the multi-purpose athletic field).

Project includes contribution to the PA Wetland Replacement Fund for replacement of 0.076 acre of wetland impact.

E10-377. Jayme DiSanti. DiSanti Bridge and Drive-way, in Clinton Township, **Butler County**, ACOE Pittsburgh District (Curtisville, PA Quadrangle N: 9.6 inches; W: 7.3 inches).

The applicant proposes to construct and maintain a 16-foot long, 12.5-foot wide by 2.9-foot high corrugated metal pipe arch culvert in Lardintown Run and a 10-foot wide driveway across 0.032 acres of wetland in support of the construction of and access to a private residence on S. R. 2011 (Lardintown Road) approximately 0.5 mile SE of the intersection of S. R. 2011 (Lardintown Road) and Anderson Road. Lardintown Run is a perennial stream classified as a Trout Stocked Fishery. The project proposes to directly affect a total of approximately 16 linear feet of stream channel and a de minimus area of wetland (0.032 acre).

E10-378. Butler County Commissioners, P. O. Box 1208, Butler, PA 16003-1208. Robinson Bridge (County Bridge No. 111) Replacement, in Penn Township, **Butler County**, ACOE Pittsburgh District (Butler, PA Quadrangle N: 4.6 inches; W: 4.1 inches).

The applicant proposes to remove the existing structure and to construct and maintain a steel stringer bridge having a concrete deck and a clear span of 24.0 feet and an underclearance of 4.95 feet on a 90° skew across Robinson Run on Dodds Road approximately 300 feet east of the intersection of Dodds Road and Robinson Road. The project includes installation of new footers, abutments and wingwalls. The project proposes to directly impact approximately 40 linear feet of stream channel.

E20-528. Cambridge Springs Borough, 161 Car-ringer Street, Cambridge Springs, PA 16403. Railroad Street Culvert Replacement, in the Borough of Cambridge Springs, **Crawford County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 9.75 inches; W: 8.7 inches).

The applicant proposes to remove the existing structure and to construct and maintain a 50-foot long concrete box culvert having a 12-foot wide by 5-foot high waterway opening in Jackson Run on Railroad Street approximately 0.4 mile W of the intersection of S. R. 86 and U. S. Route 19. Project includes construction of wingwalls on the downstream end of the culvert and CIP concrete walls connected to the existing channel walls and culvert on the upstream end of the culvert. Jackson Run is a perennial stream classified as a warm water fishery. The project

proposes to directly affect a total of approximately 60 linear feet of stream channel.

E24-232, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301. Existing Natural Gas Pipeline LN 50, in Benezette Township, **Elk County**, ACOE Baltimore District (Dents Run, PA Quadrangle N: 0.4 inch; W: 8.2 inches)

The applicant proposes to operate and maintain an existing 30-inch natural gas pipeline LN 50 in Elk County from the Elk/Clearfield County border (The Knobs, PA Quadrangle N: 20.6 inches; W: 16.5 inches) approximately 0.9 mile W of the intersection of Jack Dent Road and the Elk/Clearfield County border traversing northeast to the Elk/Cameron County border (Driftwood, PA Quadrangle N: 1.2 inches; W: 15.3 inches) at the intersection of S. R. 2004 (Quehanna Highway) and the Elk/Cameron County Border. The project crosses and includes but is not limited to the crossing of the following streams and one wetland over ten acres as described in the application: Pebble Run (intermittent) (HQ-CWF) (N 41° 15' 12", W 78° 17' 55"), unnamed tributary to Pebble Run (intermittent) (HQ-CWF) (N 41° 15' 15", W 78° 17' 4"), Beaver Run (perennial) (HQ-CWF) (N 41° 15' 13", W 78° 15' 21"), and Wetland W-LN-50-ELK-001 (PEM1/SS1B)

E24-233, Toby Creek Watershed Association, P. O. Box 247, Brockway, PA 15824. Backside of Hayes Run Acid Mine Drainage Passive Treatment System, in Fox Township, **Elk County**, ACOE Pittsburgh District (Brandy Camp, PA Quadrangle N: 15.6 inches; W: 1.3 inches).

The applicant proposes to construct and maintain a stream crossing having a 60-foot x 2.5-foot overflow weir and four 40-foot long, 4-foot diameter corrugated metal pipe culverts in Kyler Run on an access road off of an abandoned railroad grade approximately 0.5 mile NW of the intersection of S. R. 2005 and S. R. 2007. The project is in support of the Backside of Hayes Run acid mine drainage passive treatment system to treat the mine water discharge to an unnamed tributary to Kyler Run and includes construction and maintenance of 1) three non-jurisdictional dams, impoundments, and associated wetland impacts, 2) an R-5 riprap rock-lined waterway having a length of 860 feet, a width of 18 feet, and a depth of 2 feet in an unnamed tributary to Kyler Run, 3) an outfall having a 0.5 foot diameter PVC plastic pipe discharging to an unnamed tributary of Kyler Run. Kyler Run is a perennial stream classified as a cold water fishery, and the unnamed tributary to Kyler Run is an intermittent stream classified as a cold water fishery. The project proposes to directly affect approximately 40 linear feet of Kyler Run and 860 linear feet of an unnamed tributary to Kyler Run.

E24-226, St. Marys Municipal Authority, 808 S. Michael Road, P. O. Box 1994, St. Marys, PA 15857. City of St. Marys Wastewater Treatment Plant Expansion, in City of St. Marys, **Elk County**, ACOE Pittsburgh District (Saint Marys, PA Quadrangle N: 8.5 inches; W: 10.6 inches).

To expand and maintain the existing City of St. Marys Wastewater Treatment Plant within the 100-year flood plain and floodway of Elk Creek north of S. R. 120 approximately 0.75 mile west of S. R. 255. Project includes the construction of an outfall and headwall along the right bank, a new headworks building, SBR tanks, chlorinator, piping and fill for roadways and around structures impacting a total of approximately 1 acre

within the floodplain and floodway extending downstream from the existing access road. Construction was started prior to obtaining this permit.

E25-667. Ben Byler, 15180 Union LeBoeuf Road, Union City, PA 16438. Private Bridge Across South Branch French Creek, in Concord Township, **Erie County**, ACOE Pittsburgh District (Union City, PA Quadrangle N: 2.8 inches; W: 1.6 inches).

To construct and maintain a steel beam bridge having a clear, normal span of 50 feet and an average underclearance of 6 feet across South Branch French Creek (CWF) on a private driveway approximately 0.6 mile south of the terminus of Dewett Road.

E27-070. PA Department of Transportation, District 1-0, 255 Elm Street, P. O. Box 398, Oil City, PA 16301-1412. SR 3004 Bridge Across Little Hickory Run, in Hickory Township, **Forest County**, ACOE Pittsburgh District (Hickory, PA Quadrangle N: 9.9 inches; W: 3.5 inches).

The applicant proposes to remove the existing bridge and (1) to construct and maintain a concrete channel beam bridge having a clear span of 30.25 feet and an underclearance of 5.0 feet on a 60° skew across Little Hickory Run on SR 3004, Section 011, Segment 0030, Offset 0955 approximately 0.10 mile E of the intersection of SR 3004 and T-326 (Connelly Hill Road) and (2) place R-7 rock riprap for scour protection on the left and right abutments and wingwalls. Little Hickory Run is a perennial stream classified as a High Quality-Cold Water Fishery.

E42-296. Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301. Existing Natural Gas Pipeline LN 20, in Liberty Township, Norwich Township, and Sergeant Township, **McKean County**, ACOE Pittsburgh District (Crosby, PA Quadrangle N: 16.9 inches; W: 2.1 inches).

The applicant proposes to operate and maintain an existing 16-inch natural gas pipeline LN 20 in McKean County from the McKean/Elk County border (Hazel Hurst, PA Quadrangle N: 0.7 inch; W: 10.6 inches) approximately 600 feet W of S. R. 2001 (Wilcox Clermont Road) traversing northeast to the McKean/Potter County border (Roulette, PA Quadrangle N: 5.9 inches; W: 10.9 inches) approximately 0.4 mile S of U.S. Route 6. The project crosses and includes but is not limited to the crossing of the following streams described in the application: Sevenmile Run (perennial) (HQ-CWF) (N 41° 37' 50", W 78° 34' 31"), Fivemile Run (perennial) (HQ-CWF) (N 41° 37' 53", W 78° 34' 29"), unnamed tributary to Smith Run (intermittent) (HQ-CWF) (N 41° 39' 16", W 78° 33' 24"), unnamed tributary to Smith Run (intermittent) (HQ-CWF) (N 41° 39' 34", W 78° 33' 5"), Cold Spring Run (intermittent) (HQ-CWF) (N 41° 39' 41", W 78° 32' 58"), Martin Run (perennial) (HQ-CWF) (N 41° 40' 46", W 78° 31' 29"), unnamed tributary to East Branch Clarion River (intermittent) (HQ-CWF) (N 41° 41' 5", W 78° 30' 3"), unnamed tributary to East Branch Clarion River (intermittent) (HQ-CWF) (N 41° 41' 6", W 78° 29' 48"), Red Mill Brook (perennial) (CWF) (N 41° 41' 22", W 78° 28' 57"), Wernwag Hollow (perennial) (HQ-CWF) (N 41° 41' 28", W 78° 27' 51"), unnamed tributary to Red Mill Brook (perennial) (CWF) (N 41° 42' 45", W 78° 26' 35"), unnamed tributary to Red Mill Brook (perennial) (CWF) (N 41° 42' 46", W 78° 26' 31"), unnamed tributary to Red Mill Brook (perennial) (CWF) (N 41° 42' 43", W 78° 25' 53"), Red Mill Brook (perennial) (CWF) (N 41° 42' 42", W 78° 25' 46"), Red Mill Brook

(perennial) (CWF) (N 41° 42' 43", W 78° 25' 37"), unnamed tributary to Red Mill Brook (perennial) (CWF) (N 41° 42' 43", W 78° 25' 34"), Red Mill Brook (perennial) (CWF) (N 41° 42' 38", W 78° 24' 38"), Red Mill Brook (perennial) (CWF) (N 41° 42' 47", W 78° 24' 21"), Potato Creek (perennial) (TSF) (N 41° 43' 5", W 78° 23' 25"), Colegrove Brook (perennial) (HQ-CWF) (N 41° 43' 31", W 78° 22' 56"), Combs Creek (perennial) (CWF) (N 41° 43' 59", W 78° 18' 50"), Combs Creek (perennial) (CWF) (N 41° 44' 27", W 78° 17' 58"), Combs Creek (perennial) (CWF) (N 41° 44' 36", W 78° 17' 45"), McAllister Hollow (perennial) (CWF) (N 41° 45' 4", W 78° 16' 59"), unnamed tributary to Combs Creek (intermittent) (CWF) (N 41° 45' 11", W 78° 16' 52"), Combs Creek (perennial) (CWF) (N 41° 46' 4", W 78° 16' 25"), unnamed tributary to Allegheny Portage Creek (perennial) (CWF) (N 41° 46' 27", W 78° 16' 9"), Allegheny Portage Creek (perennial) (TSF) (N 41° 46' 29", W 78° 16' 7"), unnamed tributary to Allegheny Portage Creek (intermittent) (CWF) (N 41° 46' 32", W 78° 16' 3"), unnamed tributary to Allegheny River (intermittent) (CWF) (N 41° 46' 58", W 78° 14' 52"), unnamed tributary to Allegheny River (intermittent) (CWF) (N 41° 47' 1", W 78° 14' 5"), and Dexter Hollow (perennial) (CWF) (N 41° 47' 3", W 78° 13' 6").

ENVIRONMENTAL ASSESSMENTS

Cambria District: Environmental Program Manager, 286 Industrial Pk. Rd., Ebensburg, PA 15931-4119.

EA1009-002. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Rd., Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Marion Township, **Butler County**, Pittsburgh ACOE District (Barkeyville Quadrangle N: 0.5 inch, W: 7.9 inches). The applicant proposes to backfill an abandoned surface mine, which includes a total of 1,000-feet of dangerous highwall at two sites. The project will include the backfilling of (1) 1.06 acres of hazardous isolated open water, POWz, and backfilling of (2) 0.037 acre of PEM wetland. The project will directly impact 0.037 acre of wetland. De minimis wetland impacts are necessary to adequately address the health and safety hazards associated with the unreclaimed abandoned mine.

EA5609-001. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road., Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Somerset Township, **Somerset County**, Pittsburgh ACOE District (Somerset Quadrangle N: 1.0 inch, W: 1.6 inches). The applicant proposes to backfill an abandoned surface mine, which includes a 1,400-foot long dangerous highwall. The project will include the backfilling of (1) 0.46 acre of PEM wetland and the removal of sediment from 210 feet of stream channel. The sediment removal will impact (2) 0.04 acre of PEM wetland. (3) 0.50 acre of PEM replacement wetland will be constructed as part of the reclamation. The project will directly impact 0.50 acre of wetland. Wetland creation of 0.50 acre is proposed to compensate for wetland impacts.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D63-130 The Markham Group, 215 Parkway Drive, Pittsburgh, PA 15228. To construct, operate and maintain the Catawba Dam across a tributary to Pleasant Valley Run (TSF), directly and indirectly impacting 0.23 acre of wetland (PEM) and 1,000 feet of stream and providing

0.23 acre of wetland mitigation for the purpose of providing a recreational lake for fishing and swimming (Prosperity, PA Quadrangle N: 10.2 inches; W: 0.45 inch) Morris Township, **Washington County**.

SPECIAL NOTICES

PUBLIC HEARING NOTICE

Notice is hereby given that the Department of Environmental Protection (Department) will conduct a public hearing on Thursday, October 9, 2003, beginning at 6 p.m. in the Punxsutawney Community Center building in downtown Punxsutawney, PA. The hearing is in response to a request received from the Punxsutawney Borough Council on an application from Hart Resource Technologies, Incorporated, P. O. Box 232, Creekside, PA 15732. This subject application is for a new National Pollutant Discharge Elimination System (NPDES) permit to discharge treated wastewater from oil and gas exploration activities to Mahoning Creek at a location approximately 700 feet upstream of the Route 119 bridge in the Borough of Punxsutawney, Jefferson County. The NPDES application is numbered PA0239143. Notice of this application was posted in the *Pennsylvania Bulletin* on July 5, 2003.

Persons who wish to present testimony at the hearing should submit a written notice of such intent to Robert Gleeson, Oil and Gas Management, DEP, 230 Chestnut Street, Meadville, PA 16335-3494, on or before October 6, 2003. The written notice should include the person's name, address, telephone number and a brief statement as to the nature of the testimony to be offered at the hearing. Testimony may be presented in either written or oral form. All testimony should be concise, to the point and relevant to the permit issue. Oral testimony will be limited to a maximum of 5 minutes per speaker. Those presenting written testimony can submit a written copy of their comments and any relevant documents at the hearing. Written testimony can also be sent to Robert Gleeson in the Meadville Oil and Gas Program either prior to the hearing or until October 19, 2003.

After the hearing the Department will prepare a document including a summary of the written and oral comments submitted at the hearing, the Department's responses to the comments and the reasons for such responses. The Department will make its decision on the applications following completion of this summary.

Interested persons may obtain further information or inspect and copy public forms and related documents at

the Department's Regional Office at 230 Chestnut Street in Meadville, PA between the hours of 8 a.m. and 4 p.m., Monday through Friday. Appointments for file reviews can be made by calling (814) 332-6340.

NOTICE OF APPROVED PERMIT TRANSFERS FOR FACILITIES

The Department of Environmental Protection (Department) has approved the transfer of all permits, licenses and approvals for the following facilities. All of the listed permits, licenses and approvals previously issued to Duane L. Weaver or its predecessors in interest, have been transferred to Mr. Dyer and Mrs. Maryann Highley. A complete listing of the specific permits, licenses and approvals transferred by facility is listed below. This list is also available on the web at www.dep.state.pa.us (directLINK "[previous-applicant name] permit transfer"). Questions should be directed to the following contact.

Persons aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of 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 decisional law.

For individuals who wish to challenge this 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. If you cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southeast Region: Assistant Regional Director, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428

<i>Facility</i>	<i>Permit, License, Approval</i>	<i>Permit or ID No.</i>	<i>Municipality</i>	<i>County</i>
PWS	Permit	4693504-T1	New Hanover Township	Montgomery

[Pa.B. Doc. No. 03-1701. Filed for public inspection August 29, 2003, 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 "Current 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 any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—Extension of Open Comment Period

DEP ID: 563-2000-610. Title: Validating Abandoned Underground Mine Maps and Establishing Barrier Pillars. Description: The purpose of this guidance is to improve mine safety and underground mine permitting by establishing methods and procedures to be used: (1) when assembling, presenting and evaluating information establishing boundary lines of adjacent underground mines located near active underground mines; (2) to ensure complete and well documented mine maps; (3) to promote modern and consistent mine surveying techniques; (4) to ensure that adequate safety barrier pillars are properly delineated and maintained; and (5) to minimize potential for accidental breakthroughs into adjacent underground mine workings by facilitating coordination between mine safety and environmental permitting staff. Anticipated Effective Date: November 29, 2003. Comment Period Extended to: October 1, 2003. Contact: Thomas Callaghan, (717) 787-5103, tcallaghan@state.pa.us.

Final Technical Guidance

DEP ID: 274-0300-004. Title: Applicability Determination for Continuous Source Monitoring Manual Revisions. Description: This document establishes uniform procedures to be utilized by Department personnel to determine applicability of requirements specified in Revision No. 7 of the Continuous Source Monitoring Manual (DEP ID #274-0300-001) with respect to new Phase I submittals (monitoring plans) and previously approved monitoring systems. Effective Date: September 1, 2003. Contact: Greg Parrish at (717) 787-6547 or gparrish@state.pa.us.

DEP ID: 274-0300-001. Title: Continuous Source Monitoring Manual. Description: This revised manual includes procedures for use in performance and reporting of source emission data. It contains design and performance specifications, performance test procedures, data storage and reporting requirements, quality assurance criteria, and administrative procedures for obtaining DEP approval of continuous source emission monitoring systems or other monitoring systems required under Department regulations. Effective Date: September 1, 2003. Contact: Greg Parrish at (717) 787-6547 or gparrish@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1702. Filed for public inspection August 29, 2003, 9:00 a.m.]

Chesapeake Bay Advisory Committee Change of Meeting Location

The September 4, 2003, meeting of the Chesapeake Bay Advisory Committee has been moved to an alternate location. The meeting will take place on the second floor of the Rachel Carson State Office Building rather than the usual location of Room 105 on the first floor. Meeting participants should be prepared to obtain visitor's passes

from the security guards by showing a valid form of picture identification at the guard's desk.

Questions concerning this meeting should be directed to Dave Reed at (717) 772-5649 or davreed@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Dave Reed at (717) 772-5649 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1703. Filed for public inspection August 29, 2003, 9:00 a.m.]

Storage Tank Advisory Committee Meeting Change

The September 2, 2003, meeting of the Storage Tank Advisory Committee has been cancelled.

Questions concerning this meeting should be directed to James Adair at (717) 772-5551 or jadair@state.pa.us. The agenda and meeting materials for the next meeting, scheduled for December 9, 2003, will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us>.

Persons in need of accommodations for the December meeting, as provided for in the Americans With Disabilities Act of 1990, should contact James Adair at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1704. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF HEALTH

Request for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Marian Manor Corporation
2695 Winchester Drive
Pittsburgh, PA 15220

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.24(a) and 205.27 (relating to dining room; and lounge and recreation rooms):

Passavant Retirement and Health Center
401 South Main Street
Zelienople, PA 16063

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities):

Inglis House
2600 Belmont Avenue
Philadelphia, PA 19131

These requests are on file with the Health Department (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

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 listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotope, Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1705. Filed for public inspection August 29, 2003, 9:00 a.m.]

Surcharge for Establishment of the Patient Safety Trust Fund under the Medical Care Accountability and Reduction of Error Act

On March 20, 2002, Governor Schweiker signed the Medical Care Accountability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.5108). Among other provisions, the MCARE Act established the Patient Safety Authority (Authority) to collect, analyze and evaluate data regarding reports of serious events and incidents occurring in certain medical facilities and to make recommendations to those facilities regarding changes, trends and improvements in health care practices and procedures for the purpose of reducing the number and severity of serious events and incidents.

Section 305(a) of the MCARE Act (40 P. S. § 1303.305(a)) authorizes the establishment of a Patient Safety Trust Fund (Fund) for the operations of the Authority. Section 305(c) of the MCARE Act states that commencing July 1, 2002, and for every fiscal year thereafter, each medical facility covered by the MCARE Act shall pay the Department of Health (Department) a surcharge on its licensing fee as necessary to provide sufficient revenues to operate the Authority. Section 305(c) of the MCARE Act also states that the total assessment amount for Fiscal Year 2002-2003 may not exceed \$5 million and that the Department will transfer the total assessment amount to the Fund within 30 days of receipt. Section 305(d) of the MCARE Act provides that for each succeeding calendar year, the Department will determine and assess each medical facility the proportionate share of the Authority's budget. The base amount of \$5 million provided for in Fiscal Year 2002-2003 shall be increased no more than the Consumer Price Index in each

succeeding fiscal year. The surcharge for FY 2002-2003 was published at 32 Pa.B. 5219 (October 19, 2002) and was collected by December 31, 2002.

This notice sets forth the procedure that the Department will follow in assessing and collecting the surcharge for Fiscal Year 2003-2004. The MCARE Act states that the surcharge shall be collected from medical facilities, which are defined as ambulatory surgical facilities (ASFs), birth centers and hospitals licensed under either the Health Care Facilities Act (35 P. S. §§ 448.101—448.904) or the Public Welfare Code Article X (62 P. S. §§ 1001—1087).

In order to assess the surcharge in an equitable manner, the Department decided to choose a common denominator in these facilities. For ASFs and birth centers, the Department has chosen the number of operating and procedure rooms; for hospitals, the Department has chosen the number of beds contained on the license of each hospital, whether by the Department (general and special acute care hospitals) or the Department of Public Welfare (privately owned psychiatric hospitals). It was also necessary to pick a point in time to make this assessment; the Department has chosen January 1, 2003.

As set forth, the MCARE Act provides that the amount assessed can be increased by the CPI for each fiscal year. Applying the appropriate CPI to last year's assessment of \$5 million results in a total assessment of \$5.13 million. The amount of operating/procedure rooms (for ASFs and birth centers) and the amount of licensed beds (for hospitals) was totaled, and that amount was divided into \$5.130 million to arrive at a charge per unit. The total number of units (operating rooms, procedure rooms and licensed beds) is 45,647. Dividing this number into \$5.130 million results in a per unit assessment of approximately \$112.38.

For Fiscal Year 2003-2004, the Authority has recommended that the assessment be invoiced in two equal parts. The second invoice will be sent only if the Authority determines that the second half of the assessment is needed to assure sufficient funds are available to accomplish the required work of the Authority.

The first invoice is being sent to medical facilities, and payments will be due October 1, 2003. If the second half of the assessment is requested by the Authority, the invoice will be sent in December 2003, with the payment due by April 1, 2004. The MCARE Act authorizes the Department to assess an administrative penalty of \$1,000 per day on facilities who fail to pay the surcharge by the due date. Each facility will receive notification from the Department of the surcharge amount due.

To expedite this process, the Department is listing below the name of each medical facility and the number of operating rooms, procedure rooms or licensed beds at each of these facilities as of January 1, 2003. The list also includes the amount of the surcharge due from each medical facility for the first half of the assessment that is due by October 1, 2003. These facilities will also be sent individual notices by the Department setting forth the amount due, date due and the name and address to which the payment should be sent.

If a medical facility has any questions concerning this notice or the information contained in the list below, a representative from that facility should contact Sandra Knoble, Director, Department of Health, Division of Acute and Ambulatory Care, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 783-8980.

As of January 1, 2003

ACUTE CARE HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Abington Memorial Hospital	508		\$57,089.04	\$28,544.52
Albert Einstein Medical Center	667		\$74,957.46	\$37,478.73
Aliquippa Community Hospital	104		\$11,687.52	\$5,843.76
Allegheny General Hospital	698		\$78,441.24	\$39,220.62
Alle-Kiski Medical Center	258		\$28,994.04	\$14,497.02
Altoona Hospital	346		\$38,883.48	\$19,441.74
Armstrong County Memorial	163		\$18,317.94	\$9,158.97
Ashland Regional Medical Ctr	83		\$9,327.54	\$4,663.77
Bariatric Care Centers of Pennsylvania	47		\$5,281.86	\$2,640.93
Barnes-Kasson County Hospital	49		\$5,506.62	\$2,753.31
Berwick Hospital Center	130		\$14,609.40	\$7,304.70
Bloomsburg Hospital	78		\$8,765.64	\$4,382.82
Bon Secours Reg Health System	165		\$18,542.70	\$9,271.35
Bradford Regional Medical Center	127		\$14,272.26	\$7,136.13
Brandywine Hospital	168		\$18,879.84	\$9,439.92
Brookville Hospital	63		\$7,079.94	\$3,539.97
Brownsville General Hospital	109		\$12,249.42	\$6,124.71
Butler Memorial Hospital	234		\$26,296.92	\$13,148.46
Canonsburg General Hospital	102		\$11,462.76	\$5,731.38
Carlisle Regional Medical Center	200		\$22,476.00	\$11,238.00
Central Montgomery Medical Center	113		\$12,698.94	\$6,349.47
Centre Community Hospital	184		\$20,677.92	\$10,338.96
Chambersburg Hospital	214		\$24,049.32	\$12,024.66
Charles Cole Memorial Hospital	80		\$8,990.40	\$4,495.20
Chester County Hospital	227		\$25,510.26	\$12,755.13
Chestnut Hill Hospital	183		\$20,565.54	\$10,282.77
Clarion Hospital	78		\$8,765.64	\$4,382.82
Clearfield Hospital	92		\$10,338.96	\$5,169.48
Community Hospital Of Lancaster	154		\$17,306.52	\$8,653.26
Community Medical Center	310		\$34,837.80	\$17,418.90
Conemaugh Valley Memorial Hospital	566		\$63,607.08	\$31,803.54
Corry Memorial Hospital	55		\$6,180.90	\$3,090.45
Crozer Chester Medical Center	905		\$101,703.90	\$50,851.95
Delaware County Memorial	288		\$32,365.44	\$16,182.72
Divine Providence Hosp	31		\$3,483.78	\$1,741.89
Doylestown Hospital	178		\$20,003.64	\$10,001.82
Dubois Regional Medical Center	230		\$25,847.40	\$12,923.70
Easton Hospital	369		\$41,468.22	\$20,734.11
Elk Regional Health Center	98		\$11,013.24	\$5,506.62
Elkins Park Hospital	147		\$16,519.86	\$8,259.93
Ellwood City Hospital	72		\$8,091.36	\$4,045.68
Ephrata Community Hospital	133		\$14,946.54	\$7,473.27
Evangelical Community Hospital	121		\$13,597.98	\$6,798.99
Forbes Regional Hospital	340		\$38,209.20	\$19,104.60
Frankford Hospital	544		\$61,134.72	\$30,567.36

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Frick Hospital	153		\$17,194.14	\$8,597.07
Geisinger Medical Center	437		\$49,110.06	\$24,555.03
Geisinger Wyoming Valley	151		\$16,969.38	\$8,484.69
Gettysburg Hospital	76		\$8,540.88	\$4,270.44
Girard Medical Center	168		\$18,879.84	\$9,439.92
Gnaden Huetten Mem Hosp	111		\$12,474.18	\$6,237.09
Good Samaritan Hospital Lebanon	179		\$20,116.02	\$10,058.01
Good Samaritan Regional Med Center	174		\$19,554.12	\$9,777.06
Graduate Hospital	240		\$26,971.20	\$13,485.60
Grand View Hospital	180		\$20,228.40	\$10,114.20
Greene County Memorial Hospital	34		\$3,820.92	\$1,910.46
Hahnemann University Hospital	618		\$69,450.84	\$34,725.42
Hamot Medical Center	360		\$40,456.80	\$20,228.40
Hanover Hospital	117		\$13,148.46	\$6,574.23
Hazleton General Hospital	115		\$12,923.70	\$6,461.85
Hazleton St. Joseph Medical Center	73		\$8,203.74	\$4,101.87
Highlands Hospital	87		\$9,777.06	\$4,888.53
Holy Redeemer Hosp & Med Center	272		\$30,567.36	\$15,283.68
Holy Spirit Hospital	288		\$32,365.44	\$16,182.72
Hospital Of Fox Chase Cancer Center	100		\$11,238.00	\$5,619.00
Hospital Of The Univ of Pa	672		\$75,519.36	\$37,759.68
Indiana Regional Medical Center	129		\$14,497.02	\$7,248.51
J C Blair Memorial Hospital	104		\$11,687.52	\$5,843.76
Jameson Memorial Hospital	236		\$26,521.68	\$13,260.84
Jeanes Hospital	197		\$22,138.86	\$11,069.43
Jefferson Regional Medical Center	380		\$42,704.40	\$21,352.20
Jennersville Regional Hospital	59		\$6,630.42	\$3,315.21
Kane Community Hospital	47		\$5,281.86	\$2,640.93
Kensington Hospital	35		\$3,933.30	\$1,966.65
Lancaster General Hospital	463		\$52,031.94	\$26,015.97
Lancaster General Hospital Susquehanna Division	62		\$6,967.56	\$3,483.78
Lancaster Regional Medical Ctr	247		\$27,757.86	\$13,878.93
Latrobe Area Hospital	198		\$22,251.24	\$11,125.62
Lehigh Valley Hospital—Muhlenberg	148		\$16,632.24	\$8,316.12
Lehigh Valley Hospital—Allentown	617		\$69,338.46	\$34,669.23
Lewistown Hospital	171		\$19,216.98	\$9,608.49
Lifecare Hospitals Of Pittsburgh	154		\$17,306.52	\$8,653.26
Lock Haven Hospital	77		\$8,653.26	\$4,326.63
Magee Women's Hosp Of UPMC Health System	341		\$38,321.58	\$19,160.79
Main Line Hospital Bryn Mawr	283		\$31,803.54	\$15,901.77
Main Line Hospital Lankenau	351		\$39,445.38	\$19,722.69
Main Line Hospital, Inc—Paoli	171		\$19,216.98	\$9,608.49
Marian Community Hospital	104		\$11,687.52	\$5,843.76
Meadville Medical Center	217		\$24,386.46	\$12,193.23
Medical Center Beaver Pa	358		\$40,232.04	\$20,116.02
Medical College Of Pennsylvania	379		\$42,592.02	\$21,296.01

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<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Memorial Hospital York	150		\$16,857.00	\$8,428.50
Memorial Hospital, Inc. Towanda	43		\$4,832.34	\$2,416.17
Mercy Fitzgerald Hospital	391		\$43,940.58	\$21,970.29
Mercy Hospital Of Phila	266		\$29,893.08	\$14,946.54
Mercy Hospital Of Pittsburgh	460		\$51,694.80	\$25,847.40
Mercy Hospital Scranton	265		\$29,780.70	\$14,890.35
Mercy Hospital Wilkes Barre	101		\$11,350.38	\$5,675.19
Mercy Jeanette Hospital	148		\$16,632.24	\$8,316.12
Mercy Providence Hospital	145		\$16,295.10	\$8,147.55
Mercy Suburban Hosp Norristown	131		\$14,721.78	\$7,360.89
Metro Health Center	102		\$11,462.76	\$5,731.38
Mid-Valley Hospital	38		\$4,270.44	\$2,135.22
Millcreek Community Hospital	135		\$15,171.30	\$7,585.65
Milton S Hershey Medical Ctr	504		\$56,639.52	\$28,319.76
Miners Hospital	30		\$3,371.40	\$1,685.70
Monongahela Valley Hospital	253		\$28,432.14	\$14,216.07
Monsour Medical Center	139		\$15,620.82	\$7,810.41
Montgomery Hospital	210		\$23,599.80	\$11,799.90
Montrose General Hospital	26		\$2,921.88	\$1,460.94
Moses Taylor Hospital	208		\$23,375.04	\$11,687.52
Nason Hospital	42		\$4,719.96	\$2,359.98
Nazareth Hospital	225		\$25,285.50	\$12,642.75
Ohio Valley General Hospital	119		\$13,373.22	\$6,686.61
Palmerton Hospital	70		\$7,866.60	\$3,933.30
Parkview Hospital	145		\$16,295.10	\$8,147.55
Pennsylvania Hosp Of The Univ of Pa Health Sys	505		\$56,751.90	\$28,375.95
Philipsburg Area Hospital	50		\$5,619.00	\$2,809.50
Phoenixville Hosp Of The Uni Of Pa Hlth System	143		\$16,070.34	\$8,035.17
Pinnacle Health System	613		\$68,888.94	\$34,444.47
Pocono Medical Center	192		\$21,576.96	\$10,788.48
Pottstown Memorial Medical Center	299		\$33,601.62	\$16,800.81
Pottsville Hosp & Warne Clinic	200		\$22,476.00	\$11,238.00
Punxsutawney Area Hospital	49		\$5,506.62	\$2,753.31
Reading Hosp And Medical Center	566		\$63,607.08	\$31,803.54
Riddle Memorial Hospital	229		\$25,735.02	\$12,867.51
Robert Packer Hospital	258		\$28,994.04	\$14,497.02
Roxborough Memorial Hospital	125		\$14,047.50	\$7,023.75
Sacred Heart Hospital	243		\$27,308.34	\$13,654.17
Saint Vincent Health Center	413		\$46,412.94	\$23,206.47
Sewickley Valley Hospital	191		\$21,464.58	\$10,732.29
Shamokin Area Community Hospital	46		\$5,169.48	\$2,584.74
Sharon Regional Health System	203		\$22,813.14	\$11,406.57
Soldiers & Sailors Mem Hospital	83		\$9,327.54	\$4,663.77
Somerset Hospital Center For Health	135		\$15,171.30	\$7,585.65
St. Agnes Medical Center	153		\$17,194.14	\$8,597.07
St. Clair Memorial Hospital	305		\$34,275.90	\$17,137.95
St. Joseph Medical Ctr	279		\$31,354.02	\$15,677.01

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
St. Joseph's Hospital	146		\$16,407.48	\$8,203.74
St. Luke's Hospital Bethlehem	531		\$59,673.78	\$29,836.89
St. Luke's Quakertown Hosp	78		\$8,765.64	\$4,382.82
St. Mary Medical Center	287		\$32,253.06	\$16,126.53
St. Luke's Miners Memorial Hospital	61		\$6,855.18	\$3,427.59
Suburban General Hospital	154		\$17,306.52	\$8,653.26
Sunbury Community Hospital	76		\$8,540.88	\$4,270.44
Temple East	200		\$22,476.00	\$11,238.00
Temple Lower Bucks Hosp	266		\$29,893.08	\$14,946.54
Temple University Hospital	635		\$71,361.30	\$35,680.65
Thomas Jefferson Univ Hospital	927		\$104,176.26	\$52,088.13
Titusville Area Hospital	95		\$10,676.10	\$5,338.05
Tyler Memorial Hospital	58		\$6,518.04	\$3,259.02
Tyrone Hospital	59		\$6,630.42	\$3,315.21
Uniontown Hospital	195		\$21,914.10	\$10,957.05
United Community Hospital	95		\$10,676.10	\$5,338.05
University of PA Medical Center—Presbyterian	318		\$35,736.84	\$17,868.42
UPMC Bedford	59		\$6,630.42	\$3,315.21
UPMC Braddock	163		\$18,317.94	\$9,158.97
UPMC Horizon	182		\$20,453.16	\$10,226.58
UPMC Lee Regional Hosp	244		\$27,420.72	\$13,710.36
UPMC McKeesport	194		\$21,801.72	\$10,900.86
UPMC Northwest	239		\$26,858.82	\$13,429.41
UPMC Passavant	270		\$30,342.60	\$15,171.30
UPMC Passavant Cranberry	35		\$3,933.30	\$1,966.65
UPMC Presbyterian Shadyside	1,574		\$176,886.12	\$88,443.06
UPMC South Side	181		\$20,340.78	\$10,170.39
UPMC St Margaret	224		\$25,173.12	\$12,586.56
Warminster Hospital	145		\$16,295.10	\$8,147.55
Warren Dental Arts Hospital	6		\$674.28	\$337.14
Warren General Hospital	75		\$8,428.50	\$4,214.25
Washington Hospital	239		\$26,858.82	\$13,429.41
Wayne Memorial Hospital	98		\$11,013.24	\$5,506.62
Waynesboro Hospital	62		\$6,967.56	\$3,483.78
Western Pennsylvania Hospital	524		\$58,887.12	\$29,443.56
Westmoreland Regional Hospital	302		\$33,938.76	\$16,969.38
Williamsport Hospital & Medical Center	241		\$27,083.58	\$13,541.79
Wills Eye Hospital	20		\$2,247.60	\$1,123.80
Windber Hospital	63		\$7,079.94	\$3,539.97
WVHCS Hospital	415		\$46,637.70	\$23,318.85
York Hospital	466		\$52,369.08	\$26,184.54
Total Acute Care Hospitals	39,972	179	\$4,492,053.36	\$2,246,026.68

CHILDREN'S HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Children's Home of Pittsburgh	11		\$1,236.18	\$618.09
Children's Hospital of Philadelphia	381		\$42,816.78	\$21,408.39

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Children's Hospital of Pittsburgh	235		\$26,409.30	\$13,204.65
Children's Institute of Pittsburgh	39		\$4,382.82	\$2,191.41
Shriners Hospital For Children	59		\$6,630.42	\$3,315.21
Shriners Hospitals For Children Erie	30		\$3,371.40	\$1,685.70
St. Christopher's Hosp For Children	161		\$18,093.18	\$9,046.59
Temple University Children's Med Ctr	68		\$7,641.84	\$3,820.92
Total Children's Hospitals	984	8	\$110,581.92	\$55,290.96

CRITICAL ACCESS HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Bucktail Medical Center	9		\$1,011.42	\$505.71
Fulton County Medical Ctr	25		\$2,809.50	\$1,404.75
Jersey Shore Hospital	35		\$3,933.30	\$1,966.65
Meyersdale Community Hosp	20		\$2,247.60	\$1,123.80
Muncy Valley Hospital	27		\$3,034.26	\$1,517.13
Troy Community Hospital	32		\$3,596.16	\$1,798.08
Total Critical Access Hospitals	139	6	\$15,620.82	\$7,810.41

LONG TERM ACUTE CARE HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Allentown Specialty Hospital	32		\$3,596.16	\$1,798.08
Healthsouth Rehab Hospital For Special Services	46		\$5,169.48	\$2,584.74
Healthsouth Rehab Hospital of Greater Pittsburgh	89		\$10,001.82	\$5,000.91
Kindred Hospital—Delaware County	43		\$4,832.34	\$2,416.17
Kindred Hospital—Philadelphia	52		\$5,843.76	\$2,921.88
Kindred Hospital—Pittsburgh	63		\$7,079.94	\$3,539.97
Kindred Hospital—Wyoming Valley	36		\$4,045.68	\$2,022.84
Kindred Hospital at Heritage Valley	35		\$3,933.30	\$1,966.65
Mercy Special Care Hosp	68		\$7,641.84	\$3,820.92
SCCI Hospital—Harrisburg	38		\$4,270.44	\$2,135.22
SCCI Hospital Easton	31		\$3,483.78	\$1,741.89
Select Specialty Hospital—Central Pennsylvania (Camp Hill)	31		\$3,483.78	\$1,741.89
Select Specialty Hospital of Greensburg	31		\$3,483.78	\$1,741.89
Select Specialty Hospital Johnstown	39		\$4,382.82	\$2,191.41
Select Specialty Hospital Philadelphia/Aemc	36		\$4,045.68	\$2,022.84
Select Specialty Hospital Pittsburgh	41		\$4,607.58	\$2,303.79
Select Specialty Hospital—Erie	35		\$3,933.30	\$1,966.65
Select Specialty Hospital—Central Pennsylvania (York)	23		\$2,584.74	\$1,292.37
Sempercare Hospital Of Lancaster	30		\$3,371.40	\$1,685.70
Total Long Term Acute Care	799	19	\$89,791.62	\$44,895.81

REHABILITATION HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Angela Jane Pavilion Rehabilitation Hospital	17		\$1,910.46	\$955.23
Allied Svcs Institute Of Rehab	117		\$13,148.46	\$6,574.23
Bryn Mawr Rehab Hospital	151		\$16,969.38	\$8,484.69

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Chestnut Hill Rehab Hospital	74		\$8,316.12	\$4,158.06
Eagleville Hospital	100		\$11,238.00	\$5,619.00
Geisinger Healthsouth Rehabilitation Hospital	40		\$4,495.20	\$2,247.60
Good Shepherd Rehab Hosp	75		\$8,428.50	\$4,214.25
Good Shepard Rehabilitation Hospital—Bethlehem	29		\$3,259.02	\$1,629.51
Healthsouth Harmarville Rehab	202		\$22,700.76	\$11,350.38
Healthsouth Rehab Hosp of Altoona	70		\$7,866.60	\$3,933.30
Healthsouth Rehab Hosp of Erie Inc	108		\$12,137.04	\$6,068.52
Healthsouth Rehab Hosp of Greater Pitt	89		\$10,001.82	\$5,000.91
Healthsouth Rehab Hosp of Mechanicsburg	103		\$11,575.14	\$5,787.57
Healthsouth Rehab of Reading	76		\$8,540.88	\$4,270.44
Healthsouth Nittany Valley Rehabilitation Hospital	85		\$9,552.30	\$4,776.15
Healthsouth Rehab Hosp of York	102		\$11,462.76	\$5,731.38
Healthsouth Rehabilitation Hospital of Sewickley	44		\$4,944.72	\$2,472.36
John Heinz Institute of Rehab	94		\$10,563.72	\$5,281.86
Magee Rehab Hospital	96		\$10,788.48	\$5,394.24
UPMC Rehabilitation Hosp	85		\$9,552.30	\$4,776.15
Valley Forge Med Ctr & Hosp	50		\$5,619.00	\$2,809.50
Total Rehabilitation Hospitals	1,790	21	\$201,160.20	\$100,580.10

PSYCHIATRIC HOSPITALS

<i>Facility Name</i>	<i>Licensed Beds</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Belmont Center for Comprehensive Treatment	147		\$17,040.24	\$8,520.12
Clarion Psychiatric Center	52		\$6,027.84	\$3,013.92
Devereux Mapleton Psychiatric Institute	33		\$3,825.36	\$1,912.68
Eugenia Hospital	80		\$9,273.60	\$4,636.80
Fairmount Behavioral Health System	140		\$16,228.80	\$8,114.40
First Hospital Wyoming Valley	96		\$11,128.32	\$5,564.16
Foundations Behavioral Health	54		\$6,259.68	\$3,129.84
Friends Hospital	192		\$22,256.64	\$11,128.32
Kidspeace Hospital	80		\$9,273.60	\$4,636.80
Kirkbride Center	74		\$8,578.08	\$4,289.04
Montgomery County MH/MR Emergency Service	73		\$8,462.16	\$4,231.08
Northwestern Institute of Psychiatry	146		\$16,924.32	\$8,462.16
Philhaven Hospital	83		\$9,621.36	\$4,810.68
Southwood Psychiatric Hospital	21		\$2,434.32	\$1,217.16
St. John Vianney Hospital	50		\$5,796.00	\$2,898.00
The Horsham Clinic	146		\$16,924.32	\$8,462.16
The Meadows Psychiatric Center	69		\$7,998.48	\$3,999.24
The Meadows at Sunbury	12		\$1,391.04	\$695.52
Total Psychiatric Hospitals	1548	17	\$179,444.16	\$89,722.08

BIRTHING CENTERS

<i>Facility Name</i>	<i>Birth Rooms</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Birth Care & Family Health Services	2		\$224.76	\$112.38
The Birth Center	2		\$224.76	\$112.38

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<i>Facility Name</i>	<i>Birth Rooms</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Reading Birth & Women's Center	2		\$224.76	\$112.38
The Birth Place	1		\$112.38	\$56.19
Valley Birthplace	1		\$112.38	\$56.19
Total Birthing Centers	8	5	\$899.04	\$449.52

AMBULATORY SURGICAL FACILITIES

<i>Facility Name</i>	<i>Procedure Rooms</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Abington Surgical Center	7		\$786.66	\$393.33
Ambulatory Surgery Center	6		\$674.28	\$337.14
Aestique Ambulatory	2		\$224.76	\$112.38
Amb. Surg. Ctr. At Bucks Co. (CHOP)	2		\$224.76	\$112.38
Apple Hill	13		\$1,460.94	\$730.47
Berks Center for Digestive Health	3		\$337.14	\$168.57
Berks Urologic Surgery Center	5		\$561.90	\$280.95
Berkshire Eye Surgery Center	3		\$337.14	\$168.57
Bethlehem Endoscopy Center	3		\$337.14	\$168.57
Bucci Laser and Cataract Surgery Center	2		\$224.76	\$112.38
Carlisle Endoscopy	3		\$337.14	\$168.57
Carlisle Regional Surg Ctr	4		\$449.52	\$224.76
Center for Reproductive Surgery	2		\$224.76	\$112.38
Centre Community Surgical Ctr	4		\$449.52	\$224.76
Children's Hospital of Philadelphia	2		\$224.76	\$112.38
Children's Hospital of Pittsburgh Outpatient Surg. Serv	3		\$337.14	\$168.57
CHS Ambulatory Surgery Center	4		\$449.52	\$224.76
College Heights Endoscopy Center, LLC	2		\$224.76	\$112.38
Cumberland Surgery Center	2		\$224.76	\$112.38
Delaware Valley Laser Surgery Institute	2		\$224.76	\$112.38
Delaware Valley Orthopedic and Spine Surgery	4		\$449.52	\$224.76
Dermatologic Surgi Center of Drexel Hill	3		\$337.14	\$168.57
Dermatologic Surgi Center of Philadelphia	2		\$224.76	\$112.38
Dermatology and Cosmetic	1		\$112.38	\$56.19
Digestive Disease Institute	4		\$449.52	\$224.76
Digestive Health and Endoscopy	2		\$224.76	\$112.38
Doylestown Surgery Center	4		\$449.52	\$224.76
Eastern Pennsylvania Endoscopy Center	3		\$337.14	\$168.57
Einstein Surgery Center	4		\$449.52	\$224.76
Endoscopic Associates	3		\$337.14	\$168.57
Endoscopy Center of PA	4		\$449.52	\$224.76
Endoscopy USA York	3		\$337.14	\$168.57
Evangelical Ambulatory Surgery Center	8		\$899.04	\$449.52
Exeter Surgery Center	4		\$449.52	\$224.76
Eye Surgery Center of Chester County	1		\$112.38	\$56.19
Fairgrounds Surgical Center	6		\$674.28	\$337.14
Foundation Surgery Affiliates	2		\$224.76	\$112.38
Four Seasons Endoscopy Center	2		\$224.76	\$112.38
Gastroenterology Consultants, Inc.	1		\$112.38	\$56.19
Gastrointestinal Specialists	2		\$224.76	\$112.38

<i>Facility Name</i>	<i>Procedure Rooms</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Grandview Surgery and Laser	6		\$674.28	\$337.14
Grandview Surgical Center	2		\$224.76	\$112.38
Guthrie Clinic Ltd	4		\$449.52	\$224.76
Hamot Surgery Center	8		\$899.04	\$449.52
Hanover SurgiCenter	2		\$224.76	\$112.38
Harrisburg Endoscopy & Surgical Center	4		\$449.52	\$224.76
Hazleton Ambulatory Surgical Center	2		\$224.76	\$112.38
Hazleton Endoscopy Center	1		\$112.38	\$56.19
Healthsouth Mount Pleasant Surgery Center	3		\$337.14	\$168.57
Healthsouth Scranton Surgery and Laser Center	3		\$337.14	\$168.57
Healthsouth Surgery Center Of Lancaster	6		\$674.28	\$337.14
Hillmont Endoscopy Center	2		\$224.76	\$112.38
Holy Redeemer Ambulatory Surgical Center	3		\$337.14	\$168.57
Indiana Ambulatory Surgical Associates	4		\$449.52	\$224.76
JDMH NHHHC Surgicenter	3		\$337.14	\$168.57
John A. Zitelli, M.D.,P.C.	1		\$112.38	\$56.19
Laurel Laser and Surgery Center	2		\$224.76	\$112.38
Leader Surgery Center	3		\$337.14	\$168.57
Lebanon Outpatient Surgery Ctr	4		\$449.52	\$224.76
Lehigh Plastic Surgery Center	1		\$112.38	\$56.19
Lewisburg Plastic Surgery and Laser Center	1		\$112.38	\$56.19
Lowery Surgicenter	3		\$337.14	\$168.57
Mahoning Valley Ambulatory Surgery Center	2		\$224.76	\$112.38
Main Line Surgery Center, LLC	2		\$224.76	\$112.38
Mifflin County CommunitySurgery Center	2		\$224.76	\$112.38
Montgomery Surgery Center	2		\$224.76	\$112.38
Mt. Lebanon Surgery Center	1		\$112.38	\$56.19
NEIL Ambulatory Surgery Center	2		\$224.76	\$112.38
North Shore Sufi-Center	2		\$224.76	\$112.38
Northeast Surgery Center (Lackawanna Physicians)	3		\$337.14	\$168.57
Northwood Surgery Center	3		\$337.14	\$168.57
Ophthalmology Surgery Center	3		\$337.14	\$168.57
Paoli ASF	4		\$449.52	\$224.76
Parkway Surgery Center	1		\$112.38	\$56.19
Penn Surgery Institute	3		\$337.14	\$168.57
Pennsylvania Eye Surgery Car	2		\$224.76	\$112.38
Philadelphia Surge-Center	2		\$224.76	\$112.38
Plastic Surgical Associates	2		\$224.76	\$112.38
Pocono Ambulatory Surgery Center	2		\$224.76	\$112.38
Progressive Surgery Institute	2		\$224.76	\$112.38
Reading Surgery Center	3		\$337.14	\$168.57
Regional Ambulatory Surgery Center	1		\$112.38	\$56.19
Regional Gastroenterology Associates of Lancaster	2		\$224.76	\$112.38
Reproductive Science Institute of Suburban Philadelphia	1		\$112.38	\$56.19
Riverview Ambulatory Surgical Center	4		\$449.52	\$224.76

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<i>Facility Name</i>	<i>Procedure Rooms</i>	<i>Count</i>	<i>2003 Assessment</i>	<i>Due Oct. 1, 2003</i>
Saint Vincent Surgery Center	8		\$899.04	\$449.52
Scranton Endoscopy Center	2		\$224.76	\$112.38
Sewickley Valley Hospital S.C.	4		\$449.52	\$224.76
Shadyside Surgery Center	1		\$112.38	\$56.19
Southwestern Ambulatory Surgery Center	4		\$449.52	\$224.76
Southwestern PA Eye Center	2		\$224.76	\$112.38
Summit Surgery Center	6		\$674.28	\$337.14
Surgery and Laser Center	4		\$449.52	\$224.76
Surgery Center of Pennsylvania, LLC	5		\$561.90	\$280.95
Surgery Center of York	5		\$561.90	\$280.95
Surgical Specialty Center of NEPA	3		\$337.14	\$168.57
Surgicenter at Ligonier, The	1		\$112.38	\$56.19
Susquehanna Surgery Center, Inc.	2		\$224.76	\$112.38
Susquehanna Valley Surgery Ctr	7		\$786.66	\$393.33
The Center for Same Day Surgery	6		\$674.28	\$337.14
The Center for Spine Care at Lancaster Neuroscience and Spine	1		\$112.38	\$56.19
The Eye Surgery Center	2		\$224.76	\$112.38
The Kingston Ophthalmology ASC. LLC	3		\$337.14	\$168.57
The Sally Balin Ambulatory Surgery Ctr.	2		\$224.76	\$112.38
The Surgery Center of Chester County	5		\$561.90	\$280.95
Three Rivers Endoscopy Center	3		\$337.14	\$168.57
Tri-County Outpatient	2		\$224.76	\$112.38
Twin Rivers Endoscopy	1		\$112.38	\$56.19
UOC Surgery Services, LTD.	3		\$337.14	\$168.57
UPMC Monroeville Surgery Ctr.	3		\$337.14	\$168.57
Urological Associates of Lancaster	4		\$449.52	\$224.76
Valley Surgery Center, Inc.	4		\$449.52	\$224.76
Valley View Surgical Center	2		\$224.76	\$112.38
Village Surgicenter	6		\$674.28	\$337.14
Vista Surgery Center	1		\$112.38	\$56.19
Washington Square Endoscopy Center, LLC	5		\$561.90	\$280.95
West Shore Endoscopy	4		\$449.52	\$224.76
West Shore Surgery Center	8		\$899.04	\$449.52
Western Pennsylvania Surgery Center	5		\$561.90	\$280.95
Westfield Surgery Center	2		\$224.76	\$112.38
Wills Community Surgery Services of Center City	8		\$899.04	\$449.52
Wills Surgery Center—South Philadelphia	2		\$224.76	\$112.38
Wills Surgery Center of Bucks County	2		\$224.76	\$112.38
Wills Surgery Center of Plymouth Meeting	2		\$224.76	\$112.38
Wills Surgery Center of the Northeast	3		\$337.14	\$168.57
Wyomissing Hills Podiatric Surgical Center	1		\$112.38	\$56.19
Wyomissing Surgical Services	4		\$449.52	\$224.76
York Endoscopy	2		\$224.76	\$112.38
Zitelli South Ambulatory	1		\$112.38	\$56.19
Total ASF	407	129	\$45,738.66	\$22,869.33

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CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1706. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors or their firms or any firms, corporations or partnerships in which these contractors or their firm, have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Ceilings Unlimited, Thomas Hanley, owner and individually, and Thomas Hanley, II, owner and individually	627 Eyers Grove Road Bloomsburg, PA 17815	August 12, 2003

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 03-1707. Filed for public inspection August 29, 2003, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Montgomery County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Federal Highway Administration and the Department of Transportation (Department) plan to replace the Salfordville Road Bridge (S.R. 1017) over the East Branch of the Perkiomen Creek in Lower Salford Township, Montgomery County, PA.

The subject project will require use of the National Register eligible Alderfer-Groff's Mill Rural Historic District and Groff's Mill Park. The project will require acquisition of 0.13 hectares (0.32 acres) of land from the Alderfer-Groff's Mill Rural Historic District including 0.05 hectares (0.13 acres) of park property.

The environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of

the Administrative Code have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects. In order to minimize the amount of section 4(f) protected property impacted by the project, the new bridge will cross the East Branch of the Perkiomen Creek in essentially the same location. Due to the necessary improvements to the roadway geometry, the new structure will be at a skew to the existing bridge. Other measures to minimize impacts include minimum width shoulders on and off of the bridge, a minimum sidewalk width of 1.2 meter (4 foot) and 3.4 meter (11 foot) travel lanes reduced from the typical 3.6-meter (12 foot) width. Additionally, the proposed structure will incorporate several design modifications to mimic some of the unique attributes of the existing bridge. For instance, the outside of the new parapet will duplicate the paneled look of the existing parapet; the new endwalls and wingwalls will have lateral striations built into the formwork, similar to the existing structure, and finally, the new concrete will be treated so as to give it a weathered appearance.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 03-1708. Filed for public inspection August 29, 2003, 9:00 a.m.]

Proposed Mitigation Efforts for Adverse Effect to Archaeological Site 36CE466

The Department of Transportation (Department) is undertaking a roadway construction project involving the reconstruction of the existing interchange (Exit 161) to create a high-speed directional connection for route continuity between the four-lane Bellefonte Bypass and I-80 system. The existing two-quadrant interchange connects the two-lane Bellefonte Bypass and local roads to the four-lane limited access I-80. Improvements will consist of the relocation and reconstruction of Jacksonville Road and SR 0026. Archaeological survey and testing identified the presence of archaeological site 36CE466 (the Stover No. 1 Site) within the proposed Area of Potential Effect. Survey and testing have determined that site 36CE466 is eligible for listing in the National Register of Historic Places. The proposed construction activities will have an adverse effect on archaeological site 36CE466. This precontact period archaeological site is located in Spring Township, Centre County, and consists entirely of lithic material. Based on the uniform temporal associations of three recovered diagnostic projectile points, the site dates, minimally, to the Transitional (or Early Woodland) period. To mitigate the adverse impacts to site 36CE466, the Department proposes Phase III archeological data recovery excavation. This excavation will gather data concerning four broad themes associated with the archaeological site. These themes include: chronology; site structure and function; subsistence; and lithic resource procurement and reduction strategies.

The proposed archaeological Phase III data recovery mitigation will consist of subsurface excavations located within three small, high density, circumscribed artifact

concentrations (or clusters) defined within the larger site area. The total site area (within the current Area of Potential Effect) includes approximately 800.0 square meters (8,611.4 square feet). The three distinct cluster areas measure 16.0 square meters (172.2 square feet), 44.5 square meters (479.0 square feet) and 109.0 square meters (1,173.3 square feet). It is proposed that the data recovery include the excavation of approximately 29.5 percent of the high-density portions (the three clusters) of the site. This is a proposed total of 50.0 square meters of excavation area. In addition to the 50 square meters of excavation within the high-density portions of the site, 10 square meters will be excavated within the remainder of the site area (not within the high density areas). Total data recovery mitigation will consist of 7.5% of the site area.

To involve the public in the process of mitigation of adverse effect to archaeological site 36CE466, the Department will consider written comments on the proposed mitigation efforts outlined in this notice. Written comments will be received for a period of 30 days after publication of this notice in the *Pennsylvania Bulletin*. Existing documentation for this project can be viewed at <ftp://ftp.dot.state.pa.us/public/bureaus/BEQ/comment.pdf>. Comments should be addressed to Scott Shaffer, Cultural Resources Specialist, PENNDOT District 2-0, 1924 Daisy Street Ext., P. O. Box 342, Clearfield, PA 16830.

ALLEN D. BIEHLER,
Secretary

[Pa.B. Doc. No. 03-1709. Filed for public inspection August 29, 2003, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council has scheduled the following meetings: Wednesday, September 3, 2003, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m.; Thursday, September 4, 2003, Council Meeting—10 a.m. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability who want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 03-1710. Filed for public inspection August 29, 2003, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on September 9, 2003, at 9:45 a.m. in Room 515,

Historical and Museum Commission, Third and North Streets, Harrisburg, PA. Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Individuals with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

Great Valley and Piedmont Region

1. *Narbrook Park Historic District*, Narbrook Road and Windsor Avenue, Narberth, Montgomery County
2. *Fricks Locks Historic District*, east end of Fricks Lock Road, approximately 1,000 feet east of Sanatoga Road, East Coventry Township, Chester County
3. *St. Peters Village Historic District*, E. and W. sides of St. Peters Road between School Road and Rock Run Road, Warwick Township, Chester County
4. *Upper Roxborough Historic District (Boundary Increase)*, consisting of the Upper and Lower Reservoirs and water treatment plants, Philadelphia
5. *Ker-Feal*, 1081 Bodine Road, Chester Springs, West Pikeland Township, Chester County
6. *Ashton-Hursh House*, 204 Limekiln Road, Fairview Township, York County
7. *Jacob Ehrenhardt, Jr. House*, 55 S. Keystone Avenue, Emmaus, Lehigh County
8. *Knipe-Moore-Rupp Farm*, Hancock Road and Prospect Avenue, North Wales, Upper Gwynned Township, Montgomery County
9. *Franklin and Marshall College Campus Historic District*, College Avenue, Lancaster, Lancaster County

Allegheny Plateau

10. *Welles, Ellen and Charles F. House (Boundary Increase and Additional Documentation)*, Grovedale Lane off SR 2010, Wyalusing Township, Bradford County

Anthracite Region and Poconos

11. *Nesquehoning High School*, 120-124 East Catawissa Street, Nesquehoning, Carbon County

Ridge and Valley; Southwestern Pennsylvania—No nominations

JEAN H. CUTLER,
Director

[Pa.B. Doc. No. 03-1711. Filed for public inspection August 29, 2003, 9:00 a.m.]

HOUSING FINANCE AGENCY

Request for Proposals and Mandatory Predevelopment Seminars for the Homeownership Choice Program

The Housing Finance Agency (Agency) is announcing the availability of funds for its Homeownership Choice Program (HCP) for the development of single family homes, for purchase, in urban communities. HCP funds will be available to selected proposals determined by the Agency to best meet the guiding principles, requirements

and program criteria set forth in detail in the Request for Proposals (RFP). The full text of the RFP is available by contacting the Agency as indicated in this notice or by visiting the Agency's website at www.phfa.org (under "News and Notices").

To assist prospective applicants in preparing applications for funding, two predevelopment information seminars will be held in Harrisburg on September 18 and September 23, 2003. Persons need only attend one of the seminars and only one of the partners from each HCP proposal must be in attendance. Attendance is mandatory. No proposals will be accepted from entities other than those who attend one of the predevelopment seminars. To register for one of the seminars, contact Robert Bobincheck, Director, Office of Strategic Planning and Policy by email at bbobincheck@phfa.org.

HCP Predevelopment Information Seminar Schedule and Location

September 18, 2003 1 p.m.—PHFA, 2101 North Front Street, Harrisburg, PA

September 23, 2003 1 p.m.—PHFA, 2101 North Front Street, Harrisburg, PA

Applications for the HCP program must be received no later than 2 p.m., Thursday, December 4, 2003. Information regarding funding decisions is expected to be made available in April 2004.

The Agency is committed to the policy that all persons shall have equal access to its programs and employment without regard to race, religion, gender, national origin, handicap, familial status or age. The PHFA reserves the right to amend or modify its HCP program and may determine to discontinue this, or any of its other programs, at its discretion at any time. Requests for a copy of the HCP RFP, requests for information and questions may be submitted in writing by e-mail to bbobincheck@phfa.org, fax to (717) 780-1833 or mail to Robert Bobincheck, Housing Finance Agency, P. O. Box 8029, Harrisburg, PA 17105-8029.

Additional information regarding the HCP program may be available on the Agency's website at www.phfa.org.

DAVID L. EVANS,
Assistant Executive Director

[Pa.B. Doc. No. 03-1712. Filed for public inspection August 29, 2003, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, August 14, 2003, and announced the following:

Regulations Approved:

Department of Agriculture #2-141: Milk Sanitation (amends 7 Pa. Code §§ 59.1 and 59.22)

Department of Conservation and Natural Resources #7B-5: Snowmobile and All-Terrain Vehicle Registration and Operation (amends 17 Pa. Code Chapter 51)

Department of Labor and Industry #12-59: Appeals from Determinations of Department (amends 34 Pa. Code Chapter 101)

Department of Health #10-169: Supplemental Nutrition Program for Women, Infants and Children (amends 28 Pa. Code Part VIII, Chapters 1101, 1103, 1105, 1107, 1109 and 1113)

Approval Order

Public Meeting Held
August 14, 2003

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Department of Agriculture—Milk Sanitation; Regulation No. 2-141

On September 18, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking amends 7 Pa. Code §§ 59.1 and 59.22. The proposed regulation was published in the September 28, 2002 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 2, 2003.

Pasteurized milk containers are required to be labeled with a "sell-by" date. This regulation amends existing procedures and standards to extend the "sell-by" date by three days. It also exempts highly processed pasteurized dairy products from the sell-by date requirement.

We have determined this regulation is consistent with the statutory authority of the Department (31 P.S. § 660c) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
August 14, 2003

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Department of Conservation and Natural Resources—Snowmobile and All-Terrain Vehicle Registration and Operation; Regulation No. 7B-5

On August 26, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Conservation and Natural Resources (Department). This rulemaking amends 17 Pa. Code Chapter 51. The proposed regulation was published in the September 7, 2002 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on July 9, 2003.

The final-form regulation updates provisions relating to the registration of snowmobiles and all-terrain vehicles; establishes procedures for suspending and revoking registrations of dealers; increases fees for additional dealer plates; updates provisions concerning safety and training; and deletes unnecessary provisions.

We have determined this regulation is consistent with the statutory authority of the Department (75 Pa.C.S.A. § 7704) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
August 14, 2003

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Department of Labor and Industry—Appeals From Determinations of Department; Regulation No. 12-59

On September 12, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapter 101. The proposed regulation was published in the September 28, 2002 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 9, 2003.

This regulation revises the manner in which parties in unemployment compensation matters may file appeals. It establishes rules for filing an appeal through personal delivery, the United States Postal Service, a common carrier, fax transmission or electronic transmission other than fax transmission.

We have determined this regulation is consistent with the statutory authority of the Department (43 P.S. §§ 761(a) and 763(d) and 71 P.S. § 565) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
August 14, 2003

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Department of Health—Supplemental Nutrition Program for Women, Infants and Children; Regulation No. 10-169

On September 11, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking amends 28 Pa. Code Part VIII, Chapters 1101, 1103, 1105, 1107, 1109 and 1113. The proposed regulation was published in the September 21, 2002 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 30, 2003.

This regulation amends the Supplemental Nutrition Program for Women, Infants and Children (WIC Program) to achieve compliance with federal amendments to the WIC program; to eliminate the criteria used to limit the number of stores permitted to participate in the WIC program; and to establish a Vendor Advisory Workgroup to review retail store and food delivery issues.

We have determined this regulation is consistent with the statutory authority of the Department (42 U.S.C.A. § 1786 and 71 P.S. § 532(g)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 03-1713. Filed for public inspection August 29, 2003, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the Committee comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted 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>
#6-286	State Board of Private Licensed Schools General Provisions (33 Pa.B. 2885 (June 21, 2003))

<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7/21/03	8/20/03

**State Board of Private Licensed Schools
Regulation No. 6-286
General Provisions
August 20, 2003**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not

been met. The State Board of Private Licensed Schools (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on July 21, 2003. 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. 73.51. General requirements.—Clarity.

Subsection (b) adds a requirement that persons who desire to operate a private licensed school “shall attend a new school orientation seminar conducted by the Board” It is not clear when and where these orientation seminars are held. For clarity, the Board should add language that states how often orientation seminars are held and the location of such seminars.

2. 73.54. Surety.—Clarity.

The new language proposed in Subsection (b)(5) is unrelated to the existing provisions under (b). We suggest that proposed (b)(5) be changed to become Subsection (c) and all subsequent subsections should be amended accordingly.

3. 73.151. Fees.—Consistency with existing regulations; clarity.

We have two concerns with Subsection (a)(1).

First, the subsection begins, “For an original school license or registration—\$1,500 *annually*” (Emphasis added). As written, this conflicts with the renewal school license fee schedule in Subsection (a)(3). It is our understanding that the Board intended this to mean that the original license fee only applies to the first year. After that, the biennial renewal fee in Subsection (a)(3) applies. The language should be amended in Subsection (a)(1) to clearly reflect the Board’s intent.

Second, this subsection contains the phrase, “shall be accompanied by an additional new program approval fee.” If the Board is referring to the fee charged in Subsection (b)(1) in its existing regulations, a cross-reference to the appropriate fee should be added to Subsection (a)(1).

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 03-1714. Filed for public inspection August 29, 2003, 9:00 a.m.]

INSURANCE DEPARTMENT

Beverly W. Paxson; Hearing

**Appeal of Beverly W. Paxson under 40 P. S.
§§ 991.2101—991.2193; Doc. No. HC03-08-020**

A telephone prehearing conference initiated by this office shall be conducted on October 15, 2003, at 10:30 a.m. The hearing shall occur on November 5, 2003, at 10:30 a.m. in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 22, 2003, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before October 29, 2003.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to

participate in the hearing should contact Tracey Pontius, Agency Coordinator, at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1715. Filed for public inspection August 29, 2003, 9:00 a.m.]

Farmers New Century Insurance Company; Private Passenger Auto Insurance Rate and Rule Revision Filing

On August 18, 2003, the Insurance Department (Department) received from Farmers New Century Insurance Company a filing for a proposed rate level and rule change for private passenger auto insurance.

The company requests an overall 14% increase amounting to \$11.041 million annually to be effective January 1, 2004.

Unless formal administrative action is taken prior to October 17, 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 Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1716. Filed for public inspection August 29, 2003, 9:00 a.m.]

Highmark Inc. d/b/a Highmark Blue Shield; Direct Pay Medical/Surgical Products Rate Increase for Blue Cross of Northeastern Pennsylvania and Independence Blue Cross Plan Areas; Rate Filing No. 200321

Highmark Inc. d/b/a Highmark Blue Shield requests approval to increase rates for Direct Pay Medical/Surgical programs in Blue Cross of Northeastern Pennsylvania and Independence Blue Cross plan areas. The filing requests an overall increase of approximately 11.2%. Increases will vary from 4.2% to 15.6% by plan area and program, reflecting differences in claim costs and expenses.

These increases will affect about 14,086 contracts and produce additional annual premium income of about \$1.9 million. The requested effective date of the change is January 1, 2004.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department’s regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Of-

Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1717. Filed for public inspection August 29, 2003, 9:00 a.m.]

Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1719. Filed for public inspection August 29, 2003, 9:00 a.m.]

Highmark Inc. d/b/a Highmark Blue Shield; Direct Pay Medicare Supplement (Security65); Blue Cross of Northeastern Pennsylvania and Independence Blue Cross Plan Areas; Rate Filing No. 200322

On August 15, 2003, by filing No. 200322, Highmark Inc. d/b/a Highmark Blue Shield submitted to the Insurance Department (Department) for its review and approval increased rates for its Direct Pay Medicare Supplement (Security65) programs in the Blue Cross of Northeastern Pennsylvania and Independence Blue Cross plan areas. The proposed increase percentage is 16.28% in the Blue Cross of Northeastern Pennsylvania plan area and 22.25% in the Independence Blue Cross plan area, and an effective date of January 1, 2004, has been requested. Approximately 100,900 contracts will be affected, and the increased rates will generate additional annual income of approximately \$16.200 million.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1718. Filed for public inspection August 29, 2003, 9:00 a.m.]

Liberty Mutual Fire Insurance Company; Private Passenger Auto Insurance Rate and Rule Revision Filing

On August 6, 2003, the Insurance Department received from Liberty Mutual Fire Insurance Company a filing for a proposed rate level and rule change for Private Passenger Auto insurance.

The company requests an overall 3.1% increase amounting to \$2.702 million annually to be effective October 21, 2003.

Unless formal administrative action is taken prior to October 5, 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 Xiaofeng Lu, Insur-

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Lisa A. Pampena; file no. 03-182-07499; Allstate Insurance Company; doc. no. P03-08-017; September 24, 2003, 10:30 a.m.

Appeal of Louis S. Creazzo; file no. 03-182-07798; Erie Insurance Exchange; doc. no. P03-08-019; September 24, 2003, 1:30 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Anne Roberts Marden; file no. 03-210-02206; State Farm Insurance Company; doc. no. PH03-08-004; November 19, 2003, 11:30 a.m.

Appeal of Carl N. Martin, II; file no. 03-215-03254; Chubb Group of Insurance Companies; doc. no. PH03-08-012; November 19, 2003, 1 p.m.

Appeal of Lyn D. Rezer; file no. 03-265-02847; Rutgers Casualty Insurance Company; doc. no. PH03-08-005; November 19, 2003, 2:30 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Bethann Zamperini; file no. 03-308-71284; Erie Insurance Exchange; doc. no. PI03-08-018; November 5, 2003, 11:30 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured

for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1720. Filed for public inspection August 29, 2003, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Richard and Deborah Corlis Gordon; file no. 03-280-03302; State Farm Fire and Casualty Insurance Company; doc. no. PH03-08-002; November 19, 2003, 10 a.m.

Appeal of Mark M. Murphy; file no. 03-215-03403; Ohio Casualty Insurance Company; doc. no. PH03-08-011; November 20, 2003, 9 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1721. Filed for public inspection August 29, 2003, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member board on Monday, September 8, 2003, at 9:30 a.m. in Hearing Room 4, Commonwealth Keystone Building, Commonwealth Avenue and North Street, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B.K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 03-1722. Filed for public inspection August 29, 2003, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Railroad With Hearing

A-00119877. City of Philadelphia. Application of the City of Philadelphia for approval of (1) the construction of a crossing for access to a retail parking lot over the at-grade tracks of Consolidated Rail Corporation in the legally opened public right-of-way of Columbus Boulevard (S.R. 2001), south of Snyder Avenue in the City of Philadelphia; and (2) the allocation of costs and maintenance incident thereto.

An initial hearing on this matter will be held Tuesday, October 28, 2003, at 10 a.m. in an available hearing room, Room 1302, Philadelphia State Office Building, 1400 West Spring Garden Street, Philadelphia, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1723. Filed for public inspection August 29, 2003, 9:00 a.m.]

Railroad With Hearing

I-00020092. Norfolk Southern Railway Company. Investigation upon the Pennsylvania Public Utility Commission's own motion into matters pertaining to repair of drainage facilities where the track of Norfolk Southern Railway Company cross above S.R. 3035 (Mineral Point Road, AAR 529 031 P) in Conemaugh Township, Cambria County.

An initial hearing on this matter will be held Friday, November 7, 2003, at 10 a.m. in an available hearing room, 11th Floor, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1724. Filed for public inspection August 29, 2003, 9:00 a.m.]

Request for Proposals

Procurement Description

The Pennsylvania Public Utility Commission (Commission) hereby requests written proposals to serve as the third-party administrator (Administrator) of the Pennsylvania Universal Service Fund (USF). The Administrator is responsible for administering the USF from the period of January 1, 2004, through and including December 31, 2006. The Administrator is responsible for collecting pro rata contributions based on telecommunications service providers' intrastate end-user telecommunications retail revenues, at a rate set by the Commission, and depositing these revenues into the USF. The Administrator will also distribute money from the USF on the first of each month to approximately 32 rural telephone carriers. The role of the Administrator is described under the regulations at 52 Pa. Code § 63.167, as follows:

- (1) maintain a database to track contributing telecommunications providers;
- (2) develop Commission-approved forms to be used by all telecommunications service providers to report monthly contributions;
- (3) review the completed forms to ensure completeness and accuracy of reported revenue and USF assessments and contact providers whose accounts contain unexplained variances in reported revenues or USF assessments;
- (4) assess late payment charges of 1.5% per month pro rata per diem on contributions that are 30 days past due;
- (5) send initial notices of delinquency to all delinquent contributors when a payment is 30 days past due and follow up with at least one subsequent written notice and/or phone call to the contributor to pursue collection of USF payments that are 60 days past due;
- (6) maintain logs of notices of delinquent contributors and refer to the Commission for further enforcement, on a monthly basis, all accounts more than 90 days past due;
- (7) immediately inform the Commission if the Administrator has reason to believe that any telecommunications provider has submitted false information to the Administrator with the intent of obtaining fraudulent funding,

under-reporting end-user revenue or if any other irregularity occurs in the operation or administration of the USF;

(8) invest USF moneys in interest-bearing instruments designed to minimize risk of loss while providing maximum liquidity; permitted investments shall include:

(i) marketable obligations directly and fully guaranteed by the United States government;

(ii) Federally insured checking, money market accounts or certificates of deposit;

(iii) other accounts as expressly approved by the Commission;

(9) promptly advise the Commission if the Administrator's data analysis projects a potential fund shortfall or if USF disbursements exceed receipts in a given month;

(10) in January of each year, mail reporting forms to each telecommunications service provider to acquire appropriate data to compute the individual provider's aggregate intrastate end-user telecommunications retail revenue and to compute year-end access line growth percentages for development of the following year's USF amount;

(11) Cooperate with the independent auditor selected by the Commission and provide data and information reasonably required to support audit activities;

(12) promptly respond to Commission requests for information pertaining to USF administration;

(13) maintain adequate principal liability insurance coverage, criminal liability coverage and a sufficient umbrella liability policy;

(14) prepare reports of USF activity for the Commission on a monthly basis detailing carrier assessments, delinquent payers, late-payment charges (if applicable), USF disbursements, interest earned and cumulative results;

(15) maintain records by contributor and by recipient;

(16) provide any additional reports as requested by the Commission;

(17) maintain a statement of financial condition (balance sheet) and income statement for the total fund and a sources and uses of funds statement which will tie to the total fund income statement;

(18) deliver the balance sheet, income statement and sources and uses of funds statement to the USF auditor by May 1 of each year so that the auditor may prepare its report;

(19) maintain a system of internal controls;

(20) consider the auditor's report in preparing the annual report for submission to the Commission and include any undercollections or overcollections identified by the audit report in developing a proposed budget for the upcoming fiscal year;

(21) submit the Administrator's annual report by September 1 or 60 days following receipt of the audit report, whichever is later;

(22) with prior Commission approval, borrow monies to cover the short-term liabilities of USF caused by undercollections;

(23) if short-term borrowing is necessary, the Administrator shall provide formal notice on a timely basis to the Commission which identifies the amount, the proposed lending source and the terms and conditions of the loan;

(24) comply with procedures and guidelines established by the Commission but may request the Commission amend, modify or delete procedures or guidelines (The Administrator will not have the authority to develop or interpret the Commission's procedures or guidelines with respect to the USF, and any dispute between the Administrator and any contributing telecommunications provider shall be submitted to the Commission for resolution.);

(25) have access to the books of account of all telecommunications service providers to the limited extent necessary to verify their intrastate end-user telecommunications retail revenues and other information used by the Administrator in determining assessments and disbursements for the USF;

(26) treat any competitive and financial information received as confidential and proprietary, and only release this information upon order of the Commission;

(27) operate on a fiscal year which shall be the same as the calendar year.

Purpose of Fund

At this time, the USF is currently intended to reduce and restructure access charges and intraLATA toll rates and to encourage greater toll competition while enabling carriers to continue to preserve the affordability of local service rates. Rulemaking Re Establishing Universal Service Fund Regulations at 52 Pa. Code §§ 63.161–171, Final Rulemaking Order at L-00000148 (November 29, 2000). The regulations governing administration of the USF are located at 52 Pa. Code §§ 63.161–63.171. They may be accessed as well as other orders and pertinent information regarding the USF at the Commission's website: www.puc.paonline.com. Click on "Competition," "Local Telephone Competition," "Universal Service Fund."

Universal Service Fund and the Administrator

Commission regulations allow for an assessment which is computed annually under 52 Pa. Code § 63.165 (relating to collection of universal service fund contributions) at a rate calculated by dividing the contributing telecommunications provider's associated total intrastate end-user telecommunications retail revenues by statewide total intrastate end-user telecommunications revenues. End-user revenues expressly do not include revenues received from access, resale (toll or local) of unbundled network elements or other services provided which are essentially wholesale in nature. Total end-user revenues shall include all revenues received from subscribers who actually consume the final service unadjusted for any expense or any other purpose.

Nearly 300 companies will contribute monthly to the USF. These include 35 incumbent local exchange carriers (ILECs). The remainder of participants are companies selling intrastate toll services (IXCs) and competitive local exchange carriers (CLECs) who are either offering local exchange services or are planning to do so in the near future. Wireless telecommunications carriers do not participate as either recipients or contributors in the USF. Carriers are not allowed to pass through as a direct surcharge to their customers any contributions made to the USF.

The Administrator functions as the "financial hub" of this system. The Administrator collects the contributions from the individual companies, manages the USF's cash flow and disburses payments to 31 small rural companies and Sprint/United USF recipients under the regulations. The USF assessment rate is set annually by the Commis-

sion based on data submitted in annual reports by the Administrator. The Administrator also works with the Fund Auditor.

The Administrator may be an individual or an organization. An organizational bidder may have sufficient resources on staff. An individual bidder probably would need to develop formal or informal relationships with other organizations, such as banks. For example, an individual bidder would probably want to develop a lock box system at a bank to collect receipts and use a bank's commercial or trust operations for making short-term investments.

Administrator Criteria

Under 52 Pa. Code § 63.166, the Administrator shall meet the following criteria:

(1) The Administrator shall be neutral, impartial, and independent from telecommunications service providers operating in the Commonwealth;

(2) The Administrator shall not advocate specific positions before the Commission in nonuniversal service administrative proceedings related to common carrier issues;

(3) The Administrator shall not be an affiliate of any provider of telecommunications services; and

(4) If the Administrator has a board of directors that includes members with direct financial interests in entities that contribute to or receive support from the USF, no more than a third of the board members may represent any one category (that is, local exchange carriers or interexchange carriers) of contributing carriers or support recipients, and the Board's composition must reflect the broad base of contributors to and recipients of USF assets. For purposes of this restriction, a direct financial interest exists where the Administrator or Board member:

(a) is an employee of a telecommunications carrier;

(b) owns equity interests in bonds or equity instruments issued by any telecommunications carrier, or

(c) owns mutual funds that invest more than 50% of its assets in telecommunications securities.

Contract For Services

The successful bidder will negotiate with the Commission a detailed contract that is generally consistent with the standard Commonwealth contract for personal services. The contract will be for a term beginning on January 1, 2004, or as soon thereafter as can be arranged, and ending December 31, 2006. Once selected, the Administrator will be terminated during this term only for good cause.

The contract:

1. will cover all 3 years during the period, rather than a single year;

2. may need to be amended later if the Commonwealth legislature ever authorizes changes; and

3. may elaborate further on the Administrator's duties, including:

(a) clarifying reporting requirements for the Administrator, and in particular concerning compliance with Generally Accepted Government Auditing Standards;

(b) periodic financial reporting and revenue estimating requirements; and

(c) cooperating with a new Administrator following termination of the contract so that there will be a smooth transition to the new administration of the USF.

To the extent that any changes as a result of contract negotiations affect the cost of performing the contract, adjustments from compensation described in the bid will be negotiated with the winning bidder.

Proposal Submissions

Proposals should be submitted to Elizabeth Barnes, Assistant Counsel, Pennsylvania Public Utility Commission, Law Bureau, P. O. Box 3265, Harrisburg, PA 17105-3265. Proposals should be received not later than 5 p.m., September 30, 2003. No late proposals will be considered. The proposal should be broken into three separate parts, two of which should be in separate sealed envelopes marked "price quotation" and "SERB information," respectively.

Part 1—General Information

The first part of each proposal should include a general discussion of the approach the bidder will take and explain how the bidder will meet each requirement. In addition, this part of the proposal should identify all individuals who will work on significant tasks and should explain the qualifications of each. A single individual should be identified to serve as USF Administrator, and that individual's resume should be attached. Resumes for other identified persons with significant responsibility should also be attached.

If the bidder desires to associate with another organization, such as a bank, to provide the required services, the bid should include a separate statement from that organization describing its anticipated role.

Part 2—Cost Information

The second part of the proposal document should be a price quotation, which should not be in the main text of the proposal but rather kept separate in a separate sealed envelope, marked "price quotation." The price quotation should cover the period from January 1, 2004, through December 31, 2006. A cost data sheet should be submitted in this separate sealed envelope and it should include a breakdown of costs. Bidders are free to structure their price offerings in any way they choose. However, this part of the bid should specifically describe:

1. One-time startup costs, presumably to be paid in the first year.
2. Fixed annual costs for each of the 3 years. This should cover most anticipated expenses, such as personnel, office costs and overhead, and may include an allowance for travel. The amount may vary for each year based upon expected inflation.
3. Any contingency costs. This might include functions like defense of lawsuits.
4. If the winning bidder actually begins work after January 1, 2004, how compensation will be proportionally adjusted.

Failure to submit the cost data sheet in a sealed envelope kept separate and apart from the rest of the proposal will result in automatic rejection of the proposal by the evaluation committee.

Part 3—SERB Information

The Commission strongly encourages the submission of proposals by socially and economically restricted businesses (SERBs). Proposals submitted by individuals claiming SERB status or proposals submitted by individu-

als reflecting joint venture and subcontracting opportunities with SERBs must submit documentation verifying their claim. SERBs are small businesses whose economic growth and development have been restricted based on social and economic bias. Such businesses are BCABD certified minority- and women-owned businesses, other disadvantaged businesses and businesses whose development has been impeded because their primary or headquarters facilities are physically located in areas designated by the Commonwealth as being designated enterprise zones. A small business will not be considered socially/economically restricted if it has gross annual revenues exceeding \$8 million (\$18 million for those businesses in the information technology sales or services business) or more, is dominant in its field of operation or employs more than 100 persons.

A company and its affiliates have achieved success and are graduated from this State-sponsored program when its gross annual revenues are \$8 million (\$18 million for those businesses in the information technology sales or services business) or more. Any other small business in which an owner(s) of the graduated firm has a financial interest or control over, either directly or through family members, will not qualify for SERB status. Control is defined as the power, whether or not exercised, to direct or cause the direction of the management and policies of a firm, whether through the ownership of voting shares, by contract or otherwise, or through the making of day-to-day as well as major decisions in matters of policy, management and operations. A determination of control shall include, but shall not be limited to, the following factors: capital investment and all other financial, property, acquisition, contract negotiation and legal matters; officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters and income and dividend matters; financial transactions; and rights of other shareholders or joint partners.

Proposers seeking to identify socially/economically restricted businesses for joint venture and subcontracting opportunities are encouraged to contact the Department of General Services, Bureau of Contract Administration and Business Development, Room 613, North Office Building, Harrisburg, PA 17125, www.dgs.state.pa.us, gs-cabdinternet@state.pa.us.

The third part of the proposal document (SERB information) should also be put in a sealed envelope separate from the rest of the proposal and the technical and cost sections of the proposal. The dollar value designated for SERB commitments in the audit must be placed in a separate sealed envelope within the proposal. Failure to meet this requirement will result in no points being awarded to the proposer regarding the criteria for evaluation.

To receive credit for being a SERB, entering into a joint venture agreement with a SERB or subcontracting to a SERB (including purchasing supplies and/or services through a purchase agreement), a company must include proof of SERB qualification in the SERB portion of the proposal:

1. SERBs qualifying as a result of MBE/WBE certification from BCABD must provide their BCABD certification number or a photocopy of their BCABD certificate.
2. SERBs qualifying as a result of having their headquarters located in a designated enterprise zone must provide proof of this status, including proof of the location of their headquarters (such as a lease or deed) and confirmation of the enterprise zone in which they are

located (obtained from their local enterprise zone office). More information on the locations of enterprise zones can be obtained by calling the Office of Community Development, Department of Community and Economic Development (DCED), (717) 720-7409. DCED can also be reached by fax at (717) 787-4088 or akartorie@state.pa.us.

3. SERBs qualifying as disadvantaged businesses certified by the Small Business Administration must submit proof of Small Business Administration Certification.

4. Companies claiming SERB status, whether as a result of BCABD certification, Small Business Administration certification as a disadvantage business or the location of their headquarters in an enterprise zone must submit proof that their gross annual revenues are less than \$8 million (\$18 million for those businesses in the information technology sales or services business). This can be accomplished by including a recent tax or audited financial statement

In additions to these verifications, the SERB portion of the proposal should include the following information.

1. The name and telephone number of the project (contact) person for SERBs.

2. The company name, address and telephone number of the prime contact person for each specific SERB business included in the proposal. Specify the SERB business to which you are making commitments. Credit will not be received by merely stating that a SERB will be found after the contract is awarded or by listing several companies and stating one will be selected later.

3. The specific work, goods or services the SERBs will perform or provide.

4. The location where the SERBs will perform these services.

5. The timeframe for the SERBs to provide or deliver the goods or services.

6. The amount of capital, if any, the SERB will be expected to provide.

7. The form and amount of compensation each SERB will receive. In the SERB information portion of the proposal, provide the estimated dollar value of the contract to each SERB.

8. The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the SERB(s).

9. In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the SERB portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the SERB portion of the proposal.

The SERB portion of the proposal must be identified as SERB information and bound and sealed separately from the remainder of the proposal. Only one copy of the SERB section is needed.

The dollar value designated for SERB commitment should be placed in a separate sealed envelope and stapled to the SERB section of the proposal or included in the bound and sealed envelope. Proposals should also include the SERB value in the Cost Submittal section (Section 11-9). Applicable items in the Cost Submittal section should also be used to prepare the proposed SERB commitment value including, if applicable, fiscal year breakdown. The selected contractor's SERB commitment amount, name of SERB and services to be provided

including timeframe for performing services will be included as a contractual obligation when the contract is executed.

SERB Participation

The following options will be considered as part of the final criteria for selection:

Priority Rank 1. Proposals submitted by SERBs.

Priority Rank 2. Proposals submitted from a joint venture with a Commonwealth-approved SERB as a joint venture partner.

Priority Rank 3. Proposals submitted with subcontracting commitments to SERBs.

Each proposal will be rated for its approach to enhancing the utilization of SERBs. Each approach will be evaluated, with Rank 1 receiving the greatest value and the succeeding ranks receiving values in accordance with the listed priority ranking.

SERB Contract Requirements

All contracts containing SERB participation must also include a provision requiring the contractor to meet and maintain those commitments made to SERBs at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the contracting Commonwealth agency upon recommendation by the BCABD. All contracts containing SERB participation must include a provision requiring SERB contractors and SERBs in a joint venture to incur at least 50% of the cost of the subcontract or SERB portion of the joint venture, not including materials.

Commitments to SERBs made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. Any proposed change must be submitted to BCABD, which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the SERB participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and the Bureau of Contract Administration and Business Development within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to SERB subcontractors, suppliers and joint ventures. Also, it is a record of fulfillment of the commitment the firm made and for which it received SERB points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SERB status or entitle a proposer to receive credit for SERB utilization.

Prebidding Conference

There will be no prebidding conference. However, potential bidders may seek answers to questions by telephone from Elizabeth Barnes, Assistant Counsel, Pennsylvania Public Utility Commission, (717) 772-5408. If questions of general interest are presented, the Commission may communicate the question and its answer in writing to persons who have expressed an interest in receiving such

material. Contact the Commission at the same number if you wish to receive such material.

Proposal Review

A proposal review will be performed by the Commission. Proposals will be opened on October 2, 2003. The Commission will review proposals according to four major criteria:

1. Price will be a principal consideration. Since bids may include one or more segments that are being bid at a monthly or otherwise variable price, bids may not be directly comparable in terms of a single dollar amount. However, the Commission will consider all of the fixed and variable prices contained in the bid in evaluating it. All compensation paid to the Administrator will be paid from the USF, and the Commission will pay no compensation.

2. The bidder's expected quality of performance will be the second principal consideration. Within this category, the Commission will consider the bidder's understanding of the duties of the USF Administrator, the bidder's probable success in discharging the duties of Administrator, the bidder's prior experience with administering other similar funds.

3. Independence from affiliated relationships with any telecommunications carriers is preferred. The Commission is seeking a neutral, independent third-party.

4. SERB status.

Finalists may be interviewed. The Commission will disqualify any bidder whom the Commission believes cannot be expected to perform reliably as Administrator.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1725. Filed for public inspection August 29, 2003, 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. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall 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 by September 22, 2003. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 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 carriers* for transportation of persons as described under each application.

A-00120051 AAA Cab Co. (67 King Street, Pottstown, Montgomery County, PA 17464), a corporation of the Commonwealth of Pennsylvania—persons upon call or demand in the Borough of Pottstown, Montgomery County, and within an airline distance of 15 statute miles

of the limits thereof. *Attorney:* R. Kurtz Holloway, P. O. Box 657, Pottstown, PA 19464.

A-00120055. Choice Cab Company (1311 Robinwood Drive, Clarion, Clarion County, PA 16214), a corporation of the Commonwealth of Pennsylvania—persons, in airport transfer service, from points in the Counties of Forest, Clarion, Venango, Jefferson, Butler, Elk, Indiana and Armstrong, to the Pittsburgh International Airport located in the Township of Moon, Allegheny County. *Attorney:* Ray F. Middleman, Northridge Office Plaza, 117 VIP Drive, Suite 310, Wexford, PA 15090.

A-00120055, Folder 2. Choice Cab Company (1311 Robinwood Drive, Clarion, Clarion County, PA 16214), a corporation of the Commonwealth of Pennsylvania—persons upon call or demand in the Counties of Armstrong, Butler, Clarion, Elk, Forest, Indiana, Jefferson and Venango. *Attorney:* Ray F. Middleman, 117 VIP Drive, Suite 310, Wexford, PA 15090.

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-00120053. Peter Sabia, Sr., Peter Sabia, Jr., and Lisa Calciano, Copartners, t/d/b/a Peter's Garage (400 Calvin Street, Dunmore, Lackawanna County, PA 18512)—persons, in limousine service, between points in Pennsylvania; which is to be a transfer of all the rights authorized under the certificate issued at A-00081736, F. 4 to Peter Sabia and Dominick Sabia, t/d/b/a Peter's Garage, subject to the same limitations and conditions.

Application of the following for approval of the *right to begin to operate as a broker for the transportation of persons* as described under the application.

A-00120065. Fun Time Travel, Inc. (6 Fosterville Road, Greensburg, Westmoreland County, PA 15601), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania.

Applications of the following for the approval of the *transfer of stock* as described under each application.

A-00049926, Folder 5005. The Yellow Cab Company of Pittsburgh (1301 Beaver Avenue, Pittsburgh, Allegheny County, PA 15233), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of all of the issued and outstanding shares of stock (44,457 shares) from Stagecoach Holdings, PLC. to YC Holdings, Inc. *Attorney:* Ray F. Middleman, 117 VIP Drive, Suite 310, Wexford, PA 15090.

A-00112577, Folder 5002. Airport Limousine Service, Inc. (4001 Clairton Road, West Mifflin, Allegheny County, PA 15122), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of all of the issued and outstanding shares of stock (100 shares) from Stagecoach Holdings, PLC. to YC Holdings, Inc. *Attorney:* Ray F. Middleman, 117 VIP Drive, Suite 310, Wexford, PA 15090.

A-00116130, Folder 5000. Pittsburgh Transportation Company (1301 Beaver Avenue, Pittsburgh, Allegheny County, PA 15233), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of all of the issued and outstanding shares of stock (1,000 shares) from Coach USA, Inc. to YC Holdings, Inc. *Attorney:* Ray F. Middleman, 117 VIP Drive, Suite 310, Wexford, PA 15090.

Complaint

Pennsylvania Public Utility Commission Bureau of Transportation and Safety v. Douglas R Carey, T/A D. C. Trucking, 841 Brickcrafters Road, New Oxford, PA 17350; A-00116236C

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Douglas R. Carey, T/A D. C. Trucking, respondent, maintains its principal place of business at 841 Brickcrafters Road, New Oxford, PA 17350.

2. That respondent was granted a Certificate of Public Convenience on March 30, 2001, at Docket No. A-00116236. That on February 7, 2003, the Certificate of Public Convenience was cancelled. On the date of the violation alleged in this complaint, respondent did not hold a certificate of public convenience issued by this Commission.

3. That respondent, on March 11, 2003, at approximately 8:46 a.m., at 512 Lake Meade Dr., York County, Pennsylvania, permitted a certain 1996 Kenworth Trailer bearing Pennsylvania License No. YLW3319, Vehicle Identification No. 7318711NKDLBOX6TJ, to be operated. At that time, Enforcement Officer John W. Bumstead found said vehicle to be transporting ash for recycling from York, Pennsylvania to Tower City, Pennsylvania, for \$160.00 compensation.

4. That respondent, in performing the act described in Paragraph 3 of this complaint, violated the Public Utility Code, 66 Pa.C.S. § 1101, in that respondent transported property for compensation between points in the Commonwealth of Pennsylvania while not then holding a certificate of public convenience issued by this Commission. Penalty is \$500.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Douglas R. Carey, T/A D. C. Trucking, the sum of five hundred dollars (\$500.00) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Michael E. Hoffman, Director
Bureau of Transportation and Safety
P. O. Box 3265

VERIFICATION

I, Michael E. Hoffman, hereby state that the facts set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Michael E. Hoffman

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. In such case, the Bureau of Transportation and Safety will request that the Commission direct the Department of Transportation, pursuant to the Vehicle Code, 75 Pa.C.S. § 1375, to suspend the registration of any vehicle(s) involved in the alleged violations.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed. In such case, to prevent the suspension of your vehicle registration(s), you must file an application for authority with the Bureau of Transportation and Safety, P. O. Box 3265, Harrisburg, PA 17105-3265. If no application is received within the twenty (20) day time period, the Bureau of Transportation will proceed with the request for suspension of your vehicle registration(s).

D. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision. The judge is not bound by the optional fine set forth in C, above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1726. Filed for public inspection August 29, 2003, 9:00 a.m.]

Telecommunications

A-310513F7003. Commonwealth Telephone Company and Sprint Spectrum, L.P. Joint petition of Commonwealth Telephone Company and Sprint Spectrum, L.P. for approval of a negotiated interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Commonwealth Telephone Company and Sprint Spectrum, L.P., by its counsel, filed on August 15, 2003, at the

Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a negotiated interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Commonwealth Telephone Company and Sprint Spectrum, L.P. 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. 03-1727. Filed for public inspection August 29, 2003, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project #03-155.S, Design/Engineering Services for Perimeter Barrier and Access Control Enhancements at Packer Avenue Marine Terminal (PAMT), until 2 p.m. on Thursday, September 18, 2003. The document 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 September 2, 2003. The cost of the document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

A mandatory preproposal meeting will be held on Thursday September 11, 2003, at 10 a.m. at PAMT, 3201 S. Columbus Blvd. (Delaware River at Packer Ave.—South of Oregon Ave.—Pier Entrance Gate—South of the Walt Whitman Bridge on Service Rd.—South Gate).

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 03-1728. Filed for public inspection August 29, 2003, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Engineering Firm

Open-End Environmental Services Contract Systemwide Reference No. 3-157

The Turnpike Commission (Commission) will retain one Environmental Engineering Firm for an open-end contract to perform environmental design and construction services for a variety of facility-related projects along the entire Turnpike system. Services from the Engineering Firm include, but are not limited to: studies, concept

plans, preliminary/final designs, production of construction documents suitable for competitive bidding, inspection services, operation and maintenance analysis, and monitoring and sampling as required by the Department of Environmental Protection (DEP).

The firm selected will have experience with underground and above ground storage tank facilities, including soil and groundwater characterizations, soil and groundwater remediation systems as required by DEP. The firm must be capable of arriving at all sites within a 2-hour time period for emergency situations. The firm must have staff available with experience in hydrogeology, underground storage tank technology, remediation and recycling technologies.

The contract will be for a maximum cost of \$750,000 or for a 36-month period, with projects assigned on an as-needed basis. The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend construction meetings with the Commission.

Direct project inquiries to Deann S. Metro, at (717) 939-9551, extension 3731, or dmetro@paturnpike.com. Direct contractual questions to George M. Hatalowich at (717) 986-8737 or ghatalow@paturnpike.com.

The following factors will be considered by the Commission during the evaluation of the firms submitting statements of interest for this project:

- a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate an ability to analyze available data to make decisions and develop documents to complete the project in a timely and cost effective manner.
- b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm 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 of Transportation (Department) and Commission projects.
- e. Other factors, if any, specific to the project.

General Requirements and Information

Firms interested in providing the described work and services are invited to submit a statement of interest with the required information. The statements of interest must include the following:

1. A one-page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified).
2. A three-page expression of interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for each project and provide explanation of the technical approach.
3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any

deviation from the subconsultants listed in the statement of interest will require written approval from the Commission.

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 attached to the back of the statement of interest (subs to follow primes):

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, 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 inch pages per person). Only resumes of key personnel should be included.
- 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.

Small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Commission are encouraged to submit a statement of interest.

Firms interested in performing the described services are invited to submit a statement of interest and required information to George M. Hatalowich, Manager, Contract Administration, Turnpike Commission Administration Building, 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The statement of interest and required information must be received by 12 p.m., Friday, September 12, 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 this solicitation, one firm will be selected for the contract. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Commission. Technical proposals will not be requested prior to the establishment of the final ranking.

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.

MITCHELL RUBIN,
Chairperson

[Pa.B. Doc. No. 03-1729. Filed for public inspection August 29, 2003, 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.

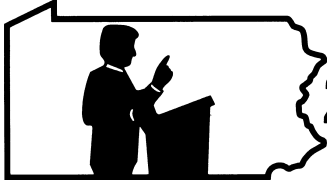
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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.

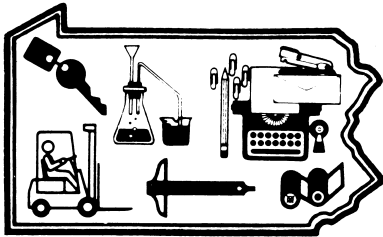
⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

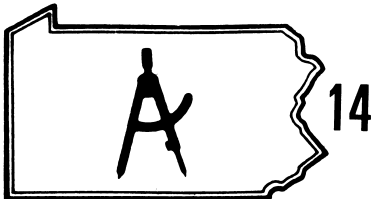


Commodities

939524 Rebid Backup Alarms.

Department: Transportation
Location: Equipment Division, 17th St. and Arsenal Blvd., Harrisburg PA 17120
Contact: Sherri Linen, (717) 787-3959

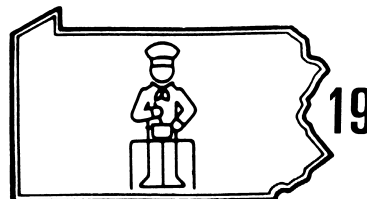
SERVICES



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Food

CN0004689 Meat and Meat Products

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

116 Items to be bid bi-monthly; all amounts are approximate for period Sept. 01, 2003 to June 30, 2004. 200 cases of 1-lb. oleomargarine, individually wrapped print, 30 lb. cases. 480 cases of .5 gram individual margarine servings. (Promise or approved equal) and ALL related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P.O. Box 99901, Pittsburgh, PA 15233
Duration: Sept. 01, 2003 to June 30, 2004
Contact: Nancy Keller, (412) 761-1955

CN0004690 Miscellaneous entrees and food products

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004674B Fresh Bread and Bread Products

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004688 Ice Cream and Ice Cream Products

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

130 Items to be bid bi-monthly; all amounts are APPROXIMATE for period Sept. 01, 2003 to June 30, 2004. Two hundred (200) cases of 1-lb. oleomargarine, individually wrapped print, 30 lb. cases. Four hundred eighty (480) cases of .5 gram individual margarine servings. (Promise or approved equal) and ALL related items.

Department: Corrections
Location: State Correctional Institution at Fayette, 50 Overlook Drive, Labelle, PA 15450-1050
Duration: September 01, 2003 to June 30, 2004
Contact: Nancy Keller, (412) 761-1955

CN00004680 Fresh Pastries

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004691 Poultry and Poultry Products

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004679 Fresh Fruits and Vegetables

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

M-891 Fresh/frozen/chilled meat and meat products; poultry and poultry products; fish; and cheeses, to be delivered only at request of facility.

Department: Labor and Industry
Location: Hiram G. Andrews Center (FOB Shipping Platform) 727 Goucher St., Johnstown, PA 15905
Duration: OCT., NOV., DEC., 2003
Contact: Christine A. Sloan, Pur. Agt., (814) 255-8228

CN00004678 Fish and Fish Products

Department: Public Welfare
Location: New Castle Youth Development Center, 1475 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004685 Fresh Prepared Fruits and Vegetables

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

B-155 Fresh bread and bread products. To be delivered (Mon. through Sat.) only at request of facility.

Department: Labor and Industry
Location: F.O.B. Shipping Platform, 727 Goucher St., Johnstown PA 15905
Duration: January 1 through December 31, 2004
Contact: Christine A. Sloan, (814) 255-8228

cn00004676 Cheese and Dairy Products

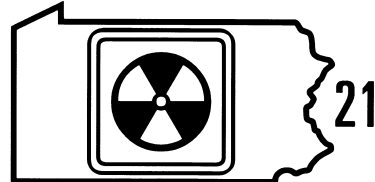
Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004677 Fresh Shell Eggs

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

CN00004687 Frozen Fruits and Vegetables

Department: Public Welfare
Location: New Castle Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: October 1, 2003 through December 31, 2003
Contact: Kathleen A Zeigler, (724) 656-7308

**Hazardous Material Services**

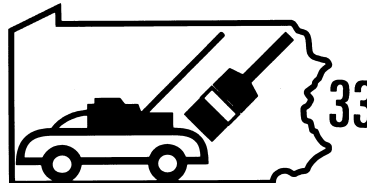
FM-8696 Furnish and provide all labor, equipment, and materials for safe and lawful packaging, labeling, transporting, and disposal of hazardous chemicals from the Pennsylvania State Police Headquarters, Stations, and Clandestine Laboratories, Statewide, on an as needed basis.

Department: State Police
Location: All State Police Headquarters, Stations, and Clandestine Laboratories.
Duration: October 1, 2003 to June 30, 2006
Contact: Helen M. Fuhrman, (717) 705-5952

**Janitorial Services**

FM-8656 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the Troop D, Kittanning Station. The detailed work schedule and bid specifications will be forwarded, upon notification of request to quote, from our Facility Management Division.

Department: State Police
Location: Troop D, Kittanning Station, RD# 3, Box 49, Kittanning, PA 16201
Duration: October 1, 2003, through June 30, 2006
Contact: Helen Fuhrman, (717) 705-5952

**Property Maintenance**

FM 8657 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Greensburg Headquarters and Crime Lab. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Greensburg Headquarters and Crime Lab, 100 North Westmoreland Avenue, Greensburg, PA 15601
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8658 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Ebensburg Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Ebensburg Station, 100 Casale Court, Ebensburg, PA 15931
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

Gutter Replacement Replace gutter and downspout in Cottages 24 and 26 (one building). Perimeter is approximately 275 linear feet.

Department: Military Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Rd., Scotland, PA 17254-0900
Duration: October 15, 2003 - November 14, 2003
Contact: Marion E. Jones, (717) 264-7187 X661

FM 8659 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Indiana Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop A, Indiana Station, 4221 Route 286 Highway West, Indiana, PA 15701
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8660 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Somerset Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop A, Somerset Station, 142 Sagamore Street, Somerset, PA 15501
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8662 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Clarion Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop C, Clarion Station, 209 Commerce Road, Clarion, PA 16214
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8664 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Kane Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop C, Kane Station, 3178 Route 219, Kane, PA 16735
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8661 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Uniontown Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop B, Uniontown Station, 1070 Eberly Way, Lemont Furnace, PA 15456
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8665 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, New Castle Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop D, New Castle Station, R.D. #5, Box 5265, New Castle, PA 16105
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8663 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Clearfield Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Troop C, Clearfield Station, 147 Doe Hill Road, Woodland, PA 16881
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

043521 Portable toilet services at various stockpile locations within Luzerne County.

Department: Transportation
Location: PENNDOT, District 4-3, P.O. Box 311, Wilkes-Barre, PA 18703
Duration: Three year contract with no renewals.
Contact: Robert J. Watkins, (570) 826-5404

043522 Purchase of five (5) liquid calcium tanks with pump and spraybar for various stockpile locations in Luzerne County.

Department: Transportation
Location: PENNDOT, District 4-3, P.O. Box 311, Wilkes-Barre, PA 18703
Contact: Robert J. Watkins, (570) 826-5404

430800 100 ea. Adobe Acrobat 6.0 (or latest version) Professional (multi-user license); 2 ea. CD Media for Adobe Acrobat (above item); 1 ea. Adobe Distiller 5.0 (or latest version) for Server - 100 users; 1 ea. CD Media for Adobe Distiller (above item). This is a re-advertisement of previous bid number 430779 which was not awarded. Bid opening will be approximately two weeks after publication date.

Department: Transportation
Location: PA Dept. of Transportation, Bureau of Design, 400 North St., 7th floor, Harrisburg, PA 17120
Duration: Six month period beginning from the date of award
Contact: Nancy Baker, (717) 787-3311

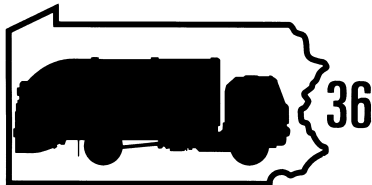
RFP#2004-RSSE The Pennsylvania Department of Education will release the Request for Proposals (RFP) for the 2004 Regional Summer Schools of Excellence (RSSE) program on Tuesday, September 2, 2003. The RSSE programs must target gifted and/or talented youth in elementary, middle and/or secondary levels. They must be enrichment programs offering curriculum activities not ordinarily available in local schools during the year. The programs may concentrate on a single discipline, an integration of discipline, or be multidisciplinary in scope. Eligible RSSE grant applicants are: intermediate units, school districts (serving students in more than one district; except in large cities); colleges and universities; not for profit regional chapters or councils for the arts; culture and/or educational organizations; or consortia of two or more of the above. Applicants may apply for grants to launch new programs or expand or update existing programs. This grant is highly competitive.

Department: Education
Location: Various locations throughout the Commonwealth
Duration: July - August 2004
Contact: Monica Washington, (717) 783-5670

30776011 This service provides for the services of a dental laboratory on an as needed basis. A copy of the bid packet can be obtained by contacting the purchasing department at 610-740-3425.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown PA 18109-2498
Duration: 10/1/03 to 6/30/07
Contact: Robert Mitchell, (610) 740-3425

[Pa.B. Doc. No. 03-1730. Filed for public inspection August 29, 2003, 9:00 a.m.]



Sanitation

HUN FOOD WASTE Contractor will provide for the removal and recycling of food waste including liquids for SCI Huntingdon. Contractor will provide (1) 25 cu yd container to be removed at least once a week. Sludge containers must have sealing lids and will maintain a sanitary condition. Waste to be used for livestock feeding only.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654
Duration: 10-1-03 to 6-30-05
Contact: Robert Jessell, (814) 643-2400

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

DONALD T. CUNNINGHAM, Jr.
Secretary

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 215—221,
223—228, 230 AND 240]

Radiological Health

The Environmental Quality Board (Board) proposes to amend Chapters 215—221, 223—228, 230 and 240. The primary purpose of the proposed amendments is to correct cross references that were rendered inaccurate by changes made in previous rulemakings where the sections linked by reference were not open to amendment. The regulations are also being generally updated and clarified as necessary.

This proposal was adopted by the Board at its meeting of July 15, 2003.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Louis Ray Urciuolo, Chief, Division of Radiation Control, P. O. Box 8469, Rachel Carson State Office Building, Harrisburg, PA 17105-8469, (717) 787-3720, or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) website <http://www.dep.state.pa.us>.

C. *Statutory Authority*

These amendments are proposed under the authority of the following statutes:

Sections 301 and 302 of the Radiation Protection Act (35 P. S. §§ 7110.301 and 7110.302), which, respectively, direct the Department to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation sources and radiation source users, and delegates to the Board the power to adopt the regulations of the Department to implement the Act.

Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes and directs the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background and Purpose*

In 2001 the Board updated chapters of its radiological health regulations to provide for compatibility with other states and to serve as a basis for the Commonwealth to assume authority from the United States Nuclear Regulatory Commission (NRC) for radioactive material licensees in this Commonwealth under the Agreement State program. These updates were published at 31 Pa.B. 5239 (September 15, 2001) and 31 Pa.B. 6280 and 6282

(November 17, 2001). Incorporation by reference of certain radiation safety standards of the NRC that are Nationally recognized, also formed the basis for a single consistent set of standards to be applied to the radiological safety of not only radioactive materials, but, radiation-producing machines as well.

As a result of the revisions, many sections in Article V (relating to radiological health) now reference code that no longer exists. Those references show as "reserved." These proposed amendments only replace the orphaned references with the corresponding regulations incorporated by reference and impose no new requirements. Other amendments address the recent changes to NRC regulations that are incorporated by reference, most notably the comprehensive revision to 10 CFR Part 35 (relating to the medical use of by-product material). Licensees of this Commonwealth are already subject to these requirements by virtue of their radioactive material licenses and incorporation by reference of 10 CFR. Several amendments clarify the wording of existing regulations and their requirements, in most part involving radiation-producing machines. The existing regulations in § 216.6(c) (relating to assembly, transfer and disposal obligations) require persons involved in certain commercial and service activities involving radiation-producing machines to register their activities with the Department. There is a new § 216.2a (relating to the registration of radiation-producing machine service providers) along with the provision for registration fees and reporting requirements. Overall, the proposed amendments are necessary to improve the clarity, coherence and effectiveness of the regulations and restore linkages between sections that were broken in separate limited rulemakings.

As required by section 301(c)(14) of the act (35 P. S. § 7110.301), the Department provided the Radiation Protection Advisory Committee (RPAC) with an opportunity to review the proposed amendments and to advise the Department prior to submittal to the Board. On October 24, 2002, and November 20, 2002, the RPAC met and reviewed the proposed amendments. Most of the committee's discussion and input on this matter centered around how best to re-word parts of the regulations to improve clarity. This involved definitions such as "stray radiation," the use of impersonal pronouns such as the substitution of "individual" for "person" where actions are performed and the general use of words in syntax and context such as replacing "initial" with "prior to first use." Many of the comments are appropriate and incorporated in the proposed Annex A. The RPAC, by letter dated December 18, 2002 from the Chairman, recommended that the amendments to the radiological health regulations be sent to the Board as proposed rulemaking.

E. *Summary of Regulatory Requirements*

Unless otherwise specified, the proposed amendments reflect, and are not more stringent than Federal requirements in areas of Federal jurisdiction such as the use of byproduct material, the control of which would be assumed by the Commonwealth after attaining agreement state status. Other proposed regulations address areas where there is no Federal jurisdiction such as the use of radiation-producing machines and naturally occurring or accelerator-produced radioactive material (NARM) but the regulations attempt to assure application of a consistent regulatory structure for similar hazards through incorporation by reference of radiation protection standards that are common to both. Incorporation by reference increases

the ability of the regulatory community to participate in rulemaking, once at the Federal level and again when published in the *Pennsylvania Bulletin* as proposed rulemaking or by appeal to the Department. The Department may also issue Fact Sheets or Guidance on the regulations. The Department uses its website to help disseminate relevant information.

The significant parts of the proposed rulemaking are summarized as follows.

Chapter 215. General Provisions.

§ 215.1. Purpose and scope.

Subsection (e) lists which NRC regulations in 10 CFR are incorporated by reference. References to NRC sections 150.20(a)(1), 150.20(a)(2) and 150.20(b) are replaced by a reference to section 150.20.

Subsection (e)(4) lists which NRC regulations governing general licenses in 10 CFR Part 31 are not incorporated by reference. The reference excluding NRC section 31.3 dealing with a general license for certain devices distributed nationally is being deleted. The NRC now requires that the regulation be adopted for compatibility to become an Agreement State.

Subsection (e)(8) lists which NRC regulations governing medical use of radioactive material in 10 CFR Part 35 are not incorporated by reference. In a revision to 10 CFR Part 35 effective October 24, 2002, the previous sections 35.990 and 35.991 relating to violations and civil penalties respectively were renumbered to 35.4001 and 35.4002 in the revised CFR. The same changes have been made in subsection (e)(8) to avoid pointing to a nonexistent reserved reference.

Subsection (e)(11) lists which NRC regulations governing the licensing of source material in 10 CFR Part 40 are not incorporated by reference. Reference to NRC section 40.33 has been added to the list of regulations that are not incorporated by reference because that section deals with the authorization of licenses for uranium enrichment facilities. The NRC does not relinquish that authority to the states.

Subsection (e)(13) lists those NRC regulations governing the packaging and transportation of radioactive material in 10 CFR Part 71 that are not incorporated by reference. The reference to exclude NRC section 71.47 dealing with external radiation standards for packages is being deleted. The NRC now requires the regulation be adopted for compatibility to become an Agreement State. A reference to NRC section 71.61 dealing with irradiated nuclear fuel shipments has been added to the list to be excluded from incorporation by reference because the NRC does not relinquish that authority to the states. The reference to exclude NRC subsection 71.83 dealing with assumptions of properties in fissile packages is being deleted. The NRC no longer reserves this authority and allows states to regulate small quantities of fissile material. Adoption of this NRC regulation is now required for compatibility to become an Agreement State.

§ 215.2. Definitions.

License—The current definition of “license” in this section is for the possession and use of radioactive material. However, there are license requirements in Chapter 228 for accelerators that are not covered under this definition or any other because an accelerator is not radioactive material. An accelerator is a type of radiation-producing machine. The current definition has been modified. “Radiation sources” replaces “radioactive material.”

This accommodates accelerators and any other radiation sources that may be authorized for licensure under future rulemaking.

Major X-ray system component—A new term is defined. It is based on components identified in the United States Food and Drug Administration regulations 21 CFR Chapter I, Subchapter J, Radiological Health, Part 1020 Performance Standards for Electronic Products: General. It is used in conjunction with new § 216.2b, to identify which components fall under the new reporting and recordkeeping requirements for registered radiation-producing machine service providers.

Qualified expert—Similar terms exist under the definitions in §§ 215.2, 221.2 and 228.2. The term may be applicable to any chapter so the definition will be removed from §§ 221.2 and 228.2 and combined into the definition in § 215.2.

Radiological physicist—A radiological physicist is a type of qualified expert. The term is being deleted and references to it will be added to the revised definition of “qualified expert.”

§ 215.12. Inspections and investigations.

In addition to inspections, the Department may also conduct investigations. “Investigations” has also been added to the title of this section.

Subsection (a) dealing with the maintenance of records requires that records be available for inspection by the Department. The requirement has been clarified to specify that these records be available at the permanent sites or facilities of use identified in a license or registration. Radioactive material licenses in particular, may authorize use at multiple sites anywhere in this Commonwealth. Those licenses have fees determined by the number of noncontiguous sites covered under the licenses. The intent of this requirement is that compliance records be available locally for reference during an inspection.

Subsection (c) dealing with inspections by the Department has been expanded for clarity to reference investigations. This is consistent with other references to inspections such as Chapter 220 (relating to notices, instructions and reports to workers; inspections and investigations). The scope of this subsection is also clarified to cover inspection and investigation of regulated activities as necessary to demonstrate compliance with the act or this article. References to inspection periods have been removed as the frequency of inspection, as just stated, is determined by the Department “as necessary” to ensure compliance. This provides the flexibility necessary for the Department to carry out its obligations. Agreements may be entered into with Federal agencies that dictate certain inspection periods. For example, to conform to Agreement State standards, radioactive material licenses would have a range of routine inspection periods from 1 to 5 years. This does not signal a shift in policy. The routine inspection period for the majority of regulated activities is still anticipated to be four years. Compliance history has not indicated a class of regulated activity that requires a routine inspection period more frequent than annual.

Subsection (d) dealing with the right to conduct follow-up inspections has been expanded to include investigations to be consistent with subsection (c).

§ 215.14. Availability of records for public inspection.

In paragraph (2), the reference to inspection records not pertaining to safety or health is removed. Inspection records do not contain the information referred to. In any

case, all access to department inspection records is subject to the act of June 21, 1957 (P. L. 390, No. 212), Right to Know Law (65 P. S. §§66.1—66.4) as implemented through Departmental policy.

§ 215.24. Human use.

Subsections (b) and (c) dealing with auxiliary personnel have been added. Rather than repeat this requirement throughout Article V, the same references to auxiliary personnel in §§ 221.11(a), 224.21 and 228.35(g) were removed and consolidated in this chapter of general provisions.

Subsection (d) is new. The status of uncertified individuals in clinical training programs not covered under subsection (b) or (c) who use radiation sources on humans in the course of their training has never been clearly addressed in the regulations. This new regulation gives legitimacy to such individuals, subject to approval by the Department of the clinical training program.

§ 215.28. Improper use of a monitoring device.

Monitoring devices are relied upon to determine the radiation exposure of record. The data they provide has health and compliance consequences. The intent of this regulation is to prohibit actions that would result in misleading exposure data. This prohibition has been expanded to include the failure to use, or the improper use of a monitoring device by an individual. To reflect these changes, the heading of this section has been made more general and changed from "Deliberate exposure of a monitoring device" to "Improper use of a monitoring device."

§ 215.32. Exemption qualifications.

The exemptions listed in this section are applicable to activities covered under Chapter 240 (relating to radon certification); therefore, Chapter 240 has been added to the scope of this section.

Chapter 216. Registration of radiation-producing machines and service providers.

Engaging in certain commercial activities involving radiation-producing machines requires registration with the Department. The heading of this chapter is modified to include reference to radiation-producing machine service providers.

§ 216.1. Purpose and scope.

The existing regulation has become subsection (a) and modified to include reference to radiation-producing machine service providers. To avoid potential misunderstanding, new subsection (b) is a reminder that accelerators are not subject to registration.

§ 216.2. Registration of radiation-producing machines.

The heading of this section has been changed from "Registration" to clarify that it applies to radiation-producing machines only.

§ 216.2a. Registration of radiation-producing machine service providers.

This is a new section. The requirements for assemblers previously in § 216.6(c) have been moved here and expanded upon. The process of registration is now described, including a requirement for annual renewal. There is a new provision requiring the payment of fees to recover costs of registration and the issuance of a registration certificate. There is a new 60 day grandfather clause for persons already subject to the regulation since prior registration is now required and the previous

regulation did not specify whether registration of services was required before or after engaging in that activity.

§ 216.2b. Reporting and record keeping requirements for registered radiation-producing machine service providers.

This is a new section that describes reporting and recordkeeping requirements for persons providing radiation-producing machine services. It expands upon the requirements for assemblers previously found in § 216.6(a). For certified X-ray equipment, this requirement is satisfied by submittal of the information required in United States Food and Drug Administration (FDA) assembler's Form 2579. For noncertified equipment not subject to Federal reporting, submittal of the equivalent information is required. The new definition of "major X-ray system component" is used here to limit the scope of reporting. This regulation provides for the Department to be informed of new installations or significant changes in existing installations in a timely manner (15 days) by the service provider so that the necessity for follow-up inspection can be determined and to help ensure the proper recording of registration and inventory and submittal of any fees that may be due within the 30 day period specified in § 216.2. New § 216.2b(c) specifies the time period that service provider records shall be kept available for inspection. New § 216.2b(d) is provided to help ensure that knowledge of unregistered X-ray equipment will be reported to the Department.

§ 216.3. Exemptions.

"Radiation machines" in paragraph (2) is changed to "radiation-producing machines" for clarity. The reference to "storage incidental thereto" is removed to avoid confusion. The wording is clarified to show that the exemption from registration is intended to apply to carriers that are in possession of X-ray machines belonging to another while the machines are in transit. It is not intended to remove the registration requirement for machines while they are still owned by, in the possession of or under the control of a person who would otherwise be required to maintain a registration, even if the machines are being shipped. For example, a nonfunctioning portable X-ray machine that is in transit from a repair facility when re-registration is due is still considered to be subject to re-registration. But a registrant's X-ray machine while in transport by a party other than the registrant for the purpose of being permanently transferred to another person is no longer subject to registration by the originator, provided the transfer is culminated.

In paragraph (4) the exemption of accelerators from registration is repeated for clarity as well as the admonition that registration of service providers for accelerators is not exempt.

§ 216.4a. Expiration and termination of certificates of registration.

Subsection (c)(1) is updated to include the reference to the new certificate of registration of radiation-producing machine services under § 216.2a. Failure to renew a certificate of registration for radiation-producing machine services requires the registrant to cease all services subject to registration.

Subsection (c)(2) is clarified by specifying only radiation-producing machines "subject to registration under § 216.2" are applicable to the requirements in the subsection. The reference to § 216.6 has also been updated to show that "assembly" has been removed from the section title assembly, transfer and disposal obligations, as discussed previously under new § 216.2b.

§ 216.6. Transfer and disposal obligations.

Reference to assembly, installation and all of subsection (c) (relating to registration of service activities) have been removed from this section and treated elsewhere in this chapter as previously discussed. Transfer and disposal related obligations remain. Subsection (a) is a safety net provision to require that persons report the transfer of radiation-producing machines not otherwise reported under the service provider reporting provisions of § 216.2b. The general reference to "equipment" has been removed and the existing requirement has been enhanced to include reporting the transfer of any major X-ray system components because that could signal the need for registration or inspection related activities. The existing reporting period of 90 days has been reduced to 30 days to allow for a more timely follow-up by the Department if it is warranted.

§ 216.7. Out-of-State radiation producing machines.

Currently, registration and registration fees are waived for persons who bring radiation-producing machines into the Commonwealth for temporary use (not more than 180 days per calendar year). In light of the term "temporary" and in the absence of a fee to cover related activities by the Department, it is appropriate to reduce the temporary period in the Commonwealth to 60 days per year (approximately one day per week). Furthermore, the time period to register with the Department following 60 days in this Commonwealth is shortened from 30 days to 15 days.

Chapter 217. Licensing of radioactive material.

§ 217.136. Exempt concentrations.

Reference to the isotope Cadmium-109 in Table 1 Exempt Concentrations is deleted. The quantity for this isotope is already incorporated by reference in 10 CFR Part 20.

§ 217.141. Incorporation by reference.

Subsection (b) repeats the information in § 215.1(e)(4) for convenience. In § 215.1(e)(4), NRC section 10 CFR 31.3 was removed from the list of sections in 10 CFR Part 31 that are not incorporated by reference for reasons already discussed. Reference to NRC section 10 CFR 31.3 is removed from subsection (b) for the same reasons.

§ 217.143. Certain measuring, gauging or controlling devices.

Devices in this category are eligible for the simpler regulatory structure of the general license in this section. License fees are correspondingly lower than the class of specific licenses to which these devices would otherwise be subject. The threshold for admittance into this category for accelerator-produced material is being lowered from 10 millicuries (mCi) to 1 mCi. This will allow the inclusion of a group of X-ray fluorescence (XRF) devices that are currently specifically licensed, but suitable for general license. It will provide for consistency with the NRC who generally license certain XRF devices under their jurisdiction. Many of the XRF licensees are also sole proprietors for whom the higher fees associated with a specific license represent a significant business cost.

§ 217.171. Incorporation by reference.

Subsection (b) repeats the information in § 215.1(e)(11) for convenience. In § 215.1(e)(11), NRC section 10 CFR 40.33 was added to the list of sections in 10 CFR Part 40 that are not incorporated by reference for reasons already discussed. Reference to NRC section 10 CFR 40.33 is added to subsection (b) for the same reasons.

§ 217.201. Incorporation by reference.

This section repeats the information in § 215.1(e) regarding incorporation by reference of 10 CFR Part 150 for convenience. In § 215.1(e), the references to various subsections of NRC section 10 CFR 150.20 were replaced with a reference to section 150.20 in its entirety as being equivalent. The same change has been made in this section.

§ 217.202. Effect of incorporation of 10 CFR Part 150.

In this section the title of 10 CFR Part 150 was misquoted. The word "authorization" was replaced by the words "authority in."

§ 217.203. Reciprocity of licenses for byproduct, source, naturally occurring and accelerator-produced radioactive material and special nuclear material in quantities not sufficient to form a critical mass.

Sections 217.201 and 217.202 currently provide for reciprocal recognition of Agreement State licensees use of NARM in this Commonwealth for up to 180 days per calendar year and Agreement State byproduct, source and special nuclear material when the Commonwealth becomes an Agreement State. Section 217.203 currently provides for the same recognition for NARM used by nonagreement states. But there is no provision for recognition of NRC licensees who operate in the Commonwealth on a temporary basis when the Commonwealth becomes an Agreement State. Without reciprocity, those NRC licensees would have to secure a specific license from the Department. They would not be treated on an equal basis with similar agreement state licenses. To avoid this potential situation, the reciprocity provisions of § 217.203 are expanded to include byproduct, source and special nuclear material in quantities not sufficient to form a critical mass. References to holders of an NRC license have been added. The reference to a "licensing state" has been replaced by "state" as licensing state has a strict meaning regarding certification that the licensing programs in many competent nonagreement states do not technically have.

Subsection (a) has an added reminder that Commonwealth authority does not extend into areas of exclusive Federal jurisdictions.

Reciprocity is considered to be a type of general license. As such, new subsection (e) is a reminder that implementation of the requirements for byproduct, source and special nuclear material is subject to the safe harbor provisions of § 217.133 on the day the Commonwealth becomes an Agreement State.

Chapter 218. Fees.

§ 218.1. Purpose and scope.

Subsection (a) is expanded to clarify the criteria the Department uses to determine the scope of registration or licensing of radiation-producing machines. Radiation-producing machines have always been registered under the facility in which they were located. In some cases, for the convenience of the Department, radiation-producing machines in the same building, at the same address or in a contiguous group of buildings under the same administrative control have been treated as a single registration. The Department determines the appropriate manner of registration. Subsequently, when the Department announced its intention to discontinue the registration of accelerators and license them instead, the intent was the same. Accelerators that were previously covered under the same registration number would be under the same license.

Subsection (b)(1) is updated to show the applicability of the new category of "radiation-producing machine services" in Chapter 216.

§ 218.11. Registration, renewal of registration and license fees.

Subsection (a) is clarified to show its applicability to "X-ray" tubes or other "radiation generating devices" such as electron microscopes that are regulated. Similar wording is added to the header of column three in the fee table.

Subsection (b) reference to § 216.2 is updated to show the new title of that section is "registration of radiation-producing machines."

Subsection (d) is clarified to show that the fees for accelerators are "annual." Under subparagraphs (i) and (ii), "site" is replaced by "facility" on the basis of the preceding discussion in § 218.1. The phrase "of the same general type" is deleted for simplification. The term was undefined and confusing. The way fees are assessed has not changed. The intent of "of the same general type" was to refer to one of the three categories of accelerators in the regulation, not the brand, the use or whether it's a linear accelerator or a cyclotron. In (iii), the Professional Fee Hourly Rate applicable to Department personnel time spent in licensing, inspection and the like is now specified here and the reference to Appendix A is removed because the Fee Category PF in Appendix A is being deleted. Another change to subparagraph (iii) is the specification of the minimum annual fee for accelerators above 50 MeV. It is equal to the next lower fee category, "accelerators below 50 MeV, other than ion implantation." This clarifies what initial fee is required under subsection (e) to be remitted as required by subsection (f) when applying for a license in the category "greater than 50 MeV." It also avoids the potential for the licensee of an accelerator greater than 50 MeV to pay less than would be paid for an accelerator below 50 MeV in any given year. It should be noted that as of yet there are no licensable accelerators above 50 MeV in this Commonwealth.

Wording is added to subsection (e) to exclude full cost recovery licenses in Appendix A from the requirement to submit a specified fee with the submittal of a license application. Otherwise, the provisions of subsection (f) would make a full cost recovery license application invalid if there is no accompanying fee.

Subsection (h) is new. It provides for recovery of the costs of registration of radiation-producing machine service providers under new § 216.2a. No fees had been collected previously under the activities of § 216.6(c) that formed the basis for new § 216.2a.

Appendix A. Fees for radioactive material licenses.

The header of the third column was changed to "Annual Fee." The words "Proposed Pa" are removed and new footnote 7 is referenced. Once the fees were passed, they were no longer proposed. Footnote 7 clarifies that reduced fees under Small Business Categories 1 and 2 are not consistent with the intent of full cost recovery and the requirement to post financial assurance for major licenses. Abbreviations in the descriptions are spelled out for clarity. The description of Category 14 is reworded for clarity to better match the description of its corresponding NRC fee category.

There is a new fee category, 3Q, for generally licensed devices under § 217.143. The NRC added this category to provide for more rigorous tracking of the most significant types of generally licensed devices that the NRC had

difficulty accounting for. The annual fee for 3Q has been set at 70 % of the current NRC fee according to the provisions of the formula in footnote 3. Note that the formula includes a prorated portion of the NRC application fee to account for the difference that the Commonwealth uses a simplified annual single fee system with no separate application fees. In this category license, the NRC fee schedule has no annual fee, only an application fee, but the applicant must reapply yearly instead of once every 10 years, so the NRC license application fee used in the formula was not modified by the 10 year 0.1 proration factor. The licensee community will benefit from specifying a fee for the 3Q category because the fee will be fixed. The NRC has scheduled an increase in this fee. Without a fixed fee, the fee as currently determined by formula will rise.

Licenses subject to "Full Cost" recovery now display an asterisk in the fee column to reference a new footnote. The new asterisk footnote clarifies the meaning of "Full Cost."

Fee category 8A1 currently applies only to NRC licenses for materials used by Civil Defense. It was originally intended to be identical to category 8A2 for NARM licenses to provide reduced fees for certain minor NRC licenses when the Commonwealth becomes an Agreement State.

Fee category 8A1 and 8A2 have been modified to limit the duration of storage-only licenses to 2 years. It is required under incorporation by reference of 10 CFR 30.36(d)(3) for a licensee who has ceased all licensed activity other than secured storage of licensed material for 2 years to begin decommissioning and termination of the license.

In the table of Fee Categories in Appendix A, PF (Professional Fee) has been removed. PF is not actually a license category. Professional fees for full cost recovery licenses are discussed under the new footnote referenced by an asterisk on "Full Cost" licenses. The Professional Fee Hourly Rate previously specified under PF has been moved to the footnoted asterisk.

Footnote 1 has been clarified to show how fees for radioactive material licenses with more than four non-contiguous sites will be determined. The base fee is increased by 25% for each additional non-contiguous site above four. Note the maximum fee will be subject to the NRC fee limitation in footnote 4.

Chapter 219. Standards for protection against radiation.

§ 219.3. Definitions.

A grammar correction has been made by inserting the word "in" between the words "used this."

In the definition of "medical reportable event for radiation-producing machine therapy" under subparagraph (iii), an additional condition of "outside the prescribed dose range" has been added. This recognizes that a therapy treatment plan may specify a dose range instead of a dose. It is consistent with the requirements for the use of radioactive material in therapy in 10 CFR 35.3045(a)(1)(ii).

§ 219.6. Effect of incorporation of 10 CFR Part 20.

Certain X-ray procedures result in occupational exposures to individuals that are nonuniform, usually resulting from the common practice of wearing personnel dosimeters on the outside of lead aprons. The existing regulations require an overly conservative method for recording that exposure that may give the appearance

that safety limits have been exceeded, thereby resulting in individuals curtailing participation in necessary medical procedures, or continuing and violating the regulations. Wording has been added in paragraph (8) to allow X-ray exposures to be weighted by methods approved by the Department to arrive at a more accurate determination of the total effective dose equivalent. This can reduce the current unnecessary adverse impact on the medical community. This concept is consistent with the NRC's position in Regulatory Issue Summary (RIS) 2002-06 *Evaluating Occupational Dose For Individuals Exposed To NRC-Licensed Material And Medical X-rays*. The referenced document is currently available on the NRC's website at the following address: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/2002/ri02006.pdf>.

§ 219.8. Requirement for a radiation safety committee.

Previously the need for a radiation safety committee was addressed through the licensing process. The NRC has recently codified this requirement in 10 CFR 35.24 (relating to authority and responsibilities for the radiation protection program). This new section clarifies how incorporation by reference of this requirement applies to registrants and licensees of radiation-producing machines and NARM.

§ 219.61. Testing for leakage or contamination of sealed sources.

Subsection (a)(2) and (3) are clarified to show that the origin of the specification for alternative intervals of sealed source leak testing is the National Sealed Source and Device Registry maintained by the NRC. Reserved references resulting from previous rulemaking are removed. The specification of a "licensing" state is removed. Use of the word "licensing" implies a certification that is unduly restrictive. The limitation of 3 years between leak test intervals is removed. A limitation on the maximum leak test interval that can be specified in the registry is not codified by the NRC. Limits are established through the licensing process for each source manufacturer.

Subsection (b)(6) is expanded to exempt any sealed source in storage from leak testing while in storage and the maximum interval of 3 years between leak tests is removed to avoid unnecessary exposure to personnel. If individual exceptions are warranted, they can be addressed through license condition on the user.

§ 219.229. Other medical reports.

The word "discovery" is replaced with "determination by a physician" to clarify who may make the determination of function damage. The word "tissue" is too generic. It is replaced by "an organ or a physiological system" for clarity.

Chapter 220. Notices, instructions and reports to workers; inspections and investigations.

§ 220.2. Posting of notices to workers.

Section (c) reference to Department Form ER-BRP-3 "Notice to Employees" has been updated to reflect the Form's new designation 2900-FM-RP0003.

Chapter 221. X-rays in the healing arts.

§ 221.2. Definitions.

"Filter," "filtration" and "half-value layer" are defined more comprehensively.

"Healing arts screening" sentence structure is rearranged to avoid misinterpretation of the definition. The phrase "for the purpose of diagnosis or treatment" in its

current position at the end of the sentence might mislead one to think it describes a type of licensed practitioner (one authorized to prescribe tests) rather than a condition placed on the purpose of the test (tests that are performed as an adjunct to a patient's diagnosis or treatment by a physician for a medical condition).

"Qualified expert" is deleted since the definition was consolidated previously in § 215.2.

§ 221.11. Registrant responsibilities.

Subsection (a)(2) and (3) is deleted. The requirements were consolidated and moved to new § 215.24(b) and (c).

Subsection (b) includes a requirement for continuing education. The continuing education requirement in Appendix A (relating to determination of competence) was moved from paragraph (6) and expanded upon.

Subsection (e)(2) and (3) references to "scatter" radiation are replaced by the more appropriate term "stray" radiation. The subsection (l) requirement for a quality assurance program is expanded upon to clarify the minimum program components, the need for documentation and the associated record retention requirements.

§ 221.13. Information to be submitted by persons requesting approval to conduct healing arts screening.

Healing arts screening is an activity regulated by the Department that occurs when asymptomatic individuals self-refer themselves for an X-ray test that has not been prescribed by a physician for the purpose of diagnosing or treating a condition. Nothing in the proposal will deny individuals access to diagnostic tests deemed necessary by a physician to diagnose or treat a patient. X-ray tests ordered, prescribed or obtained through referral of a patient under the care of a physician are not affected by this proposal.

In the section heading, "requesting approval" has replaced "proposing" to emphasize that healing arts screening is subject to approval as stated in subsection (b).

The format of the existing section is rearranged from paragraphs to subsections with the addition of new subsection (a). Subsection (a) addresses the efficacy of the proposed healing arts screening procedures. Efficacy is the first factor to be considered in evaluating a proposed healing arts screening procedure. The greater the radiation dose to the individual being screened, the more compelling the case should be for ensuring that the efficacy of the procedure compensates for the risk to the individual and for other detrimental factors. The Department considers the consensus positions taken by appropriate National medical organizations, relevant scientific and medical literature and information from appropriate Federal agencies. The Department does not determine efficacy but weighs the merit of these sources of information to support or deny approval of the procedure. Guidance for scientific and technical personnel to perform the evaluations is available through the National Council on Radiation Protection and Measurements Commentary No. 13 "An Introduction to Efficacy in Diagnostic Radiology and Nuclear Medicine (Justification of Medical Radiation Exposure)."

New subsection (a) also introduces a requirement for the Department to consult the Department of Health (DOH) in reviewing the efficacy of procedures that exceed a certain level of exposure to the screened population. The new requirement to seek assistance from the DOH in reviewing the efficacy of healing arts screening in such cases recognizes that actions taken by the Department may set defacto public health policy. The Department

already collaborates with the DOH in other areas of overlapping concern such as the issuance of potassium iodide during certain reactor emergencies.

A level of 100 mrem to the screened population was set to trigger consultation with the DOH. The Department sets standards for exposure to large populations of the general public from the activities it regulates based upon a limit of 100 mrem per year to the hypothetical maximally exposed individual. The expectation is that the majority of individuals will not receive the maximum exposure. There is also a performance based companion requirement, ALARA (as low as reasonably achievable), that controls operational implementation of this limit. An exposure of 100 mrem is below the threshold of producing an inevitable effect. It represents a risk for an individual that is potential or proportional rather than certain. For an individual or a small group of individuals, the Department routinely assumes the responsibility of weighing the risk versus the benefit of permitting those members of the general public to receive exposures at the level of 100 mrem. When higher exposures are involved, particularly across large groups, the potential for adverse health effects within the community approaches a certainty. Memoranda of Understanding are established as necessary to coordinate interdepartmental activities.

The existing paragraphs become part of subsection (b). Subsection (b)(5) is expanded to require a comparison with any alternate method to the proposed X-ray screening exam, even if it is a different type of X-ray exam. Previously, comparisons were restricted to nonradiation alternatives. Subsection (b)(6) is clarified to explain what is meant by measurement of patient exposure. Subsection (b)(7) addresses new technology by not requiring film for diagnostic imaging. Subsection (b)(8) also addresses new technology in which exposure parameters may be set by machine rather than manually. Subsection (b)(9) requires information on the qualifications of all individuals who will be operating the X-ray systems, not just one individual. Subsection (b)(11) now requires information on the qualifications of individuals interpreting the screening test results (note: the antiquated reference to radiographs is removed). Subsection (b)(12) is reworded to better show the intent of "implied consent" and what that entails. Subsection (b)(13) once again replaces antiquated references to radiographs. Subsection (b)(15) is a new requirement to specify relevant information regarding the frequency and duration of the entire screening program. Subsection (b) was originally patterned after the Suggested State Regulations for Radiation Control which includes the provisions of subsection (b)(15).

§ 221.15. Use of X-rays in research on humans.

Subsection (b)(3), (6) and (9) is changed in like manner to their corresponding § 221.13(a)(5), (8) and (11). Subsection (b)(11) is new. It is intended to provide assurance of safeguards comparable to subsection (a).

§ 221.25. Beam quality.

Subsection (a) Table II has been updated. The values are the same as the current FDA hardware standards in 21 CFR 1020.30 Table 1. Footnotes of explanation have been added. Interpolation or extrapolation may be used between values in Table II. There is a column for specified intraoral dental systems manufactured after December 1, 1980. For those specified dental systems, the minimum half value layer below 71 kVp is 1.5 mmAl equivalent regardless of filtration. The FDA also prints leading zeros on decimals in the table to avoid misinterpretation.

§ 221.29. Kilovoltage (kV) accuracy.

The accuracy requirement for kilovoltage has been split into two specifications, one for variable kV units and one for fixed. The original precision of 10% was retained for variable units but the allowable error for units in which the kV can not be changed was relaxed to 20% because fixed kV units do not rely on kV for fine control of penetration and contrast.

§ 221.36a. Limitation of useful beam of fluoroscopic equipment.

The spelling of fluoroscopic is corrected in subsection (d).

§ 221.38a. Entrance exposure rate.

To emphasize the importance of output checks, subsection (c) is reworded to require that output measurements must be made at least annually, not just annually and they must be done in a manner sufficient to show compliance with the standards in this section.

§ 221.61. Radiation therapy simulation systems.

The current manner in which section numbers are referenced here is unnecessarily confusing. The references to the applicable sections have been restated in a clearer manner. The existing references also only apply to fluoroscopic based simulators. There is similar confusion in the way the applicable requirements for CT based simulators are addressed in existing § 221.202(h). A new subsection (b) has been created and the CT simulator references in § 221.202(h) have been clarified and moved to this section.

§§ 221.73, 221.74 and 221.75.

The references to radiological physicist has been deleted under the expanded definition of qualified expert in § 215.2.

§ 221.202. Equipment requirements.

Subsection (f) relating to beam quality is deleted as redundant to the requirements of § 221.25. Subsection (h) has been moved to new § 221.61(b) as previously discussed.

§ 221.204. Radiation measurements and performance evaluations.

The spelling of the abbreviation MSAD has been corrected from MSDAD.

§ 221.205. Operating procedures.

Subsection (a)(3), specifying the distance to the tomographic plane, is unnecessary and deleted.

Appendix A. Determination of competence

The existing wording is deleted and restated to be more adaptable and less prescriptive. As discussed previously, the continuing education requirement of paragraph (6) was moved to § 221.11(b).

Chapter 223. Veterinary medicine.

§ 223.21. In vitro testing.

Reserved references have been corrected to point to the regulations of the NRC that replace them in incorporation by reference.

§ 223.22. Sealed sources.

Reserved references have been corrected to point to the regulations of the NRC that replace them in incorporation by reference.

*Chapter 224. Medical use of radioactive material.**§ 224.10. Incorporation by reference.*

Subsection (b) references were updated to correspond to their counterparts in the new 10 CFR Part 35.

§ 224.21. Supervision.

This section is reserved. The requirements for supervision are incorporated by reference to 10 CFR Part 35 and the requirements of paragraphs (1) and (2) have been moved to new § 215.24(b) and (c).

§ 224.22. Authorization for calibration, transmission and reference sources.

This section has been updated because of incorporation by reference of the new requirements of 10 CFR 35.65 and includes transmission sources. Notwithstanding, a more restrictive limit is set for radium because it is more hazardous and the NRC did not consider radium use in deriving new 10 CFR 35.65.

§ 224.23. Decay-in-storage.

The spelling of half-life is corrected.

*Chapter 225. Radiation safety requirements for industrial radiographic operations.**§ 225.1. Purpose and scope.*

Section 225.2a (relating to incorporation by reference) is no longer reserved. The reference to it in subsection (b) is corrected.

§ 225.4a. Radiation safety program.

This section currently requires that the Department approve of radiation safety programs for industrial radiography before operations can be conducted. New subsection (b) clarifies that any change to a registrant's radiation safety program also requires prior Departmental approval.

§ 225.71. Definitions.

"Temporary job site" is a term usually associated with radiography utilizing radioactive sources. It is replaced by a new definition "field radiography" that better describes the type of radiography conducted with radiation-producing machines in Subchapter B. A new definition "safety device" is also defined for use in Subchapter B.

§ 225.73. Training of personnel.

In subsection (b), the new definition of "field radiography" replaces "temporary job site" radiography. The reference to 10 CFR 34 Subpart D (relating to radiation safety requirements) is replaced by Appendix A since the requirements of subchapter B relate to radiography with radiation-producing machines rather than radioactive materials and § 225.1(b) established the intent to minimize the effect of incorporation by reference of 10 CFR Part 34 on Subchapter B.

§ 225.82. Operating requirements.

Subsection (a) describes personnel requirements for field radiography. The list of individuals who may be called upon to assist the radiographer is increased by the addition of radiographer trainee.

§ 225.83. Records required at field radiography sites.

The new definition of field radiography is used in place of temporary job site in the heading and text of this section.

§ 225.101. Cabinet X-ray systems and baggage/package X-ray systems.

The intent of subsection (d) is to assure the X-ray systems continue to meet the performance standards relating to leakage radiation. Subsection (d) was reworded to clarify this. References to other manufacturer hardware standards in 10 CFR 20.1301 and 21 CFR 1020.40 were removed. Those standards are enforced under subsection (a).

§ 225.102. Shielded room X-ray radiography.

Existing subsection (b) is deleted and existing subsection (c) is renumbered. If the provisions of subsection (a) limiting radiation leakage from the room and existing subsection (c) requiring surveying before entry are followed, operator exposure can not reasonably be expected to exceed the threshold of 500 mrem per year that would require personnel monitoring.

A new subsection (c) is added that allows the use of an independent radiation monitoring system in lieu of a typical portable radiation survey meter to verify that the radiation-producing machine is off before entering the room.

Subsection (d) is new. Shielded room radiography is exempted from all other provisions of this chapter except §§ 225.4a and 225.84 (relating to radiation safety program; and operating and emergency procedures) because of its safe operating history.

§ 225.103. Field site radiography.

The new term field site radiography replaces temporary job site radiography in the section title.

*Chapter 226. Licenses and radiation safety requirements for well logging.**§ 226.3a. Abandonment of a sealed source.*

The general reference to incorporation by reference of 10 CFR Part 39 is replaced by specific references to sections of Part 39 for clarity.

*Chapter 227. Radiation Safety Requirements for analytical X-ray equipment, X-ray gauging equipment, electron microscopes and X-ray calibration systems.**§ 227.11a. Equipment requirements.*

In subsection (a)(2), the reference to "devices" is changed to "safety devices" for consistency with the previous reference to safety devices in subsection (a).

§ 227.12a. Area requirements.

The reference to reserved § 219.51 is replaced by 10 CFR 20.1301, its equivalent from incorporation by reference of NRC regulations.

§ 227.13a. Operating requirements.

Subsection (d) is new. It provides for emergency instructions for operation of analytical equipment. Analytical X-ray equipment is capable of inflicting physical injury from radiation before an operator can react.

§ 227.14. Personnel requirements.

Subsection (a) is updated to require instruction in the new requirement for emergency procedures under subsection (a)(3) and the applicable regulations in general under subsection (a)(7).

Subsection (c) reference to § 219.31 (relating to occupational dose limits for adults) is actually reserved and misprinted. It is replaced with the equivalent reference to 10 CFR 20.1201 under incorporation by reference of NRC regulations.

Chapter 228. Radiation Safety Requirements for Particle Accelerators.

§ 228.2. Definitions.

The definition of "accelerator" is expanded to indicate that "particle accelerator" has the same meaning. (The term is used in § 228.37 referencing § 217.144.)

The definition of "filter" as used in the context of the application of radiation has also been modified for consistency with a similar definition used in § 221.2.

The new term "particle accelerator" is cross referenced to accelerator.

The term "Qualified expert" is deleted as the term has been consolidated under the definitions of § 215.2 discussed previously.

§ 228.11a. Licensee responsibilities.

Subsection (a) requirements also apply to persons possessing an accelerator, not just operators.

Subsection (d) is deleted since it is redundant to the requirements of § 215.28 (relating to improper use of a monitoring device).

§ 228.12. Information and maintenance record and associated information.

The reference to registrant is deleted, as accelerators cannot be registered, only licensed. The length of time records must be kept by the licensee for inspections by the Department is increased from 4 to 5 years.

§ 228.21a. Notification and license requirements.

Subsection (a)(1) is clarified to describe how an application for license is to be filed with the Department.

Subsection (g) requiring written permission of the Department to transfer an accelerator license is new. It is consistent with similar existing requirements in § 216.2(e) and 10 CFR 30.34(b) dealing with the transfer of radiation-producing machine registrations and radioactive material licenses respectively.

§ 228.23a. Expiration and termination of a license.

Subsection (d)(1) is expanded to clarify that if an accelerator licensee does not intend to renew their license, they must not only stop use of it after the deadline but transfer or dispose of the accelerator. This is consistent with revised § 221.11a(a) prohibiting possession of an accelerator that does not meet the requirements of this article.

Subsection (d)(3) updates the reference to Department Form ER-BRP-314 to its new designation 2900-PM-RP0314.

§ 228.31a. Limitations.

Subsection (b)(2) is revised to delete reference to registration. Accelerators are no longer registered.

§ 228.32a. Shielding and safety design requirements.

Subsection (a) is revised to indicate the type of qualified expert required. The existing requirement to have a safety survey performed prior to first use and after changes is deleted because it is already addressed in § 228.38(a).

Subsection (b) reference to reserved § 219.51 is replaced by 10 CFR Part 20 Subpart D, the NRC equivalent regulation incorporated by reference.

§ 228.34a. Accelerator controls and interlock systems.

Subsection (b) references to reserved §§ 219.91 and 219.54 are replaced by 10 CFR Part 20 Subpart G and 10 CFR 20.1902 respectively, which are the NRC equivalent regulations incorporated by reference.

§ 228.35. Operating procedures.

In subsection (g)(4), the term "misadministration" no longer exists. It has been replaced by its successor, "medical reportable event for radiation-producing machine therapy." Existing subsection (g)(5) and (6) are deleted. Those requirements are covered in new § 215.24 (b) and (c) discussed previously. Existing subsection (g)(7) is renumbered as subsection (g)(5) and the requirement for continuing education is moved from Appendix A to subsection (g)(5), similar to the treatment of continuing education in Chapter 221 Appendix A (relating to determination of competence).

§ 228.37. Production of radioactive material.

Subsection (a) reference to reserved § 217.48 is replaced by its successor § 217.144 (relating to incidental radioactive material produced by a particle accelerator).

Subsection (b) reference to reserved §§ 217.51—217.57 is replaced by reference to Chapter 217 (relating to licensing of radioactive material). It should be noted that Chapter 217 in turn incorporates requirements of 10 CFR Part 30 (relating to rules of general applicability to domestic licensing of byproduct material).

§ 228.38. Radiation safety surveys.

Subsection (a) requirements are clarified to ensure that the initial survey requirements in this subsection, replace those deleted from existing § 228.32(a). The type of qualified expert required is also clarified.

Subsection (d) references to reserved §§ 219.31 and 219.51 are replaced by the NRC equivalent regulations incorporated by reference, 10 CFR 20.1201 and 21.1301 (relating to occupational dose limits for adults; and dose limits for individual members of the public).

§ 228.39. Records.

Reference to reserved §§ 219.201—219.211 is replaced by the NRC equivalent regulations incorporated by reference, 10 CFR Part 20, Subpart L (relating to records).

§ 228.41a. Warning devices.

Subsection (b) reference to reserved § 219.91 is replaced by 10 CFR 20.1601 (relating to control of access to high radiation areas), the NRC equivalent regulation incorporated by reference.

§ 228.43. Radiation surveys.

A subsection (c) reference to a qualified expert is clarified.

A subsection (d) reference to reserved Subchapter L of Chapter 219 is replaced by the NRC equivalent regulations incorporated by reference, 10 CFR Part 20, Subpart L (relating to records).

§ 228.44. Ventilation systems.

A subsection (a) reference to reserved § 219.34 is replaced by 10 CFR 20.1204 (relating to determination of internal exposure), the NRC equivalent regulation incorporated by reference.

A subsection (b) references to reserved §§ 219.51 and 219.52 are replaced by the NRC equivalent regulations incorporated by reference, 10 CFR 20.1301 (relating to dose limits for individual members of the public) and 10

CFR 20.1302 (relating to compliance with dose limits for individual members of the public) respectively.

§ 228.61. Leakage radiation to the patient area.

A subsection (a)(2) reference to registrant is deleted because accelerators are no longer registered, only licensed.

§ 228.75. Calibrations.

A references to the type of qualified expert in subsection (b) and subsection (c)(4) are clarified.

§ 228.76. Spot checks.

A reference to the type of qualified expert in paragraph (1) is clarified.

Appendix A. Determination of Competence.

The existing wording is deleted and restated to be more adaptable and less proscriptive. As discussed previously, the existing continuing education requirement of paragraph (6) was moved and added to new § 228.35 (g)(5).

§ 230.3. Incorporation by reference.

Subsection (b) references to 10 CFR 71.47 and 10 CFR 71.83 are deleted and reference to 10 CFR 71.61 is added as previously discussed under § 215.1(e)(13).

Chapter 240. Radon Certification.

§ 240.2. Scope.

New subsection (b) is added to clarify that this chapter is in addition to, and not in substitution for, other applicable provisions of this article. For example, individuals subject to this chapter who are required to have health and safety plans for their activities are subject to the standards for protection against radiation in Chapter 219. Individuals who use certain radium or radon sources are subject to the licensing provisions for radioactive material in Chapter 217.

F. Benefits, Costs and Compliance

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

Benefits

The primary benefit of the proposed rulemaking is to correct linked references that are no longer accurate as a result of changes in previous rulemakings and changes in the regulations of the NRC incorporated by reference. This is part of a comprehensive effort to provide additional clarity to the regulations for radiological health to benefit the regulated community. Existing requirements are clarified in many areas, including: registration, licensing, fee assessment, radiation producing machine service providers, healing arts screening and human research, determination of competence for auxiliary medical personnel, filtration, radiation safety committees, medical event reporting and radiation therapy simulators. The new requirement for concurrence by the Department of Health for approval of certain healing arts screening provides additional health protection by bringing in a competent independent third party regulator. There are also additional benefits to the regulated community in more flexible requirements for personnel exposure to X-rays, quality assurance programs, leak testing of sealed sources, general licenses for sealed source devices, cabinet radiography and shielded room radiography operations. Eligibility for lower fees for general license devices has been extended. In fairness to registrants and the recovery of fees to support this program, the time that an X-ray machine from outside the Commonwealth may be operated before being subjected to registration and payment

of associated fees is reduced. Radiation producing machine service providers are assessed a registration fee to cover the cost of oversight of their activities and a minimum annual fee for accelerators greater than 50 MeV is created.

Compliance Costs

The majority of changes represent clarifications of requirements. For them, the underlying requirements have not actually changed so there is no additional cost to comply. Implementing the more flexible requirements for personnel exposure to X-rays, quality assurance programs, leak testing of sealed sources, general licenses for sealed source devices, cabinet radiography and shielded room radiography operations will add no additional costs and generally reduce existing costs. The new cost for out of state X-ray providers who establish semi-permanent operations in the Commonwealth is no more than fees charged by other states for the equivalent activities. The new codified category 3Q annual general license fee of \$315 is identical to what the current uncoded fee is pursuant to the formula in Chapter 218 Appendix A footnote 3. However, the proposed regulations would permit extension of this fee to certain current category 3P licensees resulting in a fee decrease for about 70 licensees who currently pay \$750. There is a new annual fee of \$100 for registration of radiation-producing machine service providers. The net loss of income from switching some category 3P licenses to category 3Q is expected to be about equal to the increase in income from the new radiation-producing machine service provider registration fee.

Compliance Assistance Plan

The majority of changes clarifying references and definitions are self-explanatory. They are being made as part of compliance assistance. Guidance is being prepared to explain acceptable alternate methods of determining personnel exposure to X-rays and acceptable X-ray quality assurance programs. Outreach and assistance will be provided by regional inspectors and technical staff of the central office Radiation Control Division.

Paperwork Requirements

Changes dealing with clarification of existing regulations add no additional paperwork beyond the original requirements. Regulations made more flexible may or may not result in a decrease in record-keeping requirements depending on what options the registrant or licensee avails themselves. Those persons providing radiation-producing machine services will be required to file a registration of activities form that has yet to be developed with the Department. Any paperwork for reporting the details of actual services being provided is already being filed with the Commonwealth through United States Food and Drug Administration (FDA) form 2579. The application form for new general license category 3Q has not been developed yet. However, it requires less supporting documentation than any current category and will constitute a reduction in paperwork over the current alternative licenses.

G. Sunset Review

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 20, 2003, the Department

submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by September 29, 2003. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by September 29, 2003. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@dep.state.pa.us and must also be received by the Board by September 29, 2003. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-387. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE V. RADIOLOGICAL HEALTH
CHAPTER 215. GENERAL PROVISIONS

§ 215.1. Purpose and scope.

* * * * *

(e) Title 10 Chapter I (Nuclear Regulatory Commission) Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 39, 40, 70, 71 and §§ 150.1, 150.2, 150.3, 150.11, [150.20(a)(1), 150.20(a)(2) and 150.20(b)] 150.20 of the CFR is incorporated by reference with the exceptions set forth in

paragraphs (1)—(13). Notwithstanding the requirements incorporated by reference, nothing in this article relieves or limits a person from complying with the laws of the Commonwealth, including the act and the Low-Level Radioactive Waste Disposal Act (35 P. S. §§ 7130.101—7130.905).

* * * * *

(4) Sections [31.3,] 31.4 and 31.14 are not incorporated.

* * * * *

(8) Sections 35.8, [35.990] 35.4001 and [35.991] 35.4002 are not incorporated.

* * * * *

(11) Sections 40.6, 40.8, 40.12(b), 40.23, 40.27, 40.28, 40.31(k) and (i), 40.32(d), (e) and (g), 40.33, 40.38, 40.41(d), (e)(1) and (3) and (g), 40.51(b)(6), 40.64, 40.66, 40.67, 40.81 and 40.82 are not incorporated.

* * * * *

(13) Sections 71.2, 71.6, 71.13(c) and (d), 71.24, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, [71.47,] 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.71, 71.73, 71.74, 71.75, 71.77, [71.83,] 71.99 and 71.100 are not incorporated.

* * * * *

§ 215.2. Definitions.

The definitions in 10 CFR Chapter 1, Parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 39, 40, 70, 71 and 150 are incorporated by reference in this article unless indicated otherwise. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

License—Permission issued by the Department in accordance with this article to possess and use [radioactive material] radiation sources. Types of licenses are as follows:

* * * * *

(ii) Specific license—Written permission to possess and use radioactive material issued by the Department after the Department reviews and approves an application for the possession and use of the [radioactive material] radiation sources.

* * * * *

Major X-ray system component—A tube housing assembly, X-ray control, X-ray high voltage generator, X-ray table, cradle, film changer, fixed cassette holder, beam limiting device, fluoroscopic or digital radiographic imaging assembly, spot film device, image intensifier or cephalometric device.

* * * * *

Qualified expert—

(i) [An] For radiation protection, an individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs; for example: individuals certified in the appropriate field by the American Board of Radiology, or the American Board of Health Physics, or the American Board of Medical Physics or those having equivalent qualifications.

(ii) [**With reference to the calibration of radiation therapy equipment An**] **For radiation therapy calibrations, an individual having, in addition to the qualifications in subparagraph (i), training and experience in the clinical applications of radiation physics to radiation therapy [; for example: individuals certified in therapeutic radiological physics or X-ray and radium physics by the American Board of Radiology, or radiation oncology physics by the American Board of Radiology, or radiation oncology physics by the American Board of Medical Physics or those having equivalent qualifications]**.

(iii) **For diagnostic X-ray performance evaluations, an individual having, in addition to the qualifications of subparagraph (i), training and experience in the physics of diagnostic radiology.**

* * * * *

[**Radiological physicist—An individual who complies with one of the following:**

(i) **Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics or x- and gamma-ray physics.**

(ii) **Has a bachelor's degree in one of the physical sciences or engineering and 3 years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties shall include duties involving the calibration and spot checks of a medical accelerator or a teletherapy unit.**

(iii) **Has a master's or a doctor's degree in physics, biophysics, radiological physics, health physics or engineering; has had 1 year's full-time training in therapeutic radiological physics; and has had 1 year's full-time work experience in a radiotherapy facility where that person's duties involve calibration and spot checks of a medical accelerator or a teletherapy unit.]**

* * * * *

RIGHTS AND RESPONSIBILITIES OF THE DEPARTMENT

§ 215.12. **Inspections and investigations.**

(a) *Maintenance of records.* Licensees and registrants shall maintain records under this article and have these records available for inspection by the Department at **permanent sites or facilities of use identified in a license or registration issued under this article.**

* * * * *

(c) *Inspections and investigations by the Department.* [(1)] The Department, its employees and agents may conduct inspections **and investigations** of the facilities **and regulated activities** of registrants of radiation-producing machines and licensees of radioactive material **necessary to demonstrate compliance with the act or this article. [at the following frequencies:**

(i) **For major medical facilities, including hospitals, at least once every 3 years for X-ray operations.**

(ii) **For all other facilities, at least once every 4 years for X-ray operations.**

(iii) **For licensees, at the frequencies recommended by the NRC.]**

(d) *Additional inspections and investigations.* The Department, its employees and agents may conduct additional follow-up inspections **and investigations** if violations of the act or regulations promulgated thereunder were noted at the time of the original inspection, or if a person presents information, or circumstances arise which give the Department reason to believe that the health and safety of a person is threatened or that the act or this article are being violated.

§ 215.14. **Availability of records for public inspection.**

The following Department records are not available for public inspection, unless the Department determines that disclosure is in the public interest and is necessary for the Department to carry out its duties under the act:

* * * * *

(2) A report of investigation [**or inspection**], not pertaining to safety and health in industrial plants, which would disclose the institution, progress or results of an investigation undertaken by the Department.

* * * * *

PROHIBITIONS AND RESTRICTIONS

§ 215.24. **Human use.**

(a) No human use of radiation sources may be permitted except under this article, and the following:

* * * * *

(b) **Only auxiliary personnel who have met the applicable radiologic requirements of 49 Pa. Code, Part I, Subpart A (relating to professional and occupational affairs) may use radiation sources in the healing arts when employed by a licensed practitioner of the healing arts at the location at which the licensed practitioner practices.**

(c) **Auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government may only use radiation sources in the healing arts in accordance with written job descriptions and employee qualifications.**

(d) **Subsections (b) and (c) notwithstanding human use of radiation sources is permitted by individuals enrolled in clinical training programs approved by the Department.**

§ 215.28. [**Deliberate exposure**] **Improper use of a monitoring device.**

The deliberate exposure **of, failure to use, or improper use of, an individual monitoring device or area monitoring device [to falsely indicate the dose delivered to]** by an individual is prohibited.

EXEMPTIONS

§ 215.32. **Exemption qualifications.**

The following sources, uses and types of users are exempt from Chapters 216—221, 223—228, 230 [**and**] 232 **and 240:**

* * * * *

CHAPTER 216. REGISTRATION OF RADIATION-PRODUCING MACHINES AND RADIATION-PRODUCING MACHINE SERVICE PROVIDERS

§ 216.1. **Purpose and scope.**

(a) This chapter establishes requirements for the registration of radiation-producing machines **and radiation-**

producing machine service providers. A person who possesses a radiation-producing machine or provides services described in this chapter shall comply with this chapter.

(b) A person possessing an accelerator as defined in § 228.2 (relating to definitions) is exempt from the requirements of § 216.2 (relating to registration of radiation-producing machines). Accelerators are licensed under Chapter 228 (relating to radiation safety requirements for particle accelerators) and license fees are specified in § 218.11(d) (relating to registration, renewal of registration and license fees.).

§ 216.2. Registration of radiation-producing machines.

* * * * *

§ 216.2a. Registration of radiation-producing machine service providers.

After ____ (*Editor's Note:* The blank refers to the effective date of adoption of this rulemaking.), a person who engages in the business of assembling or installing radiation-producing machines or who offers to assemble or install radiation-producing machines or who is in the business of furnishing or offering to furnish radiation-producing machine servicing or services or who is in the business of selling, leasing or lending radiation-producing machines in this Commonwealth shall apply for registration of the activities with the Department prior to furnishing or offering to furnish those services.

(1) Registration is for 12 months and is renewable.

(2) An application for registration or renewal will not be accepted unless accompanied by the appropriate fee specified in § 218.11(h) (relating to registration, renewal of registration and license fees). Fees are not refundable after issuance of a registration.

(3) An application for registration shall be submitted on forms provided by the Department. The Department will issue a certificate of registration for radiation-producing machine services to the applicant when the application is complete, contains all the information required by the Department and when the appropriate fee specified in § 218.11(h) has been paid.

(4) A person who, on ____ (*Editor's Note:* The blank refers to the effective date of adoption of this rulemaking.), is currently in the business of providing radiation-producing machine services shall apply for registration by ____ (*Editor's Note:* The blank refers to a date 60 days after the date of adoption of this rulemaking.)

§ 216.2b. Reporting and recordkeeping requirements for registered radiation-producing machine service providers.

(a) A radiation-producing machine service provider who installs, services, sells, leases or otherwise transfers a radiation producing-machine or major X-ray system component in this Commonwealth shall submit information to the Department and maintain records as described in this section.

(1) The following information shall be submitted in writing to the Department within 15 days of the action:

(i) The date of installation, service or transfer.

(ii) The name, address, telephone number and registration number, if registered, of the client facility.

(iii) The type of radiation-producing machine, the manufacturer's name, model number and control panel serial number of each radiation-producing machine, or major X-ray system components involved in the transaction.

(iv) A contact name of the individual for the service action.

(2) A copy of the assembler's report on United States Food and Drug Administration (FDA) form 2579, prepared in compliance with requirements of the Federal diagnostic X-ray standard (21 CFR 1020.30(d)(1) (relating to diagnostic x-ray systems and their major components)), when completed in full and submitted to the Department within 15 days following the service, satisfies the requirements of paragraph (1) and subsection (d) for services provided under the assembler's report.

(b) Services performed under preventative maintenance that do not involve replacement or refurbishing of major X-ray system components are exempt from the reporting requirements specified in this section except subsection (d).

(c) A radiation-producing machine service provider shall maintain a log or other record of radiation-producing machines installed or serviced in this Commonwealth. The record shall be maintained for 5 years for inspection by the Department and shall list the following information:

(1) The date the machine was installed or service provided.

(2) The name of the customer, address, telephone number and customer's State registration number.

(3) The type of radiation-producing machine, the manufacturer's name, model number and control panel serial number of each radiation-producing machine or major X-ray system component involved.

(4) The name of the individual performing the service.

(d) A radiation-producing machine service provider who services a radiation-producing machine in a radiation installation in this Commonwealth that is not registered shall report the service to the Department. The report shall be submitted in writing within 15 days after the services and contain the following information:

(1) The date service was provided.

(2) The name, address and telephone number of the client.

(3) The type of radiation-producing machine, the manufacturer's name, model number and control panel serial number of each radiation-producing machine or major X-ray system component.

(4) The name of the individual performing the service.

§ 216.3. Exemptions.

The following radiation-producing machines or equipment are exempt from registration:

* * * * *

(2) Radiation-producing machines while in transit [or storage incidental thereto] in the possession of a transport carrier.

* * * * *

(4) Accelerators are exempt from registration. Accelerators shall be licensed under Chapter 228 (relating to radiation safety requirements for particle accelerators). Accelerator service providers are not exempt from registration of services under § 216.2a (relating to registration of radiation-producing machine services).

§ 216.4a. Expiration and termination of certificates of registration.

* * * * *

(c) If a registrant does not submit a renewal for a certificate of registration under § 216.4 (relating to renewal of certificate of registration), the registrant shall, on or before the expiration date specified in the certificate of registration, do the following:

(1) Terminate use of all radiation-producing machines subject to registration under § 216.2 (relating to registration of radiation producing machines) or cease all radiation-producing machine services subject to registration under § 216.2a (relating to registration of radiation-producing machine service providers).

(2) Transfer or dispose of all radiation-producing machines subject to registration under § 216.2 in accordance with § 216.6 (relating to [assembly,] transfer and disposal obligations).

* * * * *

§ 216.6. [Assembly,] Transfer and disposal obligations.

(a) A person, distributor, retailer or other agent who [sells, leases, transfers, lends, assembles or installs], by selling, leasing, lending or gifting, transfers possession of radiation-producing machines or major X-ray system components in this Commonwealth that are not otherwise reported under 216.2b (relating to reporting and recordkeeping requirements for registered radiation-producing machine service providers), shall notify the Department within [90] 30 days of the following information:

* * * * *

(2) The manufacturer, model and serial number of a machine or component transferred[, assembled or installed].

(3) The date of transfer [or installation] of a radiation-producing machine or [equipment] major X-ray system component.

* * * * *

[(c) A distributor, retailer or other agent who sells, leases, transfers, lends, assembles or installs radiation-producing machines or equipment in this Commonwealth shall register the activities with the Department on a form supplied by the Department.]

§ 216.7. Out-of-State radiation-producing machines.

(a) If a radiation-producing machine is brought into this Commonwealth for temporary use, the person proposing to do so or an authorized agent shall give written notice to the Department at least 2 working days before the machine enters this Commonwealth. The notice shall include the type of machine, the nature, duration and scope of use and the exact location where the machine is to be used. In addition, the person shall:

* * * * *

(3) Not operate within this Commonwealth on a temporary basis in excess of [180] 60 calendar days per year.

* * * * *

(c) When a radiation-producing machine is brought into this Commonwealth for temporary use exceeding [180] 60 days per year, a person possessing the machine shall register with the Department under § 216.2 (relating to registration of radiation-producing machines) within [30] 15 days after the [180th] 60th day.

CHAPTER 217. LICENSING OF RADIOACTIVE MATERIAL

Subchapter B. GENERAL PROVISIONS FOR RADIOACTIVE MATERIAL

§ 217.136. Exempt concentrations.

In the addition to the parts of 10 CFR Part 30 (relating to rules of general applicability to domestic licensing of byproduct material) incorporated by reference, the following requirements apply:

* * * * *

TABLE 1
EXEMPT CONCENTRATIONS

Note: Some of the Values in Table A-1 are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600 and 6E+0 represents 6×10^0 or 6.

Element (atomic number)	Isotope	Column I Gas concentration $\mu\text{Ci/ml}$	Column II Liquid and solid concentration $\mu\text{Ci/ml}$
Actinium (89)	Ac-228		9E-04
[Cadmium (48)	Cd-109		2E-03]
Cesium (55)	Cs-129		3E-03
Europium (63)	Eu-154		2E-04
Gallium (31)	Ga-67		2E-03
Germanium (32)	Ge-68		9E-03

<i>Element (atomic number)</i>	<i>Isotope</i>	<i>Column I Gas concentration μCi/ml</i>	<i>Column II Liquid and solid concentration μCi/ml</i>
Gold (79)	Au-195		1E-02
Indium (49)	In-111		1E-03
Iodine (53)	I-123		3E-04
	I-124		4E-06
	I-125		2E-06
Lead (82)	Pb-212		2E-04
Phosphorus (15)	P-33		3E-04
Potassium (19)	K-43		2E-04
Protactinium (91)	Pa-230		2E-03
Radium(88)	Ra-223		7E-06
	Ra-224		2E-05
	Ra-228		3E-07
Radon (86)	Rn-220	1E-07	
	Rn-222	3E-08	
Sodium (11)	Na-22		4E-04
Technetium (43)	Tc-97m		4E-03
Xenon (54)	Xe-127	4E-06	
Yttrium (39)	Y-88		8E-04

Subchapter C. GENERAL LICENSES FOR RADIOACTIVE MATERIAL

§ 217.141. Incorporation by reference.

* * * * *

(b) Notwithstanding the requirements incorporated by reference, [10 CFR 31.3,] 10 CFR 31.4 and 31.14 (relating to [certain devices and equipment;] information collection requirements: OMB approval; and criminal penalties) are not incorporated by reference.

§ 217.143. Certain measuring, gauging or controlling devices.

In addition to the parts of 10 CFR 31.5 (relating to certain detecting measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere) incorporated by reference, general licensees subject to registration under 10 CFR 31.5(c)(13)(i) or possessing general licensed devices containing [370] 37 MBq ([10] 1 mCi) or more of accelerator-produced material, as determined on the date of manufacture, or 3.7 MBq (0.1 mCi) or more of radium-226 shall also comply with the following:

* * * * *

Subchapter G. LICENSING OF SOURCE MATERIAL

§ 217.171. Incorporation by reference.

* * * * *

(b) Notwithstanding the requirements incorporated by reference, 10 CFR 40.6, 40.8, 40.12(b), 40.23, 40.27, 40.28, 40.31(k) and (i), 40.32(d), (e) and (g), 40.33, 40.38, 40.41(d), (e)(1) and (3) and (g), 40.51(b)(6), 40.64, 40.66, 40.67, 40.81 and 40.82 are not incorporated by reference.

Subchapter J. RECIPROCITY

§ 217.201. Incorporation by reference.

Except as provided in this subchapter, the requirements of 10 CFR 150.1, 150.2, 150.3, 10 CFR 150.11 and [10 CFR 150.20(a)(1) (2) and (b)] 150.20 [(relating to recognition of Agreement State licenses)] are incorporated by reference.

§ 217.202. Effect of incorporation of 10 CFR Part 150.

To reconcile differences between this subchapter and the incorporated sections of 10 CFR Part 150 (relating to exemptions and continued regulatory [authorization] authority in agreement states and in offshore waters under section 274), the following words and phrases shall be substituted for the language in 10 CFR Part 150:

* * * * *

§ 217.203. Reciprocity of licenses [of] for byproduct, source, naturally occurring and accelerator-produced radioactive material and special nuclear material in quantities not sufficient to form a critical mass.

(a) Subject to this article, a person who holds a specific license from the NRC or a [licensing] state where the licensee maintains an office, issued by the agency having jurisdiction to direct the licensed activity and to maintain radiation safety records, is granted a general license to conduct the activities authorized in the licensing document within this Commonwealth, except for areas of exclusive Federal jurisdiction, for a period not in excess of 180 days in a calendar year if:

* * * * *

(5) The out-of-State licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this subsection except by transfer to a person who is one of the following:

(i) Specifically licensed by the Department, **the NRC** or by another [**licensing**] state to receive the material.

* * * * *

(b) Notwithstanding the provisions of subsection (a), a person who holds a specific license issued by **the NRC** or a [**licensing**] state authorizing the holder to manufacture, transfer, install or service a device described in Subchapter C (relating to general licenses for radioactive material) within areas subject to the jurisdiction of the licensing body is granted a general license to install, transfer, demonstrate or service the device in this Commonwealth subject to the following conditions:

* * * * *

(2) The device has been manufactured, labeled, installed and serviced in accordance with the specific license issued to the person by **the NRC** or a [**licensing**] state.

* * * * *

(e) Implementation of the requirements of this section regarding byproduct, source and special nuclear material is subject to § 217.133 (relating to persons possessing a license for source, byproduct or special nuclear material in quantities not sufficient to form a critical mass on the date the Commonwealth becomes an agreement state as published in the *Federal Register*).

CHAPTER 218. FEES

GENERAL

§ 218.1. Purpose and scope.

(a) This chapter establishes fees for registration and licensing and provides for their payment. **For the purpose of this chapter, radiation-producing machines under the same administrative control in a single building are registered or licensed as a single facility. Radiation-producing machines under the same administrative control at the same address or in a contiguous group of buildings may be registered or licensed as a single facility if the Department determines that it is appropriate.**

(b) Except as otherwise specifically provided, this chapter applies to a person who:

(1) Is required to register or renew registration for radiation-producing machines **or radiation-producing machine service providers** under Chapter 216 (relating to registration of radiation-producing machines **and radiation-producing machine service providers**).

* * * * *

PAYMENT OF FEES

§ 218.11. Registration, renewal of registration and license fees.

(a) Annual registration fees for radiation-producing machines, other than accelerators, are the sum of an annual administrative fee and an annual fee for each **X-ray tube or radiation generating device** as follows:

<i>Type Facility</i>	<i>Annual Administrative Fee</i>	<i>Annual Fee per X-ray Tube or Radiation Generating Device</i>
Dentists, podiatrists, veterinarians	\$70	\$35
Hospitals	\$520	\$35
Other Facilities	\$250	\$35

(b) A registrant filing an initial registration under § 216.2 (relating to registration **of radiation-producing machines**) or an application for renewal of a certificate of registration under § 216.4 (relating to renewal of certificate of registration) shall remit the appropriate fee calculated by using the information on the registration or application form and the fee schedule in subsection (a). Fees for any initial registration under § 216.2 are payable upon the filing of the registration. Fees for the renewal of a certificate of registration are payable upon the submission of an application for a renewal of a certificate of registration. If the number of tubes increases after an initial registration or after an application for renewal has been filed with the Department, no additional fee is required until the time of the next registration. Likewise, if the number of tubes decreases during the year, no refund will be made for that year.

* * * * *

(d) Particle accelerators are licensed under Chapter 228 (relating to radiation safety requirements for particle accelerators). [**Fees**] **Annual fees** are as follows:

(i) Accelerators, below 50 MeV, other than for ion implantation—\$1,500 for the first accelerator at the [**site**] **facility** plus \$500 for each additional unit [**of the same general type**] at that [**site**] **facility**.

(ii) Accelerators used for ion implantation—\$500 plus \$50 for each additional unit at the same [**site**] **facility**.

(iii) Accelerators above 50 MeV—full cost of staff time to review license applications and conduct inspections as needed. (Hourly rate is **\$50 per hour**) [**given in Appendix A**]. **For the purpose of anticipating costs and compliance with subsections (e) and (f), a minimum annual fee of \$1,500 for the first accelerator at the facility plus \$500 for each additional unit is established. Additional invoices shall be issued by the Department at regular intervals at least quarterly when net costs are incurred above the minimum annual fee.**

(e) An initial application for a license or reciprocity shall be accompanied by a check payable to the Department in accordance with the fee schedules in subsections (c) and (d). Thereafter, the Department will issue an annual fee invoice in accordance with the appropriate fee schedule at least 2 months prior to the license expiration. Fees are payable by the last day of the license expiration month as shown on the license fee invoice. **This provision is not applicable to full cost recovery licenses specified in Appendix A.**

* * * * *

(h) A radiation-producing machine service provider shall pay an annual registration fee of **\$100**.

APPENDIX A

Fees for Radioactive Material Licenses

<i>Fee Category</i>	<i>Description</i>	[Proposed Pa] Annual Fee (S)^{1, 2, 3, 4, 7}
1C	[SNM] Special Nuclear Material Sealed Source Gauges [(XRF)] (X-Ray Fluorescence)	875
1D	[SNM] Special Nuclear Material —Other	2,475
2B	Source Material as Shielding	450
2C	Source Material—Other (not 11e2)	8,650
3A1	[MFR & Distr.] Manufacturing & Distribution Commercial Broad Scope— 10 CFR 30, 33	19,875
3A2	[MFR & Distr.] Manufacturing & Distribution Commercial Broad Scope—NARM Only	4,000
3B1	[MFR & Distr.] Manufacturing & Distribution Commercial Specific [Lic.] License—10 CFR 30	4,650
3B2	[MFR & Distr.] Manufacturing & Distribution Commercial Specific [Lic.] License—NARM Only	2,000
3C1	[MFR & Distr.] Manufacturing & Distribution Pharmaceuticals— 10 CFR 32.72—32.74	11,650
3C2	[MFR & Distr.] Manufacturing & Distribution Pharmaceuticals—NARM Only	4,000
3D1	Pharmaceuticals—Distribution Only— 10 CFR 32.7x	2,825
3D2	Pharmaceuticals—Distribution Only—NARM Only	2,000
3E	Irradiator—Shielded Source	2,575
3F	Irradiator—Unshielded < 10kCi	4,300
3G	Irradiator—Unshielded ≥ 10kCi	10,750
3I	[Distr.] Distribution As Exempt—No Review of Device	3,525
3J	[Distr.] Distribution —SSD Devices to Part 31 GLs	1,550
3K	[Distr.] Distribution —No Review-Exempt Sealed Source	1,300
3L1	[R & D] Research & Development Broad Scope	8,300
3L2	[R & D] Research & Development Broad Scope—NARM Only	2,000
3M1	[R & D] Research & Development	3,650
3M2	[R & D] Research & Development —NARM Only	750
3N	Services [Not Leak Test, Waste Disp. Calib.] other than Leak Testing, Waste Disposal or Calibration	3,875
3O	Radiography	10,850
3P1	Other Byproduct Material	1,900
3P2	NARM Licenses not covered elsewhere	750
3Q	Generally licensed devices under § 217.143 (relating to certain measuring, gauging or controlling devices)	315
4A	Waste Storage, Processing[,] or Disposal	FullCost *
4B	Waste Packaging or Repackaging	8,175
4C	Waste Receipt of Prepackaged for Disposal	6,125
5A	Well Logging & Non Field Flood Tracers	7,500
5B	Well Logging Field Flood Tracer Studies	FullCost *
6A	Nuclear Laundry	14,250
7A	Human Use—Teletherapy	11,275
7B1	Human Use—Broad Scope (except Teletherapy)	19,975
7B2	Human Use—Broad Scope (except Teletherapy)—NARM Only	2,000

Fee Category	Description	[Proposed Pa] Annual Fee (S) ^{1, 2, 3, 4, 7}
7C1	Human Use—Specific License (except Teletherapy)	4,300
7C2	Human Use—Specific License (except Teletherapy)-NARM Only	750
8A1	[Civil Defense] Specifically licensed sources used in static eliminators, nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses or in temporary (2 years or less) storage	875
8A2	Specifically licensed NARM sources used in static eliminators, [non-exempt] nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses [,] or in temporary (2 years or less) storage.	200
14	Decontamination, Decommissioning, Reclamation or Site Restoration [, Special]	FullCost *
16A	Reciprocity (180 days/year)	900
16B	Reciprocity—NARM (180 days/year)	300
SB1 ⁵	Small Business—Category 1	2,100
SB2 ⁶	Small Business—Category 2	400
[PF	Professional Fees (Hourly Rate) for full cost items	\$50 perhour]

¹A license may include as many as four **[non-contiguous] noncontiguous** sites at the base fee. Sites that are within 5 miles of the main Radiation Safety Office where the license records are kept will be considered contiguous. **An additional fee of 25% of the base fee will be added for each noncontiguous site above four.**

²All fees for NARM licenses will be effective upon publication of the final rules in the *Pennsylvania Bulletin*. The fees for NRC licenses that are transferred to the Commonwealth will be effective on the next license anniversary date. NARM licenses will be changed to the corresponding category of **[by-product] byproduct** material license on the next license anniversary date after achievement of Agreement State status and fees adjusted at that time. The NARM license categories will cease to exist one year after Agreement State status is achieved.

³Annual fees for categories of NRC licenses that are not included in this table will be calculated as follows: PA Fee = 0.7 (NRC Annual Fee + 0.10 NRC Application or Renewal fee).

⁴Annual fees charged to holders of transferred NRC licenses with multiple sites will not exceed the fees charged by the NRC for the same licenses in the year of transfer, provided the number of **[non-contiguous] noncontiguous** sites remains constant.

⁵Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Manufacturing Entities that have an average of 35—500 employees with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Small Government Jurisdictions (including publicly supported, **[non-medical] nonmedical** educational institutions) with a population between 20,000 and 50,000; and **[non-medical] nonmedical** Educational Institutions that are not state or publicly supported and have 35—500 employees.

⁶Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of less than \$350,000; Manufacturing Entities that have an average of less than 35 employees and less than \$350,000 in Gross Annual Receipts; Small Government Jurisdictions (including publicly supported nonmedical educational institutions) with a population less than 20,000; and nonmedical Educational Institutions that are not state or publicly supported and have less than 35 employees.

⁷**Full cost recovery licensees and licensees required to provide financial assurance for decommissioning are not eligible for reduced fees under category SB1 or SB2.**

*** Full cost recovery consists of a professional fee, to cover the activities and support of Department personnel, and any other additional incidental charges incurred, such as related contracted services or laboratory costs. The professional fee component (Hourly Rate) is \$50 per hour. Other costs are recovered at 100% of actual cost. Invoices shall be issued by the Department at regular intervals but at least quarterly when net costs are incurred.**

CHAPTER 219. STANDARDS FOR PROTECTION AGAINST RADIATION

**Subchapter A. GENERAL PROVISIONS
GENERAL PROVISIONS**

§ 219.3. Definitions.

The following term, when used in this subchapter, has the following meaning, unless the context clearly indicates otherwise:

Medical reportable event for radiation-producing machine therapy—The administration to a human being, except for an administration resulting from a direct intervention of a patient that could not have been reasonably prevented by the licensee or registrant, that results in one of the following:

* * * * *

(iii) A total dose delivered to the treatment site identi-

fied in a written directive for therapy that **is outside the prescribed dose range** or differs from the total prescribed dose by more than 20%, or for a fractionated dose, when the weekly administered dose differs from the weekly prescribed dose by more than 30%.

§ 219.6. Effect of incorporation of 10 CFR Part 20.

To reconcile differences between this chapter and the incorporated sections of 10 CFR Part 20 (relating to standards for protection against radiation), the following words and phrases shall be substituted for the language in 10 CFR Part 20 as follows:

* * * * *

(8) 10 CFR Part 20, notwithstanding, exposures involving the use of X-rays may be weighted, in a manner specified by the Department, so that, with Department approval, the effective dose equivalent may be substituted for the deep dose equivalent in determining compliance with occupational exposure limits for specified groups of individuals.

§ 219.8. Requirement for a Radiation Safety Committee.

The requirements of 10 CFR 35.24 (relating to authority and responsibilities for the radiation protection program) apply to registrants as well as licensees. For the purpose of this requirement, facilities that utilize two or more modalities in which patients are likely to receive, or will receive a dose to an organ in excess of 200 rads (2.0 gray), shall have a radiation safety committee.

Subchapter E. TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

§ 219.61. Testing for leakage or contamination of sealed sources.

(a) In addition to incorporation by reference of 10 CFR Part 20 (relating to standards for protection against radiation), a licensee possessing a sealed source shall assure that:

* * * * *

(2) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed 6 months or at alternative intervals **specified in the Sealed Source and Device Registry** approved by the Department [**under §§ 217.81—217.93 (Reserved)**], a [**licensing**] state or the NRC[, **except that the maximum interval between leak tests may not exceed 3 years**].

(3) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed 3 months or at alternative intervals **specified in the Sealed Source and Device Registry** approved by the Department [**under §§ 217.81—217.93 (Reserved), an agreement state**], a [**licensing**] state or the NRC[, **except that the maximum interval between leak tests may not exceed 3 years**].

* * * * *

(b) A licensee need not perform tests for leakage or contamination on the following sealed sources:

* * * * *

(6) Sealed sources, [**except teletherapy and brachytherapy sources,**] which are stored, are not being used, and are identified as in storage. The licensee

shall, however, test each of these sealed sources for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within 6 months before the date of use or transfer. [**The maximum interval between tests for leakage or contamination may not exceed 3 years.**]

* * * * *

Subchapter M. REPORTS

§ 219.229. Other medical reports.

Within 30 days of the [**discovery**] **determination by a physician** of either actual or suspected acute or long-term functional damage to [**tissue**] **an organ or a physiological system** of a patient exposed to therapeutic or diagnostic radiation from a radiation-producing machine, the registrant or licensee shall document the finding and provide a report to the Department and provide a clinical summary to the prescribing physician and the patient. The report shall be retained for at least 5 years. Exempt from this reporting requirement are any events already reported under § 219.228 (relating to reports of medical reportable events for radiation-producing machine therapy) and any functional damage to a patient [**tissue**] **organ or a physiological system** that was an expected outcome when the causative procedures were prescribed.

CHAPTER 220. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS AND INVESTIGATIONS

§ 220.2. Posting of notices to workers.

* * * * *

(c) Department Form [**ER-BRP-3**] **2900-FM-RP0003, "Notice to Employees,"** shall be posted by a licensee or registrant as required by this article.

* * * * *

CHAPTER 221. X-RAYS IN THE HEALING ARTS
GENERAL PROVISIONS

§ 221.2. Definitions.

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

* * * * *

Filter—[**aterial**] **Material placed in the useful beam to [absorb the less penetrating radiation.] modify the spectral energy distribution and flux of the transmitted radiation and preferentially absorb selected radiation.**

Filtration—[**Material placed in the useful beam to absorb the less penetrating radiation.] The amount of material placed in the useful beam to modify the radiation's characteristics, typically expressed in terms of millimeters of aluminum or copper equivalent.**

* * * * *

Half-value layer (HVL)—

(i) The thickness of specified material which attenuates the exposure rate by 1/2 when introduced into the path of a given beam of radiation. **In this definition, the contribution of all scattered radiation, other**

than any which might be present initially in the beam concerned, is deemed to be excluded.

(ii) The term is used to describe the penetrating ability of the radiation.

Healing arts screening—The testing of human beings using X-ray machines for the detection or evaluation of health indications when the tests are not specifically and individually ordered for the purpose of diagnosis or treatment by a licensed practitioner of the healing arts legally authorized to prescribe the X-ray tests [for the purpose of diagnosis or treatment].

* * * * *

[*Qualified expert*—An individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. For example, individuals certified in the appropriate field by the American Board of Radiology, or the American Board of Health Physics, or the American Board of Medical Physics, or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the preceding qualifications, training and experience in the clinical applications of radiation physics to radiation therapy. For example, individuals certified in therapeutic radiological physics or X-ray and radium physics by the American Board of Radiology, or radiation oncology physics by the American Board of Medical Physics; or those having equivalent qualifications.]

* * * * *

ADMINISTRATIVE CONTROLS

§ 221.11. Registrant responsibilities.

(a) The registrant is responsible for directing the operation of X-ray systems under his administrative control and shall [do the following:

(1) **Assure**] assure that the requirements of this article are met in the operation of the X-ray systems.

[(2) **Permit only auxiliary personnel who have met the applicable radiologic requirements of 49 Pa. Code, Part I, Subpart A (relating to professional and occupational affairs) to operate X-ray systems for diagnostic or therapeutic purposes when employed by a licensed practitioner of the healing arts at the location at which the licensed practitioner practices.**

(3) **Permit only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government to operate X-ray systems for diagnostic or therapeutic purposes in accordance with written job descriptions and employe qualifications.]**

(b) An individual who operates an X-ray system shall be instructed adequately in the safe operating procedures and be competent in the safe use of the equipment. The instructions shall include, but not be limited to, items included in Appendix A (relating to determination of competence) and there shall be continuing education in radiation safety, biological effects of radiation, quality assurance and quality control.

* * * * *

(e) Except for patients who cannot be moved out of the room, only the staff and ancillary personnel or other persons required for the medical procedure or training shall be in the room during the radiographic exposure. The following apply for individuals other than the patient being examined:

* * * * *

(2) All persons required for the medical procedure shall be protected from the [**scatter**] **stray** radiation by protective aprons or whole protective barriers of at least 0.25 millimeter lead equivalent or shall be so positioned that the persons are not in the direct line of the useful beam and the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

(3) A patient who cannot be removed from the room shall be protected from the [**scatter**] **stray** radiation by protective barriers of at least 0.25 millimeter lead equivalent material unless the shield would compromise the health of the individual or shall be so positioned that the patient is not in the direct line of the useful beam and the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

* * * * *

(l) The registrant shall have a quality assurance program. This quality assurance program shall be **documented and be** in accordance with guidelines established by the Department or by another appropriate organization recognized by the Department. **At a minimum, the quality assurance program shall address repeat rate; image recording, processing and viewing; and maintenance and modifications to the quality assurance program. Records shall be maintained by the registrant for inspection by the Department for 3 years.** The Department's guidelines and a list of recognized organizations will be maintained and made available on the Department's website and on request.

* * * * *

§ 221.13. Information to be submitted by persons [**proposing**] **requesting approval** to conduct healing arts screening.

(a) **The Department will consider efficacy as a factor in evaluating healing arts screening procedures. In its review, the Department will consider national medical organization consensus statements as well as peer reviewed scientific and medical literature that addresses the efficacy of the proposed screening procedures. The review may also consider relevant information from appropriate Federal agencies. For procedures that result in an individual organ dose or deep dose equivalent greater than 1 mSv (100 mrem) to a screened individual the Department will consult with the Department of Health (DOH) for assistance in reviewing the efficacy of the proposed procedures but the final decision will remain that of the Department. DOH will have access to all relevant materials when rendering their review.**

(b) A person requesting that the Department approve a healing arts screening program shall submit in writing the following information [**and evaluation**] **for evaluation by the Department.** If information submitted to

the Department becomes invalid or outdated, the registrant shall immediately notify the Department.

* * * * *

(5) An evaluation of **all** known alternate methods **[not involving ionizing radiation which]** that could achieve the goals of the screening program and why these methods are not used in preference to the **proposed** X-ray examinations.

(6) An evaluation by a qualified expert of the X-ray systems to be used in the screening program. The evaluation shall show that the systems satisfy the requirements of this article. The evaluation shall include a measurement of patient **entrance exposures and calculation of the maximum shallow dose, deep dose equivalent and organ dose** from the X-ray examinations to be performed.

(7) A description of the diagnostic **[film]** X-ray quality control program.

(8) A copy of the technique chart for the X-ray examination procedures to be used **if exposure parameters are set manually or a description of how exposure parameters are determined.**

(9) The qualifications of **[an individual]** all individuals who will be operating the X-ray systems.

* * * * *

(11) The name **[and]**, address **and qualifications** of the individual who will interpret the **[radiographs]** screening procedure results.

(12) A description of the **[procedures to be used in]** information and procedure for advising the individuals screened **of the potential for false positive or negative results and the implications for the patient; the procedure for recording informed consent for the procedure following disclosure of this information; and the procedure for advising the individuals screened** and their private practitioners of the healing arts of the results of the screening procedure and further medical needs indicated.

(13) A description of the procedures for the retention or disposition of the **[radiographs]** diagnostic images, data and other records pertaining to the X-ray examination.

* * * * *

(15) An approximation of the frequency of screening activities and duration of the entire screening program.

§ 221.15. Use of X-rays in research on humans.

* * * * *

(b) If not exempted under subsection (a), a person shall submit, in writing, the following information and evaluation to the Department and receive approval by the Department before conducting the research. If the information submitted to the Department becomes invalid or outdated, the person shall immediately, in writing, notify the Department.

* * * * *

(3) An evaluation of **all** known alternate methods **[not involving ionizing radiation which]** that could achieve the goals of the research program and why these methods are not used in preference to the X-ray examinations.

* * * * *

(6) A copy of the **technique** chart which specifies the information for the X-ray examination procedures to be used **if exposure parameters are set manually or a description of how exposure parameters are determined.**

* * * * *

(9) The name, **[and]** address **and qualifications** of the individual who will interpret the **[radiographs]** data.

(10) A copy of the research protocol authorized by a committee consisting of at least three **qualified** persons. **[One]** **At least** one of the committee members shall be knowledgeable in radiation effects on humans.

(11) The provisions for independent institutional review.

* * * * *

DIAGNOSTIC INSTALLATIONS GENERAL REQUIREMENTS

§ 221.25. Beam quality.

(a) Diagnostic X-ray systems shall have filtration that satisfies the requirements of Table I. The requirements of this section shall be considered to have been met if it can be demonstrated that the half value layer of the primary beam is not less than that shown in Table II.

* * * * *

(Editor's Note: The existing Table II which appears at 25 Pa. Code page 221-18, serial page (249290) is deleted and replaced by the following Table II displayed in normal font for clarity.)

Table II

<i>Design operating range (Kilovolts peak)</i>	<i>Measured potential (Kilovolts peak)</i>	<i>Minimum half-value layer (millimeters of aluminum)</i>	
		<i>Specified dental systems*</i>	<i>All other X-ray systems</i>
Below 51	30	1.5	0.3
	40	1.5	0.4
	50	1.5	0.5
51 to 70	51	1.5	1.2
	60	1.5	1.3
	70	1.5	1.5

<i>Design operating range (Kilovolts peak)</i>	<i>Measured potential (Kilovolts peak)</i>	<i>Minimum half-value layer (millimeters of aluminum)</i>	
		<i>Specified dental systems*</i>	<i>All other X-ray systems</i>
Above 70	71	2.1	2.1
	80	2.3	2.3
	90	2.5	2.5
	100	2.7	2.7
	110	3.0	3.0
	120	3.2	3.2
	130	3.5	3.5
	140	3.8	3.8
	150	4.1	4.1

Note: Half value layers for kilovoltages not listed in Table II may be determined by interpolation or extrapolation.

* **Dental systems manufactured after December 1, 1980 designed for use with intra-oral image receptors.**

(b) Beryllium window tubes shall have a minimum of [.5] 0.5 millimeter aluminum equivalent filtration permanently installed in the useful beam.

* * * * *

§ 221.29. Kilovoltage (kV) accuracy.

(a) [The] For variable kV units, the kV output may not vary from the set-indicated value by more than 10% over the range of technique factors normally used. Discrepancies of more than 10% between set-indicated and measured kV values shall be investigated by a qualified expert or service [engineer] agent and appropriate action taken.

(b) For fixed kV units, the kV output may not vary from the set-indicated value by more than 20% over the range of technique factors normally used. Discrepancies of more than 20% between set-indicated and measured kV values shall be investigated by a qualified expert or service agent and appropriate action taken.

§ 221.36a. Limitation of useful beam of fluoroscopic equipment.

* * * * *

(d) The minimum field size at the greatest source to image receptor distance shall be containable in a square of 5 centimeters by 5 centimeters unless otherwise provided in 21 CFR 1020.32(b) (relating to [fluoroscopic] fluoroscopic equipment).

* * * * *

§ 221.38a. Entrance exposure rate.

* * * * *

(c) *Frequency of output measurements.* Output measurements [required by] to show compliance with this section shall be made at least annually and after maintenance that could affect the output of the machine.

* * * * *

OTHER SYSTEMS

§ 221.61. Radiation therapy simulation systems.

[Radiation therapy simulation systems shall comply with §§ 221.35a—221.43a. Radiation therapy simulation systems are exempt from §§ 221.36a, 221.38a, 221.39a and 221.41a if the systems that do not meet the requirements in § 221.41a (relating to fluoroscopic timer) are provided with a means of indicating the cumulative time that an individual

patient has been exposed to X-rays. In this case, procedures shall require that the timer be reset between examinations.]

(a) **Fluoroscopic systems used solely for radiation therapy simulations shall comply with §§ 221.35a, 221.37a, 221.40a and 221.41a. The requirements in § 221.41a (relating to fluoroscopic timer) may also be satisfied if a means is provided to indicate the cumulative time that an individual patient has been exposed to X-rays. In this case, procedures shall require that the timer be reset between examinations.**

(b) **CT units used solely for therapy simulations shall comply with §§ 221.202(f)(1), (7) and (8) and 221.203.**

THERAPEUTIC X-RAY SYSTEMS WITH ENERGIES LESS THAN 1 MEV

§ 221.73. Surveys.

(a) A facility shall have a survey made by, or under the direction of, a qualified expert [or a radiological physicist]. The survey shall also be done after a change in the facility or equipment which might cause a change in radiation levels.

* * * * *

§ 221.74. Calibration.

* * * * *

(b) The calibration of the radiation output of the X-ray system shall be performed by or under the direction of a [radiological physicist] qualified expert for radiation therapy calibration who is physically present at the facility during the calibration.

* * * * *

§ 221.75. Spot checks.

Spot checks shall be performed on X-ray systems capable of operation at greater than 150 kVp. The spot checks shall meet the following requirements:

(1) The procedures shall be in writing and shall have been developed by a [radiological physicist] qualified expert for radiation therapy calibration.

* * * * *

COMPUTED TOMOGRAPHY X-RAY SYSTEMS

§ 221.202. Equipment requirements.

* * * * *

(f) [*Beam quality.* The HVL shall be at least 3.2 millimeters aluminum at 120 kVp.

(g)] *Additional requirements applicable to CT X-ray systems containing a gantry manufactured after September 3, 1985.*

* * * * *

[(h) *Exemption of CT units used solely for therapy simulations.* CT units used solely for therapy simulations are exempt from this section and §§ 221.203—221.205.]

§ 221.204. **Radiation measurements and performance evaluations.**

(a) *Radiation measurements.*

(1) The CTDI or [MSDAD] MSAD along the two axes specified in paragraph (2)(ii) shall be measured. The CT dosimetry phantom shall be oriented so that the measurement point 1.0 centimeter from the outer surface and within the phantom is in the same angular position within the gantry at the point of maximum surface exposure identified. The CT conditions of operation shall be reproducible and correspond to typical values used by the registrant. If the point of maximum surface exposure constantly changes due to system design, then measurements shall be taken at four different locations—top left, top right, bottom left, bottom right—1 centimeter from the outer surface of the phantom.

* * * * *

§ 221.205. **Operating procedures.**

(a) Information shall be available at the control panel regarding the operation and performance evaluations of the system. The information shall include the following:

* * * * *

(3) [**The distance in millimeters between the tomographic plane and the reference plane if the reference plane is utilized.**

(4)] A current technique chart available at the control panel which specifies for each routine examination the CT conditions of operation and the number of scans per examination.

* * * * *

APPENDIX A

DETERMINATION OF COMPETENCE

[The following are areas in which an individual shall have expertise for the competent operation of diagnostic X-ray equipment:

- (1) *Familiarization with equipment.*
 - (i) Identification of controls.
 - (ii) Function of each control.
 - (iii) How to use a technique chart.
- (2) *Radiation Protection.*
 - (i) Collimation.
 - (ii) Filtration.
 - (iii) Gonad shielding and other patient protection devices if used.
 - (iv) Restriction of X-ray tube radiation to image receptor.
 - (v) Personnel protection.

- (vi) Grids.
- (vii) Proper use of personnel dosimetry, if required.
- (viii) Understanding units of radiation.
- (3) *Film Processing.*
 - (i) Film speed as related to patient exposure.
 - (ii) Film processing parameters.
 - (iii) Quality assurance program.
 - (iv) Identification of film artifacts and corrective actions, if necessary.
 - (v) Identification of adequate film exposure on the resultant radiograph, and corrective actions, if necessary.
- (4) *Procedures.*
 - (i) Knowledge of anatomy and physiology.
 - (ii) Knowledge of positioning and radiographic demonstration of the requested anatomy with corrective actions, if necessary.
 - (5) *Emergency Procedures.* Termination of exposure in event of automatic timing device failure.
 - (6) *Continuing education.* Continuing education annually to include radiation protection.]

The registrant shall ensure that individuals who operate diagnostic X-ray equipment have received training on the subjects listed in this appendix. The individual shall be trained and competent in the general operation of the X-ray equipment, and in the following subject areas, as applicable to the procedures performed and the specific equipment utilized:

- (1) Basic properties of radiation.
- (2) Units of measurement.
- (3) Sources of radiation exposure.
- (4) Methods of radiation protection.
- (5) Biological effects of radiation exposure.
- (6) X-ray equipment.
- (7) Image recording and processing.
- (8) Patient exposure and positioning.
- (9) Procedures.
- (10) Quality assurance.
- (11) Regulations.

CHAPTER 223. VETERINARY MEDICINE
RADIOACTIVE MATERIAL

§ 223.21. **In vitro testing.**

A veterinarian who uses radioactive material for in vitro testing shall comply with [§ 217.46 (Reserved)] 10 CFR 31.11 (relating to general license for use of by-product material for certain in vitro clinical or laboratory testing) but is exempt from [§§ 219.181—219.186 (Reserved)] 10 CFR Part 20 Subpart K (relating to waste disposal).

§ 223.22. **Sealed sources.**

A veterinarian who uses sealed sources for therapeutic treatment of animals shall comply with [Chapter 224, Subchapters G—I (Reserved)] 10 CFR Part 35 Sub-

parts F, G, H, and K but is exempt from [§§ 224.408 and 224.409 (Reserved)] 10 CFR 35.632—35.645 and 35.2632—35.2645.

CHAPTER 224. MEDICAL USE OF RADIOACTIVE MATERIAL

Subchapter A. GENERAL

§ 224.10. Incorporation by reference.

* * * * *

(b) Notwithstanding the requirements incorporated by reference, 10 CFR 35.8, [35.990] 35.4001 and [35.991] 35.4002 (relating to information collection requirements: OMB approval; violations; and criminal penalties) are not incorporated by reference.

Subchapter B. OTHER REQUIREMENTS

§ 224.21. [Supervision] (Reserved).

[In addition to the incorporation by reference of 10 CFR Part 35 (relating to medical use of byproduct material), the licensee shall also:

(1) Permit only auxiliary personnel who have met the applicable radiologic requirements of 49 Pa. Code, Part I, Subpart A (relating to professional and occupational affairs) to use radioactive materials for diagnostic or therapeutic purposes.

(2) Permit only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government to use radioactive materials for diagnostic or therapeutic purposes in accordance with written job descriptions and employee qualifications.]

§ 224.22. Authorization for calibration, transmission and reference sources.

Notwithstanding the incorporation by reference of 10 CFR [Part 35] 35.65 (relating to authorization for calibration, transmission, and reference sources), a licensee authorized for medical use radioactive materials may not receive, possess [and] or use [sealed sources of radioactive material up to 1,110 MBq (30 mCi) apiece] radium in total quantity of 3.7 MBq (100 µCi) or more for check, calibration, transmission and reference use except as specifically authorized by the Department.

§ 224.23. Decay-in-storage.

Notwithstanding the incorporation by reference of 10 CFR Part 35 (relating to medical use of byproduct material), a licensee may hold sealed sources of radioactive material with a physical half-life [-] of up to 300 days for decay-in-storage before disposal in ordinary trash.

CHAPTER 225. RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

Subchapter A. GENERAL PROVISIONS

§ 225.1. Purpose and scope.

* * * * *

(b) Persons using only radiation-producing machines for industrial radiographic operations need not comply with § 225.2a [(Reserved)] (relating to incorporation by reference) unless otherwise specified in Subchapter B (relating to radiation-producing machines).

* * * * *

§ 225.4a. Radiation safety program.

(a) A person who intends to use radiation-producing machines for industrial radiography shall have a program for training personnel, written operating procedures and emergency procedures, an internal review system and an organizational structure for radiographic operations which includes specified delegations of authority and responsibility for operation of the program. This program shall be approved by the Department before commencing industrial radiographic operations.

(b) The registrant shall notify the Department of intended changes to the registrant's radiation safety program and obtain Departmental approval.

Subchapter B. RADIATION-PRODUCING MACHINES

GENERAL ADMINISTRATIVE REQUIREMENTS

§ 225.71. Definitions.

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

* * * * *

Field radiography—A location where radiographic operations are conducted (onsite or offsite) other than those designated as a permanent radiographic facility.

* * * * *

Safety device—As applied to radiation-producing machines in this subchapter, a device or component that causes the unit to de-energize or interrupt the beam.

* * * * *

[**Temporary job site**—A location where industrial radiography is performed for 180 days or less during any consecutive 12 months other than the location listed in a registration.]

§ 225.73. Training of personnel.

* * * * *

(b) Persons performing [temporary job site] field radiography shall comply with the training requirements in [10 CFR 34, Subpart D (relating to radiation safety requirements)] Appendix A.

GENERAL TECHNICAL REQUIREMENTS

§ 225.82. Operating requirements.

(a) When radiographic operations are performed at a location other than a permanent radiographic installation, a minimum of two radiographic personnel shall be present to operate the X-ray device. At least one of the radiographic personnel shall be qualified as a radiographer. The other individual may be either a radiographer [or], a radiographer's assistant or a radiographer trainee.

* * * * *

§ 225.83. Records required at [temporary job] field radiography sites.

Each registrant or licensee conducting radiographic operations at a [temporary job] field radiography

site shall maintain and have available for inspection by the Department at that job site, the following records or documents:

* * * * *

RADIATION-PRODUCING MACHINE REQUIREMENTS

§ 225.101. Cabinet X-ray systems and baggage/package X-ray systems.

* * * * *

(d) The registrant shall [evaluate the cabinet X-ray system to assure compliance with 10 CFR 20.1301 and 21 CFR 1020.40 if the system is a certified cabinet X-ray system. Records of these evaluations shall be maintained for inspection by the Department while the system is in the possession of the registrant or until the evaluation is replaced by an update following modifications.] perform radiation surveys to demonstrate compliance with 10 CFR 20.1301 (relating to dose limits for individual members of the public) and maintain records of these surveys for inspection by the Department for 3 years:

(1) Upon installation of the equipment.

(2) Following a change in the initial arrangement, relocation of the unit, or following any maintenance requiring the disassembly or removal of any shielding component.

(3) When a visual inspection reveals an abnormal condition.

* * * * *

§ 225.102. Shielded room X-ray radiography.

* * * * *

(b) [The registrant shall provide personnel monitoring equipment to every individual who operates, positions material for irradiation, or performs maintenance on a radiation-producing machine for shielded room X-ray radiography.

(c)] * * *

(c) As an alternative to subsection (b), the registrant may use an independent radiation monitoring system that displays the radiation intensity or displays when radiation levels have returned to their pre-irradiation levels.

(d) With the exception of the provisions of §§ 225.4a and 225.84 (relating to radiation safety program; and operating and emergency procedures), shielded room radiography is exempt from all other provisions of this chapter.

§ 225.103. [Temporary job] Field site radiography.

* * * * *

CHAPTER 226. LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

GENERAL

§ 226.3a. Abandonment of a sealed source.

In addition to incorporation by reference of 10 CFR [Part 39 (relating to licenses and radiation safety requirements for well logging)] 39.15 and 39.77 (relating to agreement with well owner or operator; and notification of incidents and lost sources; aban-

donment procedures for irretrievable sources), the requirements of § 78.111 (relating to abandonment) shall also be met.

CHAPTER 227. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY EQUIPMENT, X-RAY GAUGING EQUIPMENT, ELECTRON MICROSCOPES AND X-RAY CALIBRATION SYSTEMS

ANALYTICAL X-RAY EQUIPMENT

§ 227.11a. Equipment requirements.

(a) Open-beam configurations shall have a safety device which either prevents the entry of any portion of an individual's body into the primary X-ray beam path, or causes the beam to be terminated or interrupted upon entry into the path. A registrant may apply to the Department for an exemption from the requirement of a safety device. The application for an exemption shall include the following:

* * * * *

(2) The reason each of these safety devices cannot be used.

* * * * *

§ 227.12a. Area requirements.

* * * * *

(c) The local components of an analytical X-ray system shall be located and arranged and shall include sufficient shielding or access control so that no radiation levels exist in any area surrounding the local component group which could result in a dose to an individual present therein in excess of the limits given in [§ 219.51 (Reserved)] 10 CFR 20.1301 (relating to dose limits for individual members of the public). For systems utilizing X-ray tubes, these requirements shall be met at any specified tube rating.

* * * * *

§ 227.13a. Operating requirements.

* * * * *

(d) Emergency procedures shall be written and posted near the equipment and shall list the names and telephone numbers of personnel to contact. The emergency procedures shall also provide information necessary to de-energize the equipment, such as location and operation of the power supply or circuit breakers.

§ 227.14. Personnel requirements.

(a) An individual may not operate or maintain analytical X-ray equipment unless the individual has received instruction in and demonstrated competence as to:

* * * * *

(7) The applicable regulations of this article and those incorporated by reference.

* * * * *

(c) Reported dose values may not be used for the purpose of determining compliance with [§ 219.31 (relating to occupational dose limits for adults)] 10 CFR 20.1201 (relating to occupational dose limits for adults) unless they are evaluated by a qualified expert.

* * * * *

**CHAPTER 228. RADIATION SAFETY
REQUIREMENTS FOR PARTICLE ACCELERATORS
GENERAL PROVISIONS**

§ 228.2. Definitions.

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

Accelerator or particle accelerator—A radiation-producing machine that imports kinetic energies of one of the following:

* * * * *

Filter—Material placed in the useful beam to [absorb the less penetrating radiation.] modify the spectral energy distribution and flux of the transmitted radiation and remove radiation that does not contribute to the efficacy of the useful beam.

* * * * *

Particle accelerator—See the definition of “accelerator.”

* * * * *

[*Qualified expert*—An individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs. For example, individuals certified in the appropriate field by the American Board of Radiology, or the American Board of Health Physics or the American Board of Medical Physics or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the preceding qualifications, training and experience in the clinical applications of radiation physics to radiation therapy. For example, individuals certified in therapeutic radiological physics or X-ray and radium physics by the American Board of Radiology, or radiation oncology physics by the American Board of Medical Physics; or those having equivalent qualifications.]

* * * * *

ADMINISTRATIVE CONTROLS

§ 228.11a. Licensee responsibilities.

(a) A person may not possess, operate or permit the operation of an accelerator unless the accelerator and installation meet the applicable requirements of this article.

* * * * *

[(d) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.]

§ 228.12. Information and maintenance record and associated information.

The licensee shall maintain records of surveys, calibrations, maintenance, machine malfunctions and modifications performed on the accelerators, including the names of persons who performed the services. The [registrant or] licensee shall keep these records for inspection by the Department for [4] 5 years.

NOTIFICATION AND LICENSING PROCEDURES

§ 228.21a. Notification and license requirements.

(a) A person who intends to purchase, construct or acquire an accelerator shall notify the Department of this

intent by filing an application for a specific license within 30 days after the initial order is issued to obtain any or all parts of the accelerator.

(1) The application shall be filed in duplicate on a form prescribed by the Department and shall be accompanied by the required fee as described in § 218.11(d) (relating to registration, renewal of registration and license fees).

* * * * *

(g) A license issued under this chapter may not be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, to any person except through submission of a written request by the licensee to the Department for approval.

§ 228.23a. Expiration and termination of a license.

* * * * *

(d) If the licensee does not submit an application for license renewal under § 228.24a on or before the expiration date specified in the license, the licensee shall:

(1) Terminate the use of, and transfer or dispose of the accelerator.

* * * * *

(3) Submit a completed Department Form [ER-BRP-314] 2900-PM-RP0314, “Certificate of Disposition of Materials,” describing the disposition of materials in paragraph (2).

* * * * *

GENERAL RADIATION SAFETY REQUIREMENTS

§ 228.31a. Limitations.

* * * * *

(b) A licensee may not permit an individual to act as an operator of an accelerator until the individual:

* * * * *

(2) Has received copies of and instruction in this chapter and Chapters 219 and 220 (relating to standards for protection against radiation; and notices, instructions and reports to workers; inspections and investigations), pertinent [registration and] license conditions and the licensee’s operating and emergency procedures and demonstrated understanding thereof.

* * * * *

§ 228.32a. Shielding and safety design requirements.

(a) The licensee shall consult a qualified expert for radiation protection concerning the shielding design of an accelerator installation [and shall have the expert perform a radiation safety survey prior to the first use of the accelerator and when changes are made in shielding operations, equipment or occupancy of adjacent areas].

(b) An accelerator facility shall have primary and secondary protective barriers that are necessary to assure compliance with [§ 219.51 (Reserved)] 10 CFR Part 20 Subpart D (relating to dose limits for individual members of the public).

§ 228.34a. Accelerator controls and interlock systems.

* * * * *

(b) Entrances into a target room or high radiation areas shall have interlocks that meet the requirements of [§§ 219.91 and 219.154 (Reserved)] 10 CFR Part 20 Subpart G (relating to control of exposure from external sources in restricted areas) and 10 CFR 20.1902 (relating to posting requirements). If the radiation beam is interrupted by a door opening, it shall be possible to reinstate the radiation exposure only by closing the door first and then by manual action at the control panel.

* * * * *

§ 228.35. Operating procedures.

* * * * *

(g) For accelerators used in the healing arts, operating procedures shall meet the following requirements:

* * * * *

(4) [Misadministrations] A medical reportable event for radiation-producing machine therapy, as defined in § [215.2] 219.3 (relating to definitions), shall be reported as required under § 219.228 (relating to reports of medical reportable events for radiation-producing machine therapy [misadministrations]).

(5) [Only auxiliary personnel who have met the applicable radiologic requirements of 49 Pa. Code Part I, Subpart A (relating to occupational affairs) when employed by a licensed practitioner of the healing arts at the location at which the licensed practitioner practices shall be permitted to operate accelerators for therapeutic purposes.

(6) Only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government shall be permitted to operate accelerator systems for therapeutic purposes in accordance with written job descriptions and employe qualifications.

(7) [An individual who operates an accelerator system shall be instructed adequately in the safe operating procedures and be competent in the safe use of the equipment. The instructions shall include, but not be limited to, items included in Appendix A (relating to determination of competence). There shall be continuing education in radiation safety, biological effects of radiation, quality assurance and quality control.

§ 228.37. Production of radioactive material.

(a) A licensee who produces radioactive material incidental to the operation of an accelerator shall comply with the general license requirements of § [217.48 (Reserved)] 217.144 (relating to incidental radioactive material produced by a particle accelerator).

(b) A licensee possessing radioactive material intentionally produced by bombarding nonradioactive material with the accelerator beam shall comply with the specific license requirements of [§§ 217.51—217.57 (Reserved)] Chapter 217 (relating to licensing of radioactive material).

§ 228.38. Radiation safety surveys.

(a) [A] Prior to first use, a facility shall have [an initial] a survey made by, or under the direction of, a qualified expert for radiation protection. A survey

shall also be done after a change in the facility or equipment, including a relocation of the equipment within the irradiation or treatment room.

* * * * *

(d) If the survey required by subsection (a) indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by [§ 219.31 or § 219.51 (Reserved)], 10 CFR 20.1201 (relating to occupational dose limits for adults) or 10 CFR 20.1301 (relating to dose limits for individual members of the public), the licensee shall do the following:

* * * * *

§ 228.39. Records.

In addition to the requirements of [§§ 219.201—219.211 (Reserved)] 10 CFR Part 20, Subpart L (relating to records), the licensee shall maintain:

* * * * *

RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL AND RESEARCH ACCELERATORS

§ 228.41a. Warning devices.

* * * * *

(b) A high radiation area shall meet the requirements of [§ 219.91 (Reserved)] 10 CFR 20.1601 (relating to control of access to high radiation areas).

§ 228.43. Radiation surveys.

* * * * *

(c) Area surveys shall be made in accordance with the written procedures established by a qualified expert for radiation protection or the radiation safety officer of the accelerator facility.

(d) Records of surveys shall be kept current and on file at an accelerator facility. Records of surveys shall be maintained as described in [Chapter 219, Subchapter L (Reserved)] 10 CFR Part 20, Subpart L (relating to records).

§ 228.44. Ventilation systems.

(a) A licensee shall control the concentration of radioactive material in air to meet the requirements of [§ 219.34 (Reserved)] 10 CFR 20.1204 (relating to determination of internal exposure).

(b) A licensee may not vent, release or otherwise discharge airborne radioactive material to an unrestricted area which does not meet the requirements of [§ 219.51 (Reserved)] 10 CFR 20.1301 (relating to dose limits for individual members of the public). Every reasonable effort shall be made to maintain releases of radioactive material to uncontrolled areas as far below these limits as practicable. Compliance with this section shall be demonstrated as described in [§ 219.52 (Reserved)] 10 CFR 20.1302 (relating to compliance with dose limits for individual members of the public).

RADIATION SAFETY REQUIREMENTS FOR ACCELERATORS USED IN THE HEALING ARTS

§ 228.61. Leakage radiation to the patient area.

(a) New equipment shall meet the following requirements:

* * * * *

(2) For each system, the licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in paragraph (1) for the specified operating conditions. The [registrant or] licensee shall maintain records for 5 years on leakage radiation measurements for inspection by the Department.

* * * * *

§ 228.75. Calibrations.

* * * * *

(b) The calibration shall be performed by, or under the direct supervision of, a qualified expert for radiation therapy calibrations.

(c) Calibration radiation measurements required by subsection (a) shall be performed using a dosimetry system meeting the following specifications:

* * * * *

(4) The system has had constancy checks performed on the system as specified by a qualified expert for radiation therapy calibrations.

* * * * *

§ 228.76. Spot checks.

Spot checks shall be performed on systems subject to this subchapter during full calibrations and thereafter once in each calendar month. The spot checks shall meet the following requirements:

(1) The procedures shall be in writing and [shall have been] developed by a qualified expert for radiation therapy calibrations.

* * * * *

APPENDIX A

DETERMINATION OF COMPETENCE

[The following are areas in which an individual shall have expertise for the competent operation of radiation therapy equipment, the administration of radiation therapy treatment and determination of treatment portals:

- (1) *Familiarization with equipment.*
 - (i) Identification of controls.
 - (ii) Function of each control.
- (2) *Radiation protection.*
 - (i) Personnel protection.
 - (ii) Use of shielding blocks.
 - (iii) Understanding of dose units.
 - (iv) Grids.
- (3) *Film processing.*
 - (i) Ability to produce quality films for use by a physician.
 - (ii) Knowledge of portal film exposure factors.
 - (iii) Film processing parameters.
- (4) *Procedures.*
 - (i) Knowledge of anatomy and physiology.
 - (ii) Knowledge of patient immobilization devices to allow treatment with minimal patient movement.
 - (iii) Ability to position patient to allow for treatment of desired area.

(5) *Emergency procedures.*

- (i) Termination of treatment in event of machine primary and secondary and dose monitoring system failure.
- (ii) Termination of treatment in the event of patient movement during treatment.

(6) *Continuing education.* Continuing education annually to include radiation protection.]

The licensee shall ensure training on the subjects listed in Appendix A has been conducted. The individual shall be trained and competent in the general operation of the radiation therapy equipment and its functions, and in the following subject areas, as applicable to the procedures performed and the specific equipment utilized:

- (1) Basic properties of radiation.
- (2) Units of measurement.
- (3) Sources of radiation exposure.
- (4) Methods of radiation protection.
- (5) Biological effects of radiation exposure.
- (6) Medical accelerator operation.
- (7) Treatment planning and execution.
- (8) Patient positioning and protection.
- (9) Operating and emergency procedures.
- (10) Quality assurance.
- (11) Regulations.

CHAPTER 230. PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

Subchapter A. SCOPE AND DEFINITIONS

§ 230.3. Incorporation by reference.

* * * * *

(b) Notwithstanding the requirements incorporated by reference, 10 CFR 71.2, 71.6, 71.13(c) and (d), 71.24, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, [71.47,] 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.71, 71.73, 71.74, 71.75, 71.77, [71.83,] 71.99 and 71.100 are not incorporated by reference.

CHAPTER 240. RADON CERTIFICATION

Subchapter A. GENERAL PROVISIONS

GENERAL

§ 240.2. Scope.

* * * * *

(b) This chapter is in addition to, and not in substitution for, other applicable provisions of this article.

[Pa.B. Doc. No. 03-1731. Filed for public inspection August 29, 2003, 9:00 a.m.]