

# PENNSYLVANIA BULLETIN

Volume 28

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Water Supply Protection/Replacement  
(Mining)

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**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 282, May 1998**

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**PENNSYLVANIA**



**BULLETIN**

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

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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#### **Printing Format**

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

#### **Fiscal Notes**

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

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

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1998.

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## **Part III**

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Coal Mining Permitting and  
Performance Standards

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## **Part IV**

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Environmental Quality Board's  
Bottled Water Systems; Permit by Rule

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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER NO. 1998-2]

#### Governor's Census 2000 Advisory Panel

March 1, 1998

*Whereas*, since 1790, every 10 years, as mandated by the United States Constitution, the Census of Population and Housing has been taken to count all persons and housing units in the United States to reapportion the House of Representatives; and

*Whereas*, the next decennial census will be conducted on April 1, 2000; and

*Whereas*, the census data is used for Congressional reapportionment and Legislative redistricting, and individuals, businesses, local governments and nonprofit organizations use census data for planning and decision making; and

*Whereas*, distribution of state and Federal funds is determined by population and other socioeconomic characteristics taken from the census data; and

*Whereas*, the Commonwealth and its local jurisdictions require descriptions of the social and economic characteristics of a geographic area or population group to determine funding needs for water and sewer projects, highways, economic development, job training, schools and other activities; and

*Whereas*, it is important to the Commonwealth's interest that a complete and accurate census count be obtained; and

*Whereas*, in achieving a complete and accurate census count, the Commonwealth must support efforts in the areas of recruitment of Pennsylvanian census workers, promotion and education, communications, address sharing and mapping, and identifying special populations and hard to enumerate areas; and

*Whereas*, to achieve a complete and accurate census count, it is important to involve representatives of the private and public sectors, Pennsylvania's local governments, and State agencies through the Census 2000 State Interagency Team.

*Now, Therefore*, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and the laws of the Commonwealth, do hereby establish the Governor's Census 2000 Advisory Panel, (hereinafter referred to as "Panel") as hereinafter set forth:

#### Annex A

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5.968.	PA Census 2000 State Interagency Team.
5.969.	Termination date.

**§ 5.961. Purpose.**

The purpose of the Governor's Census 2000 Advisory Panel is to recommend methods and policies to facilitate the most accurate and complete census count in the year 2000.

**§ 5.962. Functions.**

The functions of the Governor's Census 2000 Advisory Panel shall be to effectively coordinate the Commonwealth's involvement in preparing for the decennial census and recommend actions necessary to complete the following:

(1) Effective coordination of the State's involvement in the United States Census Bureau's recruitment of approximately 25,000 Pennsylvanians to assist in a variety of census-related activities.

(2) Promotion and education of all Pennsylvanians regarding the importance of the census.

(3) Development of partnerships between the public and private sector to maximize resources used to achieve a complete and accurate count.

(4) Implementation of cooperative arrangements between local governments, nonprofits and other public and private entities to share addresses and mapping, and to identify hard to enumerate areas and special populations.

**§ 5.963. Composition.**

(a) The Governor's Census 2000 Advisory Panel (Panel) will consist of no more than 40 members, including representation from business, academia, community and nonprofit organizations, religious communities, health care communities, elected officials and government, the Governor's Advisory Commissions on African and American Affairs and Latino Affairs and the Pennsylvania State Data Center.

(b) The Governor will designate two members to serve as co-chairpersons.

(c) Each Panel member may designate a person to represent him on the Panel.

(d) Ten members will serve ex officio. These ex officio members include the Office of the Governor, the Secretaries of Community and Economic Development, Labor and Industry, Public Welfare, Health, Transportation and four Legislative members.

**§ 5.964. Terms of membership.**

(a) Members will be appointed for terms commensurate with the life of the Governor's Census 2000 Advisory Panel (Panel). The members serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Panel due to resignation, disability or death of a member, the Governor will appoint a successor as expeditiously as possible and the successor will serve the duration of the unexpired term.

**§ 5.965. Compensation.**

Members of the Governor's Census 2000 Advisory Panel do not receive compensation for their service, except that the members may be reimbursed for actual travel and related expenses in accordance with the Commonwealth's travel and subsistence regulations. (See Chapter 40 (relating to travel and subsistence).)

**§ 5.966. Reports.**

The Governor's Census 2000 Advisory Panel shall report to the Governor at least twice a year on the status of the Commonwealth's activities leading up to the Census 2000. The report will include a description of recommendations and actions taken regarding six areas identified in the PA Census 2000 Action Plan, which are recruitment, promotion and education, communications, address sharing and mapping, special populations, and hard to enumerate areas.

**§ 5.967. Meetings and communications.**

The Governor's Census 2000 Advisory Panel (Panel) members will meet at least four times a year during the life of the Panel.

**§ 5.968. PA Census 2000 State Interagency Team.**

All agencies under the Governor's jurisdiction and represented on the PA Census 2000 State Interagency Team shall cooperate with and provide assistance as needed to the Governor's Census 2000 Advisory Panel (Panel) in performing its functions. The Panel will receive administrative services from the Center for Local Government Services in the Department of Community and Economic Development.

**§ 5.969. Termination date.**

This subchapter will terminate on March 1, 2001.

**Fiscal Note:** GOV 98-2. No fiscal impact; (8) recommends adoption.

*Governor*

[Pa.B. Doc. No. 98-717. Filed for public inspection May 8, 1998, 9:00 a.m.]

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# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART III. JUDICIAL CONDUCT BOARD

[207 PA. CODE CH. 119]

#### Adoption of Rule 35

The following Rule of Procedure of the Judicial Conduct Board was adopted at the Board's meeting on April 20, 1998 and is effective immediately.

ROBERT E. J. CURRAN,  
*Chairperson*

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART III. JUDICIAL CONDUCT BOARD

#### CHAPTER 119. SPECIAL PROCEDURES FOR CASES INVOLVING MENTAL OR PHYSICAL DISABILITY

##### Rule 35. Intervention.

(A) During the course of an investigation, upon the good faith belief that the alleged misconduct was caused by mental illness, drug dependency, addiction to alcohol, or temporary mental infirmity, the Board shall take one or more of the following actions:

- (1) request that the judicial officer resign from office;
- (2) request that the judicial officer seek appropriate treatment;
- (3) request that the judicial officer take a leave of absence from his or her judicial office until such time that the Board and the judicial officer agree that it is appropriate for the judicial officer to return to office;
- (4) upon application of the judicial officer, the Board may approve an appropriate treatment program.

(B) Action taken by a judicial officer in response to any action taken by the Board pursuant to Paragraph A, shall be considered by the Board in making a determination pursuant to Rule 31.

(C) The judicial officer's entrance into and participation in a rehabilitation program approved by the Board shall constitute good cause under Rule 31(C) for the Board to continue any full investigation beyond 180-days.

[Pa.B. Doc. No. 98-718. Filed for public inspection May 8, 1998, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 4000]

Amendment of Rule 4010; Promulgation of New Rule 4010.1; No. 292; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 24th day of April, 1998, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rules 4010 is amended to read as follows.
2. New Rule 4010.1 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 1998.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 4000. DEPOSITIONS AND DISCOVERY ENTRY UPON PROPERTY FOR INSPECTION AND OTHER ACTIVITIES

##### Rule 4010. Physical and Mental Examination of Persons.

(a) (1) As used in this rule, "examiner" means a licensed physician, licensed dentist or licensed psychologist.

(2) When the mental or physical condition [ (including blood group) ] of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by [ a physician ] an examiner or to produce for examination the person in [ his ] the party's custody or legal control.

**Official Note: The examination may include blood or genetic testing.**

(3) The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made.

(4) (i) The person to be examined shall have the right to have counsel or other representative present during the examination. The examiner's oral interrogation of the person to be examined shall be limited to matters specifically relevant to the scope of the examination.

**Official Note: Ordinarily, the facts giving rise to liability are not germane to an examination and the information which the examiner seeks should be limited to facts of liability germane to the issue of damages.**

(ii) Subdivision (a)(4)(i) shall not apply to actions for custody, partial custody and visitation of minor children.

(5) (i) The party who is being examined or who is producing for examination a person in the party's custody or legal control may have made upon reasonable notice and at the party's expense a stenographic or audio recording of the examination. Upon request and payment of reasonable cost, the party who caused the recording to be made shall provide each other party with a copy of the recording.

(ii) Subdivision (a)(5)(i) shall not apply to actions for custody, partial custody and visitation of minor children.

(b) (1) If requested by the party against whom an order is made under this rule or the person examined, the party causing the examination to be made shall deliver to

[him] the requesting party or person a copy of a detailed written report of the [examining physician] examiner setting out [his] the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows [that he is unable] inability to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if [a physician] an examiner fails or refuses to make a report the court shall exclude [his] the examiner's testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege [he] the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine [him] the party in respect of the same mental or physical condition.

(3) Subdivision (b) applies to an examination made by agreement of the parties, unless the agreement expressly provides otherwise. It does not preclude discovery of a report of an [examining physician] examiner or the taking of a deposition of the [physician] examiner in accordance with the provisions of any other rule.

#### **Rule 4010.1. Evaluation of Earning Capacity.**

(a) When the earning capacity of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to an evaluation by a suitably licensed or certified evaluator or to produce for evaluation the person in the party's custody or legal control.

(b) The evaluation shall be subject to the provisions of Rule 4010(a)(3) through (b)(3) inclusive.

(c) The evaluator may testify as a witness on the issue of damages only and not as a witness on the issue of liability.

#### **Explanatory Comment**

*Rule 4010. Physical and Mental Examination of Persons.*

Rule 4010 is revised in four respects.

##### *1. Examiner*

Rule 4010 previously provided that only a physician may perform physical and mental examinations of persons. However, it had been suggested that the provision was too narrow and that the category of persons authorized to perform examinations should be expanded.

The amendment revises the rule to refer to an "examiner." An examiner is defined as "a licensed physician, licensed dentist or licensed psychologist."

##### *2. Examination*

The rule previously gave no guidance with respect to the conduct of the examination. New subdivisions (a)(4) and (5) add certain protections for the person being examined. The protections under subdivision (a)(4)(i) include the right to have counsel or another representative

present at the examination and a limitation upon the examiner's interrogation of the person to be examined. New subdivision (a)(5)(i) gives the party who is being examined or who is producing a person to be examined the right to make a stenographic or audio recording of the examination "upon reasonable notice and at the party's expense."

These new provisions, however, will not apply to an action for custody, partial custody or visitation of minor children.

##### *3. Blood or Genetic Testing*

Rule 4010(a) previously made reference to "blood group." The revised rule deletes that reference from the rule but adds a note stating that the "examination may include blood or genetic testing."

##### *4. Gender Neutral*

Additional revisions to the language make Rule 4010 gender neutral. However, these revisions do not affect practice and procedure.

##### *Rule 4010.1. Evaluation of Earning Capacity.*

Rule 4010 is entitled "Physical and Mental Examination of Persons." Subdivision (a)(2) provides that the rule may be invoked when "the mental or physical condition of a party, or of a person in the custody or under the legal control of a party, is in controversy."

In many cases, however, there may be no dispute as to physical or mental condition, but, given that condition, there is a dispute as to the ability of the party or person under the party's control to function in an employment setting. One party may seek an "evaluation" to gauge the effect of the condition upon another party's work-life or "evaluate" the other party's ability to be gainfully employed. Rule 4010.1 provides for such an evaluation "by a suitably licensed or certified evaluator."

The provisions governing the evaluation are the same as those governing physical and mental examinations since the procedure of Rule 4010 is incorporated by reference. However, subdivision (c) accords the party to be evaluated one additional protection: the evaluator "may testify as a witness on the issue of damages only and not as a witness on the issue of liability."

*By the Civil Procedural  
Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 98-719. Filed for public inspection May 8, 1998, 9:00 a.m.]

## **Title 25—LOCAL COURT RULES**

### **DELAWARE COUNTY**

**Judge Pro Tempore Program; Misc. Doc. No. 82-7677**

#### **Order**

*And Now*, to wit, this 14th day of April, 1998, after successful completion of a mandatory Judge Pro Tempore program in 1997, and after agreement between the Bench and the Bar as to the benefits of extending Phase I of the aforementioned program,

It is hereby *Ordered* and *Decreed* that the Settlement Conference Phase is extended and amended, once again utilizing the volunteer services of experienced trial lawyers, from both the plaintiff and the defense bars, who have been or will be designated by the Court to preside as "Judges Pro Tempore."

It is further *Ordered* that the following procedures and qualifications will be followed with regard to this Settlement Program:

1. *Duties and Responsibilities of Judges Pro Tempore.* The Delaware County Bar Association, with the approval of the Court, will determine the names and number of Judges Pro Tem and the number of cases to be assigned to each Judge Pro Tem once the group of cases is identified by the Court Administrator.

Said designated judges may conduct conferences for the purpose of settlement and may, thereafter, make appropriate recommendations to this Court.

2. *Implementation of Program.* In order to take part in this Settlement Program, the parties must fulfill the following conditions:

a. Only cases which have not yet been assigned to a judge for trial will be considered. However, taking part in this voluntary settlement program will delay neither assignment nor trial of the case.

b. A stipulation, the form of which is available in the Office of the Court Administrator and which follows as Exhibit A, must be signed by all attorneys or unrepresented parties, stating that there is agreement to participate in the settlement program and THAT THERE IS A REASONABLE LIKELIHOOD OF SETTLEMENT. The original of the stipulation must be filed of record in the Office of Judicial Support.

c. The attorneys/unrepresented parties must complete a settlement memorandum form, the form of which follows as Exhibit B and which is available in the Office of the Court Administrator, to be filed contemporaneously with the aforementioned stipulation.

d. Copies of the completed stipulation and settlement memoranda must contemporaneously be filed with the Office of the Court Administrator. ATTENTION CIVIL COURT ADMINISTRATOR JUDGE PRO TEM PROGRAM.

e. Once the aforementioned conditions have been met and thereafter have been reviewed and approved by the Court Administrator, assignment of the case will be made to a Judge Pro Tempore within one (1) week.

f. From time to time, the President Judge may supplement the program with additional case assignments.

### 3. *Settlement Conferences.*

a. The assigned Judge Pro Tempore will schedule and hold a settlement conference within thirty (30) days after assignment.

b. The conference will be scheduled and held at the time and place of choosing of the individual Judge Pro Tempore.

c. Once included in the program, the parties will be required to attend the settlement conference. In the event

that a defendant is insured, then an authorized claims manager or supervisor of the defendant's insurer, with complete settlement authority and control of the claims file, is required to attend the conference. The conference must also be attended by trial counsel.

d. In cases in which the litigants or claims personnel are located out-of-state, those litigants/claims personnel are not required to be present at the settlement conference if this would entail a hardship. However, those litigants/claims personnel must be active participants by telephone (telephone conference call) and continually present throughout the settlement conference. It will not be enough for the litigants/claims personnel to be "available by telephone". Please note that, other than in the aforementioned cases, judges pro tempore have no discretion as to whether or not litigants/claims personnel will attend the settlement conference, as this is required by this order.

e. The assigned Judge Pro Tempore will submit a Judge Pro Tempore Reporting Form (the form of which follows as Exhibit C) to the Court Administrator within fifteen (15) days after the scheduled conference, advising as to his/her settlement of the case or determination that the case cannot be settled. The Court Administrator will thereafter file the Judge Pro Tempore Reporting Form with the Office of Judicial Support.

f. If there is an agreement to settle at the time of the Conference, the plaintiff's counsel will file an Order to Settle, Discontinue and End with the Office of Judicial Support within sixty (60) days of the date of the conference. Plaintiff's counsel is to contemporaneously forward a time-stamped copy of the Order to Settle, Discontinue and End to the Office of the Court Administrator. ATTENTION CIVIL COURT ADMINISTRATOR JUDGE PRO TEM PROGRAM.

4. *Noncompliance.* The judge pro tempore will immediately advise the Court Administrator in writing setting forth the reasons of noncompliance. Failure to comply with the aforementioned conditions will result in immediate withdrawal of the case from the program. No case which has been withdrawn for failure to comply will be eligible for future consideration in the program.

5. *Changes in Procedure.* The procedure set forth herein may be changed from time to time by notice appearing in the *Delaware County Legal Journal*.

6. *Effective Date.* The within procedure will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.C.P. No. 239, the original Order will be filed with the Office of Judicial Support and copies will be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedure Rules Committee. Copies of the Order will also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, and the *Delaware County Legal Journal*.

*By the Court*

A. LEO SERENI,  
*President Judge*

THE COURTS

Exhibit A

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA  
CIVIL DIVISION—LAW

: DOCKET NO.  
:  
:

*STIPULATION FOR JUDGE PRO TEMPORE PROGRAM*

It is hereby STIPULATED, by and among all counsel in this matter, namely (fill in names of all attorneys), that:

1. All counsel are agreed that we shall fully participate in the Judge Pro Tempore Settlement Program and shall fully comply with all requirements attendant thereto;
2. All counsel are in agreement that there is a reasonable likelihood of settlement in the matter, with the assistance of a Judge Pro Tempore; and
3. To the best of our knowledge, the above-captioned matter has not yet been assigned to a Judge of Court of Common Pleas for purposes of trial.

We, the undersigned, therefore request that the Court Administrator assign the above-captioned matter to a Judge Pro Tempore for purposes of a settlement conference.

Respectfully submitted,

\_\_\_\_\_  
(Plaintiff's counsel)

\_\_\_\_\_  
(Defendant's counsel)

\_\_\_\_\_  
(Defendant's counsel)

\_\_\_\_\_  
(Defendant's counsel)

Exhibit B

**COURT OF COMMON PLEAS  
SETTLEMENT MEMORANDUM**

CASE TYPE (CHECK ONE)	
<input type="checkbox"/> ASSAULT, BATTERY <input type="checkbox"/> PREMISE LIABILITY <input type="checkbox"/> AUTO NEGLIGENCE BI <input type="checkbox"/> AUTO NEGLIGENCE PROP. <input type="checkbox"/> DEFAMATION <input type="checkbox"/> LIBEL, SLANDER <input type="checkbox"/> FALSE IMPRISONMENT <input type="checkbox"/> OTHER NEGLIGENCE BI <input type="checkbox"/> OTHER NEGLIGENCE PROP.	<input type="checkbox"/> BREACH OF CONTRACT <input type="checkbox"/> BREACH OF WARRANTY <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> LANDLORD TENANT <input type="checkbox"/> OTHER
<b>TRIAL ATTORNEY</b>	<b>COUNSEL FOR</b>
NAME:	NAME OF PARTY:
ADDRESS:	
TELEPHONE NO.	
I. D. #	
INSURANCE COMPANY:	
NAME OF CLAIMS MANAGER OR SUPERVISOR WITH COMPLETE AUTHORITY:	
TELEPHONE NO:	
DATE OF INJURY:	
TOTAL MEDICAL EXPENSES TO DATE:	
RECOVERABLE MEDICALS CLAIMED:	
TOTAL WAGE LOSS TO DATE:	
RECOVERABLE WAGE LOSS CLAIMED:	
OTHER DAMAGES:	
LOWEST DEMAND TO DATE:	
HIGHEST OFFER TO DATE:	
ESTIMATED TRIAL TIME BY DAYS:	
ESTIMATED NUMBER OF TRIAL WITNESSES:	
<b>TYPE OF TRIAL (Please check one)</b>	<b>IF AUTO (Please check one)</b>
<input type="checkbox"/> JURY TRIAL <input type="checkbox"/> NON-JURY TRIAL	<input type="checkbox"/> FULL TORT <input type="checkbox"/> LIMITED TORT

PLEASE SUBMIT ORIGINAL AND TWO COPIES TO: COURT ADMINISTRATOR  
 DELAWARE COUNTY COURTHOUSE  
 201 WEST FRONT ST.  
 MEDIA, PA 19063  
 ATTN: JUDGE PRO TEM PROGRAM



Exhibit C

**STATEMENT OF CLAIM OR DEFENSE**

I. SUMMARY STATEMENT OF FACTS:

II. SUMMARY STATEMENT OF DAMAGES AND RELIEF SOUGHT:

III. SUMMARY STATEMENT OF DEFENSE:

IV. OUTSTANDING ISSUES AND MOTIONS INCLUDING DISCOVERY,  
PLEASE INDICATE MOTION FILING DATE IF APPLICABLE:

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TRIAL ATTORNEY

Please attach additional information, if necessary.

[Pa.B. Doc. No. 98-720. Filed for public inspection May 8, 1998, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 27, 1998, pursuant to Rule 111(b), Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 26, 1998 for Compliance Group 2 due August 31, 1997.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Margaret Mary Allen  
Pennsauken, NJ

Michael Amezcuita  
New York, NY

Carlton Allen Baker  
New York, NY

Scott Baker  
McLean, VA

Thomas W. Barlow  
Perth Amboy, NJ

John Martin Battles  
Ft. Thomas, KY

Seth Shalom Baum  
Fairfield, CT

Cheryle T. Bernard-Shaw  
San Rafael, CA

Peter J. Bonfiglio III  
Laurel Spring, NJ

Howard Bregman  
West Palm Beach, FL

Jerome Kenneth Blask  
Washington, DC

Clifford Andrew Brooks  
Greenbelt, MD

David W. Burns  
Medford, NJ

John Patrick Caponigro  
Bloomfield Hills, MI

Joseph P. Cini  
Chicago, IL

Michael Patrick Corcoran  
Phillipsburg, NJ

David J. Cowhey  
Linwood, NJ

William C. Crooks  
Greenwich, CT

Donald Mark Cunningham  
New York, NY

Victoria Lynn Daly  
Dublin, OH

Kevin Davis  
Washington, DC

Victoria De Almeida  
Hackensack, NJ

Matthew V. Del Duca  
Princeton, NJ

Kenneth N. Delvecchio  
N. Arlington, NJ

David Allan DiBrigida  
Parsippany, NJ

Charles B. Dinsmore  
Ocean City, NJ

Hope E. F. Driscoll  
Arlington, VA

Michael A. Fritz  
Turnersville, NJ

James Dwight Gaumont  
Charlottesville, VA

Marcia L. Gelber  
Hightstown, NJ

Jill Ruth Ginsberg  
Voorhees, NJ

Larry C. Gollub  
Lyndhurst, NJ

Timothy Joseph Graham  
Seattle, WA

H. Walter Haeussler  
Ithaca, NY

Kenneth J. Hall  
Newark, NJ

Steve Hallett  
Trenton, NJ

Lisa B. Harris  
Cookeville, TN

Scott Herzog  
Princeton, NJ

David Bryan Himelman  
Trenton, NJ

Lynne Alyce Holland  
Paris, France

Stephen D. Holtzman  
Linwood, NJ

Christine Jordan  
Hartsdale, NY

Philip L. Kantor  
Williamstown, NJ

Craig Harris Klayman  
Woodbury, NJ

Joseph D. Kuchta  
Gaithersburg, MD

Anthony F. LaVista  
Belleville, NJ

Jae E. Lee  
Ft. Lee, NJ

Martin Levine  
Rockville, MD

Joyce A. Mader  
Washington, DC

Nancy Jane Martin  
Red Bank, NJ

Thelma E. Martinez  
Milltown, NJ

Thomas R. McCarthy, Jr.  
Liverpool, NY

Anthony S. McCaskey  
Newark, NJ

Michele J. McDonald  
Baltimore, MD

Francis J. McGovern, Jr.  
Lawrenceville, NJ

Christopher L. Melvin  
Manhasset, NY

Keith J. Merrill  
Coral Gables, FL

Kristen Anne Morris  
Sumers Point, NJ

Vincent O'Brien  
Pembroke Pines, FL

Thomas Joseph O'Donnell  
Sandersville, GA

Gregg F. Paster  
Hackensack, NJ

David Anthony Persing  
New York, NY

John Isaac Porter III  
Somerset, NJ

Johan S. Powell  
Mount Vernon, NY

Timothy Patrick Reilly  
Absecon, NJ

William C. Schillerstrom  
Silver Spring, MD

DiannaJean Smith  
Pennsville, NJ

Frances L. Smith  
Trenton, NJ

Walter S. Stevens  
Fairport, NY

Peter Jon Torcicollo  
Westfield, NJ

Anthony N. Torres  
Olney, MD

John Erik Ursin  
Succasunna, NJ

Robin Lee Wiessmann  
New York, NY

Margaret Gig Yuschak  
Princeton, NJ

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

[Pa.B. Doc. No. 98-721. Filed for public inspection May 8, 1998, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 60]

### Permanent Registration of Fleet Vehicles; Request for Public Participation

The Department of Transportation, Bureau of Motor Vehicles, under the authority contained in 75 Pa.C.S. § 1307.1 (relating to permanent fleet registration), and consistent with the goals of Executive Order 1996-1, February 6, 1996, Regulatory Review and Promulgation, announces its intention to amend Chapter 60 (relating to permanent registration of fleet vehicles).

The purpose of the rulemaking is to bring Chapter 60 into compliance with 75 Pa.C.S. §§ 1927, 1929, 1932 and 1952. The amendments to these sections increased the fees collected by the Department for vehicle registration transactions. Further, the Department will be increasing other fees delineated within the chapter which have been established under authority of 75 Pa.C.S. (relating to the Vehicle Code) but are not specifically listed within it.

The Department anticipates that this rulemaking will affect vehicle owners who title and register their vehicles in this Commonwealth.

Accordingly, the Department is requesting that within 10 days of the publication of this notice in the *Pennsylvania Bulletin*, all interested persons desiring to participate in the development of the rulemaking or that have questions, suggestions or comments, please contact Thomas Zamboni, Manager of Commercial Registration Section, at 1101 South Front Street, Ground Floor, Riverfront Office Center, Harrisburg, PA, 17104 (717) 783-6095.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-722. Filed for public inspection May 8, 1998, 9:00 a.m.]

[67 PA. CODE CH. 63]

### Proportional Registration of Fleet Vehicles; Request for Public Participation

The Department of Transportation, Bureau of Motor Vehicles, under the authority contained in 75 Pa.C.S. §§ 6103, 6142 and 6145, and consistent with the goals of Executive Order 1996-1, February 6, 1996, Regulatory Review and Promulgation, announces its intention to amend Chapter 63 (relating to proportional registration of fleet vehicles).

The purpose of the rulemaking is to bring Chapter 63 into compliance with 75 Pa.C.S. §§ 1927, 1929, 1932 and 1952.

Amendments to those sections increased the fees collected by the Department for vehicle registration and title transactions. Further, the Department will be increasing other fees delineated within the chapter which have been established under authority of 75 Pa.C.S. but are not specifically listed within the same.

The Department anticipates that this rulemaking will affect vehicle owners who title and register their vehicles in the Commonwealth's Apportioned Registration Program.

Accordingly, the Department is requesting that within 10 days of the publication of this notice in the *Pennsylvania Bulletin*, all interested persons desiring to participate in the development of this rulemaking or that have questions, suggestions or comments, please contact Thomas Zamboni, Manager of Commercial Registration Section, at 1101 South Front Street, Ground Floor, Riverfront Office Center, Harrisburg, PA, 17104 (717) 783-6095.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-723. Filed for public inspection May 8, 1998, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 54]

[L-980132]

### Competitive Safeguards for the Electric Industry

The Pennsylvania Public Utility Commission (Commission), on January 29, 1998, adopted an order to promulgate a proposed rulemaking to establish competitive safeguards for interaction between electric distribution utilities, electric generation suppliers and customers in the competitive market in electric generation to be established under 66 Pa.C.S. Chapter 28 (relating to Electricity Generation Customer Choice and Competition Act) (act). The contact person is John Levin, Assistant Counsel, Law Bureau, (717) 787-5978.

#### *Executive Summary*

With the passage of the act, the General Assembly amended 66 Pa.C.S. (relating to Public Utility Code) (code) and established a comprehensive scheme for the restructuring of the Commonwealth's electric industry. This proposed rulemaking establishes competitive safeguards for interaction between electric distribution utilities, electric generation suppliers and customers in the furtherance of the act's provisions directing the establishment of a new, vibrant and effective competitive market in electricity generation in this Commonwealth by January 1, 2001.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 28, 1998, the Commission submitted a copy of these proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed regulations, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A

copy of this material is available to the public upon request.

If the Legislative Committees have objections to any portion of the proposed regulations, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed regulations, it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of objections raised.

Public Meeting held  
January 29, 1998

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; John Hanger, Concurring—Statement follows; David W. Rolka; Nora Mead Brownell

### Proposed Rulemaking Order

*By the Commission:*

This proposed rulemaking establishes competitive safeguards in furtherance of the act, and the act's provisions directing the establishment of a new, vibrant and effective competitive market in electricity generation in this Commonwealth by January 1, 2001.

With the passage of Chapter 28 of the act on December 3, 1996, the General Assembly amended the code and established a comprehensive scheme for the restructuring of the Commonwealth's electric industry. Prior to the enactment of Chapter 28 of the act, electricity was provided by utilities which were essentially vertically integrated companies responsible for supplying generation, transmission and distribution of electricity to electricity customers within their service area. Wholesale generation and transmission rates and conditions of service were governed by the Federal Energy Regulatory Commission (FERC), under the Federal Power Act (16 U.S.C.A. §§ 791a—825r), while retail services were regulated as to rates, terms and conditions by the Commission. Rates were generally determined by utilizing a traditional rate base/rate of return ratemaking methodology. The rate regulation in theory establishes just and reasonable rates and provides the regulated utility with an opportunity to recover its expenses and a fair return on its investment in public utility property devoted to the public service.

With the issuance of Order 888, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶131,036 (1996), FERC restructured the transmission industry, opening it to equal and open access by anyone who might wish to transport electricity. That, in turn, set the stage for the creation of a competitive market in electricity by anyone who had generation and wished to sell it to anyone who might wish to buy it. FERC also asserted jurisdiction over what were previously considered to be state-regulated transmission facilities. In effect, FERC invited the states to establish a retail competitive market in electricity generation. Although Order 888 did not and could not direct states to create the competitive energy markets within their borders, the Commonwealth was among the first states to do so. By creating a competitive market in electricity at the retail level, the General Assembly has adopted the position that competition yields greater benefits to the public than even the most diligent

and careful rate regulation. At the same time, the Legislature recognized that transmission and distribution remain natural monopolies and will likely continue to be regulated in the traditional manner by existing entities.

We announced in our February 13, 1997, order at M-00960890, Folder 0003 (Tentative Order Re: Electric Utility Restructuring Filings Made Pursuant to 66 Pa.C.S. § 2806(e)) that we would convene a series of working groups open to public participation to consider various issues of generic importance in the restructuring process, in order to develop a public consensus on solutions.<sup>1</sup>

The initial meeting of the Competitive Safeguards Working Group (the "working group") was held Friday, May 9, 1997. Additional meetings were held on July 15, July 23, August 6, August 13, August 27 and September 10, 1997. Participation grew over time and at the time of the working group's final meeting on September 10, 1997, it comprised 35 stakeholder members and four Commission representatives. On October 6, 1997, the working group issued its final report to the Commission.<sup>2</sup> The group proposed ten consensus principles for adoption as proposed regulations.

Two suggested principles were deferred by consensus for later consideration because the resolution of the principles will require detailed fact-based analysis or investigation. The deferred proposals include a provision dealing with electric generation market share reporting and another dealing with suspension of provisions during system emergencies. With regard to the former proposal, while it was the group's consensus that the reporting would be a critical Commission tool in assessing market power, it was also the group's consensus that, due to operational considerations, detailed study was needed to determine the most feasible method of collecting the data.

Two significant matters with regard to which the working group was unable to reach consensus were joint marketing by electric generation suppliers and their affiliated electric distribution utilities, as well as the various proposals to separate the operation of electric generation suppliers from related electric distribution utilities. Both issues are discussed in the following paragraph.

The effort and product of those that participated in the working group are greatly appreciated by the Commission, and we wish to express our thanks to the members of the working group for their devotion of time and energy in this important endeavor. We have largely adopted verbatim all of the consensus principles of the working group for the purpose of this proposed rule-

<sup>1</sup> The order stated: "We would also like to direct the public's attention to the establishment of several working groups which we have organized for the purpose of providing the Commission with timely recommendations on broad areas of concern regarding certain issues of general interest in the restructuring process. These groups, which are currently considering issues relating to customer education, customer information and billing, universal service and conservation, service reliability, retail access phase-in, metering, competitive safeguards, and supplier/utility customer interaction are expected to produce timely recommendations which will serve to guide our consideration of specific proposals. Additional groups may be formed. All participants in restructuring proceedings are invited and encouraged to participate in these work groups. For each topic a Working Group composed of any interested party will meet to discuss the issues raised and attempt to reach a consensus."

<sup>2</sup> Representatives from Allegheny Power Energy Associates, ARIPPA, Commission Staff, Competitive Energy Strategies, Inc., Enron Power Marketing, Inc. Horizon Energy, New Energy Ventures, IECPA, Office of Consumer Advocate, Pennsylvania Rural Electric Association, Pennsylvania Petroleum Assn., et al, PP&L, Pennsylvania Electric Association, and Schuylkill Energy Resources formally signed off on the report. Representatives from PECO Energy and the Pennsylvania Rural Development Council transmitted their formal agreement with the joint consensus principles after the report was issued.

making with but one minor exception. With regard to principle "C," which prohibits false or deceptive advertising, the working group made it applicable to electric distribution utilities only, but recommended that a parallel provision apply to generation suppliers. We have simply added language making it applicable to generation suppliers.

As noted above, the working group identified two issues which could not be resolved by consensus: joint marketing by related electric distribution utilities and electric generation suppliers and the separation of the operations of related electric distribution utilities and electric generation suppliers to prevent unlawful discrimination and cross subsidy. We have prescribed rules to provide for separation of employees, records, communications and information systems of related transmission, distribution and generation companies. These rules are modeled to some extent on parallel rules prescribed by FERC. Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, 18 CFR 37.4, 61 FR 21,737, 21,764 (May 10, 1996). Commentators are asked to supply an analysis of proposed § 54.122(k) with respect to the scope of the Commission's jurisdiction to enforce rules regulating electric distribution company personnel interactions with transmission suppliers.

We have not prescribed rules restricting joint marketing, except as are already included in the working group's consensus recommendations. It is suggested that enforceable separation rules which prevent an electric generation utility from using distribution and transmission functions to give related generation functions an unfair or unlawful competitive advantage should address most of the concerns regarding denial of direct access or unfair discrimination and cross subsidy. We are also reluctant to become the arbiter of frequent and subtle disputes over advertising unless the advertising is alleged to be false, deceptive or misleading.

Comments on this proposed rulemaking are due 30 days from publication of this order in the *Pennsylvania Bulletin*. Comments should be clear, concise and as brief as reasonably possible. Comments on specific provisions of the proposed regulations or suggestions for additional provisions should track the organization of Annex A, and should contain suggested alternative language in support of the comments. Commentators suggesting changes or nonadoption of the proposed draft regulations on the basis of allegations of financial or technical hardship are directed to disclose in detail the basis of the allegations, including all cost studies or technical analyses upon which the allegations are based. Commentators alleging that any provision of these proposed regulations are contrary to provisions of the constitutions, laws or judicial decisions or in conflict with other regulations or directives of the United States or the Commonwealth shall provide verbatim copies of the provisions relied upon, and sufficient explanation of the controlling nature of the precedent.

Accordingly, under 66 Pa.C.S. §§ 501, 502, 504—506, 508, 701, 1301, 1304, 1501, 1502, 1505, 1701—1705, 2101—2107 and 2801—2811, the Commonwealth Documents Law (45 P.S. § 1201 et seq.) and the regulations promulgated thereunder at 1 Pa.Code §§ 7.1—7.4, we are considering adopting the proposed rules set forth above and in the manner set forth in Annex A; *Therefore*,

*It is Ordered that:*

1. A rulemaking proceeding shall be initiated to consider the proposed regulations set forth in Annex A hereto.

2. This order shall be published in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies, as well as a copy of the comments on a 3.5" MS-DOS readable diskette to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, and shall have 30 days from the date the order is published in the *Pennsylvania Bulletin* to submit comments. Commentators are strongly encouraged, if suggesting changes or additions to the proposed regulations, to supply alternative regulatory language. Commentators suggesting changes or nonadoption of the proposed draft regulations on the basis of allegations of financial or technical hardship are directed to disclose in detail the basis of the allegations, including all cost studies or technical analyses upon which the allegations are based.

3. A copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all members of the Competitive Safeguards Working Group, all jurisdictional electric companies, all licensed electric providers and the Pennsylvania Electric Association.

4. The Secretary shall submit this order and Annex A to the Office of the Attorney General for approval as to legality, and to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by IRRC.

JAMES J. MCNULTY,  
*Secretary*

*Statement of Commissioner John Hanger*

The Notice of Proposed Rulemaking being issued today concerning Competitive Safeguards is a crucial beginning as the Commission addresses an important responsibility under the Electric Generation Customer Choice and Competition Act. As the electric industry undergoes a transition from monopoly to competitive markets, this Commission must ensure that the terms of competition are fair to all participants.

I concur with the initiation of this rulemaking while recognizing that the proposed regulations provide only a starting point for what will become a final set of competitive safeguards. The proposed regulations are based upon the efforts of a Working Group composed of many parties, including utilities, competitive suppliers, and consumer representatives with diverse interests. I truly appreciate the time and effort provided by the members of the Working Group to define issues and ascertain common ground. This common ground is an appropriate starting point for the rulemaking.

It would be inappropriate, however, to assume that such common ground reflects a complete set of competitive safeguards that fulfill the Commission's responsibility to serve fully the public interest as defined in the Act. To the contrary, the common ground by definition reflects the most noncontroversial matters, or the "least common denominator" of the issues considered.

All interested parties now have an opportunity to provide comments and suggestions for a complete set of standards so that the Commission may consider the more difficult issues. I encourage parties to consider the follow-

ing comments that I have adopted from the debate of these issues to date in Pennsylvania as well as in other jurisdictions:

1. In a fully competitive market, an EDC has no reason or ability to treat its competitive supplier affiliates any differently than any other competitive supplier. What additional rules are necessary to fully implement this principle?

2. Some regulated utilities and other interested parties have proposed divestiture of generation assets as the best way to implement this principle. Section 2804(5) provides that the Commission may permit but not require a utility to divest itself of facilities or to reorganize its corporate structure. Chapter 11 of the Public Utility Code requires the Commission to approve transfers of utility assets such as divestiture, only upon finding that the transaction is in the public interest. Should the regulations provide specific guidelines for divestiture of generating assets in response to the restructured industry? Should transfers to unrelated parties be treated the same as transfers to unregulated affiliates? Should the Commission require that transactions with divisional affiliates be subject to the same standards as transactions with legally distinct affiliates?

3. Chapter 21 of the Public Utility Code requires the Commission to determine that a proposed contract with an affiliate is in the public interest. Should the regulations provide more specific guidelines or "safe harbors" for affiliate transactions to ensure that such transactions do not inappropriately cross-subsidize a competitive affiliate? For example, should the regulations affirm that transactions between an EDC and a competitive affiliate, even if approved by the Commission prior to the competitive era, are not valid without filing a new Affiliated Agreement for approval by the Commission pursuant to Chapter 21? Should the request for approval specify documentation of competitive bidding or other assurances that the transaction cannot be provided by an unrelated entity and that the full value of the goods or services are being compensated without cross-subsidization? Should the regulations specifically prohibit or discourage transactions related to competitive generation services unless it is for goods or services made available to all competitors on comparable terms and conditions?

4. Since the existing monopoly electric companies might not legally divest generation functions from EDC functions, most parties agree that "functional separation" is necessary. The proposed regulations address functional separation, but do not include any broadly applicable standard that "complete" functional separation is required. For example, the consensus regulations separately require comparable treatment of all suppliers in processing customer requests for service, disseminating customer information, disclosing operational status of the distribution system, providing regulated services and applying tariffs. Does this suggest that noncomparable terms are permissible for other activities or for competitive market transactions such as the sale of energy or capacity? Should the regulations make clear that all goods, services, tariffs and information must be made available and provided to all suppliers and customers on comparable terms without discrimination, unreasonable preference or advantage?

5. The proposed regulations include several provisions addressing separation of employees, records, communications and information systems related to EDC and competitive generation functions. Should specific training and enforcement standards or expectations be included in the

regulations? How should an EDC or EGS be held accountable for noncompliance by an employee or other person on their behalf?

6. The consensus regulations include several prohibitions on EDC activities that could serve to promote a competitive affiliate, but do not specifically prohibit all activities that could serve to promote any particular supplier. Should more specific regulations be included, such as prohibitions on EDC recommendations to consumers or use of an EDC name?

I look forward to receiving detailed comments on this important rulemaking by all interested parties.

**Fiscal Note:** 57-195. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 54. ELECTRIC GENERATION CUSTOMER CHOICE

##### Subchapter E. COMPETITIVE SAFEGUARDS

Sec.

54.121. Purpose.

54.122. Code of conduct.

#### § 54.121. Purpose.

The purpose of these competitive safeguards is to:

(1) Assure the provision of open access on comparable terms to all customers and generation suppliers.

(2) Prevent unlawful discrimination in rates, terms or conditions of service by electric distribution utilities.

(3) Prevent the unlawful cross subsidization of service amongst customers, customer classes or between related electric distribution utilities and electric generation suppliers.

(4) Forbid unfair or deceptive practices by electric generation utilities and electric generation suppliers.

(5) Establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in this Commonwealth.

#### § 54.122. Code of conduct.

Electric generation suppliers (EGS) and electric distribution utilities shall comply with the following requirements:

(1) An electric distribution company (EDC) may not give an EGS, including without limitation its affiliate or division, a preference or advantage over any other EGS in processing a request by a distribution company customer for retail generation supply service.

(2) Subject to customer privacy or confidentiality constraints, an EDC may not give an EGS, including without limitation its affiliate or division, a preference or advantage in the dissemination or disclosure of customer information and any dissemination or disclosure shall occur at the same time and in a comparable manner. "Customer information" means all information pertaining to retail electric customer identity and current and future retail electric customer usage patterns, including appliance usage patterns, service requirements or service facilities.

(3) An EDC or EGS may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this Commonwealth.

(4) An EDC shall, in cooperation with all stakeholders, establish and file with the Pennsylvania Public Utility Commission (Commission) dispute resolution procedures to address alleged violations of this section.

(5) An EDC may not illegally tie the provision of electric distribution service within the jurisdiction of the Commission to one or both of the following:

(i) The purchase, lease or use of other goods or services offered by the EDC or its affiliates.

(ii) A direct or indirect commitment not to deal with any competing EGS.

(6) An EDC may not provide a preference or advantage to an EGS in the disclosure of information about operational status and availability of the distribution system.

(7) An EDC shall supply all regulated services and apply tariffs to nonaffiliated electric generation suppliers in the same manner as it does for itself and its affiliated or division EGS, and shall uniformly supply all regulated services and apply its tariff provisions in a nondiscriminatory manner.

(8) Every EDC and its affiliated or divisional EGS shall formally adopt and implement this section as company policy and shall take appropriate steps to train and instruct its employees in their content and application.

(9) If an EDC customer requests information about EGS, the EDC shall provide the latest list as compiled by the Commission to the customer over the telephone, or in written form or by other comparable means. In addition, an EDC may provide the address and telephone of an EGS if specifically requested by the customer by name. To enable EDCs to fulfill this obligation, the Commission will maintain a written list of licensed EGSs. The Commission will regularly update this list and provide these updates to EDCs as soon as reasonably practicable. The Commission will compile the list in a manner that is fair to all EGSs and that is not designed to provide a particular EGS with a competitive advantage.

(10) An EDC or its affiliate or division may not state or imply that delivery services provided to an affiliate or division or customer of either are inherently superior, solely on the basis of its affiliation with the EDC, to those provided to any other EDC or customer or that the EDC's delivery services are enhanced if supply services are procured from its affiliate or division.

(11) An EDC which is related by affiliation or by other form of control to an EGS or transmission supplier (meaning a public utility that owns, operates or controls facilities used for the transmission of electric energy) which serves any portion of this Commonwealth; and an EGS which is related by affiliation or other form of control to an EDC or transmission supplier which serves any portion of this Commonwealth shall insure that its employees function independently of the other related companies as follows:

(i) Employees of EGS may not conduct transmission system or distribution system operations or reliability functions.

(ii) Employees of EGSs may not consult or discuss with employees of any related EDC or transmission supplier with regard to current or future operations of their own or related companies, except to the extent that the

consultation is part of a process open to the public and expressly sanctioned by the Commission by written order.

(iii) Employees of EDCs may not consult or discuss with employees of any related EGSs or transmission supplier with regard to current or future operations of their own or related companies, except to the extent that the consultation is part of a process open to the public and expressly sanctioned and supervised by the Commission by written order.

(iv) Employees of EGSs may not provide to, obtain from or accept information from a related transmission supplier, except information as is comparably available its competitors. An employee of an EGS may not have access to the system control center or similar facility of a related transmission supplier or electric distribution utility in a manner that differs from access available to other EGSs.

(v) Electric distribution utilities subject to the jurisdiction of the Commission which are related to EGSs and transmission suppliers shall maintain books and records, communications systems, information systems and accounting systems separately from these related companies.

(vi) Employees of related EGSs, electric distribution utilities or transmission suppliers may not transfer between the functions to circumvent this section.

(12) In a complaint or other proceeding against an electric distribution utility or EGS brought under 66 Pa.C.S. § 2811(f) (relating to market power remediation) or any successor provision, it shall be a defense in mitigation of penalties to the extent relevant to the issues in the case that the respondent has adequately and physically separated its offices, communications and accounting systems, information systems, lines of authority and operations from its related EDC, EGS or transmission supplier to prevent the violation and that the respondent has actively and effectively enforced this subsection.

[Pa.B. Doc. No. 98-724. Filed for public inspection May 8, 1998, 9:00 a.m.]

[52 PA. CODE CHS. 3 AND 5]

[L980133]

**Motor Carrier Property Applications**

The Pennsylvania Public Utility Commission (Commission) on February 26, 1998, adopted a proposed rulemaking to discontinue publication of property carrier applications. Given the Commission's limited regulatory role of safety and insurance issues, it no longer serves a useful purpose to require publication of property carrier applications. The contact person is John Herzog, Assistant Counsel, Legal Division, Bureau of Transportation and Safety, (717) 783-3714.

*Executive Summary*

The Federal Aviation Authorization Act of 1994 preempted state regulation of motor carriers of property in the areas of rates, routes and service. See 49 U.S.C.A. §§ 14501(c) and 41713(b). Currently, the Commission's regulatory oversight of property carriers is limited to safety and insurance issues. In light of the Federal preemption, the Commission modified its regulations to reflect its changed regulatory role. See *Regulation of Motor Carriers of Property*, Docket No. L-00950106.



Historically, property carrier applications have been published in the *Pennsylvania Bulletin* to afford existing carriers the opportunity to protest new entrants into the market. Since the Commission no longer regulates the rates, routes and service of property carriers, the rationale for requiring publication of applications no longer exists. Further, the protest mechanism is a vestigial process left over from the bygone era of economic regulation and should likewise be eliminated.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 28, 1998, the Commission submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the Legislative Committees have objections to any portion of the proposed amendments, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Commission, the General Assembly and the Governor of objections raised.

Public Meeting held  
February 26, 1998

*Commissioners Present:* John M. Quain, Chairperson;  
Robert K. Bloom, Vice Chairperson; John Hanger;  
David W. Rolka; Nora Mead Brownell

#### **Proposed Rulemaking Order**

##### *By the Commission:*

Under section 501 of the Public Utility Code, 66 Pa. C.S. § 501, the Commission proposes a rulemaking to amend our regulations governing publication of applications for motor carrier property authority. In 1994, the United States Congress adopted the Federal Aviation Administration Authorization Act of 1994 (Aviation Act), which inter alia, amended the Interstate Commerce Act (49 U.S.C.A. §§ 14501(c) and 41713(b)). In effect, the Aviation Act preempted state regulation of rates, routes or service of property carriers. However, states do maintain oversight of safety and financial responsibility for property carriers.

In response to the Aviation Act, the Commission promulgated regulations consistent with its changed regulatory role. Docket No. L-00950106. Those regulations provided, in part, for the continuing publication of property carrier applications. Further, the regulations provided that protests to property applications on the basis of safety/fitness could be filed within 10 days of the date of publication of the application in the *Pennsylvania Bulletin*.

Since passage of the Aviation Act, there have been approximately 2,214 new applications filed with the Com-

mission for property carrier authority. Only one protest has been filed, which was dismissed because it failed to address safety issues.

Given the Commission's limited regulatory role over property carriers, it no longer serves a useful public purpose to require publication of property carrier applications. As noted, the Commission's oversight of property carriers is limited to safety and insurance issues. No property carrier application has been protested on these issues since passage of the Aviation Act. Further, since passage of the Aviation Act, the Commission has instituted a Safety Fitness Review program for new carriers and a Safety Audit program for existing carriers. We believe that these programs effectively carry out the Commission's charge to ensure that property carriers provide safe service in this Commonwealth.

In light of the foregoing, we propose to delete the publication requirement for motor carrier property applications. Further, we propose to eliminate the protest process for property carrier applicants. As noted, no protests on the basis of safety/insurance have been filed to property carrier applications since passage of the Aviation Act. We believe the protest mechanism is a vestigial process left over from the bygone era of economic regulation. Currently, the protest process serves no useful purpose. Safety and insurance concerns are adequately addressed through the application process and the safety fitness review. We believe that deletion of the protest process in conjunction with the publication requirement eliminates an unnecessary step in the application process.

Accordingly, under section 501 of the Pennsylvania Public Utility Code, the Commonwealth Documents Law (45 P.S. § 1201 et seq.) and 45 Pa.C.S. § 702(3), we propose to amend the regulations in 52 Pa. Code, as discussed previously and as set forth in Annex A; *Therefore,*

##### *It is Ordered that:*

1. A proposed rulemaking docket be opened to consider the proposed revisions to regulations set forth in Annex A of this order.
2. The Secretary shall submit a copy of this order, together with Annex A to the Office of Attorney General for preliminary review as to form and legality.
3. The Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.
4. The Secretary shall submit a copy of this order, together with Annex A, for review by the designated standing committees of both Houses of the General Assembly, and for informal review and comments by IRRC.
5. The Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies, to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, and shall have 30 days from the date of publication to submit comments.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-196. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 52. PUBLIC UTILITIES
PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION
Subpart A. GENERAL PROVISIONS
CHAPTER 3. SPECIAL PROVISIONS
Subchapter E. MOTOR TRANSPORTATION PROCEEDINGS

§ 3.381. Applications for transportation of property, household goods in use and persons.

\* \* \* \* \*

(b) Notice. Applications will be docketed by the Secretary and, with the exception of motor common carrier property applications, thereafter, forwarded for publication in the Pennsylvania Bulletin. No other notice to the public or to a carrier, forwarder or broker is required, except that an applicant filing an application for the discontinuance of the transportation of persons, on a scheduled basis, shall certify to the Commission that it has done the following:

\* \* \* \* \*

(c) Protests.

\* \* \* \* \*

(2) Applications for motor common carrier of property authority.

(i) [ Content and effect.

(A) A person objecting to the approval of an application for motor common carrier of property authority shall file with the Secretary and serve upon the applicant, the applicant's attorney, if any, and the Bureau of Transportation and Safety a written protest which shall contain the following:

(I) The applicant's name and docket number of the application.

(II) The name, business address and telephone number of the protestant.

(III) The name, business address and telephone number of the protestant's attorney or other representative.

(IV) Specific factual allegations regarding an applicant's safety fitness. Factual allegations which specifically reference the applicant's United States Department of Transportation Safety rating, safety ratings from other State agencies or adverse decisions in safety related proceedings before other tribunals will be required in protests. Protests which are not supported by specific factual allegations will not be considered.

(B) Upon the filing of timely protests which contain specific factual allegations relating to an applicant's safety fitness, the application and comments will be referred to the prosecutory staff of the Bureau of Transportation and Safety for a determination as to the necessity for a hearing.

(ii) Time for filing. Protests to applications for motor common carrier property authority shall be filed within the time specified in the Pennsylvania Bulletin, which will not be less than 10 days from the date of publication.

(iii) Failure to file protests. If no protests are filed, or if the Bureau of Transportation and Safety

has determined that the protests do not raise significant allegations of safety fitness, the Commission will act on motor common carrier of property applications as follows:

(A) A compliance letter will be issued directing that the applicant file a Form E Uniform Motor Carrier Bodily Injury and Property Liability Certificate of Insurance and a Form H Uniform Cargo Insurance Certificate. Temporary evidence of insurance may be filed in the form of an insurance identification card for Pennsylvania registered vehicles, a copy of the declaration page of the insurance policy, a copy of a valid binder of insurance or a copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan. The temporary evidence of insurance shall be replaced by the required certificates within 60 days. A carrier may begin operations upon filing acceptable evidence of insurance.

(B) Once acceptable Form E and Form H certificates of insurance have been filed, a certificate of public convenience will be issued authorizing the transportation of property, not including household goods in use, between points in this Commonwealth.

(C) Applicants which do not possess a current satisfactory safety rating issued by the United States Department of Transportation or a state with safety regulations comparable to the Commonwealth's, shall complete a safety fitness review conducted by Commission staff. The safety fitness review shall be scheduled and completed within 180 days of the date of the compliance letter. If the applicant fails to attain a satisfactory safety evaluation within the 180-day period, it will be given an additional 90-days to correct the deficiencies. Failure to achieve a satisfactory evaluation within the 90-day period will result in immediate suspension of the certificate of public convenience and in proceedings to revoke the certificate.

(D) Safety fitness reviews will take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth will have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission enforcement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(E) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's management policies, records and equipment to ensure that the applicant understands and will comply with Chapter 37 (relating to safety) ]

No protests to applications. No protests to applications for motor common carrier property authority may be filed.

(d) Hearings on protested applications and applications for motor carrier of property authority when safety issues are raised.

\* \* \* \* \*

(2) Applications for motor common carrier of property authority.

(i) Scheduling hearings. If [ protests are filed which raise significant issues regarding an applicant's

safety fitness, or if] the Bureau of Transportation and Safety prosecutory staff determine that **conditional or unsatisfactory** safety ratings from other jurisdictions or adverse decisions in safety related proceedings before other tribunals exist, the Bureau of Transportation and Safety shall enter its appearance and refer the matter to the Office of Administrative Law Judge for hearing on the applicant's safety fitness. A determination by the Commission, after hearing, that the applicant possesses the necessary safety fitness will result in the application being processed as though the applicant possessed a satisfactory safety rating.

\* \* \* \* \*

**(f) Compliance: conditions for approval for motor common carrier property authority.** If the Bureau of Transportation and Safety determines that a hearing is not required, as provided in subsection (d)(2), the Commission will act on applications as follows:

(1) A compliance letter will be issued directing that the applicant file a Form E Uniform Motor Carrier Bodily Injury and Property Liability Certificate of Insurance and a Form H Uniform Cargo Insurance Certificate. Temporary evidence of insurance may be filed in the form of an insurance identification card for vehicles registered in this Commonwealth, a copy of the declaration page of the insurance policy, a copy of a valid binder of insurance or a copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan. The temporary evidence of insurance shall be replaced by the required certificates within 60 days. A carrier may begin operations upon filing acceptable evidence of insurance.

(2) Once acceptable Form E and Form H certificates of insurance have been filed, a certificate of public convenience will be issued authorizing the transportation of property, not including household goods in use, between points in this Commonwealth.

(3) Applicants which do not possess a current satisfactory safety rating issued by the United States Department of Transportation or a state with safety regulations comparable to the Commonwealth, shall complete a safety fitness review conducted by Commission staff. The safety fitness review shall be scheduled and completed within 180 days of the date of the compliance letter. If the applicant fails to attain a satisfactory safety evaluation within the 180-day period, it will be given an additional 90 days to correct the deficiencies. Failure to achieve a satisfactory evaluation within the 90-day period will result in immediate suspension of the certificate of public convenience and in proceedings to revoke the certificate.

(4) Safety fitness reviews will take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth will have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission enforcement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(5) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's management policies, records and equipment

to ensure that the applicant understands and will comply with Chapter 37 (relating to safety).

[ (f) ] (g) \*\*\*

## CHAPTER 5. FORMAL PROCEEDINGS

### Subchapter A. PLEADINGS AND OTHER PRELIMINARY MATTERS

#### PROTESTS

#### § 5.51. Protest to an application.

\* \* \* \* \*

**(b) No protests to motor carrier property applications are permitted. See § 3.381(c) (relating to applications for transportation of property, household goods in use and persons).**

[ (b) ] (c) \*\*\*

[Pa.B. Doc. No. 98-725. Filed for public inspection May 8, 1998, 9:00 a.m.]

## [52 PA. CODE CH. 32]

[L-970124]

### Passenger Carrier Insurance

The Pennsylvania Public Utility Commission (Commission) on August 28, 1997, adopted a proposed rulemaking to clarify in § 32.11 (relating to passenger carrier insurance) that the amount of minimum third-party coverage refers to split coverage. The contact person is Kathryn G. Sophy, Assistant Counsel, Law Bureau (717) 772-8839.

#### *Executive Summary*

In 1994, the Commission issued a statement of policy in an attempt to quiet confusion in the passenger carrier industry concerning the minimum requirements under the Commission's regulation regarding insurance coverage for passenger carriers. Since then, it has become apparent that the statement of policy did not meet the intended goal. In an effort to formalize the Commission's intent and clarify the language of the regulation, the Commission proposes to amend § 32.11(b).

Section 32.11(b) has been amended to clarify that the amount of minimum third-party coverage refers to split coverage.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 28, 1998, the Commission submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendment, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If the Legislative Committees have objections to any portion of the proposed amendment, they will notify the Commission within 20 days of the close of the public comment period. If IRRC has objections to any portion of the proposed amendment, it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Commission, the General Assembly and the Governor of objections raised.

Public Meeting held  
August 28, 1997

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; John Hanger; David K. Rolka; Nora Mead Brownell

### Proposed Rulemaking Order

*By the Commission:*

By order adopted October 28, 1994, Docket No. L-940087, we issued a final policy statement interpreting the minimum insurance requirements for passenger carriers transporting fewer than 16 passengers. The final policy statement was published at 25 Pa.B. 681 (February 25, 1995). See § 41.21 (relating to insurance coverage for common or contract carriers of less than 16 passengers—statement of policy).

The issuance of the statement of policy was the culmination of a request to issue a declaratory order in *Petition of Damone Clayter*, Docket No. P-00930722. In *Damone Clayter*, the petitioner was a passenger in a taxi owned by Jenny Cab Company and involved in a motor vehicle accident. Clayter was injured in the accident and was at risk of losing rights to underinsured motorist coverage because of a controversy as to the amount of liability coverage required by § 32.11 of the Commission's regulations. Clayter petitioned the Commission requesting a declaratory order which detailed the third-party insurance limits that a cab company must maintain in this Commonwealth and approved as valid the liability policy of Jenny Cab Company. In response to Clayter's petition, the Commission ordered an investigation into insurance claims, State liability coverage requirements and driver safety records.

At the conclusion of the investigation, the Commission issued a policy statement detailing its interpretation of § 32.11 codified in § 41.21. In issuing the statement of policy, the Commission's intent to put to rest any confusion or controversy regarding third-party insurance coverage as required by § 32.11(b).<sup>1</sup>

Unfortunately, as evidenced by the recent Federal case *Adams v. Clarendon*, confusion and controversy remains. *Adams v. Clarendon*, Civil Action No. 95-6392 (U. S. District Ct. (E. D. Pa.)). Adams, who was injured in a Philadelphia taxicab insured by Clarendon Insurance Co., filed a class action suit against Clarendon charging, inter alia, that Clarendon had issued policies at less than the minimum amounts required by § 32.11(b). Under *Metro*, insurance carriers may be liable for more than the policy limits if the carrier issued insurance at less than the minimum amount required by law. *Metro Transp. Co. v. North Star Reinsurance Co.*, 912 F.2d 672 (3rd. Cir. 1990).

Adams argued that § 32.11(b) requires a minimum of \$35,000 in third-party liability coverage, \$25,000 in first-

party medical benefits coverage and \$10,000 in work loss benefits coverage for each individual passenger/pedestrian injured in a taxicab accident, regardless of the number of individuals injured in a particular accident or of the aggregate required minimum amount of insurance coverage.<sup>2</sup> This interpretation is at odds with our interpretation in the statement of policy in § 41.21.

To avoid future controversies regarding the minimum amount of insurance required by this Commission, changes are proposed to the existing regulation covering motor vehicles capable of carrying fewer than 16 passengers in an attempt to remove doubt as to the required minimum amount of insurance coverage and how it is applied. By amending the existing regulation, we will formalize our intent as expressed in the policy statement.

Specifically, the proposed change clarifies the Commission's intent that third-party benefits refer to "split" coverage. That is, the \$35,000 minimum amount of coverage required for bodily injury, death or property damage must be split in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident.

We believe that the proposed changes will promote ease of application as well as fairness while greatly reducing the confusion evidenced in the recent *Adams* lawsuit. We encourage those affected by these changes to file comments which address these and related questions, and to give concrete suggestions for specific revisions to better achieve the delicate balance of compensating those injured in an accident while maintaining affordable insurance rates.

Accordingly, under sections 501, and 512 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 512, and the Commonwealth Documents Law (45 P. S. § 1201 et seq.) and the regulations promulgated thereunder, we shall institute a rulemaking proceeding to accomplish the objectives described in the body of this order. *Therefore,*

*It is Ordered that:*

1. A rulemaking proceeding is hereby instituted at this docket.
2. The Commission's regulations are hereby proposed to be amended by amending § 32.11.
3. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
4. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
5. The Secretary shall submit this order and Annex A for informal review by the designated standing committees of both houses of the General Assembly, and for informal review and approval by IRRC.
6. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies, to the Secretary's Office, Pennsylvania Public Utility Commission, and shall have 60 days from the date this order is published to submit comments.

<sup>2</sup> Although the Federal suit settled, Clarendon Insurance Co. has petitioned the Commonwealth Court of Pennsylvania for a declaratory judgment as to the proper interpretation of § 32.11(b). *Clarendon v. Pa. P.U.C.*, 369 M.D. 1997 (Pa. Cmwlth. Ct.).

<sup>1</sup> Specifically not addressed in the statement of policy was any interpretation of first-party benefits.

7. A copy of this order shall be served upon the Insurance Department.

8. A copy of this order shall be served upon the Pennsylvania Taxicab & Paratransit Association.

9. A copy of this order shall be served upon the Delaware Valley Limo Association.

10. A copy of this order shall be served upon the NorthEastern Limo Association.

11. A copy of this order shall be served upon the Western Pennsylvania Limousine Association.

12. A copy of this order shall be served upon the Radio Associations in this Commonwealth.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-189. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

#### CHAPTER 32. MOTOR CARRIER INSURANCE

#### Subchapter B. INSURANCE REQUIREMENTS

#### § 32.11. Passenger carrier insurance.

\* \* \* \* \*

(b) The liability insurance maintained by a common carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. **The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident.** This coverage shall include [ **first party** ] **first-party** medical benefits in the amount of \$25,000 [ , ] and [ **first party** ] **first-party** wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, [ **first party** ] **first-party** benefits shall conform to 75 Pa.C.S. [ §§ 1701—1798 ] **Chapter 17** (relating to Motor Vehicle Financial Responsibility Law). [ **First party** ] **First-party** coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. [ §§ 1701—1798 ] **Chapter 17**.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for

bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. [ §§ 1701—1798 ] **Chapter 17**.

\* \* \* \* \*

[Pa.B. Doc. No. 98-726. Filed for public inspection May 8, 1998, 9:00 a.m.]

## STATE BOARD OF EDUCATION

[22 PA. CODE CH. 44]

### Program Standards and Eligibility Criteria for the Higher Education Equal Opportunity Act

The State Board of Education (Board) proposes to amend Chapter 44 (relating to program standards and eligibility criteria for the Higher Education Equal Opportunity Act) to read as set forth in Annex A, under the authority of sections 3 and 4 of the Higher Education Equal Opportunity Act (act) (24 P. S. §§ 2510-303 and 2510-304).

Chapter 44 governs the responsibility of institutions of higher education to administer counseling and tutorial programs (commonly referred to as Act 101 programs) for educationally- and economically-disadvantaged students provided for in the act (24 P. S. §§ 2510-301—2510-305) and the eligibility of students for participation in those programs. Proposed amendments to § 44.4(a)(1) (relating to eligible students) are designed to amend the income eligibility criteria from one based on a Pennsylvania Higher Education Assistance Agency (PHEAA) determined adjusted gross income adjusted annually by a percentage of growth in the Consumer Price Index (CPI) to one based on a percentage of the poverty guidelines as determined annually by the United States Department of Health and Human Services.

#### *Purpose*

The purpose of amending § 44.4(a)(1) is to employ a measure of income eligibility designed to reflect growth (or decline) in income for students and families for whom the act was designed to serve. Current measures of income eligibility do not as accurately reflect the economics of poverty-level and low income families. A multiple of Federally-determined poverty guideline is employed in a number of State-administered programs designed to serve a similar clientele. Two hundred percent of poverty is proposed because it most accurately reflects the maximum income level for participation in Act 101 programs at the time Chapter 44 was originally promulgated. The definition of CPI is proposed to be deleted because the CPI will no longer be applicable to the regulations.

#### *Affected Parties*

The proposed amendments will benefit current and potential college and university students participating in institutional the act programs.

#### *Cost and Paperwork Estimates*

Proposed amendments to § 44.4(a)(1) will not substantially alter paperwork, accounting or reporting requirements already in place.

*Effective Date*

These proposed amendments will become effective upon final publication in the *Pennsylvania Bulletin*.

*Sunset Date*

The effectiveness of Chapter 44, including § 44.4(a)(1), will be reviewed by the Board every 4 years, in accordance with the Board's policy and practice respecting all regulations of the Board. Thus, no sunset date is necessary.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 28, 1998, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Board, the General Assembly and the Governor of objections raised.

*Public Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Peter H. Garland, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days of publication in the *Pennsylvania Bulletin*. Persons needing additional information regarding this proposal may contact Peter H. Garland at (717) 787-3787.

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

Alternative formats of the proposed amendments (for example braille, large print, cassette tape) can be made available to members of the public upon request to Dr. Garland at the telephone and TDD numbers listed in the preceding paragraph.

PETER H. GARLAND,  
*Executive Director*

**Fiscal Note:** 6-263. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**Subpart C. HIGHER EDUCATION**

**CHAPTER 44. PROGRAM STANDARDS AND ELIGIBILITY CRITERIA FOR THE HIGHER EDUCATION EQUAL OPPORTUNITY ACT**

**§ 44.2. Definitions.**

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

\* \* \* \* \*

**[ CPI—The Consumer Price Index as determined and published by the Federal government. ]**

\* \* \* \* \*

**§ 44.4. Eligible students.**

(a) A bona fide domiciliary of this Commonwealth who is attending an institution which is an eligible grant applicant under § 44.3 (relating to eligible grant applicants) and who is determined to be economically and educationally disadvantaged under this section is eligible for participation in the program. To be eligible for participation, a student shall meet the following criteria. The student shall be:

(1) Economically disadvantaged by having **[ resources for higher education derived from an adjusted annual family income of \$18,750 or less as defined in Higher Education Assistance Agency procedures for calculating student financial aid ]** an annual family income equal to or less than 200% of the family income level established by the United States Bureau of the Census for determining poverty status and published by the United States Department of Health and Human Services in the *Federal Register*. The **[ Secretary will annually revise the family income level by a factor that is 25% of the adjusted annual most recent 12-month change in the CPI, rounded to the nearest \$50. The revision factor used and the revised adjusted ]** annual family income to be used to recruit students who will enter the program on or after July 1 of every year beginning in **[ 1993 ] 1997** will be provided to institutions by the Secretary by **[ January 15 ] March 31** of the same year and will be published in the *Pennsylvania Bulletin* by **[ January 31 ] April 15** of the same year. The Secretary's **[ determinations and notifications ]** notification under this section will comply with this chapter and will not be subject to the regulatory review procedures under section 5 of the Regulatory Review Act (71 P. S. § 745.5).

\* \* \* \* \*

[Pa.B. Doc. No. 98-727. Filed for public inspection May 8, 1998, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1163]

### Inpatient Hospital Drug and Alcohol Services Under the MA Program

#### *Purpose*

The purpose of these statements of policy is to inform hospitals of the Department of Public Welfare's (Department) adoption of the Pennsylvania Client Placement Criteria (PCPC) for adults 18 years of age and older, developed by the Bureau of Drug and Alcohol Programs (BDAP) in the Department of Health, as the utilization guidelines for inpatient drug and alcohol services rendered to adult Medical Assistance (MA) recipients.

#### *Scope*

These statements of policy apply to physicians, acute care general hospitals, drug and alcohol rehabilitation units of general hospitals and drug and alcohol rehabilitation hospitals enrolled in the MA Program. The statements of policy apply for all inpatient drug and alcohol services for adults 18 years of age and older rendered by these providers, whether the services are provided through voluntary or mandatory managed care programs or through the fee-for-service program.

#### *Background*

In November 1995, the Department amended §§ 1163.59 and 1163.455 (relating to noncompensable services, items and outlier days; and noncompensable services and items) to limit payment for inpatient hospital admissions for drug or alcohol services to situations in which there was a complication or an anticipated complication that along with detoxification or rehabilitation required inpatient medical treatment.

At that time, the Department issued two statements of policy codified in §§ 1163.59a and 1163.455a (relating to utilization guidelines for inpatient hospital drug and alcohol services under the MA Program—statement of policy). See 25 Pa.B. 4704 and 4705 (November 4, 1995). When the Department adopted the statements of policy, BDAP was in the process of developing criteria for drug and alcohol treatment services, and the Department agreed that it would adopt the BDAP criteria for inpatient services when those criteria were formalized.

The BDAP has now finalized its criteria, which are known as the PCPC. The PCPC provides the structure for a comprehensive assessment of the client throughout the continuum of care, to ensure that the client is placed in the most appropriate level of care which has the necessary resources to treat the client. Since September of 1996, the BDAP has conducted extensive outreach and training activities for single county authorities, drug and alcohol providers and managed care organizations (MCOs) in the use of the PCPC. Effective July 1, 1997, the BDAP mandated use of the PCPC for adults by licensed drug and alcohol clinics, and any other entities (such as MCOs) responsible for service authorization, placement, continued stay reviews and discharge decisions for the

public client. In the HealthChoices Southeast area, mandated use of the PCPC criteria began on February 1, 1997.

#### *Public Comments*

Comments and questions regarding these statements of policy should be directed to Office of Medical Assistance Programs, Division of Medical Review, Joyce G. Grix, Director, P. O. Box 2675, Harrisburg, PA 17105 (717) 772-6020.

#### *Effective Date*

These statements of policy shall take effect upon publication and apply retroactively to May 1, 1998.

(*Editor's Note:* The regulations of the Department are amended by amending §§ 1163.59a and 1163.455a to read as set forth in Annex A.)

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-BUL-054. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 55. PUBLIC WELFARE

#### PART III. MEDICAL ASSISTANCE MANUAL

#### CHAPTER 1163. INPATIENT HOSPITAL SERVICES

#### Subchapter A. ACUTE CARE GENERAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM

#### PAYMENT FOR HOSPITAL SERVICES

#### § 1163.59a. Utilization guidelines for inpatient hospital drug and alcohol services under the MA Program—statement of policy.

(a) For inpatient adult drug and alcohol services rendered on or after May 1, 1998, the Department will use the Pennsylvania Client Placement Criteria (PCPC) developed by the Bureau of Drug and Alcohol Programs (BDAP) in the Department of Health as utilization guidelines, both for prospective and retrospective reviews of patient care.

(b) If the BDAP modifies the PCPC guidelines, the Department will also adopt those modifications.

(c) Providers who do not already have a copy of the PCPC may obtain one by contacting the Department of Health, Bureau of Drug and Alcohol Programs, Room 929, Health and Welfare Building, Harrisburg, Pennsylvania 17108.

#### Subchapter B. HOSPITALS AND HOSPITAL UNITS UNDER COST REIMBURSEMENT PRINCIPLES PAYMENT FOR COST REIMBURSED HOSPITAL SERVICES

#### § 1163.455a. Utilization guidelines for inpatient hospital drug and alcohol services under the MA Program—statement of policy.

(a) For inpatient adult drug and alcohol services rendered on or after May 1, 1998, the Department will use the Pennsylvania Client Placement Criteria (PCPC) developed by the Bureau of Drug and Alcohol Programs (BDAP) in the Department of Health as utilization guidelines, both for prospective and retrospective reviews of patient care.

(b) If the BDAP modifies the PCPC guidelines, the Department will also adopt those modifications.

(c) Providers who do not already have a copy of the PCPC may obtain one by contacting the Department of Health, Bureau of Drug and Alcohol Programs, Room 929,

Health and Welfare Building, Harrisburg, Pennsylvania 17108.

[Pa.B. Doc. No. 98-728. Filed for public inspection May 8, 1998, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF AGRICULTURE

### Referendum on the Pennsylvania Vegetable Marketing and Research Program

Under the applicable provisions of the Agricultural Commodities Marketing Act, a referendum was held from March 20 to April 3, 1998, to determine if the producers affected by the Pennsylvania Vegetable Marketing and Research Program (program) desired to have the program continue for another 5 years. In order to pass, a majority of eligible producers voting had to vote in favor of the program continuing. An impartial Teller Committee met on April 9, 1998, to count the ballots. The following

results were submitted by the Teller Committee: a total of 589 eligible votes were cast, with 389 producers voting in favor of and 200 producers voting against continuing the program. The eligible votes favoring continuation of the program represented 66.0% of the eligible votes and those against continuation of the program represented 34.0% of the eligible votes. There were 13 spoiled or ineligible ballots. Because a majority of the votes were cast in favor of the program, the Pennsylvania Vegetable Marketing and Research Program shall continue for another 5 years.

SAMUEL E. HAYES, Jr.,  
*Secretary*

[Pa.B. Doc. No. 98-729. Filed for public inspection May 8, 1998, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending April 28, 1998.

### BANKING INSTITUTIONS

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-20-98	Patriot Bank Pottstown Montgomery County	Wegmans Plaza Tilghman Street Allentown Lehigh County	Approved
4-22-98	First Republic Bank Philadelphia Philadelphia County	1818 Market Street Philadelphia Philadelphia County	Approved
4-22-98	Irwin Bank and Trust Company Irwin Westmoreland County	Shop N Save Supermarket Harrison City/ Export Road Harrison City Westmoreland County	Approved
4-22-98	Irwin Bank and Trust Company Irwin Westmoreland County	Shop N Save Supermarket Oak Park Mall 2001 Lincoln Way White Oak Allegheny County	Approved
4-23-98	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	21 East Market St. York York County	Approved
4-23-98	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	107 West Market St. York York County	Approved

**NOTICES**

**2153**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-23-98	Hollidaysburg Trust Company Hollidaysburg Blair County	Morrisons Cove Home 429 S. Market St. Martinsburg Blair County (Limited Service Facility)	Filed
4-24-98	Fulton Bank Lancaster Lancaster County	Cumberland Business Park Upper Allen Township Cumberland County	Filed
4-28-98	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	Oaklands Corporate Ctr. Campbell Blvd. and John Young Way Exton Chester County	Approved
4-28-98	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	Ivy Ridge Shopping Ctr. 7124 Ridge Pike Philadelphia Philadelphia County	Approved

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-20-98	First Republic Bank Philadelphia Philadelphia County	<i>To:</i> 1601 Market Street Philadelphia Philadelphia County  <i>From:</i> 1515 Market Street Philadelphia Philadelphia County	Effective

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-24-98	Summit Bank Bethlehem Northampton County	18 East Main Street Glen Lyon Luzerne County	Filed

**SAVINGS ASSOCIATIONS**

**Branch Discontinuances**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
4-22-98	American Eagle Savings and Loan Association Boothwyn Delaware County	2712 West Third St. Chester Chester County	Approved

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 98-730. Filed for public inspection May 8, 1998, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### APPLICATIONS RECEIVED UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

#### (Part I Permits)

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

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

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the Field Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

**PA 0001228.** Industrial waste, SIC: 3621, **Westinghouse Electric Corporation**, Low Grade Road at Lemon Lane, Cheswick, PA 15024.

This application is for amendment of an NPDES permit to discharge untreated test loop water from the Cheswick facility in Harmar Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT—Allegheny River, classified as a WWF fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Oakmont Water Company, located at approximately, 2.0 miles below the discharge point.

*Outfalls 201 and 203: new discharge, design flow of 0.0001 mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
TSS			30		60
Oil and Grease			15		30
Dissolved Oxygen			minimum of 5.0		
Total Iron			monitor and report		7.0
pH	monitor and report				

The EPA waiver is in effect.

**PA 0042161.** Sewage, **Eugene P. Jordan**, 3678 Green Garden Road, Aliquippa, PA 15001.

This application is for renewal of an NPDES permit to discharge treated sewage from Greenhaven Gardens STP in Raccoon Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale Tributary to Unnamed Tributary of Raccoon Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Municipal Authority on the Ohio River.

*Outfall 001:* existing discharge, design flow of 0.0112 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	4.5			9.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine				
(1st month—36th month)	monitor and report			
(37th month—expiration)	1.4			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA 0037923.** Industrial waste, **North East Borough**, 58 East Main Street, North East, PA 16428.

This application is for renewal of an NPDES permit to discharge treated filter backwash and settling tank cleaning from the North East Borough water filtration plant to Sixteen Mile Creek in North East Township, **Erie County**. This is an existing discharge.

The receiving water is classified for cold water and migratory fishery, aquatic life, water supply and recreation. There is no potable water supply (PWS) affected by this discharge.

The proposed effluent limits for Outfall 001, based on an average design flow of 0.17 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	30	60
Total Aluminum	1.0	2.5
Total Iron	1.6	4
Total Manganese	1	2.5
Total Residual Chlorine	0.4	1.3
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0101923.** Sewage. **Saegertown Area Sewer Authority**, P. O. Box 334, Park Avenue Ext., Saegertown, PA 16433.

This application is for renewal of an NPDES permit to discharge treated sewage to the French Creek in Saegertown Borough, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Franklin General Authority on French Creek located at Franklin, approximately 31 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.49 mgd, are:

*This contains revisions to the Notice in the 12/6/97 Bulletin.*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	.65		2.1
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0100625.** Industrial waste, SIC: 5541, **TA Operating Corporation/Truckstops of America**, 245 Allegheny Boulevard, Brookville, PA 15825-0000.

This application is for renewal of an NPDES permit, to discharge treated industrial waste, stormwater and a new source of stormwater to Clement Run in Brookville Borough, **Jefferson County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Hawthorn Borough Water Company on Red Bank Creek located at Hawthorne, approximately 18 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.00004 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitor only		
Oil and Grease	15		30
Total Suspended Solids	30		60
pH	within limits of 6.0—9.0 standard units at all times		

The proposed discharge limits for Outfall No. 002, based on a design flow of various mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitor only		
Oil and Grease	monitor only		
Total Suspended Solids	monitor only		

The proposed discharge limits for Outfall No. 006, based on a design flow of various mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitor only		
Oil and Grease	15		30
Total Suspended Solids	30		60

The EPA waiver is in effect.

**PA 0103101.** Sewage. **Wesley Woods Christian Education Center**, R. R. 1, Box 155A, Grand Valley, PA 16420.

This application is for renewal of an NPDES permit, to discharge treated sewage to Unnamed Tributary to Caldwell Creek in Eldred Township, **Warren County**. This is an existing discharge.

The receiving water is classified for the following uses: high quality-cold water fish, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the discharge point on the receiving stream.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.021 300 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report	
CBOD <sub>5</sub>	10	20
TSS	10	20
Ammonia-Nitrogen (5-1 to 10-31)	2.5	5
(11-1 to 4-30)	7.5	15
Total Phosphorus	2	4
Fecal Coliform (10-1 to 4-30)	200/100 ml as a geometric average	
(5-1 to 9-30)	2,000/100 ml as a geometric average	
TRC	0.5	1.2
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0210897.** Sewage. **Human Services Center**, 130 West North Street, New Castle, PA 16101.

This application is for renewal of an NPDES permit to discharge treated sewage to the Unnamed Tributary to Shenango River in Pulaski Township, **Lawrence County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Western PA Water Company—New Castle District intake on the Shenango River located at New Castle, approximately 9 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.001 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Ammonia-Nitrogen		
(5-1 to 10-31)	8	16
(11-1 to 4-30)	24	48
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.5	3.5
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

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*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.*

**PA 0010227.** Industrial waste, SIC: 3561, **Fuller Company**, 236 South Cherry Street, Manheim, PA 17545.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Chickies Creek, in Manheim Borough, **Lancaster County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Columbia Water Company located in Columbia Borough, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.12 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature		110° as daily average	
pH		6—9	

The EPA waiver is in effect.

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

**PA 0021512.** Sewage, **Borough of Royersford**, P. O. Box 188, Royersford, PA 19468.

This application is for renewal of an NPDES permit to discharge treated sewage from Royersford Borough's wastewater treatment plant in Upper Providence Township, **Montgomery County**. This is an existing discharge to Schuylkill River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.540 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 <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)	20		40
Dissolved Oxygen	monitor/report		monitor/report
Total Residual Chlorine			
(issuance—year 2)	0.8	1.6	2.0
(year 3—expiration)	0.5	1.0	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average		
pH	within limits of 6.0—9.0 standard units at all times		

*Other Conditions:*

Conditions for future permit modification.

Effective disinfection.

The EPA waiver is in effect.

**PA 0021741.** Sewage, **Borough of Dublin**, 119 Maple Avenue, P. O. Box 52, Dublin, PA 18917-0052.

This application is for renewal of an NPDES permit to discharge treated sewage from the Borough of Dublin Sewage Treatment Plant in Bedminster Township, **Bucks County**. This is an existing discharge to Deep Run.

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

The proposed effluent limits for Outfall 001, based on an average flow of 500,000 gpd 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 <sub>5</sub>			
(5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	1.3		2.6
(11-1 to 4-30)	3.9		7.8
Phosphorus (as P)	2.0		4.0
Total Residual Chlorine			
(years 1 and 2)	0.5		1.3
(years 3, 4 and 5)	0.02		0.05
Total Copper	monitor/report		
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 6.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 002, during a lagoon overflow, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	monitor/report	
Suspended Solids	monitor/report	
Ammonia (as N)	monitor/report	
Phosphorus (as P)	monitor/report	
Fecal Coliform	monitor/report	
Dissolved Oxygen	monitor/report	
pH	monitor/report	
Total Copper	monitor/report	
Total Zinc	monitor/report	

*Other Conditions.*

Submit stream and discharge hardness data by December 31, 1998.

**PA 0051942.** Sewage, **Stephen and Margaret Brower**, 40 Grays Lane, Elverson, PA 19520.

This application is for renewal of an NPDES permit to discharge treated sewage from small flow sewage treatment plant in Warwick Township, **Chester County**. This is an existing discharge to unnamed tributary to French Creek.

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

The proposed effluent limits for Outfall 001, 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 <sub>5</sub>		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Total Residual Chlorine		
(0—2 years)	monitor/report	monitor/report
(3—5 years)	nondetectable	nondetectable
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limit of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0031771.** Sewage, **Westtown Township**, 1081 Wilmington Pike, West Chester, PA 19382.

This application is for renewal of an NPDES permit to discharge treated sewage from sewage treatment plant in Westtown Township, **Chester County**. This is an existing discharge to East Branch of Chester 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 0.29 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	2.5	5.0
(11-1 to 4-30)	7.5	15.0
Copper	monitor/report	monitor/report
Total Residual Chlorine (0—2 years)	1.2	2.0
(3—5 years)	0.23	0.76
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**NPDES Minor Renewals**

*Southcentral Regional Office: Water Management Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.*

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0082571	West Penn District Grace Brethren Men, Inc. Camp Mantowagan Box 95 Saxton, PA 16678	Huntingdon Todd Township	Unnamed tributary of Tatman Run	TRC
PA 0083232	Canaan Venture LCC Lancaster Ramada Plaza Resort and Spa c/o Triumph Baptist Church 1538 Wingohocking St. Philadelphia, PA 19140	Lancaster Manheim Township	Lititz Run	TRC

**DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER**

**Applications under the Pennsylvania Clean Streams Law**

**(Part II Permits)**

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department

may conduct a fact-finding hearing or an informal conference in response to any given protest. Each commentator will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.



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**Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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

**A. 0298405.** Sewerage. **McCandless Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237. Application for the construction of a sanitary sewer extension/pumping station located in the Township of Marshall, **Allegheny County** to serve the Willow Brook Plan of Lots.

**A. 6598405.** Sewerage. **Penn Township Sewage Authority**, P. O. Box 458, Harrison City, PA 15636. Application for the construction and operation of sewers and appurtenances located in the Township of Penn, **Westmoreland County** to serve the Level Green and Harrison City Sewer Upgrade.

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.

*Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.*

**A. 0698403.** Sewage, submitted by **Muhlenberg Township Authority**, 2840 Kutztown Road, Hyde Park, Reading, PA 19605 in Muhlenberg Township, **Berks County** to construct the Rivervale Meadows Pump Station and Sewer Extension was received in the Southcentral Region on April 14, 1998.

**A. 3698402.** Sewage, submitted by **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603-4087 in East Hempfield and Manor Townships, **Lancaster County** to construct the Swarr Run Pump Station was received in the Southcentral Region on April 16, 1998.

**A. 2898402.** Sewage, submitted by **Hamilton Township Municipal Authority**, 1270 Crottestown Road, Chambersburg, PA 17201 in Hamilton Township, **Franklin County** to construct the Fisher Road Sewer Extension and Booster Station No. 2 Pump Station was received in the Southcentral Region on April 22, 1998.

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

**WQM Permit No. 2098404.** Sewage. **Meadville Area Sewer Authority**, 984 Water Street, Meadville, PA 16335. This project is for the construction of a wastewater pump station to eliminate the existing West Mead Township Sewage Treatment Plant in West Mead Township, **Crawford County**.

**WQM Permit No. 2098403.** Sewage. **Woodcock Village**, 6419 Franklin Pike, Cochranon, PA 16314. This project is for the construction of a pump station, force main, service laterals and 8 inch sanitary sewer lines and manholes to service 42 lots in Woodcock Township, **Crawford County**.

**INDIVIDUAL PERMITS  
(PAS)**

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**NPDES Individual**

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The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department's Regional Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.*

*Berks County Conservation District, District Manager, P. O. Box 520, 1238 County Welfare Road, Leesport, PA 19533, (610) 372-4657.*

**NPDES Permit PAS-10-C036.** Stormwater. **Wagner Farm Development Inc.**, 2229 Creekhill Road, Lancaster, PA 19760, has applied to discharge stormwater from a construction activity located in Spring Township and Sinking Spring Borough, **Berks County**, to Cacoosing, Tulp and Schuylkill River.

*Cumberland County Conservation District, District Manager, 43 Brookwood Avenue, Suite 4, Carlisle, PA 17013, (717) 240-7812.*

**NPDES Permit PAS-10-H080.** Stormwater. **Mountain Creek Camp**, 349 Pine Grove Road, Gardners, PA 17324-8817, has applied to discharge stormwater from a construction activity located in Dickinson Township, **Cumberland County**, to Mountain Creek.

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#### Stormwater Individual

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The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department's Regional Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.*

*Pike County Conservation District, District Manager, HC 6, Box 6770, Hawley, PA 18428, (717) 226-8220.*

**NPDES Permit PAS10V020.** Stormwater. **PA Department of Transportation**, P. O. Box 111, Scranton, PA 18501, has applied to discharge stormwater from a

construction activity located in Milford Borough, Milford Township, Dingman Township and Delaware Township, to Vantine Brook, Sawkill Creek, Sloat Brook, Raymondskill Creek, Dwarfs Kill Creek, Dingmans Creek and Adams Creek.

## SAFE DRINKING WATER

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**Applications received for Transfer of Permit issued under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

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

**A. 6095501-T1.** The Department has received a transfer permit for **Pine Valley Mobile Home Park** (P. O. Box 72, Vicksburg, PA 17883, West Buffalo Township, **Union County**) for transfer of public water supply permit to Start Properties, LLC (1015 Cedar Knoll, P. O. Box 116, Gradyville, PA 19039).

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

**Under Act 2, 1995**

### Preamble 1

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**Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies 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 or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards 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 and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

*Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.*

**1801 Tremont Street**, City of Allentown, **Lehigh County**. Tina L. Drake, Environmental Scientist, MEA Inc., 201 Center Street, P. O. Box 370, Stockertown, PA 18083 has submitted a Notice of Intent to Remediate, on behalf of her client, First Lehigh Bank, 1620 Pond Road, Allentown, PA 18104, concerning the remediation of site soils and groundwater suspected to be contaminated with petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide human health standard.

## **SOLID AND HAZARDOUS WASTE**

### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

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

*Regional Office: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2516.*

**Permit I. D. No. 100020. Bethlehem City Landfill**, Eastern Waste of Bethlehem, Inc., 2335 Applebutter Road, Bethlehem, PA 18015. An application for the reissuance/transfer of the existing permit of this municipal waste landfill, located in Lower Saucon Township, **Northampton County**. The City of Bethlehem has entered into an agreement to sell the Bethlehem City Landfill to Eastern Environmental Services, Inc. Eastern Environmental Services, Inc.'s operating subsidiary, which will own and operate the landfill, is Eastern Waste of Bethlehem, Inc. The application was received in the Regional Office on April 3, 1998 and was found to be administratively complete on April 20, 1998.

### **PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE**

#### **INFECTIOUS OR CHEMOTHERAPEUTIC WASTE**

**Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

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

**Arl, Inc., d/b/a American Road Line**, P. O. Box 836, Moon Township, PA 15108; Joe Wojciechowski, Safety Director; application received April 10, 1998.

**Renewal applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

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

**Orchard Hill Memorial Park, Inc.**, 187 Route 94 South, Lafayette, NJ 07059; Derek M. Cooke, General Manager; License No. **PA-HC 0163**; renewal application received on March 6, 1998.

## **AIR RESOURCES**

### **Notice of Plan Approval and Operating Permit Applications**

#### **Nonmajor Sources and Modifications**

The Department of Environmental Protection (Department) has developed an integrated plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department's Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act and regulations adopted under the act.

## **OPERATING PERMITS**

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

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

Copies of the Title V application, proposed permit and other relevant information are available for public inspection and additional information may be obtained by contacting the regional office noted.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the person submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

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

*Southeast Regional Office: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Attn: Edward Brown, (610) 832-6242.*

**TV-46-00049: International Business Systems, Inc.,** King of Prussia facility (431 Yerkes Road, King of Prussia, PA 19406-0136) in Upper Merion Township, **Montgomery County**. This facility is primarily engaged in a lithographic printing operation to manufacture manifold business forms. The facility's major air emission sources are nine lithographic printing presses and eight tinting machines which emit major levels of volatile organic compounds (VOCs).

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Saffko, (717) 826-2531.*

**TV-39-00006: Stroh Brewery Co.** (P. O. Box 25013, Lehigh Valley, PA 18002-5013) in Upper Macungie Township, **Lehigh County**. The facility's major source of emissions include boilers and various brewing operations which primarily emit nitrogen oxides (NOx) and volatile organic compounds (VOCs).

*Southcentral Regional Office: Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, Attn: Kanubhai L. Patel, (717) 657-4587.*

**07-05004: Eldorado Properties Corp.** (P. O. Box 2621, Harrisburg, PA 17105) in Allegheny Township, **Blair County**. The facility's major sources of emissions include a bulk gasoline terminal which primarily emits volatile organic compounds (VOCs).

**22-05025: Eldorado Properties Corp.** (P. O. Box 2621, Harrisburg, PA 17105) in Lower Swatara Township, **Dauphin County**. The facility's major sources of emissions include a bulk gasoline terminal which primarily emits volatile organic compounds (VOCs).

**22-05026: Eldorado Properties Corp.** (P. O. Box 2621, Harrisburg, PA 17105) in Harrisburg City, **Dauphin County**. The facility's major sources of emissions include a bulk gasoline terminal which primarily emits volatile organic compound (VOCs).

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, Attn: Mohammad Zaman, (717) 327-3637.*

**TVOP 41-00008: Montour Oil Service Co., Division of Sun Company, Inc.** (1801 Market Street, 26/10 PC, Philadelphia, PA 19103-1699) for a petroleum station and terminal in Loyalsock Township, **Lycoming County**.

**TVOP 49-00019: The Atlantic Refining & Marketing Co., Sun Company, Inc.** (1801 Market Street, 26/10 PC, Philadelphia, PA 19103-1699) for a petroleum station and terminal in Point Township, **Northumberland County**.

**TVOP 49-00012: ELDORADO Properties Corp.** (800 Eisenhower Boulevard, P. O. Box 2621, Harrisburg, PA 17105) for a petroleum station and terminal in Point Township, **Northumberland County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.*

**65-00860: Fansteel Hydro Carbide** (P. O. Box 363, Latrobe, PA 15650) located in Unity Township, **Westmoreland County**. This facility is used in the production of cemented tungsten carbide. This facility is a major facility for volatile organic compounds (VOC) emissions. The main source of VOC emissions is the mixing and drying of the powder.

**04-00471: Ashland Petroleum Co.** (P. O. Box 391, Ashland, KY 41114) in Industry Boro, **Beaver County**. This facility stores and distributes petroleum products. This facility is a major source for VOC (Volatile Organic Compound) emissions.

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#### Notice of Intent to Issue Synthetic Minor State-Only Operating Permits for Certain Gasoline Distribution Facilities

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Under 25 Pa. Code § 127.424, the Department of Environmental Protection (Department) is providing notice of its intent to issue synthetic minor State-only Operating Permits to the gasoline distribution facilities shown. These facilities have the physical and operation capacity to emit major source amounts of regulated pollutants, but are not considered major sources because the owners or operators of these facilities have taken Federally enforceable emission limits below major source thresholds to avoid requirements of Title III and/or Title V of the Clean Air Act. The Federally enforceable emission restrictions apply to the gasoline throughput for each facility.

In order to qualify as an area source for Title III purposes or a nonmajor source under Title V in moderate ozone nonattainment areas, the maximum allowable emissions (after controls) shall be less than 50 tons per year or volatile organic compounds (VOCs) and 10 tons of a single hazardous air pollutant (HAP) or 25 tons per year of any combination of HAPs. The HAP emissions from these facilities include benzene, hexane, toluene, xylene and methyl-tertiary butyl-ether (MTBE). For purposes of Title V, other pollutants including carbon monoxide, sulfur dioxide, nitrogen oxides and PM-10 must also be emitted below the major source thresholds (see Title V facility definition in 25 Pa. Code § 121.1).

The Department will issue the synthetic minor permits no later than June 15, 1998. As a result the gasoline distribution maximum achievable control technology (MACT) standard in 40 CFR Part 63, Subpart R will not apply to the gasoline bulk terminals and/or pipeline breakout stations listed in this notice. Title V operating permits will not be issued to these facilities. Copies of the synthetic minor application, the proposed permit and other relevant documents are available for public inspection during normal business hours in the Department regional offices identified in this notice.

Persons wishing to provide the Department with additional information which they believe should be consid-

ered prior to the issuance of these synthetic minor permits may submit the information to the appropriate Department Regional Office. A 30-day comment period, from the date of this publication, will exist for the submission of protests or comments on the proposed permits. Each written protest or comment must include the name, address and telephone number of the commentator, the proposed permit number and a concise statement of the objections to the issuance of the permit and relevant facts which serve as the basis for the objections. If the Department schedules a public hearing, a notice of the date, time and location of the hearing will be published in the *Pennsylvania Bulletin* at least 30 days prior to the hearing.

The final synthetic minor State-only operating permits will contain terms and conditions to ensure that these facilities comply with applicable requirements including monitoring, recordkeeping and reporting requirements.

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Safko, (717) 826-2531.*

**39-00023: Mobil Oil Corp.** (1134 North Quebec Street, Allentown, PA 18103) for the operation of a bulk petroleum terminal at their Allentown Terminal in Allentown, **Lehigh County**.

**39-00027: Carlos R. Leffler, Inc.** (625 Linden Street, Richland, PA 17087) for the operation of a petroleum products terminal at their Macungie Terminal in Lower Macungie Township, **Lehigh County**.

**39-00028: Agway Petroleum Corp.** (Buckeye Road, Macungie, PA 18062) for the operation of a gasoline terminal at their Macungie Terminal in Emmaus, **Lehigh County**.

**39-00029: Gulf Oil Ltd. Partnership** (2451 Main Street, Whitehall, PA 18052) for the operation of a bulk petroleum terminal at their Fullerton Terminal in Whitehall Township, **Lehigh County**.

**40-00026: Amoco Oil Co.** (70 South Wyoming Avenue, Edwardsville, PA 18704-3102) for the operation of a petroleum products terminal at their Wilkes-Barre Terminal in Edwardsville Borough, **Luzerne County**.

**40-00029: Agway Energy Products** (801 Suscon Road, Pittston, PA 18640) for the operation of a petroleum distribution terminal at their Dupont Terminal in Pittston Township, **Luzerne County**.

**40-00033: Gulf Oil Ltd. Partnership** (674 Suscon Road, Pittston, PA 18640-9532) for the operation of a bulk petroleum terminal at their Dupont Terminal in Pittston Township, **Luzerne County**.

*Southcentral Regional Office: Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, Attn: Kanubhai L. Patel, (717) 657-4587.*

**21-05021: Scranton-Altoona Terminals Corp.** (900 Eisenhower Boulevard, Harrisburg, PA 17057) for a gasoline distribution facility at their Star Mechanicsburg Terminal in Silver Spring Township, **Cumberland County**.

**21-05024: Scranton-Altoona Terminals Corp.** (900 Eisenhower Boulevard, Harrisburg, PA 17057) for a gasoline distribution facility at their Mechanicsburg Terminal in Monroe Township, **Cumberland County**.

**06-05068: Scranton-Altoona Terminals Corp.** (900 Eisenhower Boulevard, Harrisburg, PA 17057) for a gasoline distribution facility at their Sinking Spring Terminal in Spring Township, **Berks County**.

**07-05026: Scranton-Altoona Terminals Corp.** (900 Eisenhower Boulevard, Harrisburg, PA 17057) for a gasoline distribution facility at their East Freedom Terminal in Freedom Township, **Blair County**.

**07-05024: Gulf Oil, L. P.** (90 Everett Avenue, Chelsea, MA 02150-2337) for a gasoline distribution facility at their Altoona Terminal (6013 Sixth Avenue, Altoona, PA 16602) in Allegheny Township, **Blair County**.

**21-05027: Gulf Oil, L. P.** (90 Everett Avenue, Chelsea, MA 02150-2337) for a gasoline distribution facility at their Mechanicsburg Terminal (Simpson Ferry Road, Mechanicsburg, PA 17055) in Hampden Township, **Cumberland County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, Attn: Mohammad Zaman, (717) 327-3637.*

**41-00007: Coastal Oil New York, Inc.** (611 Route 46 West, P. O. Box 818, Hasbrouck Heights, NJ 07604) for a gasoline distribution facility at their Williamsport Terminal in Armstrong Township, **Lycoming County**.

**41-00017: Gulf Oil, L. P.** (90 Everett Avenue, P. O. Box 9151, Chelsea, MA 02150-2337) for a gasoline distribution facility at their South Williamsport Terminal in Armstrong Township, **Lycoming County**.

**41-00021: Carlos Leffler, Inc.** (625 Linden Street, Richland, PA 17087) for a gasoline distribution facility at their Williamsport Terminal in Armstrong Township, **Lycoming County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.*

**65-00625: Gulf Oil, L. P.** (90 Everett Avenue, P. O. Box 9151, Chelsea, MA 02150-2337) for a gasoline storage and distribution facility at their Delmont Terminal in Delmont, **Westmoreland County**.

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**Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

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*Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.*

**NMOP-39-00034: Louis Dreyfus Energy Corp.** (1046 North Quebec Street, Allentown, PA 18103) for the operation of a bulk petroleum storage facility in Allentown, **Lehigh County**.

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**36-310-074: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506-0550) for a portable crushing plant controlled by wet suppression in East Cocalico Township, **Lancaster County**.

**06-1007H: Carpenter Technology Corp.** (P. O. Box 14662, Reading, PA 19612-4662) for two batch reheating furnaces at a speciality steel manufacturing facility controlled in Reading/Muhlenberg Township, **Berks County**.

*Northcentral Regional Office, Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.*

**12-399-004C: Pennsylvania Sintered Metals, Inc., d.b.a. Brown Co. Powder Products** (P. O. Box 308, Emporium, PA 15834) for the operation of a powdered

metal parts sintering furnace and an in-stack afterburner in Emporium Borough, **Cameron County**.

**55-302-005A: Wood-Mode, Inc.** (#1 Second Street, Kreamer, PA 17833) for the operation of a wood waste-fired boiler (Boiler No. 3) and a multiclone in Middlecreek Township, **Snyder County**.

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

**OP-63-00551: Recmix of PA, Inc.** (586 Plum Run Road, Canonsburg, PA 15317) for slag crushing at Chartiers Township Plant in Chartiers Township, **Washington County**.

**OP-63-00501: Eighty-Four Mining Co.** (P. O. Box 284, Eighty Four, PA 15330) for a rockdust bin at Mine 84—Beagle Club Facility in South Strabane Township, **Washington County**.

**OP-63-00493: Eighty-Four Mining Co.** (P. O. Box 284, Eighty Four, PA 15330) for a coal preparation plant at Mine 84 Somerset Plant in Somerset Township, **Washington County**.

#### PLAN APPROVALS

#### Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**01-310-040D: Carmeuse Pennsylvania, Inc.** (P. O. Box 160, Annville, PA 17003) for modification of the fuel stream for three lime kilns controlled by wet scrubbers in Oxford Township, **Adams County**.

*Northcentral Regional Office, Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3637.*

**08-399-038C: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) for the construction of nine tungsten, molybdenum and thoriated tungsten wire annealers to be controlled by an existing fabric collector and a new HEPA filter in Department 012, Building 20 in North Towanda Township, **Bradford County**.

#### REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)

#### Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**OP-09-0027: Fres-Co System USA, Inc.** (3005 State Road, Telford, PA 18969) on February 27, 1998 for the approval of Facility VOC/NOx RACT in West Rockhill Township, **Bucks County**.

**OP-46-0109: Eastern Continuous Forms, Inc.** (1931 Morris Road, North Wales, PA 19454) on January 13, 1998 for the approval of Facility VOC/NOx RACT in Whitpain Township, **Montgomery County**.

**OP-15-0060A: SECCRA Landfill** (219 West Street Road, West Grove, PA 19390) on February 6, 1998 for the approval of Facility VOC/NOx RACT in London Grove Township, **Chester County**.

**OP-15-0034: Sanofi Winthrop, Inc.** (25 Great Valley Parkway, Malvern, PA 19355) on February 18, 1998 for the approval of Facility VOC/NOx RACT in East White-land Township, **Chester County**.

**OP-46-0050: Rohm & Haas Delaware Valley Inc.** (727 Norristown Road, Spring House, PA 19477) for the approval of Facility VOCs/NOx RACT in Lower Gwynedd Township, **Montgomery County**.

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

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

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

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

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

be provided with a 30-day period to review and submit comments on those requirements.

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

*Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

#### *Coal Applications Received*

**11980102. E. P. Bender Coal Company, Inc.** (P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip-auger mine in Reade Township, **Cambria County**, affecting 240.0 acres, receiving stream Fallentimber Run and unnamed tributaries to Fallentimber Run. Application received April 15, 1998.

**32980105. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), commencement, operation and restoration of bituminous strip-auger mine in Center Township, **Indiana County**, affecting 81.5 acres, receiving stream unnamed tributary to Tearing Run to Tearing Run to Two Lick Creek to Blacklick Creek to Conemaugh River. Application received April 17, 1998.

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

**03940101R. TDK Coal Sales, Inc.** (P. O. Box 627, Clarion, PA 16214). Renewal application received for operation and reclamation of a bituminous surface mine located in Bradys Bend Township, **Armstrong County**. Receiving streams: unnamed tributary to Holder Run to Sugar Creek to the Allegheny River. Renewal application received: April 17, 1998.

**03860111R. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Renewal application received for continued operation and reclamation of a bituminous surface mine located in East Franklin Township, **Armstrong County**. Receiving streams: unnamed tributary to the Allegheny River and the Allegheny River. Renewal application received: April 20, 1998.

**63980102. Robinson Coal Company** (200 Neville Road, Neville Island, PA 15225). Application received for commencement, operation and reclamation of a bituminous surface mine located in Robinson Township, **Washington County**, proposed to affect 55.0 acres. Receiving streams: North Branch of Robinson Run to Robinson Run to the Ohio River. Application received: April 16, 1998.

**65910109R. Laurel Land Development, Inc.** (P. O. Box 629, Carrolltown, PA 15722). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**. Receiving streams: unnamed tributaries to Saxman Run. Renewal application received: April 22, 1998.

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

#### *Noncoal Applications Received*

**45980301. Sonie's Mine, Inc.** (R. R. 2, Box 2206A, Stroudsburg, PA 18360), commencement, operation and restoration of a quarry operation in Hamilton Township, **Monroe County** affecting 57.9 acres, receiving stream none. Application received April 6, 1998.

**54980302. Keystone Quarry, Inc.** (P. O. Box 249, Dunham Drive, Dunmore, PA 18512), commencement, operation and restoration of a quarry operation in Foster Township, **Schuylkill County** affecting 371.0 acres, receiving stream none. Application received April 6, 1998.

**7674SM1C6. Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104), renewal of existing NPDES No. PA0613312 in South Lebanon and Jackson Townships, **Lebanon County**, affecting 461.0 acres, receiving stream Tulpehocken Creek. Application received April 8, 1998.

**4873SM6C. Global Stone PenRoc, Inc.** (P. O. Box 1967, York, PA 17405-1967), renewal of NPDES Permit No. PA0009695 in West Manchester Township, **York County**, receiving stream Codorus Creek. Application received April 14, 1998.

**7675SM1C6. Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105), renewal of NPDES Permit No. PA0124028 in West Cornwall and South Annville Township, **Lebanon County**, receiving stream Bachman Run. Application received April 16, 1998.

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

### ENCROACHMENTS

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

**E04-256. Encroachment. Bradford Park Associates, Inc.**, 10521 Perry Highway, Suite 300, Wexford, PA 15090. To construct and maintain a 60" RCCP culvert in a tributary of North Fork Big Sewickley Creek (TSF) and to place and maintain fill in 0.36 acre of wetland (PEM/PSS) for the purpose of developing a 64 lot residential development known as Whispering Pines Estates Phase 1. The project is located approximately 1,100 feet south of the end of Walnut Drive (Baden, PA Quadrangle N: 6.1



inches; W: 7.2 inches) in Economy Borough, **Beaver County**. Note this permit will include an Environmental Assessment for two nonjurisdiction dams. Wetland replacement requirements will be met by the construction of a 0.4 acre wetland (EM/SS/FO).

**E63-451.** Encroachment. **PA Department of Transportation**, Engineering District 12-0, P. O. Box 469, Uniontown, PA 15401. To remove the existing bridge and to construct and maintain a single span prestressed concrete bridge having a normal span of 91.6 feet and an underclearance of 9.0 feet over Little Chartiers Creek (WWF) downstream from Alcoa Dam. The project is located along S. R. 1002 (West McMurray Road) approximately 3,500 feet west of its intersection with U. S. 19 (Canonsburg, PA Quadrangle N: 4.7 inches; W: 1.9 inches) in North Strabane and Peters Townships, **Washington County**.

**E65-694.** Encroachment. **Westmoreland County Bureau of Parks**, R. D. 12, Box 203 Donohoe Road, Greensburg, PA 15601-9217. To construct and maintain four 24-inch diameter CM pipe culverts across an Unnamed Tributary to Pine Run (WWF) located approximately 270 feet downstream of outlet structure of Northmoreland Lake Dam (D65-164), for Equestrian Trail (Vandergrift, PA Quadrangle N: 13.75 inches; W: 15.75 inches) in Allegheny Township, **Westmoreland County**.

**E30-186.** Encroachment. **PA Department of Transportation**, Engineering District 12-0, P. O. Box 469, Uniontown, PA 15401. To construct and maintain two low-flow stream crossings each crossing consisting of 12, 18-inch diameter concrete pipes in Castile Run (WWF). The project is located along SR 1014 approximately 2,000 feet west of the Village of Chartiers (Mather, PA Quadrangle N: 15.7 inches; W: 8.2 inches) in Morgan Township, **Greene County**.

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

**E17-318.** Encroachment. **Pa. Dept. of Transportation**, 1924-30 Daisy St., Clearfield, PA 16830. To construct and maintain a 36-inch reinforced concrete pipe in an unnamed tributary to Kratzer Run. The project is located at the intersection of T-852 and SR 0879 approximately 1.3 miles from the Curwensville Borough boundary (Curwensville, PA Quadrangle N: 17.5 inches; W: 7.5 inches) in Pike Township, **Clearfield County**. The project will impact on approximately 0.28 acre of wetlands and a total of 0.46 acre of wetland is proposed to be created to offset construction impacts. The project will impact approximately 110 linear feet of waterway; stream classification is Cold Water Fishery.

**E57-082.** Encroachment. **Pa. DCNR**, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing structure and to construct and maintain a 16 foot 2 inch by 5 foot 1 inch aluminum box culvert with R-6 riprap for inlet and outlet protection in Middle Branch of Mill Creek on Camels Road approximately 1.25 miles northwest of the confluence of Middle Branch with East Branch of Mill Creek (Barbours, PA Quadrangle N: 21.5 inches; W: 3.2 inches) in Fox Township, **Sullivan County**. Estimated stream disturbance is approximately 40 feet with no wetland impacts; stream classification is High Quality Cold Water Fishery.

*Southeast Regional Office, Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E23-370.** Encroachment. **SEPTA**, 1234 Market St., 13th Floor, Philadelphia, PA 19107. To construct and maintain 288 linear feet of a 6.5-foot high gabion wall, to construct and maintain an additional 3 foot high course of gabions along the top of a previously constructed gabion wall that is 204 feet long, and to authorize the maintenance of 145 linear feet of 8-foot high gabion wall. These activities are located alongside SEPTA's Point Reading Road Bus Route to protect the east bank of an unnamed tributary to Cobbs Creek (WWF-MF) (Lansdowne, PA Quadrangle N: 22.2 inches; W: 7.10 inches) in Haverford Township, **Delaware County**.

**E15-571.** Encroachment. **Honey Brook Twp.**, P. O. Box 1281, Suplee Road, Honey Brook, PA 19344-1281. To replace an existing deteriorated roadway bridge spanning the West Branch of the Brandywine Creek (HQ-TSF, MF) along East Walnut Road. The proposed replacement consists of a 30-foot long pre-cast concrete box culvert providing a 20-foot wide by 5-foot high waterway opening. New bridge will accommodate two-lane automobile traffic which will require the reconstruction of the roadway approaches. The site is located approximately 1 mile northeast of the intersection of the Horseshoe Pike (US Rt. 322 and the Conestoga Avenue SR 10) (Honey Brook, PA Quadrangle N: 18.0 inches; W: 3.5 inches) in Honey Brook Township, **Chester County**.

**E15-570.** Encroachment. **PA DOT**, 200 Radnor-Chester Road, St. Davids, PA 19087-5170. To remove an existing two span bridge and to construct and maintain a two span prestressed concrete box beam bridge which carries Street Road (SR 0926) over the East Branch of Chester Creek. The proposed bridge will have twin 73.5 foot long clear spans, and a minimum vertical clearance of 4.16 feet. Work also includes the following: 1) Widening Street Road and reconstructing the approaches to the bridge for approximately 600 feet; 2) To regrade the stream channel approximately 130 feet upstream and 110 feet downstream from the center line of the proposed bridge; 3) To improve the intersection at Street Road and Westtown Road and associated drainage improvements. This site is located (West Chester, PA Quadrangle N: 11.0 inches; W: 5.8 inches) in Westtown and Thornbury Townships, **Chester County**.

*Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.*

**E28-251.** Encroachment. **David George**, 13321 Midvale Road, Waynesboro, PA 17268. To construct and maintain a single span bridge having a span of 50 feet with an average underclearance of 8.5 feet across Red Run to provide access to home located about 1,700 feet south of the Washington Township High School (Smithsburg, MD-PA Quadrangle N: 20.06 inches; W: 5.38 inches) in Washington Township, **Franklin County**.

**E67-623.** Encroachment. **Pennsylvania Power & Light Company**, Andrew Spear, 2 North 9th Street, Allentown, PA 18101. To remove an existing stream enclosure and to construct and maintain a 6 foot high by 12 foot wide box culvert in its place in an unnamed tributary to Conewago Creek for the purpose of constructing a new bypass road around York Haven Borough. The culvert will be located at the north end of Main Street (York Haven, PA Quadrangle N: 20 inches; W: 12 inches) in York Haven Borough, **York County**.

**E67-625.** Encroachment. **Donald Smith**, Shrewsbury Commercial Tract, 450 Spangler Road, New Oxford, PA 17350. To place fill in 0.72 acre of jurisdictional wetlands



to construct a retail shopping center and grocery store known as the Shrewsbury Commercial Tract located south of Shrewsbury on New Freedom Road (Glen Rock, PA Quadrangle N: 0.0 inch; W: 8.1 inches) in Shrewsbury Township, **York County**. The permittee is required to provide a minimum of 0.72 acre of replacement wetlands.

*Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.*

**E39-346.** Encroachment. **Saucon Valley Country Club**, 2050 Saucon Valley Road, Bethlehem, PA 18015-9000. To maintain 26 existing bridges at various locations over Saucon Creek and a Tributary thereof (CWF). The project is located within the Saucon Valley Country Club at a beginning point at the intersection of T835 and Saucon Creek (Allentown East, PA Quadrangle N: 9.4 inches; W: 2.5 inches) extending downstream approximately 1.96 miles in Upper Saucon Township, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

#### DAM SAFETY

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

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor; P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**D38-092.** Dam. **Pennsylvania Department of General Services** (18th and Herr Streets). To construct, operate and maintain the Swatara State Park Dam across Swatara Creek (CWF) located approximately 0.64 mile upstream of the Swatara Creek crossing under Interstate 81 for the purpose of recreation. Construction of the dam and reservoir will inundate approximately 10.75 miles of stream corridor, 86.12 acres of vegetated wetlands (PEM, PSS and PFO) and 9.64 acres of other waters of this Commonwealth (Indiantown Gap, PA Quadrangle N: 19.5 inches; W: 12.7 inches) in Union Township, **Lebanon County**.

**D38-103.** Dam. **Pine Meadows Golf Course** (199 W. McKinley Avenue, Myerstown, PA 17067). To modify, operate and maintain an existing farm pond across a tributary to Little Swatara Creek (WWF) as part of an expansion of the Pine Meadows Golf Course just east of PA Route 343 approximately 1.0 mile south of Shirksville for the purpose of irrigation and aesthetics (Fredericksburg, PA Quadrangle N: 6.5 inches; W: 7.0 inches) in Bethel Township, **Lebanon County**.

#### ENVIRONMENTAL ASSESSMENT

**Requests for Environmental Assessment approval under 25 Pa. Code § 105.15 and requests for certification under section 401 of the Federal Water Pollution Control Act.**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor; P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**EA01-005C0.** Environmental Assessment. **Rupal S. and Satish A. Shah** (947 Heritage Drive, Gettysburg, PA 17325). To construct and maintain a nonjurisdictional dam in the watershed of a tributary to Rock Creek (WWF) impacting approximately 0.08 acre of wetlands

(PEM) for the purpose of stormwater management at the proposed Gettysburg View subdivision located approximately 1,200 feet north of the intersection of S. R. 0034 (Biglerville Road) and T-341 (Boyd's School Road) (Gettysburg, PA Quadrangle N: 20.6 inches; W: 15.7 inches) in Cumberland Township, **Adams County**. (Resubmitting as it had been previously printed incorrectly).

#### ACTIONS

### FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

**[National Pollution Discharge Elimination System Program (NPDES)]**

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

##### (Part I Permits)

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 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 receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

#### Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.*

**Permit No. 4598401.** Sewerage. **J. A. Snyder Entities, Inc.**, Fountain Court, Route 611, Bartonsville, PA 18321. Permit to construct and operate sewage treatment facilities to serve Fountain Springs West, located in Pocono Township, **Monroe County**.

**NPDES Permit No. PA-0062103.** Sewerage. **Spring Brook Township Sewer Authority**, P. O. Box 1100, Moscow, PA 18444 is authorized to discharge from a facility located in Roaring Brook Township, **Lackawanna County** to Green Run.

**NPDES Permit No. PA-0040487.** Sewerage. **Dr. P. C. Chadaga, c/o Property Management, Inc.**, 1300 Market Street, P. O. Box 622, Lemoyne, PA 17043-0622 is authorized to discharge from a facility (Maple Lane Estates) located in Foster Township, **Luzerne County** to Pond Creek.

**NPDES Permit No. PA-0051896.** Industrial waste. **Fort James Operating Company**, 605 Kuebler Road, Easton, PA 18042 is authorized to discharge from a facility located in Forks Township, **Northampton County** to an Unnamed Tributary to Bushkill Creek.

**NPDES Permit No. PA-0024015.** Sewerage. **Cressona Borough Authority**, 78 South Sillyman Street, Cressona, PA 17929 is authorized to discharge from a facility located in Cressona Borough, **Schuylkill County** to the West Branch Schuylkill River.

**NPDES Permit No. PA-0021547.** Sewerage. **Municipal Authority of the Borough of Orwigsburg**, P. O. Box 128, Orwigsburg, PA 17961-0128 is authorized to discharge from a facility located in Orwigsburg Borough to Mahannon Creek.

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

**Permit No. 0298402.** Sewerage, **West Elizabeth Sanitary Authority**, 125 Lower First Street, West Elizabeth, PA 15088. Construction of sanitary sewers located in the Borough of West Elizabeth, **Allegheny County** to serve the Lower Portion of West Elizabeth Borough.

**Permit No. 6598401.** Sewerage, **Calandrella's Inc.**, R. D. 2, Box 320, Avonmore, PA 15618. Construction of sewage treatment plant located in the Township of Bell, **Westmoreland County** to serve the Calandrella's Restaurant, Car Wash, Laundromat and Single Residence.

**Permit No. 6597412.** Sewerage, **Lou DeMary**, R. D. 2, Box 45K, Latrobe, PA 15650. Construction of DeMary Small Flow Sewage Treatment Plant located in the Township of Derry, **Westmoreland County** to serve the lighting showroom, two apartments and a mobile home.

**Permit No. 6598403.** Sewerage, **Summit Hospitality Group Services, Inc., Days Inn at Donegal**, Route 31, Donegal, PA 15628. Construction of a sewage treatment plant located in the Township of Donegal, **Westmoreland County** to serve the Days Inn Sewage Treatment Plant.

**NPDES Permit No. PA0204765, Amendment No. 1.** Industrial waste, **Great Lakes Terminal and Transport Corp.**, P. O. Box 281, Industry, PA 15052 is authorized to discharge from a facility located in Industry Borough, **Beaver County**.

**NPDES Permit No. PA0038717.** Sewage, **John Ferrarelli**, P. O. Box 241, Indiana, PA 15701 is authorized to

discharge from a facility located at Pine Tree Mobile Home Park STP, Armstrong Township, **Indiana County** to Cheese Run.

**NPDES Permit No. PA0043435.** Sewage, **Cecil Waste-water Treatment Company, Inc.**, 10 Bayberry Lane, Cecil, PA 15321-1206 is authorized to discharge from a facility located at Monaco Manor Sewage Treatment Plant, Cecil Township, **Washington County** to Unnamed Tributary of Coal Run.

**NPDES Permit No. PA0096016.** Sewage, **Rostraver Estates, Inc.**, R. R. 2, Belle Vernon, PA 15012 is authorized to discharge from a facility located at Rostraver Estates Sewage Treatment Plant, Rostraver Township, **Westmoreland County** to Unnamed Tributary of Speers Run.

**NPDES Permit No. PA0110531.** Sewage, **Hutchinson Property Development Group, Inc.**, 120 West Hutchinson Avenue, Pittsburgh, PA 15218 is authorized to discharge from a facility located at The Ligonier Highlands Sewage Treatment Plant, Jenner Township, **Somerset County** to Beaverdam Run.

**NPDES Permit No. PA0217816.** Sewage, **Terry and Regina Lambie**, R. D. 2, Dunbar, PA 15431 is authorized to discharge from a facility located at Sunny Dale Gardens Mobile Home Park STP, East Huntingdon Township, **Westmoreland County** to Tributary of Jacobs Creek.

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

**NPDES Permit No. PA0101923.** Sewage. **Saegertown Area Sewer Authority**, P. O. Box 334, Park Avenue Extension, Saegertown, PA 16433 is authorized to discharge from a facility located in Saegertown Borough, **Crawford County** to French Creek.

**INDIVIDUAL PERMITS**

**(PAS)**

**The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10F064	Tim Tressler 10 Sandrock Court Port Matilda, PA 16870	Centre County Halfmoon Twp.	Unt. Half Moon Crk.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10E066	Buffalo Center Associates 801 Center Avenue Pittsburgh, PA 15238	Butler County Buffalo Township	unnamed tributary to Little Buffalo Crk.

## INDIVIDUAL PERMITS

(PAR)

**Approvals to Use NPDES and/or Other General Permits**

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

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

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

*General Permit Type—PAG-2*

*Facility Location  
County and  
Municipality*

<i>County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Northampton Co. Palmer Twp.	PAR10U088	Stowaway Self Storage P. O. Box 5297 North Branch, NJ 08876	Shoeneck Crk.	(610) 746-1971
Northampton Co. Upper Nazareth Twp.	PAR10U089	C. F. Martin Co., Inc. 510 Sycamore St. Nazareth, PA 18064	Shoeneck Crk.	(610) 746-1971
Schuylkill Co. Shenandoah Boro.	PAR105755	Redner Market (Proposed) Gold Star Plaza c/o Marvin L. Slomowitz Gold Star Associates 600 Third Avenue Kingston, PA 18704	Mahanoy Crk.	(717) 622-3742
Schuylkill Co. South Manheim Twp.	PAR105757	Mountain Star John M. Dunchick 1726 Breckenridge Rd. Orwigsburg, PA 17761	Plum Creek to Schuylkill River	(717) 622-3742

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Goshen Township Clearfield County	PAR101745	Al Hamilton Conf. Co. R. R. 1, Box 84 Woodlane, PA 16881	Surveyor Run	Clearfield CCD 650 Leonard St. Clearfield, PA 16823 (814) 765-2629
Marion Heights Boro Northumberland Co.	PAR104921	DEP, Abandoned Mine 2 Public Sq., 5th Floor Wilkes-Barre, PA 18711	Quaker Run	Northumberland CCD R. R. 3, Box 238C Sunbury, PA 17801 (717) 988-4224
Hanilton Township Adams County	PAR-10-0058	RBL Development Corp. 3902 Autumn Lane Stewartstown, PA 17363	Pine Run	Adams County CD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
Hanilton Township Adams County	PAR-10-0063	Lebing Development Corp. 307 Broadway Hanover, PA 17331	Beaver Creek	Adams County CD 57 N. Fifth St. Gettysburg, PA 17325 (717) 334-0636
King Township Bedford County	PAR-10-0431	FAB Tech Inc. P. O. Box 429 Imler, PA 16665	Tributary to Mud Run	Bedford County CD 702 West Pitt Street Suite 4 Bedford, PA 15009 (814) 623-6706
Kutztown Borough Maxatawny Township Berks County	PAR-10-C189	Kutztown Park Expansion Kutztown Borough 45 Railroad Street Kutztown, PA 19530	Saucony Creek	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Lower Heidelberg Township Spring Township Berks County	PAR-10-C202	Rosewood Hills Development Westbury Golf Course 150 Grings Hill Road Sinking Spring, PA 19608	Cacoosing Creek	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Alsace Township Berks County	PAR-10-C206	Beacon Hill Phase IV Nino Gianotti 77 Wellington Blvd. Wyomissing, PA 19610	Laurel Run	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
Caemarvon Township Berks County	PAR-10-C213	Richard Hankin, Hanking Group Lot 16 Morgantown Bus Park 717 Constitution Drive P. O. Box 562 Exton, PA 19341	Tributary to Conestoga River	Berks County CD P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533 (610) 372-4657
West Hempfield Township Lancaster County	PAR-10-O-305	Hartz Properties 211 County Road Morgantown, PA 19543	UNT Susquehanna River	Lancaster County CD 1383 Arcadia Road Room 6 Lancaster, PA 17601 (717) 299-5361

*General Permit Type—PAG 4*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
W. Salem Township Mercer County	PAG048503	John F. and Joyce J. Vasikonis 504 Orangeville Rd. Greenville, PA 16125-2910	Unnamed Tributary to Big Run	Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-9**Facility Location**County and Municipality**General Permit No.**Applicant Name and Address**Contact Office and Telephone No.*Greene County  
Whitely Township

PAG096101

Ronald H. Watters  
R. D. 2, Box 189  
Waynesburg, PA 15370Southwest Regional  
Office: Water  
Management Program  
Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000**SEWAGE FACILITIES ACT****PLAN APPROVAL****Planning approval was granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).***Southwestern Regional Office, Water Quality Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.**Location: Cresson Borough, Cambria County, P. O. Box 75, Cresson, PA 16630. Cresson Township, Cambria County, 740 Portage Road, Cresson, PA 16630.*

The Cresson Borough and Township approved revision provides for the upgrading of the wastewater treatment facility from 0.7 mgd to 1.5 mgd. This will abate bypassing within the collection and conveyance systems and to allow for future new land development. Further it will also provide capacity for the Borough of Sankertown should they decide to tie in to this system.

*Location: Hastings Borough, Cambria County, P. O. Box 559, Hastings, PA 16646. Elder Township, Cambria County, 302 Scout Road, Hastings, PA 16646. Susquehanna Township, Cambria County, P. O. Box 43, Barnesboro, PA 15714.*

The Hastings Borough approved revision provides for the upgrade and expansion of their existing wastewater treatment facility from 0.21 mgd to 0.6 mgd to abate organic and hydraulic overload conditions and illegal bypassing within the system and to allow for the extension of sewers in Elder and Susquehanna Townships to abate existing malfunctioning onlot sewage systems and to allow for future new land development.

*Location: Conemaugh Township, Somerset County, 1120 Tire Hill Road, Johnstown, PA 15905.*

The Conemaugh Township approved revision provides for the construction of a new wastewater treatment facility of 0.450 mgd and collection and conveyance systems to service the following areas: Tire Hill, Bens Creek, Ideal, Crings, Soap Hollow, Bloomfield Heights, Pender Road, Crestview Drive, Indian Valley, Carpenters Park and Kaufman Church. This plan will provide sewage to abate existing malfunctioning onlot and community systems and to allow for new land development. Further it will eliminate three small wastewater treatment facilities and an existing pump station.

**Plan revision approval granted April 22, 1998 under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).***Regional Office: Water Management Program Manager, Southcentral Regional, One Ararat Boulevard, Harrisburg, PA 17110.**Location: Manheim Township, Lancaster County, 1840 Municipal Drive, Lancaster, PA 17601.*

The proposed development is located at the southeast corner of the intersection of Lausch Lane and Delp Road, Manheim Township, Lancaster County.

The approved project consists of subdividing a 22.0978 acre tract into 107 lots for residential townhouse use. The total sewage flows of 37,450 gallons per day (gpd) of wastewater will be treated by the Lancaster Area Sewer Authority Susquehanna Wastewater Treatment Plant.

Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority.

**SOLID AND HAZARDOUS WASTE****LICENSE TO TRANSPORT HAZARDOUS WASTE****Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.***Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.***Chemical Transportation, Inc.**, P. O. Box 397, Rillito, AZ 85654-0397; License No. **PA-AH 0459**; renewal license issued April 21, 1998.**Superior Special Services, Inc.**, 1275 Mineral Springs Drive, Port Washington, WI 53074; License No. **PA-AH S197**; renewal license issued April 14, 1998.**Zecco, Inc.**, 345 W. Main Street, Northboro, MA 01532; License No. **PA-AH 0416**; renewal license issued April 14, 1998.**License issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.***Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.***Coal City Cob Company, Inc.**, P. O. Box 516, Avalon, TX 76623; License No. **PA-AH 0589**; license issued April 23, 1998.

**The R. P. Blair Corporation**, 1956 Stout Drive, Ivyland, PA 18940; License No. **PA-AH 0588**; license issued April 16, 1998.

**PREVIOUSLY UNPERMITTED CLASS OF SPECIAL HANDLING WASTE**

**INFECTIOUS OR CHEMOTHERAPEUTIC WASTE**

**Amended license issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

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

**The Pennsylvania Hospital of the Pennsylvania Health System**, 800 Spruce Street, Philadelphia, PA 19107; License No. **PA-HC 0118**; amended license issued April 13, 1998.

**AIR RESOURCES**

**OPERATING PERMITS**

**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**46-302-194A: Tuscan/Lehigh Dairies L. P.** (880 Allentown Road, Lansdale, PA 19446) issued for the operation of a boiler in Upper Gwynedd Township, **Montgomery County**.

**OP-15-0011: Pierce & Stevens Corp.** (Route 113 and Coldstream Road, Kimberton, PA 19442) issued March 27, 1998, for the operation of a Facility VOCs RACT in East Pikeland Township, **Chester County**.

**OP-46-0118: Ursinus College** (601 E. Main Street, Collegeville, PA 19426) issued March 27, 1998, for the operation of a Facility VOC/NOx RACT in Collegeville Borough, **Montgomery County**.

**OP-46-0048B: Rhone-Poulenc Rorer Pharmaceuticals** (500 Arcola Road, Collegeville, PA 19426) issued for the operation of a Facility VOC/NOx RACT in Upper Providence Township, **Montgomery County**.

**OP-46-0020: Superior Tube Company** (3900 Germantown Pike, Collegeville, PA 19426) issued April 17, 1998, for the operation of a Facility VOCs/NOx RACT in Lower Providence Township, **Montgomery County**.

*Northwest Regional Office, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**10-318-014A: NAPCO, Inc.** (125 McFann Road, Valencia, PA 16059) issued February 28, 1998, for a coil coating line in Middlesex Township, **Butler County**.

**General Plan Approval and Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**AQ-SE-0006: Haines & Kibblehouse, Inc.** (Hanover Road, Pottstown, PA 19464) for a portable crushing plant in Lower Pottsgrove Township, **Montgomery County**.

**23-323-002GP: PyroPure, Inc.** (5 Commerce Drive, Aston, PA 19014) for burn off ovens in Chester Township, **Delaware County**.

**Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**09-313-083: Rhodia, Inc.** (2300 S. Pennsylvania Avenue, Morrisville, PA 19067) issued February 27, 1998, for a polyphosphoric acid process in Morrisville Borough, **Bucks County**.

**09-313-008: Rhodia, Inc.** (2300 S. Pennsylvania Avenue, Morrisville, PA 19067) issued February 27, 1998, for a phosphorous products manufacturing process in Morrisville Borough, **Bucks County**.

**46-313-119: Rhone-Poulenc Rorer Pharmaceuticals, Inc.** (500 Arcola Road, Collegeville, PA 19426) issued March 6, 1998, for four coating pans lines (slo-bid) in Upper Dublin Borough, **Montgomery County**.

**PLAN APPROVALS**

**Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**PA-46-0128: Bell Atlantic** (100 Greenwood Avenue, Jenkintown, PA) issued March 13, 1998, for the operation of an emergency diesel generator in Abington Township, **Montgomery County**.

**PA-23-0014: Kimberly-Clark Tissue Company** (Front Street and Avenue of the States, Chester, PA 19013) issued April 3, 1998, for the operation of an ash handling equipment in Chester Township, **Delaware County**.

**PA-15-0002A: Quebecor Printing Atglen, Inc.** (Route 372, Lower Valley Road, Atglen, PA 19310) issued April 3, 1998, for the operation of a publication rotogravure press in West Sadsbury Township, **Chester County**.

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**06-3024: Wolfe Dye & Bleach Works, Inc.** (25 Ridge Road, Shoemakersville, PA 19555) issued April 20, 1998, for the construction of a tender frame dryer (Fab Con) at their St. Lawrence Carbonizing Plant in Exeter Township, **Berks County**.

**36-05067B: C & D Technologies, Inc.** (82 East Main Street, Leola, PA 17540) issued April 21, 1998, for modification of the lead-acid battery manufacturing plant in Upper Leacock Township, **Lancaster County**. This source is subject to 40 CFR 60, Subpart KK, Standards of Performance for New Stationary Sources.

**67-315-011: P. H. Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362-0500) issued April 21, 1998, for modification of the G-Coater in Spring Grove Borough, **York County**.

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

**PA-63-893A: Master Woodcraft, Inc.** (100 Stationvue, Washington, PA 15301) issued April 20, 1998, for a surface coating spray booth at Washington Plant in Chartiers Township, **Washington County**.

**PA-63-893B: Master Woodcraft, Inc.** (100 Stationvue, Washington, PA 15301) issued April 20, 1998, for a dust collection system at Washington Plant in Chartiers Township, **Washington County**.

**PA-56-267A: Future Industries, Inc.** (P. O. Box 157, Meyersdale, PA 15552) issued April 20, 1998, for a coal crushing facility in Brothersvalley Township, **Somerset County**.

**PA-11-418A: Waylite Corp.** (R. D. 5, Easton Road, Bethlehem, PA 18015) issued April 20, 1998, for torching and lacing at Park Hill Slag Bank in East Taylor Township, **Cambria County**.

**PA-04-503A: PMAC, Ltd.** (4023 Fourth Avenue, Beaver Falls, PA 15010) issued April 20, 1998, for boiler and metal heat furnaces at PMAC II in Beaver Falls, **Beaver County**.

**PA-11-416A: Pheasant & Shearer** (1922 Ohio Street, Johnstown, PA 15904) issued April 20, 1998, for hammermill flex tooth crusher at Rider Slag Dump in East Taylor Township, **Cambria County**.

**PA-26-488A: Laurel Aggregates, Inc.** (P. O. Box 23, Gans, PA 15439) issued April 20, 1998, for limestone hauling and crushing at Wymps Gap Quarry in Springhill Township, **Fayette County**.

*Northwest Regional Office, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**PA-42-184C: Keystone Powdered Metal Inc.** (8 Hanley Drive, Lewis Run, PA 16738) issued April 22, 1998, for the construction of a tempering furnace in Lewis Run, **McKean County**.

**PA-42-184B: Keystone Powdered Metal Inc.** (8 Hanley Drive, Lewis Run, PA 16738) issued April 22, 1998, for the construction of a heat treat furnace in Lewis Run, **McKean County**.

**Plan Approvals extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**09-399-038: Interstate Energy Company** (Rich Hill Road, Sellersville, PA 18960) issued April 2, 1998, for the operation of two natural gas pipeline heaters in West Rockhill Township, **Bucks County**.

**23-302-129A: Villanova University** (Ithan Avenue and Route 30, Villanova, PA 19085) issued April 3, 1998, for the operation of heating hot water boilers in Radnor Township, **Delaware County**.

**46-318-046: Eye Designs LLC** (1700 East Drive, Bldg. Q, Oaks, PA 19456) issued April 16, 1998, for the operation of two spray booths in Upper Providence Township, **Montgomery County**.

**PA-09-0005: 3M Company** (2201 Green Lane, Bristol, PA 19007) issued April 16, 1998, for the operation of an adhesive formulation process in Bristol Township, **Bucks County**.

**23-312-172B: Epsilon Products Company** (Post Road and Blueball Ave., Marcus Hook, PA 19061) issued April 16, 1998, for the operation of a No. 2 polypropylene manufacturing in Marcus Hook Borough, **Delaware County**.

**46-399-106: Naval Air Station Joint Reserve Base** (Naval Air Station, Route 611, Willow Grove, PA 19090) issued April 17, 1998, for the operation of a plastic media blast booth in Horsham Township, **Montgomery County**.

**46-318-044: Naval Air Station Joint Reserve Base** (Naval Air Station, Route 611, Willow Grove, PA 19090) issued April 17, 1998, for the operation of a paint spray booth in Horsham Township, **Montgomery County**.

**46-302-204: Tuscan/Lehigh Dairies L. P.** (880 Allentown Road, Lansdale, PA 19446) issued April 17, 1998, for the operation of a Mohawk Superior Boiler in Upper Gwynedd Township, **Montgomery County**.

*Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.*

**36-302-130A: R. R. Donnelley & Sons Co.** (216 Greenfield Road, Lancaster, PA 17601) issued April 21, 1998, to authorize temporary operation of the Cleaver-Brooks Boiler Nos. 1, 2, 3 and 4 (Natural Gas/No. 6 Fuel Oil) covered by this Plan Approval until August 18, 1998, at their Manufacturing Division, East, in the City of Lancaster, **Lancaster County**.

**36-317-184B: Pepperidge Farm, Inc.** (2195 North Reading Road, Denver, PA 17516) issued April 25, 1998, to authorize temporary operation of the bakery operations covered by this Plan Approval until August 23, 1998, at their Denver Bakery, in East Cocalico Township, **Lancaster County**.

*Northwest Regional Office, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**PA-24-083A: Carbone of America Industries Corp.** (215 Stackpole Street, St. Marys, PA 15857) issued April 30, 1998, for a coke/graphite mill in Benzinger Township, **Elk County**.

**REASONABLY AVAILABLE CONTROL  
TECHNOLOGY  
(RACT)**

**Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 127.450 for Reasonable Available Control Technology.**

*Southeast Regional Office, Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**OP-46-0023: Forms, Inc., Spectra Graphics** (Route 611 and Form Lane, Willow Grove, PA 19090) issued March 26, 1998, for Facility VOC RACT in Upper Moreland Township, **Montgomery County**.

**OP-46-0082: Stabilus** (92 County Line Road, Colmar, PA 18915) issued March 26, 1998, for Facility VOC/NOx RACT in Hatfield Township, **Montgomery County**.

**OP-46-0067: MM SKB Energy LLC** (709 Swedeland Road, Upper Merion, PA 19406) issued March 31, 1998, for Facility VOCs/NOx RACT in Upper Merion Township, **Montgomery County**.

**OP-09-0030: MSC Pre Finish Metals Inc.** (1295 New Ford Mill Road, Morrisville, PA 19067) issued March 31, 1998, for Facility NOx and VOC Sources in Falls Township, **Bucks County**.

**OP-15-0021: Glasgow, Inc.** (660 Morehall Road, Malvern, PA 19355) issued March 31, 1998, for Facility VOCs/NOx RACT in East Whiteland Township, **Chester County**.

**OP-09-0009: Webcraft Technologies, Inc.** (4371 County Line Road, Chalfont, PA 18914) issued April 17, 1998, for Facility Major VOC Synthetic NOx in New Britain Township, **Bucks County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

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

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

#### *Coal Permits Issued*

**03910101T. Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Permit transferred from State Industries, Inc., for a bituminous (also clay, shale and sandstone) surface/auger mining site located in Boggs Township, **Armstrong County**, affecting 208.5 acres. Receiving streams: unnamed tributaries to North Fork of Pine Creek to Pine Creek to Allegheny River. Application received: January 30, 1998. Transfer issued: April 16, 1998.

**65960107. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision issued changing the post mining landuse from forestland to recreation on the Amerikohl Mining, Inc. property on an existing bituminous surface mine with coal preparation plant/processing facility located in Mt. Pleasant Township, **Westmoreland County**. Receiving streams: unnamed tributaries to Laurel Run to Jacobs Creek to the Youghiogheny River and Jacobs Creek to the Youghiogheny River. Revision application received: January 12, 1998. Revision issued: April 22, 1998.

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

**49920101R. Blaschak Coal Corp.** (P. O. Box 12, St. Nicholas, PA 17948), renewal of an existing anthracite surface mine operation in Coal Township, **Northumberland County** affecting 1,016.0 acres, receiving stream none. Renewal issued April 24, 1998.

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

#### *Noncoal Permits Issued*

**7975SM2A1C4. Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474), renewal of NPDES Permit No. PA0613151 in Plumstead Township, **Bucks County**, receiving stream Geddes Run. Renewal issued April 24, 1998.

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

#### *Noncoal Applications Withdrawn*

**7974SM3C3. New Hope Crushed Stone & Lime Company** (P. O. Box 248, New Hope, PA 18938), correction to an existing quarry operation for a stream variance in Solebury Township, **Bucks County**, receiving stream Delaware River. Application received February 13, 1997. Application withdrawn: April 20, 1998.

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

#### *General Small Noncoal Authorizations Granted*

**58980807. Thomas J. Shields** (R. R. 1, Box 1117, Hallstead, PA 18822-9710), commencement, operation and restoration of a small quarry operation in Liberty Township, **Susquehanna County** affecting 2.0 acres, receiving stream none. Authorization granted April 22, 1998.

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

### ENCROACHMENTS

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

Persons aggrieved by this action may appeal under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rule 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.



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

*Southeast Regional Office, Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E15-568.** Encroachment Permit. **LNP Engineering Plastics, Inc.**, 251 South Bailey Road, Thorndale, PA 19335. To construct an addition to an existing warehouse facility which will impact 0.03 acre of wetland, located 1,100 feet southwest of the intersection of Lincoln Highway (SR 0030) and Baily Road (T 408) (Coatesville, PA Quadrangle N: 20.9 inches; W: 2.2 inches) in Caln Township, **Chester County**.

**E23-359.** Encroachment Permit. **Riverside Yacht Club, Inc.**, P. O. Box 64, 95 Wanamaker Avenue, Essington, PA 19029. To operate and maintain the Riverside Yacht Club Marina facilities situated along the northern bank of the Delaware River, and also to install and maintain an 85-foot long dock addition, which is to be attached to the terminus of the existing floating dock. The proposed floating dock system would extend a total length of 299 feet riverward of the existing low water line, and would provide a total of 21 mooring slips occupying approximately 0.8 acre of the submerged lands of this Commonwealth. The shoreline bulkhead structure has impacted a de minimis 0.02 acre of wetland. The project is located in the town of Essington, approximately 1,000 feet south from the junction of Wanamaker Avenue (S. R. 420) and Second Street (Bridgeport, NJ-PA Quadrangle N: 19.8 inches; W: 7.2 inches) in Tinicum Township, **Delaware County**.

**E23-366.** Encroachment Permit. **Gricco's Marine Services, Inc.**, 772 Delaware Avenue, Norwood, PA 19074. To expand, operate and maintain Gricco's Marine Service, Inc. facilities situated along the northern bank of the Delaware River, and install and maintain a 90-foot long addition attached at the terminus of the existing floating dock. The proposed floated dock system would extend a total length of 270 feet waterward of the existing low water line and would provide 29 mooring slips occupying approximately 0.6 acre of the submerged lands of this Commonwealth. Fill will also be placed in a de minimis 0.03 acre of wetland. The project is located in the town of Essington, approximately 200 feet south of the intersection of Front Street and Bartram Avenue (Bridgeport, NJ-PA Quadrangle N: 19.8 inches; W: 6.5 inches) in Tinicum Township, **Delaware County**.

**E46-776.** Encroachment Permit. **Line Lexington Management Corporation**, 768 North Bethlehem Pike, Suite 201, Lower Gwynedd, PA 19002. To perform the following activities associated with the Market Plex at Line Lexington Industrial Park, located approximately 3,200 feet northwest from the intersection of Orvilla Road and Route 309 (Telford, PA Quadrangle N: 6.9 inches; W: 4.1 inches in Hatfield Township, **Montgomery County**):

1. To construct and maintain 50 linear feet of 40.375-foot by 9.66-foot precast concrete arch roadway culvert

and associated 21-inch and 18-inch RCP outfall structures in and along the Unionville Tributary to the West Branch of the Neshaminy Creek for the proposed Sterling Drive;

2. To install and maintain 100 linear feet of 29-inch by 45-inch twin, HERCP stream enclosure roadway culvert in and along an unnamed tributary to the West Branch of the Neshaminy Creek for the proposed Silverstone Drive;

3. To eliminate approximately 900 feet of stormwater drainage ditch and redirect the flow through 740 linear feet of storm sewer piping starting at an existing endwall near S. R. 309 and ending at a location near the proposed intersection of Sterling Drive with Silverstone Drive.

These activities are associated with the internal roadway network for a future development phase for an existing industrial park, and impact approximately 0.51 acre of wetlands. This project includes the construction of 0.54 acre of replacement wetlands.

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

**E04-242-A1.** Encroachment. **PA Department of Transportation**, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. To amend Permit E04-242 to remove the existing bridge and construct and maintain a RC box culvert having a span of 16 feet, an effective underclearance of 4 feet and a length of 72 feet in a tributary to Little Traverse Creek (WWF). The culvert will be depressed 1 foot. The project is located on S. R. 0030, Section B04 Station 502 + 24 (Hookstown, PA Quadrangle N: 5.2 inches; W: 1.5 inches) in Hanover Township, **Beaver County**.

**E45-327.** Encroachment. **J. A. Snyder Entities, Inc.**, Route 611, Fountain Court, Bartonsville, PA 18321. To construct and maintain a 6-inch wastewater treatment plant effluent line crossing of wetlands and an associated 6-inch outfall to a tributary to Pocono Creek, for the purpose of constructing a commercial development known as Fountain Springs West. The project will temporarily impact a de minimis area of wetlands less than or equal to 0.05 acre. The project is located on the west side of S. R. 0611, approximately 0.8 mile south of the intersection of S. R. 0611 and S. R. 0715 (Mount Pocono, PA Quadrangle N: 6.1 inches; W: 7.4 inches), in Pocono Township, **Monroe County**.

**E45-341.** Encroachment. **Bright Creek Park Association**, R. R. 1, Box 140, Canadensis, PA 18325. To remove the existing structure and to construct and maintain a private steel beam bridge having a single span of 30 feet and an underclearance of approximately 6 feet across Bright Creek. The project is located 1.5 miles east of T-598 (Upper Seese Hill Road) (Skytop, PA Quadrangle N: 17.0 inches; W: 5.0 inches) in Barrett Township, **Monroe County**.

**E45-342.** Encroachment. **Pasteur Merieux Connaught**, P. O. 187, Swiftwater, PA 18370. To construct and maintain a pedestrian bridge having a single span of 53.4 feet and a minimum underclearance of approximately 7.0 feet across Swiftwater Creek to provide access from a parking lot to research buildings. The project is located 0.3 mile downstream from S. R. 0611 (Mount Pocono, PA Quadrangle N: 17.1 inches; W: 10.0 inches) in Pocono Township, **Monroe County**.

**E45-344.** Encroachment. **Stroud Township**, 1211 North Fifth Street, Stroudsburg, PA 18360. To maintain a gabion retaining wall having a length of approximately 100 feet and height of 12 feet along the western streambank of McMichael Creek. The construction of this

wall was authorized by Emergency Permit No. EP4598401 for the purpose of preventing streambank erosion adjacent to a Township sewage pump station. The project is located east of the intersection of S. R. 2004 (Dreher Avenue) and Township Road T401 (Stroudsburg, PA Quadrangle N: 18.1 inches; W: 11.5 inches) in Stroud Township, **Monroe County**.

**E48-265.** Encroachment. **Chrin Brothers, Inc.**, 635 Industrial Drive, Easton, PA 18042. To remove the existing structure and to construct and maintain a 96-inch diameter C.M.P. culvert in a tributary to the Lehigh River, locally known as Tumble Creek. The project is located north of the intersection of S. R. 0078 and S. R. 2012 (Island Park Road) (Nazareth, PA Quadrangle N: 3.8 inches; W: 1.25 inches) in Williams Township, **Northampton County**.

*Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.*

**E05-257.** Encroachment. **PA Department of Transportation, Engineering District 9-0**, Alfred Laich, 1620 North Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a new concrete spread box beam bridge having a normal clear single span of 32 feet on 82 degrees skew with a minimum underclearance of 8.1 feet across Piney Creek on SR 0026, Section 005, Segment 0130, Offset 0000 and to fill in 0.02 acre of de minimis wetland in order to realign the roadway of SR 0026. The new bridge will be located about 20 feet downstream of the existing bridge and about 500 feet northwest of the SR 0026 and LR 05011 intersection (Chaneyville, PA Quadrangle N: 9.1 inches; W: 3.88 inches) in Mann Township, **Bedford County**. The applicant is not required to mitigate the wetland impact because it is de minimis. This permit also includes 401 Water Quality Certification.

**E05-258.** Encroachment. **Penn Detroit Diesel Allison**, Ralph Rankin, P. O. Box 147, Bedford, PA 15522. To excavate and place fill in 0.26 acre of wetland in order to construct a detention basin of a proposed trucking terminal located on the north side of Weber Lane about 500 feet west of its intersection with the old US 220 (Bedford, PA Quadrangle N: 8.7 inches; W: 1.75 inches) in Bedford Township, **Bedford County**. The permittee shall provide \$2,500 contribution to the National Fish & Wildlife Foundation, Wetland Replacement Program, for 0.26 acre of wetland impacts. This permit also includes 401 Water Quality Certification.

**E06-507.** Encroachment. **PA Historical & Museum Commission**, Brent Glass, 400 Daniel Boone Dr., Birdsboro, PA 19508. To remove silt and sediment from 210 feet of channel of a tailrace downstream of Daniel Boone Lake at a point just upstream of its confluence with Owatin Creek (Birdsboro, PA Quadrangle N: 8.15 inches; W: 7.9 inches) in Exeter Township, **Berks County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E21-277.** Encroachment. **PA Department of Transportation, District 8-0**, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To remove the existing structure and to construct and maintain a box culvert with a normal span of 16 feet on a 27 degree skew with an underclearance of 5 feet in the channel of an unnamed tributary to Cedar Run on SR 2014, Segment 0150, Offset 1935 (Simpson Ferry Road) located about 0.6 mile east from its intersection with US 15 (Lemoyne, PA Quad-

rangle N: 18.9 inches; W: 6.4 inches) in Lower Allen Township, **Cumberland County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E22-374.** Encroachment. **Rudolph Malesich**, 815 East Main Street, Middletown, PA 17057. To remove fill and debris and regrade disturbed areas for a distance of 2,200 linear feet along the floodway of the Swatara Creek located upstream of Route 230. This permit also authorizes the placement of appropriately sized concrete rubble along the stream bank to a distance of 500 feet upstream of Route 230 and 300 feet downstream of the nearby low head dam. The permit also authorizes that the remaining 1,400 feet of stream bank be stabilized with grass. (Middletown, PA Quadrangle N: 14.0 inches; W: 12.8 inches) in Middletown Borough, **Dauphin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E28-248.** Encroachment. **Antrim Township**, Ben Thomas, P. O. Box 130, Greencastle, PA 17225. To remove the existing structure and to construct and maintain a 12-foot x 4-foot concrete box culvert in the channel of an unnamed tributary to Muddy Run on Antrim Church Road (T-438) in order to improve the traffic safety located about 2.2 miles northeast of Greencastle Boro (Greencastle, PA Quadrangle N: 10.8 inches; 9.8 inches) in Antrim Township, **Franklin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E29-076.** Encroachment. **Thompson Township Supervisors**, Bruce Bivens, HCR 81, Box 121, Big Cove Tanney, PA 17212. To construct and maintain a pre-stressed concrete adjacent box beam bridge having a clear single span of 104 feet on a 90 degree skew with a minimum underclearance of 9.53 feet across Licking Creek on T-331 located about 1 mile northwest of Dickey's Mountain Village (Big Cove Tanney, PA Quadrangle N: 7.38 inches; W: 12.88 inches) in Thompson Township, **Fulton County**. This permit also includes 401 Water Quality Certification.

**E31-141.** Encroachment. **Huntingdon Community Center**, Theodore Aurand, 310 Fifth Street, P. O. Box 424, Huntingdon, PA 16652. To construct and maintain a 64-inch by 43-inch, 40-foot long corrugated metal arch pipe culvert in an unnamed tributary to Standing Stone Creek and to place fill in the floodplain of Standing Stone Creek and 0.47 acre of associated wetlands for the purpose of developing 1.22 acres of additional parking at Detwiller Park located along SR 026 at the northeast boundary of Huntingdon Borough (Mount Union PA Quadrangle N: 21 inches; W: 16.75 inches) in Oneida Township, **Huntingdon County**. The permittee shall provide for 0.47 acre of wetland replacement by making a monetary contribution of \$7,500 to the National Fish & Wildlife Foundation, Pennsylvania Wetland Replacement Project, ID Number 95-096. This permit also includes 401 Water Quality Certification.

**E36-645.** Encroachment. **Levi Beiler**, 183 Hershey Church Road, Kinzers, PA 17535. To remove the existing structure, construct and maintain a dual reinforced concrete box culvert, each cell having a clear span of 12-feet, with an underclearance of 5-feet and 4.5-feet across Umbles Run for access to a new farm house. Driveway crossing is located on the west side of Hershey Church Road (T-778), about 1,000 feet south of its intersection with SR 340 (New Holland, PA Quadrangle N: 6.25 inches; W: 7.0 inches) in Salisbury Township, **Lancaster**

**County.** This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E44-091.** Encroachment. **PA Department of Transportation, Engineering District 2-0**, Kim Bartoo, 1924-30 Daisy Street, P. O. Box 242, Clearfield, PA 16803. To remove an existing bridge and to construct and maintain a single span prestressed concrete box beam bridge having a span of 44.0 feet and a minimum underclearance of 8.83 feet over Strodes Run for the purpose of highway maintenance located on SR 0022, Section C04, Segment 0380, Offset 0023 at Strodes Mills (Bernville, PA Quadrangle N: 9.2 inches; W: 6.9 inches) in Oliver and Granville Townships, **Mifflin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E67-612.** Encroachment. **PECO Energy Company**, David Foss, 1848 Lay Road, Delta, PA 17314. To construct and maintain a bridge having an average clear span of 118-feet, with a minimum low-chord underclearance of 5-feet at the center of Rock Run, located near its mouth with the Susquehanna River. The bridge will have a concrete deck supported by nine rows of five cast-in-place concrete piles, 14-inches in diameter, and concrete abutments. The bridge will provide access between the Peach Bottom Power Station and a proposed spent fuel storage facility to be constructed on part of the existing parking lot (Holtwood, PA Quadrangle N: 1.2 inches; W: 2.4 inches) in Peach Bottom Township, **York County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

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

**E10-269.** Encroachment. **James Dlubak, c/o Dlubak Glass Company**, 1600 Saxonburg Road, Natrona Heights, PA 15065. To install and maintain a 10-inch-diameter PVC pipe gravity sanitary sewer line with concrete encasement across a tributary to Little Bull Creek upstream of S. R. 2009 (Ekastown Road) approximately 1 mile north of S. R. 1028 (Millerstown Road) (Freeport, PA Quadrangle N: 9.8 inches; W: 16.0 inches) in Buffalo Township, **Butler County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

**E10-274.** Encroachment. **Butler County Commissioners**, P. O. Box 1028, Butler, PA 16003-1208. To modify and maintain the Moore Bridge (County No. 121) having a span of 35 feet and an underclearance of 7 feet across Bull Creek on Christy Road approximately 500 feet south of Cherry Valley Road (Curtisville, PA Quadrangle N: 9.6 inches; W: 14.0 inches) in Clinton Township, **Butler County**.

**E25-265.** Encroachment. **Waterford Township Supervisors**, 12451 Circuit Road, Waterford, PA 16441. To remove the existing bridge and to install and maintain a precast concrete arch culvert having a span of 32 feet and a maximum rise of 7 feet in Trout Run on T-300 (Bagdad Road) approximately 0.5 mile west of S. R. 19 (Cambridge Springs NE, PA Quadrangle N: 13.3 inches; W: 0.1 inch) in Waterford Township, **Erie County**.

**E37-116.** Encroachment. **Pulaski Township Supervisors**, Pulaski, PA 16143. To remove the existing Skillen Hollow Bridge and to construct and maintain a prestressed concrete spread box beam bridge having a nor-

mal span of 30 feet and an underclearance of 13.55 feet on a 70 degree skew across Buchanan Run on T-382 (English Road) approximately 800 feet north of S. R. 208 (Edinburg, PA Quadrangle N: 22.3 inches; W: 2.9 inches) in Pulaski Township, **Lawrence County**.

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

**E12-105.** Encroachment. **Dept. of Conservation & Natural Resources**, Bureau of Forestry, P. O. Box 8451, Harrisburg, PA 17101. To remove the existing structure and to construct and maintain a single span prestressed concrete adjacent box beam bridge with a clear span of 16,824 mm, an underclearance of 2,455 mm and a clear roadway width of 6,614 mm over Mix Run on Red Run Road approximately 1.5 miles south of the intersection of Red Run Road with T-347 (Driftwood, PA Quadrangle N: 12.4 inches; W: 11.6 inches) in Gibson Township, **Cameron County**.

#### ENVIRONMENTAL ASSESSMENT

##### Environmental Assessment Approvals and Actions on 401 Certification

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**EA23-009CO.** Environmental Assessment. **Gap International, Inc.** (200 Ballymore Road, Springfield, PA 19064). To modify an existing nonjurisdictional dam across a tributary to Hotland Run (WWF) impacting a de minimis area of wetlands (PEM) equal to 0.04 acre for the purpose of aesthetics and providing access to a proposed office building. The existing dam is located adjacent to Old Marple Road (S. R. 1008) approximately 1,400 feet west of the intersection of Old Marple Road and Sproul Road (S. R. 320) (Lansdowne, PA Quadrangle N: 11.95 inches; W: 14.60 inches) in Marple Township, **Delaware County**.

**EA36-010CO.** Environmental Assessment. **Frey Dairy Farms, Inc.** (2646 River Road, Conestoga, PA 17516). To construct and maintain a nonjurisdictional dam across a tributary to Manns Run (WWF) impacting approximately 0.38 acre of wetlands (PEM) for the purpose of recreation located approximately 1,500 feet west of the intersection of River Road (S. R. 3030) and Letort Road (S. R. 3032) (Safe Harbor, PA Quadrangle N: 15.6 inches; W: 9.5 inches) in Manor Township, **Lancaster County**.

[Pa.B. Doc. No. 98-731. Filed for public inspection May 8, 1998, 9:00 a.m.]

#### Agricultural Advisory Board Meeting

The Agricultural Advisory Board is holding a special meeting on May 18, 1998, from 10 a.m. to 12 noon at the Rachel Carson State Office Building, Conference Room 14, 14th Floor, 400 Market Street, Harrisburg, PA. The purpose of the meeting is to review and comment on the Department's proposed Air Monitoring Plan for the installation and location of fine particulate monitors. Persons wishing to attend the meeting or who have questions regarding the meeting should contact Dean Auchenbach, Bureau of Water Quality Protection, at (717) 783-7577.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Dean Auchenbach at (717) 783-7577 or TTY/TDD: (800) 654-5984.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 98-732. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "January 1998 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 1998.

#### *Ordering Paper Copies of DEP Technical Guidance*

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Persons should check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Here 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. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

#### *Final Technical Guidance—New Guidance*

DEP ID: 563-2112-224 Title: Certification Guidelines for Beneficial Uses of Coal Ash Description: Provides information and procedures for coal ash to be certified by the Department for beneficial uses. Effective Date: April 30, 1998 Page Length: 8 pages Location: Vol 12, Tab 59A Contact: Evan Shuster at (717) 783-8845

DEP ID: 563-2112-225 Title: Technical Guidance for Beneficial Uses of Coal Ash Description: Provides technical information for beneficial uses of coal ash. Effective Date: April 30, 1998 Page Length: 8 pages Location: Vol 12, Tab 59B Contact: Evan Shuster at (717) 783-8845

#### *Final Technical Guidance—Substantive Revision*

DEP ID: 563-2000-602 Title: Beneficial Use of Sewage Sludge at Active Mine Sites Description: Provides the procedure for reviewing beneficial use of sewage sludge submitted as permit applications or permit revisions at active mine sites. Effective Date: April 30, 1998 Page Length: 4 pages Location: Vol 12, Tab 71 Contact: Evan Shuster at (717) 783-8845

DEP ID: 563-2112-203 Title: Insignificant Boundary Corrections for Surface Mining Activities Description: Establishes procedures for the review of insignificant boundary corrections to coal surface mine permits. Effective Date: April 7, 1998 Page Length: 3 pages Location: Vol 12, Tab 45 Contact: Evan Shuster at (717) 783-8845

DEP ID: 563-2112-206 Title: Beneficial Use of Coal Ash at Active Coal Mine Sites Description: Provides the procedure for reviewing beneficial uses of coal ash submitted as permit applications or permit revisions. Effective Date: April 30, 1998 Page Length: 6 pages Location: Vol 12, Tab 47 Contact: Evan Shuster at (717) 783-8845

#### *Draft Technical Guidance—New Guidance*

DEP ID: 563-2111-112 Title: Highwall Stability In Long-Term, Multiple Bench Quarries Description: Establishes criteria for evaluating highwall stability at long-term, multiple bench quarries. Anticipated Effective Date: July 22, 1998 Deadline for Submittal of Comments: May 26, 1998 Contact: Thomas Whitcomb at (717) 783-8845

DEP ID: 563-2504-449 Title: Additional Bonding for Wide Pits and Remote Spoil Storage Description: Addresses concerns that some types of mining operations are not adequately bonded. Anticipated Effective Date: January 8, 1999 Deadline for Submittal of Comments: June 1, 1998 Contact: John Meehan at (717) 783-9388

#### *Notice of Intent to Revise Technical Guidance*

DEP ID: 562-2112-503 Title: Bituminous Coal Surface Mining and Blasting Near Underground Utilities and Pipelines Description: Revisions to apply document to underground utilities and make consistent with recent regulatory amendments. Anticipated Effective Date: November 23, 1998 Anticipated Draft Development Date: July 14, 1998 Contact: Nevin Strock at (717) 783-8845

DEP ID: 563-2504-450 Title: Bond Adjustment/Release for Postmining Discharges Description: Will modify the method for determining the size of financial assurance needed for long-term treatment obligations. Anticipated Effective Date: January 1, 1999 Anticipated Draft Development Date: July 13, 1998 Contact: Evan Shuster at (717) 783-8845

#### *Notice of Intent to Develop Technical Guidance*

DEP ID: 563-2504-413 Title: Permit Area Reduction on Postmining Discharge Permits Description: Procedure for returning control of reclaimed land to landowner while mine operator maintains responsibility for water treatment. Anticipated Effective Date: October 1, 1998 Anticipated Draft Development Date: June 2, 1998 Contact: Evan Shuster at (717) 783-8845

#### *Notice of Intent to Add Draft Technical Guidance*

DEP ID: 293-2400-001 Title: Conducting Radiological Performance Assessments for LLRW Disposal in Pennsylvania Description: Focuses on LLRW disposal facility performance assessment as it applies to protection of the public and inadvertent intruders. Anticipated Effective Date: July 1998 Contact: Rich Janati at (717) 787-2147

DEP ID: 293-2400-002 Title: Using Engineered Structures to Provide Enhanced Containment Description: Pro-

vides performance objectives for meeting the regulations requiring enhanced containment. Anticipated Effective Date: July 1998 Contact: Rich Janati at (717) 787-2147

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 98-733. Filed for public inspection May 8, 1998, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Health Policy Board; Meeting Notice

The Health Policy Board has set its calendar for the year 1998. The meeting dates are scheduled as follows:

June 18, 1998 at 4 p.m. in the Pittsburgh State Office Building, Room 403, 300 Liberty Street, Pittsburgh, PA.

September 9, 1998 at 10 a.m. in the Health & Welfare Building, Room 812, 7th & Forster Streets, Harrisburg, PA.

December 9, 1998 at 10 a.m. in the Health & Welfare Building, Room 812, 7th & Forster Streets, Harrisburg, PA.

These meetings are subject to cancellation without notice.

For additional information, or for persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Robin Bowman at (717) 783-2500.

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-734. Filed for public inspection May 8, 1998, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Job Creation Assistance on Behalf of Persons with Severe Disabilities in Allegheny County

The Department of Labor and Industry (Department), Office of Vocational Rehabilitation, under the Rehabilitation Act of 1973 as amended in 1986 (P. L. 99-506), announces that competing applications to provide job creation assistance on behalf of persons with severe disabilities in Allegheny County will be accepted. This competition is authorized under section 103(b) of the Rehabilitation Act of 1973, as amended.

Funding for these projects is under the auspices of the Pennsylvania State Board of Vocational Rehabilitation and the Office of Vocational Rehabilitation (OVR), which will serve as administrator and fiscal agent for grants awarded under this announced competition.

This competition may provide multiyear funding for up to 3 years. OVR will entertain applications which address the development of local grants-to-business programs designed to increase employment of OVR-eligible persons, and stimulate local economic growth, through the acquisition of equipment essential to production/accomplishment of the business' primary purpose.

*Important:* Equipment acquired by local employers as a result of this grant competition must be operated (throughout the life of the equipment) by a person, or persons, with severe disabilities who are customers of OVR.

### Application Information

Applications received by close of business 5 p.m., June 29, 1998, which are complete and conform to established specifications will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose. Grants will be awarded through this competition contingent upon the availability of funds and the receipt of acceptable applications. Grants will be awarded by October 1, 1998. Final awards made through this competition are subject to the approval of the Executive Director, Pennsylvania Office of Vocational Rehabilitation.

- Eligible applicants are recognized "Economic Development Groups" defined as follows:

Any nonprofit or governmental group, corporation or consortium which exists for the purpose of providing economic development funding, provided in the form of capital equipment purchases, to companies doing business, or planning to do business in Allegheny County.

For the purposes of this competition, an eligible applicant may also be another nonprofit or governmental organization experienced in successfully collaborating with business and industry located in Allegheny County. The collaboration must have been in regard to development of employment, employment opportunities, placement of hard to place populations, workforce development or comparable areas of endeavor.

A bona fide applicant must have operated in the capacities as noted above for at least 3 years prior to submittal of an application under this competition.

- A bona fide applicant must address the need for job creation assistance, of the nature described, in Allegheny County.

- A bona fide applicant must demonstrate that its application has been developed considerate of input from the Pittsburgh OVR District Office.

- The original and one copy of the application narrative, as well as the original and one copy of the project budget must be received at the following address by the application deadline: Office of Vocational Rehabilitation, Infrastructure Services Section, Room 1320, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, Attention: Raymond L. Walker, Supervisor.

An original and one copy of the project budget, submitted in a separate sealed envelope, must accompany the application narrative. No reference may be made to the amount of funds requested, or other budgetary information, in the narrative application.

Four copies of the completed application narrative, only, must be received at the OVR Pittsburgh District Office at the following address (by the application deadline cited above): PA Office of Vocational Rehabilitation, Pittsburgh District Office, 217 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, Attention: Carol Dudek, District Administrator.

No budget information is to be sent to the Pittsburgh District Office.

#### *Service Information*

For purposes of this competition, Job Creation Assistance on Behalf of Persons with Severe Disabilities, services focus upon activities that result in increased competitive employment of OVR-eligible persons with severe disabilities. Activities allowable under this grant competition include: 1.) disbursement of monies, through the OVR grantee, to qualified local businesses for purchase of equipment, and requiring the recipient businesses to employ persons with severe disabilities to operate that equipment; and 2.) staff/other project-related administrative costs of the grantee, not to exceed 20% of the total application budget.

The grantee funded under this competition must comply with the following:

- Individuals placed in employment through this program must be eligible OVR customers.
- Job Creation services must be implemented with the close coordination of the OVR Pittsburgh District Office functioning in a leadership capacity. Proposals submitted for consideration under this grant competition must reflect this ongoing joint effort.
- The OVR District Administrator, OVR Pittsburgh District Office, or that person's designee, must personally be involved in all decisions regarding provision of equipment to applicant businesses. The District Administrator must cosign all disbursements made by the grantee to qualifying businesses.

#### *Application Material/Questions*

The complete application package containing a detailed Request for Proposal and Guidelines for Application, is available by writing to the following address, or by calling Raymond L. Walker, Supervisor, Infrastructure Services Section at (717) 787-5735, TDD: (717) 783-8917.

Office of Vocational Rehabilitation  
Infrastructure Services Section  
Room 1320 Labor and Industry Building  
Seventh and Forster Streets  
Harrisburg, PA 17120

Please direct questions concerning this announcement to Raymond Walker at the above address and telephone number.

#### *Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding the application will be held for prospective applicants on Monday, May 18, 1998, beginning at 1:30 p.m. at: OVR Pittsburgh District Office—Conference Room, 217 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, (800) 442-6371, TDD: (412) 392-5936.

Persons expecting to attend the preproposal conference should advise Carol Dudek, Pittsburgh District Office Administrator, in advance, of any special considerations or accommodations that may be required in order for them to fully participate in the preproposal conference. If reserved, handicapped parking is required, it is imperative that persons needing such parking notify Carol Dudek as soon as possible.

Persons needing directions to the State Office Building should call the OVR numbers noted above.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 98-735. Filed for public inspection May 8, 1998, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Payday '98 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-1—3761-15) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Payday '98.

2. *Price:* The price of a Pennsylvania Payday '98 instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Payday '98 instant lottery game ticket will contain one "Play Area" featuring one "Your Dollar Amount" area and one "Lucky Dollar Amounts" area. The play symbols and their captions located beneath the "Your Dollar Amount" area and the "Lucky Dollar Amounts" area are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOUR DOL), \$8<sup>00</sup> (EIGHT DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$80\$ (EIGHTY), \$2,500 (TWYFIVHUN) and \$10,000 (TEN THO).

4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$8, \$10, \$20, \$40, \$80, \$2,500 and \$10,000. The player can win up to four times on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Payday '98 instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets where the "Your Dollar Amount" play symbol of \$10,000 (TEN THO) matches the "Lucky Dollar Amounts" play symbol of \$10,000 (TEN THO), on a single ticket, shall be entitled to a prize of \$10,000.

(b) Holders of tickets where the "Your Dollar Amount" play symbol of \$2,500 (TWYFIVHUN) matches the "Lucky Dollar Amounts" play symbol of \$2,500 (TWYFIVHUN), on a single ticket, shall be entitled to a prize of \$2,500.

(c) Holders of tickets where the "Your Dollar Amount" play symbol of \$80\$ (EIGHTY) matches the "Lucky Dollar Amounts" play symbol of \$80\$ (EIGHTY), on a single ticket, shall be entitled to a prize of \$80.

(d) Holders of tickets where the "Your Dollar Amount" play symbol of \$40\$ (FORTY) matches the "Lucky Dollar Amounts" play symbol of \$40\$ (FORTY), on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets where the "Your Dollar Amount" play symbol of \$20\$ (TWENTY) matches the "Lucky Dollar Amounts" play symbol of \$20\$ (TWENTY), on a single ticket, shall be entitled to a prize of \$20.

(f) Holders of tickets where the "Your Dollar Amount" play symbol of \$10<sup>00</sup> (TEN DOL) matches the "Lucky Dollar Amounts" play symbol of \$10<sup>00</sup> (TEN DOL), on a single ticket, shall be entitled to a prize of \$10.

(g) Holders of tickets where the "Your Dollar Amount" play symbol of \$8<sup>00</sup> (EIGHT DOL) matches the "Lucky Dollar Amounts" play symbol of \$8<sup>00</sup> (EIGHT DOL), on a single ticket, shall be entitled to a prize of \$8.

(h) Holders of tickets where the "Your Dollar Amount" play symbol of \$4<sup>00</sup> (FOUR DOL) matches the "Lucky Dollar Amounts" play symbol of \$4<sup>00</sup> (FOUR DOL), on a single ticket, shall be entitled to a prize of \$4.

(i) Holders of tickets where the "Your Dollar Amount" play symbol of \$2<sup>00</sup> (TWO DOL) matches the "Lucky Dollar Amounts" play symbol of \$2<sup>00</sup> (TWO DOL), on a single ticket, shall be entitled to a prize of \$2.

(j) Holders of tickets where the "Your Dollar Amount" play symbol of \$1<sup>00</sup> (ONE DOL) matches the "Lucky Dollar Amounts" play symbol of \$1<sup>00</sup> (ONE DOL), on a single ticket, shall be entitled to a prize of \$1.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*Match Your Dollar Amount To Any Of The Lucky Dollar Amounts With Prize(s) Of:*

<i>Prize(s) Of:</i>	<i>Win</i>
\$1	\$1
\$1 + \$1	\$2
\$2	\$2
\$2 + \$2	\$4
\$4	\$4
\$2 + \$2 + \$2 + \$2	\$8
\$4 + \$4	\$8
\$8	\$8
\$10	\$10
\$10 + \$10	\$20
\$20	\$20
\$20 + \$20	\$40
\$10 + \$10 + \$10 + \$10	\$40
\$40	\$40
\$80	\$80
\$20 + \$20 + \$20 + \$20	\$80
\$40 + \$40	\$80
\$2,500	\$2,500
\$2,500 + \$2,500 + \$2,500 + \$2,500	\$10,000
\$10,000	\$10,000

<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 12,000,000 Tickets</i>
1:10	1,200,000
1:18.75	640,000
1:21.43	560,000
1:75	160,000
1:150	80,000
1:500	24,000
1:1,500	8,000
1:1,500	8,000
1:300	40,000
1:375	32,000
1:1,500	8,000
1:6,000	2,000
1:3,000	4,000
1:8,000	1,500
1:20,000	600
1:10,000	1,200
1:20,000	600
1:240,000	50
1:1,200,000	10
1:3,000,000	4

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Payday '98 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Payday '98, prize money from winning Pennsylvania Payday '98 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Payday '98 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote

Pennsylvania Payday '98 or through normal communications methods.

ROBERT A. JUDGE, Sr.,  
*Secretary*

[Pa.B. Doc. No. 98-736. Filed for public inspection May 8, 1998, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding

#### Dauphin County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace three existing corrugated steel pipe arches which carry Spring Creek under S. R. 0441 with a two span concrete bridge in Swatara Township, Dauphin County. The project consists of replacing the pipe arches on the existing alignment with widening to the upstream side, and improving the roadway geometry and sight distance from

a nearby intersection. The project will require the acquisition of right-of-way from the adjacent Five Senses Park and the Capital Area Greenbelt Trail, which are public recreation facilities. The effect of this project on the Five Senses Park and the Capital Area Greenbelt Trail will be mitigated by the following measures to minimize harm to the resources.

1. Any required staging and waste disposal areas will be located in upland (non-wetland) areas, out of the Capital Area Greenbelt Trail and the Five Senses Park.

2. Excavation equipment necessary for the construction of the overflow channel will be restricted from entering into planted areas of the Five Senses Park property. All equipment will be required to remain within the area of excavation, with access from S. R. 0441.

3. Only the area necessary to effectively perform the construction will be disturbed. Any adjacent sensitive resources will be fenced with protective fencing. All disturbed areas will be restored and revegetated at the completion of construction. Protective fencing will be placed to restrict users of the Capital Area Greenbelt Trail and Five Senses Park from the area of construction.

4. The necessary DEP General Permit and Corps of Engineers Section 404 Nationwide Permit will be obtained prior to the start of construction.

5. Channel overbank excavation will occur upstream of the bridge along the west bank of Spring Creek. Riparian vegetation species will be used to stabilize this area of channel improvement. Selected plant species will be coordinated with the City of Harrisburg and Dauphin County and will blend with the natural plantings within Five Senses Park.

I have considered the environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, and have concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effect.

No adverse environmental effect is likely to result from the replacement of these pipe arches.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-737. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Proposed State Implementation Plan; Transportation Conformity

Notice is hereby given by the Pennsylvania Department of Transportation of three public hearings for the purpose of accepting comments on the proposed Transportation Conformity State Implementation Plan.

The Department of Transportation proposes to implement Section 176(c)(4) of the Clean Air Act as amended in 1990, which requires the Commonwealth to submit to the United States Environmental Protection Agency (USEPA) and the United States Department of Transportation (USDOT), a revision to the implementation plan which contains procedures for USDOT, Metropolitan Planning Organizations (MPOs) and other State or local agencies to assess the conformity of transportation plans, programs, and projects. This conformity determination must be consistent with USEPA's Final Rule, published November

24, 1993, and amended on August 15, 1997, which establishes "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act" (Final Rule). The proposed State Implementation Plan addresses all requirements of the Final Rule and contains the necessary conformity criteria and procedures. If adopted, the State Implementation Plan will be submitted to the Environmental Quality Board at its July meeting, after which it is anticipated the Pennsylvania Department of Environmental Protection will submit it to the USEPA and USDOT for approval.

The first public hearing will be held on Tuesday, June 9, 1998, 10 a.m., at the: Upper Merion Township Building, Freedom Hall, 175 West Valley Forge Road, King of Prussia, PA 19406.

The second public hearing will be held on Wednesday, June 10, 1998, 10 a.m. at the: United Way of America, R. L. Simmons Boardroom, One Smithfield Street and Fort Pitt Boulevard, Pittsburgh, PA 15222.

The third public hearing will be held on Thursday, June 11, 1998, 10 a.m., at the: Pennsylvania Department of Transportation, Forum Place—Room 9B, 555 Walnut Street, Harrisburg, PA 17101.

The public hearing locations are accessible to persons having disabilities. Any person with special needs or requiring special aids is requested to contact the Department prior to the hearings so that special needs may be accommodated.

This publication serves as notice of the public comment period required under Section 7.5 of the Air Pollution Control Act, as amended. The revision will be available on May 9, 1998. Copies of the proposed State Implementation Plan are available by contacting Ms. Linda Knowlton at (717) 787-9626 or by writing to the address below.

Persons wishing to present testimony at the hearings or requiring special accommodations should contact Ms. Knowlton at least one (1) week prior to the hearings. Two (2) written copies of oral testimony are to be submitted at the hearings. To be considered, all comments must be in writing and received by the Department no later than July 9, 1998. Please address written comments to: Pennsylvania Department of Transportation, Mr. Michael W. Baker, Chief, Air Quality Section, Forum Place—6th Floor, 555 Walnut Street, Harrisburg, PA 17101-1900.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 98-738. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Retention of Engineering Firms

#### Erie and Mercer Counties Project Reference No. 08430AG2184

The Department of Transportation will retain a consulting firm to assist in right-of-way acquisition services for the following two (2) projects:

1. S. R. 4034, Section A51 located in the City of Erie, Erie County, Pennsylvania.
2. S. R. 0018, Section A01 located in the City of Hermitage, Mercer County, Pennsylvania.



The selected firm will be required to assist the Department right-of-way staff with relocation assistance; appraisal planing services; negotiation assistance; title and settlement services; and clerical and support services.

S. R. 4034, Section A51 (East Side Access Highway) involves the construction of a new four lane roadway in an urban area. The roadway alignment will parallel an active railroad line which is expected to require some relocation. It is anticipated that thirty (30) to thirty-five (35) parcels will be affected with approximately twenty (20) displacements. Relocations will involve both residential and commercial properties.

S. R. 0018, Section A01 (North Hermitage Road) involves the widening of a principal arterial from its existing two to four lanes to a full five lane section. The roadway corridor passes through an area experiencing rapid commercial growth and is on the National Highway System (NHS). Approximately seventy (70) parcels will be affected involving residential, commercial and institutional properties. No displacements are anticipated.

Any firm that is under contract or is being considered to provide real estate or property management services to a land developer with interests in the project areas will not be considered for this assignment. Firms are to state in their letter of interest that they are not under contract nor are being considered for a contract with a land developer with interests in the project area.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the 'General Requirements and Information' section.
- b. Experience and competence of the project manager and key personnel.
- c. Past performance record on similar projects.
- d. Availability of listed staff.
- e. Current workload.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. John Baker, P.E., District Engineer, District 1-0, 1140 Liberty Street, Franklin, PA 16323.

Any technical questions concerning the requirements for this project should be directed to: Mr. Michael McMullen, P.E., District 1-0, at (814) 437-4331.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties  
Project Reference No. 08430AG2185**

The Department of Transportation will retain a surveying firm to provide preliminary, final, and construction surveying services for various projects through Engineer-

ing District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties.

The Contract will be for a period of thirty-six (36) months from the date of execution. It is estimated that approximately 550 crew days may be required under this agreement.

The selected firm must be able to adequately staff a minimum of two (2) four-person survey crews and have sufficient staff to provide two-person, three-person, and five-person survey crews when required. The firm will be required to furnish each survey crew with all required material, equipment, liability insurance, safety equipment, and procedures necessary for the efficient, timely, and professional completion of preliminary highway surveys, property surveys, construction stakeouts, re-establish alignments, referencing control points, running cross sections, construction finals, and other related survey projects as directed by the Department.

Preliminary highway surveys shall be performed using three-dimensional (3D) electronic survey procedures, unless otherwise directed by the Department. To ensure that all survey data is collected in a format compatible with the Department's existing 'ETI' software, the Department will provide Department-developed electronic survey collection software and user's manual to the selected firm. The software will be restricted to use on Department projects. The selected firm will be responsible for providing the hardware configuration necessary to complete surveys using the Department's software. If the selected firm opts to use a Husky FS2 data collector, firm must also have the latest TDS software.

The hardware requirements are a Corvallis Microtechnology Inc., M C.V-Q hand held computer with 640K of memory or a Husky FS2 with TDS software or compatible data-collecting equipment; a 3 1/2 inch floppy disk drive; and electronic total station survey instruments and cables to communicate with the hand-held data collectors. The instrument will be comparable to or better than five-second accuracy.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an engineering agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the 'General Requirements and Information' section.
- b. Review of personnel's resumes with emphasis on surveying capabilities and specialized experience in the completion of engineering surveys for highways.
- c. Location of consultant in relation to the Engineering District.
- d. Understanding of Department's requirements, policies, and specifications.
- e. Ability to provide survey crew on short (5-day minimum) notice.
- f. Workload.
- g. Past performance.

h. Additional equipment not required such as radios, laptop computers, etc., will be considered.

The qualifications and experience required of the firm's personnel must meet or exceed the requirements of the Department's surveyor class specification, i.e., Transportation Surveyor Technician Supervisor for crew chief, Transportation Surveyor Technician for instrument person, and prisms/rod person. The descriptions for these classifications can be obtained from the District contact person identified at the end of this solicitation.

The survey personnel and supporting resume information must be submitted with the letter of interest. There shall be no substitution or addition of personnel without first submitting resumes and receiving written approval by the Department.

The engineering or surveying firm must comply with the following requirements:

1. All field survey work shall be under the supervision of a PA registered land surveyor.
2. Each two-person survey crew shall consist of an instrument person and one prism person/rod person. Each three-person survey crew shall consist of a party chief, an instrument person and one prism/rod person. Each four-person survey crew shall consist of a party chief, an instrument person and two prism/rod persons. Each five-person survey crew will consist of a party chief, an instrument person, and three prism/rod persons.
3. Electronic equipment and procedures, as described above, must be utilized in completion of surveys, unless otherwise directed by the Department.
4. Survey crew will provide suitable work zone maintenance and protection of traffic in accordance with Publication 203.
5. Provisions will be included for railroad insurance and rental of arrow boards, if needed.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Barry G. Hoffman, P.E., District Engineer, District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699.

Any technical questions concerning the requirements for this project should be directed to: Mr. Kenneth C. Quigley, P.L.S., Chief of Surveys, Engineering District, 8-0, at (717) 787-6104.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Dauphin County  
Project Reference No. 08430AG2186**

The Department of Transportation will retain an engineering firm to perform preliminary engineering, environmental studies, final design and consultation during construction for S. R. 0030, Section 005, PA 283 Reconstruction, in Londonderry and Conewago Townships, Dauphin County. The project extends from S. R. 0341 to a point approximately for a total length of approximately 4.3 miles of divided highway. The estimated cost of construction is \$16.6 million.

The required services will include: life cycle cost analysis/pavement survey report; field surveys; plotting of topography and cross sections; pavement and drainage design; highway signing updating; field views; safety review, Step 9 and value engineering submissions and meetings; traffic control plans; core borings, foundation

designs, structural rehabilitation design; erosion and sediment pollution control plans and narrative; utility and property involvement investigations; right-of-way plans; preparation of environmental studies and documentation, interagency permits; and construction plans, specifications and estimates.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the 'General Requirements and Information' section.
- b. Having the resources to meet an accelerated schedule.
- c. Familiar with Department criteria.
- d. Having previous experience with the Department, especially on Interstate Restoration Projects.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Barry G. Hoffman, P.E., District Engineer, District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699.

Any technical questions concerning the requirements for this project should be directed to: Mr. Michael Lapano, District 8-0, at (717) 787-7482.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Lackawanna, Luzerne, Pike, Susquehanna, Wayne  
and Wyoming Counties  
Project Reference No. 08430AG2187**

The Department of Transportation will retain engineering firms for two (2) Open-End Contracts for various engineering and/or environmental services on various projects located in Engineering District 4-0, that is Lackawanna, Luzerne, Pike, Susquehanna, Wayne and Wyoming Counties. Each Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount for each Open-End Contract will be \$750 thousand.

The Department will establish an order of ranking of a minimum of five (5) firms for the purpose of negotiating two (2) Open-End Contracts based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the 'General Requirements and Information' section.
- b. Specialized experience and technical competence of firm.
- c. Location of consultant in respect to the District.

d. Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience on Open-End Contracts. The specific experience of individuals employed by the firm shall be considered.

e. Available staffing for this assignment and the ability to meet the Department's needs.

f. Projected Workload for the next two (2) calendar days.

The work and services required under these Open-End Contracts may encompass a wide range of environmental studies and engineering efforts with the possibility of several different types of projects with short completion schedules being assigned concurrently. The anticipated types of projects include, but not limited to, bridge replacements or bridge rehabilitation with minor approach work, environmental studies, roadway betterments (3R type), minor capital improvement projects (bridges or roadway), railroad grade crossing projects, and minor location studies, etc.

The engineering work and services which may be required under these Open-End Contracts include, but are not limited to: perform field surveys; plot topography and cross sections; prepare submission for utility verification and relocations engineering; prepare all pertinent submissions and materials necessary for the Department to prepare the application to PUC and for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during the design of the project; develop erosion control details and narrative; prepare right-of-way plans; complete structure designs including type, size, and location reports, core boring layouts and foundation designs and reports; develop traffic control plans with narratives; conduct soils investigations and prepare soils reports; investigate utility involvement on projects; provide material for and participate in value engineering reviews; coordinate contacts with railroad officials and procure railroad related costs, permits, and insurance; collect signal timing, accident data and other traffic flow data; document engineering study findings and activities; alternative analysis to assess impacts and mitigation; seismic evaluations; and prepare construction plans, specifications, and estimates.

The areas of environmental study required under these Contracts may include, but are not limited to; air quality; noise; energy; vibration; hazardous waste; surface water and ground water quality; surface water and ground water hydrology; terrestrial ecology including threatened and endangered species; wetlands; soils; geology; farmlands; visual quality; socio-economic resources; cultural resources; Section 4(f) Evaluations; early coordination and scoping correspondence; meeting minutes; public meeting and hearing presentations; visualization materials, handouts and displays; technical basis reports (TBRs) and/or technical files; NEPA environmental documents; Section 106 documents; mitigation plans and reports; wetland and floodplain findings; preliminary engineering plans, and remote sensing/mapping innovations. The format and content of all documents will be consistent with applicable State and Federal regulations, policies and guidelines.

The engineering services and environmental studies identified above are the general work activities that can be expected under these Open-End Contracts. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under these Open-End Contracts.

The second copy of the letter of interest and required forms, (see general requirements and information section shall be sent to: Mr. Charles Mattei, P.E., District Engineer, District 4-0, P. O. Box 111, Scranton, PA 18501.

Any technical questions concerning the requirements for this project should be directed to: Mr. Robert J. Horutz, P.E., District 4-0, at (717) 963-4064.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Indiana and Cambria Counties  
Project Reference No. 08430AG2188**

The Department of Transportation will retain an engineering firm to provide final design and services during construction for a nine (9) mile section of State Route 0022, Section 495, in Indiana and Cambria Counties. The western terminus of this project is near the S. R. 0403 interchange in East Wheatfield Township, Indiana County, and the eastern terminus is near the S. R. 0271 interchange in Jackson Township, Cambria County. The improvements involve widening to four lanes and providing minor horizontal and vertical realignment in order to provide additional capacity and improve safety through the project area.

Letters of interest will be evaluated at the Engineering District 9-0 office with emphasis on the following factors which were listed in order of importance:

a. Ability to package and present the letter of interest in accordance with the 'General Requirements and Information' section.

b. Specialized experience and technical competence of firm.

c. Workload and available staff of prime and subconsultants.

d. Past records of performance with respect to technical competence, cost control, work quality and ability to meet or exceed schedules.

e. Quality Assurance/Quality Control Plan of prime and subconsultants.

f. Location of office to perform work.

The Engineering District 9-0 will announce the firms that have been shortlisted at an open public meeting scheduled for June 16, 1998 at 9:00 a.m., to be held at Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648.

All candidates who submit a letter of interest will be notified if this date is changed. Specify a contact person in the letter of interest.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

Administration of the Agreement will be provided by Engineering District 10-0 office.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Earl Neiderhiser, P.E., District Engineer, engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648, Attention: Mr. David L. Sherman, P.E.

Any technical questions concerning the requirements for this project should be directed to: Mr. Walter W. Bagley, P.E., at (814) 696-7170.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

### General Requirements and Information

Firms interested in providing the above work and services are invited to submit two copies of a Letter of Interest are required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to: Mr. Charles W. Allwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P. O. Box 3060, Harrisburg, Pennsylvania 17105-3060. Note: The Zip Code for express Mailing is 17101-1900.

The Letter of Interest and required information must be received within twenty (20) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 P.M. prevailing time of the twentieth day.

The second copy of the letter of interest and required information must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If an individual, firm, or corporation not authorized to engage in the practice of engineering desires to submit a Letter of Interest, said individual, firm, or corporation may do so as part of a Joint Venture with an individual, firm, or corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) 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 subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act, WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Each Letter of Interest must include the following information and the information must be packaged and presented in the following order:

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

The subject heading of the transmittal letter must include the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate in the body of their transmittal letter the names and Professional Engineer License Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm.

2. Project Organizational Chart (one page, one side, maximum size 11" x 17")

This Chart must show key staff from the prime and each subconsultant and their area of responsibility.

3. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team)

The Standard Form 255 must be signed, dated, and filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project.

Under Item 4 of this form, Column A must specify only the number of subconsultant personnel and Column B must specify only the number of prime consultant personnel to be assigned to work on this project reference number. Do not include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, must accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a

Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the Letter of Interest, the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

These Forms must be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Form 255.

5. Workload Projection Graph (Not required for Construction Inspection Services)

Separate Workload Projection Graphs for the prime and each subconsultant shown in Item 6 of the Form 255 must be included and must indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next two-year time frame. The Workload Projection Graphs must be submitted for the office(s) where the work would be performed and must only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (For Construction Inspections Services, if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the Letter of Interest, the letters from proposed prime employees must be first, followed by subconsultant employees, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. Overhead Rates (one page)

A single page summary must indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public Accountant must be indicated. New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made

based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
Secretary

[Pa.B. Doc. No. 98-739. Filed for public inspection May 8, 1998. 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council (Council) review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Representative Thomas P. Gannon, Chairperson of the House Judiciary Committee, to review House Bill 1798, Printer's Number 3378, and by Representative Nicholas A. Micozzie, Chairperson of the House Insurance Committee, to review House Bill 2544, Printer's Number 3459. House Bill 1798 and House Bill 2544 prohibit health insurance discrimination on the basis of mental illness and require health plans to cover mental health services without any arbitrary treatment limits or financial requirements not imposed on coverage of other services. The Council has already received a request from Senator Edwin G. Holl to review Senate Bill 877, Printers Number 958 (Uliana), which also mandates the provision of mental health benefits. (See the *Pennsylvania Bulletin* of May 2, 1998). The Council will conduct one general review of mandated mental health benefits, examining the provisions of each bill separately within the report.

The Council is requesting that anyone supporting or opposing these mandated insurance benefits provide six copies of documentation to the Council no later than July 9, 1998. The documentation should be mailed to Flossie Wolf, PA Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101.

Documentation submitted should be in accordance with any or all of the following information categories described in section 9 of Act 34:

(i) The extent to which the proposed benefit and the services it would provide are needed by, available to and utilized by the population of this Commonwealth.

(ii) The extent to which insurance coverage for the proposed benefit already exists, or if no coverage exists, the extent to which this lack of coverage results in inadequate health care or financial hardship for the population of this Commonwealth.

(iii) The demand for the proposed benefit from the public and the source and extent of opposition to mandating the benefit.

(iv) All relevant findings bearing on the social impact of the lack of the proposed benefit.

(v) Where the proposed benefit would mandate coverage of a particular therapy, the results of at least one professionally accepted, controlled trial comparing the medical consequences of the proposed therapy, alternative therapies and no therapy.

(vi) Where the proposed benefit would mandate coverage of an additional class of practitioners, the result of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and those practitioners already covered by benefits.

(vii) The results of any other relevant research.

(viii) Evidence of the financial impact of the proposed legislation, including at least:

(A) The extent to which the proposed benefit would increase or decrease cost for treatment or service.

(B) The extent to which similar mandated benefits in other states have affected charges, costs and payments for services.

(C) The extent to which the proposed benefit would increase the appropriate use of the treatment or service.

(D) The impact of the proposed benefit on administrative expenses of health care insurers.

(E) The impact of the proposed benefits on benefits costs of purchasers.

(F) The impact of the proposed benefits on the total cost of health care within this Commonwealth.

CLIFFORD L. JONES,  
*Executive Director*

[Pa.B. Doc. No. 98-740. Filed for public inspection May 8, 1998, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11:30 a.m., Thursday, April 23, 1998, and took the following actions:

#### *Regulations Approved:*

#1704 Insurance Department #11-132: Disclosure of Material Transactions (amends 31 Pa. Code by adding Chapter 27).

#1834 Environmental Quality Board #7-316: Mine Subsidence Control, Subsidence Damage Repair and Water Supply Replacement (amends 25 Pa. Code Chapter 89).

#1848 Department of Health #10-148: Health Facility Licensure (amends 28 Pa. Code Chapter 139 and adds new Chapters 51, 136, 138 and 158).

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Robert J. Harbison, III; Arthur Coccodrilli

Public Meeting held  
April 23, 1998

*Insurance Department—Disclosure of Material Transactions; Doc. No. 11-132*

#### Order

On February 8, 1996, the Independent Regulatory Review Commission (Commission) received this proposed

regulation from the Insurance Department (Department). This rulemaking would amend 31 Pa. Code by adding Chapter 27. The authority for this regulation is section 320 of the Insurance Company Law of 1921 (40 P. S. § 443). The proposed regulation was published in the February 24, 1996 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 24, 1998.

The Department is adding Chapter 27 to 31 Pa. Code to require domestic insurers to file interim statements of specific transactions that may affect an insurer's financial condition. The filings required by the regulation are informational in nature and serve as an early warning to the Department that they should scrutinize a particular insurer more closely between annual financial statement filings. The National Association of Insurance Commissioners (NAIC) has standards for states to follow in the regulation of the insurance industry for NAIC accreditation. This proposed rulemaking generally follows NAIC model language.

We have reviewed this regulation and find it to be in the public interest. The Department has experienced situations where reporting of these transactions would have provided an early warning that an insurer was approaching insolvency. By requiring this disclosure, the Department will be better able to monitor solvency and protect Pennsylvania policyholders' interests.

*Therefore, It Is Ordered That:*

1. Regulation No. 11-132 from the Insurance Department, as submitted to the Commission on March 24, 1998, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III

Public Meeting held  
April 23, 1998

*Environmental Quality Board—Mine Subsidence Control, Subsidence Damage Repair and Water Supply Replacement; Doc. No. 7-316*

#### Order

On April 21, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 89 relating to underground bituminous coal mining. The authority for this regulation is the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The proposed regulation was published in the May 10, 1997 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on March 23, 1998.

Act 54 required underground mine operators to replace water supplies, repair or provide compensation for subsidence damage to a wider range of structures, and prevent imminent hazards to human safety. Act 54 also eliminated the right to coal support previously available to owners of pre-1966 dwellings and to cemeteries, and the surface owner's right to purchase coal support necessary to prevent damage to buildings.

We have reviewed this regulation and find it to be in the public interest. The proposal will bring Chapter 89 into conformance with changes to Pennsylvania law insti-

tuted through Act 54 of 1994. It is also intended to meet primacy requirements under Federal Office of Surface Mining regulations.

*Therefore, It Is Ordered That:*

1. Regulation No. 7-316 from the Environmental Quality Board, as submitted to the Commission on March 24, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli, Dissenting; Robert J. Harbison, III

Public Meeting held  
April 23, 1998

*Department of Health—Health Facility Licensure; Doc. No. 10-148*

### Order

On May 21, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking amends 28 Pa. Code Chapter 139 and adds new Chapters 51, 136, 138 and 158. The authority for this regulation is section 801.1 of the Health Care Facilities Act (35 P. S. § 448.801a). The proposed regulation was published in the May 31, 1997 edition of the *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on January 22, 1998. The Commission disapproved the initial final-form regulation on February 13, 1998. The Department submitted a revised final-form regulation on March 30, 1998.

The Department is amending its regulations to provide quality assurance standards for specific services provided by hospitals. The regulation is necessary because the Certificate of Need (CON) Program sunsetted in December of 1996. Unlike the CON process, the Department of Health will not be reviewing the need for a specific health service in a particular area. Instead, the Department will be reviewing quality assurance standards in the provision of services.

The Commission disapproved the initial final-form regulation for two reasons. First, we believed the definition of pediatric heart surgery was too vague. Second, we were concerned that the staffing requirements in the cardiac catheterization lab may prohibit the use of cardiovascular technicians currently on staff.

The Department revised the definition of pediatric heart surgery to allow individuals 18 years or younger to be treated in an adult program if the attending physician determines it is safe and appropriate to do so. The Department also made revisions to the staffing requirements for the cardiac catheterization lab to allow an RN or other personnel with appropriate education, training and experience to assist the physician in performing cardiac catheterization procedures.

We have reviewed this regulation and find it to be in the public interest. The Department has adequately addressed our previous concerns with the initial final-form

regulation. The regulation will establish necessary licensure standards for hospitals to provide quality patient care.

*Therefore, It Is Ordered That:*

1. Regulation No. 10-148 from the Department of Health, as resubmitted to the Commission on March 30, 1998, is approved;
2. The Commission's bar to final publication of Regulation No. 6-255 issued under section 6(b) of the Regulatory Review Act (71 P. S. § 745.6(b)) is hereby rescinded; and
3. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 98-741. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-413	State Architects Licensure Board General Revisions	4/20/98

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 98-742. Filed for public inspection May 8, 1998, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Rate Filing; Nationwide Mutual Insurance Company; Nationwide Mutual Fire Insurance Company; Nationwide Property & Casualty Insurance Company; Private Passenger Automobile Rate Revision

On April 28, 1998, the Insurance Department received from Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company and Nationwide Property & Casualty Insurance Company a filing for a proposed rate level change for private passenger auto insurance.

The company requests an overall -4.5% decrease amounting to -\$24,618,000 annually, to be effective August 15, 1998.

Unless formal administrative action is taken prior to June 27, 1998, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, (xiaofenl@ins.state.pa.us), within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-743. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of John Mathews; file no. 98-223-30995; Nationwide Mutual Insurance Co.; doc. no. PH98-04-032; June 4, 1998, 10 a.m.;

Appeal of Kathleen M. Luttrell; file no. 98-121-02277; Erie Insurance Exchange; doc. no. P98-04-033; June 9, 1998, 1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-744. Filed for public inspection May 8, 1998, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Delaware County, Wine & Spirits Shoppe #2332, 821 W. Sproul Road, Springfield, PA 19064-1208.

*Lease Expiration Date:* September 30, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space on Sproul Road within a 2 mile radius of Route 1 in Marple or Springfield Townships.

*Proposals due:* May 15, 1998 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, 4501 Kelly Drive, Philadelphia, PA 19129-1794  
**Contact:** Robert Jolly, (215) 560-5310

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 98-745. Filed for public inspection May 8, 1998, 9:00 a.m.]

## MILK MARKETING BOARD

### Hearing, Presubmission Schedule and Prehearing Conference; Milk Marketing Area No. 1

Under the Milk Marketing Law (31 P. S. § 700j-101 et seq.) the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 1 on June 30, 1998, commencing at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

#### *Purpose and scope of the hearing*

The purpose of the hearing will be to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 1, the evidence to be limited to the following:

1. Evidence of annualized costs for the processing, packaging and delivery cost centers based solely on audits of the cross-section milk dealers' financial statements (PMMB-60s) for the 1997 calendar year.

2. Evidence of costs for containers and ingredients based on audits of applicable invoices of the cross-section milk dealers dated not later than April 30, 1998.

3. Evidence of costs for purchasing Class II price-controlled packaged products based on audits of applicable invoices of the cross-section milk dealers dated not later than April 30, 1998, along with recommendations concerning a methodology for calculating the prices of products and container sizes for which no evidence of purchase costs is presented.

4. Evidence of labor, insurance and utility costs based on applicable data for the milk cost centers from the 1997 PMMB-60 reports of the cross-section dealers and offering a comparison of costs and bottling points for the first quarters of 1997 and 1998.

5. Evidence concerning a reasonable rate of return to milk dealers.



*Entries of appearance*

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons that may be affected by the Board order fixing prices in Area No. 1 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, on or before May 20, 1998, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made.

Thereafter documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with the Board, on or before May 20, 1998, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

*Witnesses, exhibits, presentation of evidence*

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. On or before June 8, 1998, each party shall file with the Board seven copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. On or before June 17, 1998, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

*Requests for data from Board staff*

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office on or before May 29, 1998.

*Prehearing conference*

A prehearing conference for all parties will be held at 1 p.m. on June 24, 1998, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg. Parties shall come prepared to address requests for the production of documents relied on in formulating their testimony and exhibits.

*Board's filing address*

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format, should call (717) 787-4194 or 1 (800) 654-5984 (PA Relay Service for TDD Users).

BEVERLY R. MINOR  
*Chairperson*

[Pa.B. Doc. No. 98-746. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Hearing, Presubmission Schedule and Prehearing Conference; Milk Marketing Area No. 5

Under the Milk Marketing Law (31 P. S. § 700j-101 et seq.) the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 5 on June 30, 1998, commencing at 1 p.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA. If necessary, the hearing will be continued on July 1.

*Purpose and scope of the hearing*

The purpose of the hearing will be to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 5, the evidence to be limited to the following:

1. Evidence of annualized costs for the processing, packaging and delivery cost centers based solely on audits of the cross-section milk dealers' financial statements (PMMB-60s) for the 1997 calendar year.

2. Evidence of costs for containers and ingredients based on audits of applicable invoices of the cross-section milk dealers dated not later than April 30, 1998.

3. Evidence of costs for purchasing Class II price-controlled packaged products based on audits of applicable invoices of the cross-section milk dealers dated not later than April 30, 1998, along with recommendations concerning a methodology for calculating the prices of products and container sizes for which no evidence of purchase costs is presented.

4. Evidence of labor, insurance and utility costs based on applicable data for the milk cost centers from the 1997 PMMB-60 reports of the cross-section milk dealers and offering a comparison of costs and bottling points for the first quarters of 1997 and 1998.

5. Evidence concerning a reasonable rate of return to milk dealers.

*Entries of appearance*

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons that may be affected by the Board order fixing prices in Area No. 5 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, on or before May 20, 1998, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made.

Thereafter documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with

the Board, on or before May 20, 1998, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

*Witnesses, exhibits, presentation of evidence*

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. On or before June 8, 1998, each party shall file with the Board seven copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. On or before June 17, 1998, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

*Requests for data from Board staff*

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office on or before May 29, 1998.

*Prehearing conference*

A prehearing conference for all parties will be held at 1:30 p.m. on June 24, 1998, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg. Parties shall come prepared to address requests for the production of documents relied on in formulating their testimony and exhibits.

*Board's filing address*

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format, should call (717) 787-4194 or 1 (800) 654-5984 (PA Relay Service for TDD Users).

BEVERLY R. MINOR,  
*Chairperson*

[Pa.B. Doc. No. 98-747. Filed for public inspection May 8, 1998, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Gas Service Without Hearing

**A-120700F2004. Columbia Gas of Pennsylvania, Inc.** Application for approval of abandonment of service by Columbia Gas of Pennsylvania, Inc. to two residential accounts.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 26, 1998, under 52 Pa. Code (relating to public utilities).

*Applicant:* Columbia Gas of Pennsylvania, Inc.

*Through and By Counsel:* Kenneth W. Christman, Esquire, Theodore J. Gallagher, Esquire, Columbia Gas of Pennsylvania, Inc., 650 Washington Road, Pittsburgh, PA 15228-2703.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-748. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Gas Service Without Hearing

**A-121100F0003. Equitable Gas Company.** Application of Equitable Gas Company, a division of Equitable Resources, Inc., for approval of the right to begin to offer, render, furnish and supply natural gas service to the public in Beaver, Cambria and Blair Counties, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 26, 1998, under 52 Pa. Code (relating to public utilities).

*Applicant:* Equitable Gas Company

*Through and By Counsel:* Charles E. Thomas, Jr., Esquire, Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-749. Filed for public inspection May 8, 1998, 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. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on

or before June 1, 1998, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00109157, F. 1, Am-A. Paul L. Deivert, t/d/b/a Paul's Cab Service** (1417 Market Street, Sunbury, Northumberland County, PA 17801)—persons upon call or demand in the borough of Northumberland, city of Sunbury and the townships of Rockerfeller, Lower Augusta and Upper Augusta, Northumberland County; subject to the following condition: That no right, power or privilege is granted to provide service for Consolidated Rail Corporation: *so as to permit* the transportation of persons upon call or demand in the boroughs of Shamokin Dam, Hummels Wharf and Selingsgrove, Snyder County.

**A-00099336, F. 1, Am-C. Transit Aide, Inc.** (930 North Eighth Street, Philadelphia, Philadelphia County, PA 19123), a corporation of the Commonwealth of Pennsylvania—inter alia, persons in paratransit service, from the city and county of Philadelphia, to the following State Correctional Institutions and return: Frackville State Correctional Institution, Ryan Township, Schuylkill County; Waynesburg State Correctional Institution, Morgan Township, Greene County; Cresson State Correctional Institution, Cresson Township, Cambria County; and Retreat State Correctional Institution, Newport Township, Luzerne County: *so as to permit* the transportation of persons in paratransit service, from points in the city and county of Philadelphia to the following State Correctional Institutions and return: Mahoney State Correctional Institution, Schuylkill County; Coal Township State Correctional Institution, Northumberland County; Houtzdale State Correctional Institution, Clearfield County; and Smithfield State Correctional Institution, Huntingdon County. *Attorney:* Joseph E. Vaughan, P. O. Box 630, Exton, PA 19341.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00114875, Folder 1. Joseph T. Berg, t/d/b/a Berg's Limousine Service** (480 Sankey Lane, New Castle, Lawrence County, PA 16105-1328)—persons in airport transfer service, from points in the county of Lawrence, to the Pittsburgh International Airport in the county of Allegheny; which is to be a transfer of part of the rights authorized George Ku, Inc., under the certificate issued at A-00096018, F. 5, subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**A-00114875, Folder 2. Joseph T. Berg, t/d/b/a Berg's Limousine Service** (480 Sankey Lane, New Castle, Lawrence County, PA 16105-1328)—persons in limousine service, between points in the county of Lawrence, and from points in said county, to points in Pennsylvania, and vice versa; subject to the following condition: That no right, power or privilege is granted to transport persons between or from points in the boroughs of New Wilmington and Volant, and the townships of Wilmington, Pulaski, Washington and Plain Grove, Lawrence County;

which is to be a transfer of part of the rights issued to George Ku, Inc., under the certificate issued at A-00096018, F. 6, subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of part of the rights as described under each application.**

**A-00114888. Guardian Ambulance Service, Inc.** (7335 Oxford Avenue, Philadelphia, Philadelphia County, PA 19111), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the townships of Abington, Cheltenham, Horsham, Lower Moreland and Upper Moreland, and all boroughs contained therein all in Montgomery County, townships of Bensalem, Lower Southampton, Upper Southampton, Middletown, New Britain, Warminster and Warrington, and all boroughs contained therein all in Bucks County, and that portion of the city and county of Philadelphia within an airline distance of 25 statute miles of the southern limits of said counties; subject to the following condition: That no right, power or privilege is granted to provide transportation Chester County, to or from the Philadelphia International Airport in the city and county of Philadelphia and the township of Tinicum, Delaware County, and North Philadelphia Airport, except for wheelchair patients in vans operated with side or rear-opening hydraulic lifts; which is to be a transfer of the right authorized to AMBU-Corps, Inc., under the certificate issued at A-00105947, subject to the same limitations and conditions.

**A-00114875, Folder 3. Joseph T. Berg, t/d/b/a Berg's Limousine Service** (480 Sankey Lane, New Castle, Lawrence County, PA 16105-1328)—persons in limousine service, between points in the townships of Wilmington, Pulaski, Washington and Plain Grove, and the boroughs of New Wilmington, and Volant, Lawrence County; the townships of Shenango, Wilmington, Springfield, Findley, East Lackawannok and Lackawannok, the city of Hermitage and the borough of West Middlesex, Mercer County; the township and borough of Slippery Rock, Butler County; and the townships of Darlington, Big Beaver, North Sewickley, Franklin, the city of Beaver Falls, and the boroughs of Darlington, New Galilee, Koppel, Homewood and West Mayfield, Beaver County; and from points in said territory, to points in Pennsylvania; which is to be a transfer of all of the rights issued to Connolly's Limousine Service, Inc., under the certificate issued at A-00105991, subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**Applications of the following for approval of the right to begin to operate as a broker for the transportation of persons as described under each application.**

**A-00114856. Prison Express, Inc.** (361 Wister Road, Wynnewood, Montgomery County, PA 19096), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania. *Attorney:* Richard T. Mulcahey, Jr., 1400 Two Penn Center, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102.

**A-00114887. Mark David Shenkan, t/d/b/a Collegiate Express Connection** (2712 Carlisle Street, New

Castle, Lawrence County, PA 16105-1738)—brokerage license—to arrange for the transportation of persons and their baggage between points in Pennsylvania. *Attorney:* Richard Shenkan, 2712 Carlisle Street, New Castle, PA 16105-1738.

**Application of the following for the approval of the transfer of stock as described under each application.**

**A-00058709, F. 5002. Butler Motor Transit, Inc.** (210 South Monroe Street, Butler, Butler County, PA 16001), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of issued and outstanding stock from William G. Kaylor, Robert M. Kaylor and Thomas M. Kaylor, to Coach USA, Inc. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00114603 (Amended). Herco, Inc.** (300 Park Boulevard, P. O. Box 860, Hershey, Dauphin County, PA 17033-0860), a corporation of the Commonwealth of Pennsylvania—persons in airport transfer service, who are guests of the Hershey Lodge and Convention Center, and persons who are guests of the Hershey Hotel, from said facilities, both located in Derry Township, Dauphin County, to the Harrisburg International Airport located in Lower Swatara Township, Dauphin County by way of the following route: Route 322 west to Middletown Road; thence south along Middletown Road into Londonderry Township, thence west on Route 283 into Lower Swatara Township; thence south on State Route 3032 terminating at the Harrisburg International Airport, and return by way of the same route to the place of beginning. *Attorney:* John P. Neblett, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108-1166.

**A-00114580, Folder 3. Kenneth C. & Diane M. Lapinski, t/d/b/a Falcon Enterprises** (101 Orchard Road, New Wilmington, Mercer County, PA 16142)—persons, in limousine service, between points in the county of Mercer, and from points in said county, to points in Pennsylvania, and return.

**A-00114855. Nicholas J. Reinhart, t/a Reinhart Leasing Company** (620 North Reading Road, Ephrata, Lancaster County, PA 17522)—persons in limousine service, between points in the counties of Lancaster and Chester, and from points in said counties, to other points in Pennsylvania, and return. *Attorney:* Scott Miller, P. O. Box 562, Ardmore, PA 19003.

**Motor Carrier Applications—Property, Excluding Household Goods in Use**

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before May 26, 1998.

- A-00114890 John and Michelle Hodle  
12 Lincoln Street, Dallas, PA 18612
- A-00114891 Benjamin E. Beichner, t/a Beichner Lumber Company  
R. D. 1, Box 100B, Shippenville, PA  
16254

- A-00114892 Western Edge, Inc.  
Box S, Claysville, PA 15323; Timothy Fitzgerald, 138 North Franklin Street, Washington, PA 15301
- A-00114893 HRI, Inc.  
P. O. Box 155, State College, PA 16804-0155
- A-00114895 James B. Gilbert, t/a Gilbert's Maintenance Serv.  
11847 Cedar Mill Road, North East, PA 16428
- A-00114898 Empire Kosher Poultry, Inc.  
River Road, P. O. Box 165, Mifflintown, PA 17059; John P. Neblett, 100 Pine Street, P. O. Box 1166, Harrisburg, PA 17108
- A-00114897 James H. Gibson, t/a Gibson's Transport & Hauling  
P. O. Box 48351, Philadelphia, PA 19144
- A-00114896 Genesis Bulk Transport, Inc.  
524 Darlington Road, Media, PA 19063
- A-00114894 Lee Allard Trucking, Inc.  
R. D. 1, Box 1484, Route 11, Great Bend, PA 18821
- A-00114889 Kelly Eckert, t/a K & H Eckert Farming  
R. D. 2, Box 1710, Lebanon, PA 17046; Thelia Eabay, 55 East Main Street, Ephrata, PA 17522
- A-00114900 MWG Transport, Inc.  
321 E. Areba Avenue, Hershey, PA 17033
- A-00114899 Lewis Eyster  
P. O. Box 173, Shenandoah, PA 17976
- A-00114901 Eagle Freight Services, Inc.  
P. O. Box AMF 62066, Houston, TX 77205
- A-00114902 Shea's Trucking, Inc.  
R. D. 1, Box 1347, Hamburg, PA 19526

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. William Fiore, t/d/b/a Mill Industrial Service Co.; Doc. No. A-00075776C98, A-00075776, F. 2.*

**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 William Fiore, t/d/b/a Mill Industrial Service Co., respondent, maintains his principal place of business at 607 Miller Avenue, Clairton, Allegheny County, Pennsylvania 15025.
2. That respondent was issued a certificate of public convenience by this Commission on October 23, 1953, at Application Docket No. A-00075776, F. 2.

3. That on or before March 18, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke William Fiore's, t/d/b/a Mill Industrial Service Co. certificate of public convenience at A-00075776, F. 2.

Respectfully submitted,  
Joseph W. Farrell, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Verification

I, Joseph W. Farrell, hereby state that the facts above 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: \_\_\_\_\_  
Joseph W. Farrell

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). 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 enter an order imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. 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 enter an order imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Tube City Concrete Products; Doc. No. A-00099669C98, A-00099669

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 Tube City Concrete Products Company, respondent, maintains its principal place of business at One Harrison Street, Glassport, Allegheny County, Pennsylvania 15045.

2. That respondent was issued a certificate of public convenience by this Commission on June 22, 1976, at Application Docket No. A-00099669.

3. That on or before March 18, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Tube City Concrete Products Company's certificate of public convenience at A-00099669.

Respectfully submitted,  
Joseph W. Farrell, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Verification

I, Joseph W. Farrell, hereby state that the facts above 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: \_\_\_\_\_  
Joseph W. Farrell

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). 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 enter an order imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transport-

tation and Safety will request that the Commission enter an order imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. National Medi-Vans, Inc.; Doc. No. A-00108588C98, A-00108588, Fs. 2 and 3.*

### 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 National Medi-Vans, Inc., respondent, maintains its principal place of business at 111 Sowers Street, Suite 403, P. O. Box 10031, State College, Centre County, Pennsylvania 16805.

2. That respondent was issued certificates of public convenience by this Commission on May 31, 1994 and August 15, 1994, at Application Docket No. A-00108588, Fs. 2 and 3, respectively.

3. That on or before March 18, 1998, respondent abandoned or discontinued service without having first filed an application with this Commission.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke National Medi-Vans, Inc.'s certificate of public convenience at A-00108588, Fs. 2 and 3.

Respectfully submitted,

Joseph W. Farrell, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### Verification

I, Joseph W. Farrell, hereby state that the facts above 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: \_\_\_\_\_

Joseph W. Farrell

### Notice

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C. 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 enter an order imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. 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. 98-750. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Telecommunications Without Hearing

**A-310583, F0002. Armstrong Communications, Inc.** Application of Armstrong Communications, Inc., for approval to offer, render, furnish or supply telecommunications services as a competitive local exchange carrier in the Commonwealth of Pennsylvania, limited to the service territory of Citizen's Telephone Company of Kecksburg.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 26, 1998, under 52 Pa. Code (relating to public utilities).

*Applicant:* Armstrong Communications, Inc.

*Through and By Counsel:* Stephen G. Kraskin, Kraskin and Lesse LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 98-751. Filed for public inspection May 8, 1998, 9:00 a.m.]

### Telecommunications

**A-310291F0002. GTE North Incorporated and GTE Communications Corporation.** Joint Petition for approval of a Resale Agreement between GTE North Incorporated and GTE Communications Corporation.

GTE North Incorporated and GTE Communications Corporation, by its counsel, filed on April 8, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 20 days after the date of publication of this notice. Copies of the GTE North Incorporated and GTE Communications Corporation 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. 98-752. Filed for public inspection May 8, 1998, 9:00 a.m.]

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### Telecommunications

**A-310679. GTE North Incorporated and Local Line America.** Joint Petition for approval of a Resale Agreement between GTE North Incorporated and Local Line America.

GTE North Incorporated and Local Line America, by its counsel, filed on March 30, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 20 days after the date of publication of this notice. Copies of the GTE North Incorporated and Local Line America 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. 98-753. Filed for public inspection May 8, 1998, 9:00 a.m.]

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### Water Service Without Hearing

**A-210013F0008. United Water Pennsylvania Inc.** Application of United Water Pennsylvania Inc. for approval to begin to offer, render, furnish or supply domestic water service to the public in additional territory in West Hanover Township, Dauphin County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 26, 1998, under 52 Pa. Code (relating to public utilities).

*Applicant:* United Water Pennsylvania Inc.

*Through and By Counsel:* John J. Gallagher, Esquire, LeBoeuf, Lamb, Greene & MacRae L.L.P., 200 North Third Street, Suite 300, P. O. Box 12105, Harrisburg, PA 17108-2105.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-754. Filed for public inspection May 8, 1998, 9:00 a.m.]

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## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Project #9809.6, Sprinkler Supervision at Packer Avenue Marine Terminal, Sheds #1, #1-1A, #1-1B, #1A, #2A, #3, #6 and #7, Pump House #1 and #2 until 2 p.m. on Thursday, May 21, 1998. The bid documents can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Square, 13th Floor, Philadelphia, PA 19106, (215) 928-9100 and will be available May 12, 1998. The cost of the bid document is \$35 (includes 7% PA sales tax). The cost is nonrefundable. PRPA is an equal opportunity employer. The contractor will be required to comply with all applicable equal opportunity laws and regulations.

Mandatory prebid job site meeting will be held May 15, 1998, 10 a.m. at South Gate of Terminal, Delaware Avenue.

JAMES T. MCDERMOTT,  
*Executive Director*

[Pa.B. Doc. No. 98-755. Filed for public inspection May 8, 1998, 9:00 a.m.]

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## TURNPIKE COMMISSION

### Request for Bids

The Turnpike Commission is requesting sealed bids for:

1. Toll Collector Uniform Trousers and Slacks  
*Open Date:* May 21, 1998 at 11 a.m.
2. Toll Collector Uniform Shirts  
*Open Date:* May 27, 1998 at 11 a.m.
3. Crack/Joint Sealer Units  
*Open Date:* May 26, 1998 at 11 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated above. Bid proposal forms and conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department, (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 98-756. Filed for public inspection May 8, 1998, 9:00 a.m.]

**Request for Proposals**

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

**Contract No. 89-010-RE78**—Painting existing steel structures, B-501 at M.P. 109.88 and B-502 at M.P. 110.12 in Somerset Co., PA

*Bid Opening Date*—June 10, 1998, 11 a.m.

*Bid Surety*—5%

Plans, specifications and contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment

of \$30 per set by check or P. O. Money Order (no cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Pennsylvania Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 98-757. Filed for public inspection May 8, 1998, 9:00 a.m.]



# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such 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. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

- 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

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### 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

**Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340**

### Commodities

**8504430** Agricultural machinery and supplies—400 each spray tank, 3 gallon.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2066117** Clothing and individual equipment—8,092 each Corrections Officer uniform jacket "like" style (no substitute) Color black.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2067117** Clothing and individual equipment—8,092 each Corrections Officers uniform cruiser jacket (short style) with Gore-Tex fabric Blauer Style 9010Z (no substitute) Color black; 8,092 each Corrections Officer uniform style V-neck commando sweater Blauer Style No. 210 (no substitute) Color black.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1738117** Communication equipment—1 system closed circuit television (CCTV).

**Department:** Corrections  
**Location:** Greensburg, Westmoreland County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1810117** Communication equipment—1 each furnish and install complete closed circuit TV system.

**Department:** Corrections  
**Location:** Somerset, Somerset County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1900317** Communication equipment—1 lot to provide audio-video console racks or approved equal.

**Department:** PA Emergency Management Agency  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1902317** Communication equipment—8 each two way video and audio transmitter Series 131B Part No. 131B-T-R; 8 each two way video and audio receiver Series 131B Part No. 131B-R-R; 2 each card cage assembly and high density racking systems Part No. 515R.

**Department:** PA Emergency Management Agency  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1911357** Communication equipment—1 each DEC 2 BG memory board Part No. MS7AA-FA.

**Department:** Environmental Protection  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1930117** Communication equipment—1 each GCS Easy Tour System w/associated hardware; 25 each Argus Software Kit, Software System for IBM or Compatible PC's System; 9 each additional Data Acquisition Units; 60 each additional Data Strips w/metal backing for exterior; 12 each holsters with safety chain.

**Department:** Corrections  
**Location:** Huntingdon, Huntingdon County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2004157** Communication equipment—1 each Telematics remote control system for three Sony DXC-950 cameras.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2020157** Communication equipment—3 each Ikegami HL-59WE video camera accessories; VA-95SA/K—Adapter for BVV-5 (Betacam SP) includes adaptor and BH-C-1 handle extension; 3 each Beta SP Kit Anton Bauer snap-on battery bracket; 1 each MCP-57/1 maintenance control panel with memory card reader, includes control panel, enclosure and OM-571 operation manual; 1 each remote control panel cable (5M) to connect MCP-57 to HL-59 camera head.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2023117** Communication equipment—2 each camera PTZ Pelco No. SDSC-PG-1E, no substitute; 2 each mounting Pelco No. IMW24GY no substitute; 2 each pole kit, Pelco No. PA402 no substitute; 20 each B & W camera, Burle No. TC552A or equal; 20 each outdoor housing Burle No. TC9383-1 or equal; 20 each bracket, Burle No. TC9211 or equal; 1 each fiber transmitter IFS No. VT 1505WDMR3 or equal; 1 each fiber receiver IFS No. VR 1505 WDMR3 or equal; 7 each fiber transmitter IFS No. VT1001R3 or equal; 7 each fiber receiver IFS No. VR 1001R3 or equal; 2 each color monitor JVC No. C20810P T or equal; 3 each B & W monitor Pelco No. PMM2001 or equal; 8 spool cable 1,000 ft. spool RG59u1K; 2 spool power cable 18025TRGY18, 1,000 ft. spool; 1 each R3 rack and power supply to be IFS brand or equal; 1 each sequencer, Pelco No. CM6700MxB4 no substitute; 1 each keyboard, Pelco No. KBD200 no substitute.

**Department:** Corrections  
**Location:** Waynesburg, Greene County, PA  
**Duration:** FY 97—98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2048207** Communication equipment—19 each pagers, disguised display, tone alarm only pager transmitter AID Model No. TX-797T or approved equal.

**Department:** State Police  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2086817** Communication equipment—3 each Canon Broadcast high definition television lenses—internal focus lenses w/built-in 2X extenders Model HUI18X7B IRS.

**Department:** Office of Administration  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2038117** Construction and building materials—7 rolls fence mesh 9' height, No. 6 gauge, 2" diamonds, 25' roll green PVC coated; 36 each fence posts 3 1/2" x 15' Schedule 40; 15 roll fence mesh 12" height No. 6 gauge 2" diamond 75' roll green PVC coated; 770 foot top/bottom rail 1 5/8" green PVC coated; 36 each loop caps 3 1/2" green PVC coated; 36 each beveled clamps 3 1/2" green PVC coated; 32 each tension bar 143"; 120 each tension bands 3 1/2" with bolts; green PVC coated.

**Department:** Corrections  
**Location:** Albion, Erie County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2041117** Construction and building materials—2,200 each 8" x 8" x 16" 2 core block; 30 each 10" x 8" x 16" L block; 50 each 10" x 8" x 16" sash block; 100 each 4" x 8" x 16" solid block; 100 each 8" x 8" x 16" bond beam; 6 each 4" x 8" x 4" lentil; 6 each 4" x 8" x 6" lentil; 4 each 4" x 8" x 8" lentil; 4 box wall tiles (250/box); 3 each 8" Duro Wall; 2,200 each 4" x 8" x 16" 503 splitface; 125 each 8" x 8" x 16" 503 splitface universal corners; 40 each 6" x 6" x 16" 503 splitface sills; 80 each 8" x 8" x 8" reg. bullnose block; 85 each WH 503 Type "S" colored mortar; 4 each 3 gallon container Rhedmix Rheopel; 400 each 8" x 8" x 16" 503 splitface.

**Department:** Corrections  
**Location:** Frackville, Schuylkill County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**8151430** Construction and building materials—1 each precast reinforced concrete box culvert.

**Department:** Transportation  
**Location:** Warren, Bradford County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1006158** Construction, mining, excavating and highway maintenance equipment—1 each sweeper w/auxillary sidebrush and blower wand without cab enclosure Reference Tennant Model No. 385SB2 (no substitute).

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2047387** Construction, mining, excavating and highway maintenance equipment—1 each latest model tracked loader.

**Department:** Conservation and Natural Resources  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**8151410** Containers, packaging and packing supplies—1 each liquid deicing system for mounting on a single axle form L-8000 truck chassis.

**Department:** Transportation  
**Location:** Warren, Bradford County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1827217** Food preparation and serving equipment—1 each convection steamer, two compartment 16 pan pressure steam coil generator w/36" wide base.

**Department:** Public Welfare  
**Location:** White Haven Center, White Haven, Luzerne County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1837117** Food preparation and serving equipment—1 each NUTEC 745-65 (or approved equal) totally hydraulic food forming machine.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1874217** Food preparation and serving equipment—1 each combination convection/steam oven, Alto-Sham Model 20, 20 combination oven/steamer w/roll cart.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, Norristown, Montgomery County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2022117** Food preparation and serving equipment—6 each to furnish and install hinge assemblies and lids for six dietary steam kettles.

**Department:** Corrections  
**Location:** Pittsburgh, Allegheny County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2018137** Furniture—412 each reinforced polymer post 74" H has a leveling device, not for caster, Metromax 74PX or approved equal; 10 each reinforced polymer shelving 18W x 24L, Metromax 1824FX or approved equal; 10 each reinforced polymer shelving 18W x 30L, Metromax 1830FX or approved equal; 155 each reinforced polymer shelving 18W x 36L, Metromax 1836FX or approved equal; 20 each reinforced polymer shelving 18W x 42L, Metromax 1842FX or approved equal; 110 each reinforced polymer shelving 18W x 48L, Metromax 1848FX or approved equal; 10 each reinforced polymer shelving 18W x 54L, Metromax 1854FX or approved equal; 200 each reinforced polymer shelving 18W x 60L, Metromax 1860FX or approved equal.

**Department:** Military and Veterans Affairs  
**Location:** Southwestern Veterans Center, Pittsburgh, Allegheny County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2009357** Laboratory instruments and equipment—5 each permeation tube calibrators Telco Model No. 145 (or equivalent).

**Department:** Environmental Protection  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**8217360** Laboratory instruments and equipment—1 each drying oven, Grieve Corp Model No. SA-350208 Volts 3 Phase, 60HZ.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2081157** Lighting fixtures, lamps and clocks—68 each Energy Technics Model No. ETSU 400 HPS CH 120 Volt-400 Watt high pressure sodium lamps or equivalent.

**Department:** Pennsylvania State University  
**Location:** University Park, Centre County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2025117** Maintenance and repair shop equipment—1 each Olney tumble washer for snap bean, beets, carrots, potatoes and similar vegetables or equal.

**Department:** Corrections  
**Location:** Bellefonte, Centre County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2080207** Maintenance and repair shop equipment—850 units tire deflation device system.

**Department:** State Police  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1584117** Materials handling equipment—1 each latest model personal lift.

**Department:** Corrections  
**Location:** Chester, Delaware County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1744117** Materials handling equipment—1 each latest model Walkie electric fork lift truck.

**Department:** Corrections  
**Location:** Chester, Delaware County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1747117** Materials handling equipment—1 each latest model fork lift.

**Department:** Corrections  
**Location:** Chester, Delaware County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2068207** Medical, dental and vet equipment and supplies—43 each defibrillator, automated, external; 1 each MD Link Options Kit for the above defibrillator; 6 each training unit, First Save or approved equal.

**Department:** State Police  
**Location:** State Police Academy, Hershey, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**8504460** Metal bars, sheets and shapes—960 sq. ft. flooring, open steel bridge, Type Tr-5 inch depth.

**Department:** Transportation  
**Location:** Hyde, Clearfield County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1964167** Motor vehicles, trailers and cycles—1 each latest model 36 passenger school bus.

**Department:** Scranton State School for the Deaf  
**Location:** Scranton, Lackawanna County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2033387** Motor vehicles, trailers and cycles—2 each latest model all terrain vehicle.

**Department:** Conservation and Natural Resources  
**Location:** Wellsboro, Tioga County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2103207** Office supplies, machines and equipment—6 each recorders, microcassette w/digital auto-reverse, stereo microphones to go with recorders Sony Model No. NT-2 no substitute; 6 each recorders, microcassette w/auto-reverse, Olympus Model L400 (Standard) no substitute; 2 each recorders, microcassette w/auto-reverse and locking microphone jack Olympus Model L400 (Modified) no substitute; 2 each microphones, Bax High Gain to be used with locking microphone jack on Olympus Model L400 (Modified); 6 each microphones, low noise high output, to be used on Olympus L400 (Standard); 2 each earphone/microphone records cellphone/pay phone or any other phone to be used with Olympus L400 (Standard).

**Department:** State Police  
**Location:** Hershey, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1997157** Paper and printing—310M STD-C929 Time and Attendance Record.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2083117** Photographic equipment—1 each VR6010-R3 4 Channel FM video receiver 850 RM as manufactured by International Fiber Systems; 2 each VR6010-DRDT-R3 4 Channel FM video receiver data transceiver RM as manufactured by International Fiber Systems; 1 each VR8010-R3 8 Channel FM video transmitter 850/1300 1 fiber multimode includes R3 rack 5 spaces as manufactured by International Fiber Systems; 4 each R3-BP blank panel (1") as manufactured by International Fiber Systems; 1 each TC 8298C Allplex 16 Channel color multiplexer duplex 120V as manufactured by Burle/Phillips Communication and Security Systems, Inc; 1 each TC 770-6-1 Autodome Pan Tilt Zoom camera 1/3" 330 TVL color; 5.8 to 58mm 10X lens, biphasic R/D as manufactured by Burle/Phillips Communications and Security Systems, Inc; 1 each VT 6010-DRDT 4 Channel FM video transmitter data transceiver 850, 1300 as manufactured by International Fiber Systems; 1 each VT 8010 8 Channel FM video transmitter 850/1300 1 fiber multimode as manufactured by International Fiber System; 1 each TC 8258-S Allplex 8 Channel Color multiplexer Simplex 120V as manufactured by Burle/Phillips Communication and Security Systems, Inc; 2 each LTC 3924/60 VCR "Real Time" 24 hour time lapse 115 VAC 60 HZ as manufactured by Burle/Phillips Communication and Security Systems, Inc; 1 each PA 7020X 20 inch resolution color monitor 600 TVL 115V 60 HZ as manufactured by Burle/Phillips Communication and Security Systems, Inc.

**Department:** Corrections  
**Location:** Huntingdon, Huntingdon County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1017188** Recreational and athletic equipment and supplies—54 sets Daily Number/Big 4 Ping Pong Ball Sets (10 balls per set); 12 sets Cash 5—Lotto and Keystone Jackpot Ping Pong Balls Sets (48 balls per set); 9 sets Keystone Jackpot Ping Pong Ball Sets (33 blue balls per set).

**Department:** Revenue  
**Location:** Middletown, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1969117** Refrigerator and AC equipment—1 each cooling and heating pump (Ref. Mitsubishi No. PLH18FK) or approved equal; 1 each heat pump (Ref. Mitsubishi No. PKH18FK) or approved equal; 2 each line set alternative material without wire for above heat pump; 1 each rooftop heat pump (Ref. Luxair No. DUCT048N125) or approved equal; 2 each rooftop heating and cooling pump (Ref. Luxair No. DUCT036N100) or approved equal; 1 each horizontal steam/hot water unit heater (Ref. Modine No. HC24S01) or approved equal; 1 each heating and cooling thermostat (Ref. Honeywell No. T651A2028) or approved equal.

**Department:** Corrections  
**Location:** Albion, Erie County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2032117** Refrigerator and AC equipment—8 each split system air conditioner outdoor unit Sanyo C1822 or 18MBH or approved equal; 8 each split system air conditioner indoor unit Sanyo KS1822 18MBH or approved equal.

**Department:** Corrections  
**Location:** Elizabethtown, Lancaster County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2077217** Security equipment—10 each walk through metal detectors.

**Department:** Youth Development Center  
**Location:** New Castle, Lawrence County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**7314030** Security, cabinet—45 each safe, money, external door equipped w/Mosler's ECK 302 combination lock Color Parchment Model TL-15" or approved equal.

**Department:** Liquor Control Board  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2040117** Textiles—50,000 yds. sheeting 42" Color Snow White (Pantone Color 11-0602TP).

**Department:** Corrections  
**Location:** Huntingdon, Huntingdon County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**2043117** Textiles—50,000 yds. fabric-corduroy Color Hot Chocolate 60" wide maximum.

**Department:** Corrections  
**Location:** Huntingdon, Huntingdon County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1015158** Furniture—1 Lot Category 1 Division A Victorian Case Goods and Systems; 1 lot Category 1 Division B Victorian Conference Table; 1 lot Category 1 Division C Audio/Visual Furniture; 1 lot Category D Period Office Furniture

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97-98  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

## SERVICES

### Advertising—01

**SP 342666** Professional services required to graphically design various interpretive wayside exhibit signs and publications for Pennsylvania State Parks.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of State Parks, 8th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA and various other areas throughout this Commonwealth  
**Duration:** Upon execution through June 30, 2001  
**Contact:** Cory Gaiski, (717) 783-0760

### Agricultural Services—02

**23-60003029** Provide fish feed used in a Statewide fish culture program during the period July 01, 1998 through September 1998. Fish feed products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

**Department:** Fish and Boat Commission  
**Location:** Statewide to various fish culture stations as requested  
**Duration:** July 01, 1998 through September 30, 1998  
**Contact:** Dennis C. Ricker, (814) 359-5141

**Barber Services—05**

**H-5599** Beauty culture services (hairstylist). To receive specifications, send written request to Beverly O. Epting, Hamburg Center, Hamburg, PA 19526, fax (610) 562-6025.

**Department:** Public Welfare  
**Location:** Hamburg Center, Hamburg, PA 19526  
**Duration:** September 1, 1998—August 31, 2001  
**Contact:** Beverly O. Epting, Purchasing Agent, (610) 562-6031

**Construction—09**

**Project No. 9905** Concrete work—furnish and install approximately 450 feet of sidewalk retaining walls and step replacement.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 201 Pine Street, Berwick, Columbia County, PA  
**Duration:** May 1, 1998—December 30, 1998  
**Contact:** Emma Schroff, (717) 861-8518

**DGS A 251-275** Project title: New Fuel Facility. Brief description: Removal and replacement of underground/above ground storage tanks and dispenser island and site modifications as part of a fuel facility upgrade. Install new circuits and equipment for power distribution and lighting. Electrical and UST/AST construction. Plans deposit: \$65 per set. Payable to: Environmental Design and Construction, Inc. Refundable within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Environmental Design and Construction, Inc., 823 Walnut Street, P.O. Box 211, Hollidaysburg, PA 16648, (814) 696-8709. Bid date: Wednesday, May 27, 1998 at 11 a.m. A Prebid Conference has been scheduled for Friday, May 15, 1998 at 1:30 p.m. at PennDOT Maintenance Building, New Castle, PA. Contact: Dave Bollenbacher, (412) 774-6610. All contractors who have secured contract documents are invited and urged to attend this Prebid Conference.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, New Castle, Lawrence County, PA  
**Duration:** 115 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-456 (Rebid)** Project title: Roof Replacement. Brief description: Remove existing roofing and insulation. Install new single ply membrane roofing and insulation. Remove and replace up to 5% of metal decking as required. Renovate existing ladder and add new ladder at area designated on drawing. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 20, 1998 at 2 p.m.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, York, York County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 503-108** Project title: Replace 5KV Feeders No. 1, 3 and 5. Brief description: Disconnect, remove and replace existing 5KV feeders No. 1, 3 and 5 and replace with new EPR shielded 5KV cable. Associated oil fused cutout switches to be replaced with new loadbreak switches. Electrical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 27, 1998 at 1 p.m. A Prebid Conference has been scheduled for Monday, May 18, 1998 at 9 a.m. at Danville State Hospital, Danville, PA in the Engineering Office. Contact: Dave Peterson at (717) 271-4649. All contractors who have secured contract documents are invited and urged to attend this Prebid Conference.

**Department:** General Services  
**Location:** Danville State Hospital, Danville, Montour County, PA  
**Duration:** 200 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 509-101** Project title: Roof Replacement. Brief description: Install new foam and stone roof system including new 1/4" galvanized wire mesh around all drains, 2.5 lbs. galvanized wire lath at all perimeters to existing built-up roof. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 20, 1998 at 1 p.m.

**Department:** General Services  
**Location:** Norristown State Hospital, Norristown, Montgomery County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 578-18** Project title: Roof Replacement of Various Buildings. Brief description: Replace roofs on nine different buildings with new tapered insulation and EPDM membrane roofing. Replace all roof drains and install all new gravel stops and scuppers. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Bid date: Wednesday, May 27, 1998 at 1 p.m.

**Department:** General Services  
**Location:** State Correctional Institution, Dallas, Luzerne County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 583-69** Project title: Upgrade Fire Alarm System. Brief description: Install new addressable fire alarm system. Electrical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Bid date: Wednesday, May 27, 1998 at 11 a.m.

**Department:** General Services  
**Location:** Ebensburg Center, Ebensburg, Cambria County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS 800-233** Project title: Construct Library and Classroom Building. Brief description: New three story 114,500 S.F. steel structure with brick veneer on steel stud construction with site development and landscaping. Project includes complete plumbing, HVAC, electrical systems and a fire protection system. General, HVAC, plumbing, electrical and fire protection construction. Plans deposit: \$400 per set. Payable to: Shepley Bulfinch Richardson and Abbott/Hayes Large Architects (Joint Venture). Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Hayes Large Architects, 321 North Front Street, Harrisburg, PA 17108, Attn: Mark Shrift. Bid date: Wednesday, June 17, 1998 at 2 p.m. A prebid conference has been scheduled for Wednesday, May 27, 1998 at 1 p.m. in the Auditorium, Olmsted Building, Penn State Capital College, 777 West Harrisburg Pike, Middletown, PA 17057-4898. Contact: David Hansen, (717) 948-6532. All bidders who have secured plans and specifications are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Penn State University, Harrisburg Campus, Middletown, Dauphin County, PA  
**Duration:** 420 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS 948-36 Phase 2 Rebid** Project title: Waterproofing of Main Capitol Building (Exterior Masonry Restoration/Cleaning and Window Work). Brief description: Exterior masonry restoration and cleaning work. Restoration of exterior side and painting of wood windows. General construction. Plans deposit: \$90 per set. Payable to: Perfido Weiskopf Architects/Graves Architects/Noble Preservation (Joint Venture). Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Perfido Weiskopf Architects/Graves Architects/Noble Preservation (Joint Venture), 408 Boulevard of the Allies, Pittsburgh, PA 15219, (412) 391-2884. Bid date: Wednesday, June 3, 1998 at 2 p.m. A prebid conference has been scheduled for the subject project on Wednesday, May 20, 1998 at 10 a.m. in the Department of General Services Corporate Board Room, Arsenal Building, 18th and Herr Streets, Harrisburg, PA 17125. Contact: Joseph Chaffin: (412) 391-2884. All contractors who have secured plans and specifications are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Main Capitol Building, Harrisburg, Dauphin County, PA  
**Duration:** 579 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**IN-754.2** Campus Steam Line Project. Work included consists of Campus Steam Line Project consisting of removing existing steam lines, concrete, ground, drip piping, and the like, to furnish and install new steam piping, manholes, insulation, cathodic protection, concrete, grass seed, and the like. Notice to Contractors may be requested from IUP. Phone: (724) 357-2289. Fax: (724) 357-6480. Internet: <http://www.iup.edu/phyfac>.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Indiana, PA 15705-1087  
**Duration:** 6 months  
**Contact:** Ronald E. Wolf, Procurement Specialist, (724) 357-4851

## Engineering Services—14

**08430AG2184** To assist in right-of-way acquisition services for the following two projects: 1) S. R. 4034-A51, City of Erie, Erie County, PA. 2) S. R. 0018-A01, City of Hermitage, Mercer County, PA.

**Department:** Transportation  
**Location:** Engineering District 1-0  
**Duration:** Twelve (12) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2185** To provide on-call surveying services in Engineering District 8-0, that is Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry Counties.

**Department:** Transportation  
**Location:** Engineering District 8-0  
**Duration:** Thirty-six (36) calendar months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2186** To provide preliminary engineering, environmental studies, final design and consultation during construction on S. R. 0300-005 PA 283 Reconstruction in Dauphin County.

**Department:** Transportation  
**Location:** Engineering District 8-0  
**Duration:** Twenty-eight (28) calendar months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2187** Two open-end contracts for various engineering and environmental services on various projects in Engineering District 4-0, that is Lackawanna, Luzerne, Pike, Susquehanna, Wayne and Wyoming Counties.

**Department:** Transportation  
**Location:** Engineering District 4-0  
**Duration:** Sixty (60) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2188** Retain an engineering firm to provide final design services and services during construction for a 9 mile section of S. R. 0022, Section 495, in Indiana and Cambria Counties.

**Department:** Transportation  
**Location:** Engineering District 9-0  
**Duration:** Thirty-six (36) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**ESU 405-P04** ESU is accepting proposals for open-end architectural and engineering design services. Professionals must be within 150 mile radius of ESU. MBE/WBE firms welcome to propose. To obtain an RFP send a fax to: Attn: Zaffy (717) 422-3777. Open end agreement not to exceed 250K.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, East Stroudsburg, PA 18301-2999  
**Duration:** One year  
**Contact:** Zaffy Zaffuto, (717) 422-3595

## Environmental Maintenance Services—15

**7-98-30** Drilling, testing and developing a water well at the District Office for the Bald Eagle State Forest in Hartley Township, Union County, PA.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Forest District Office, Bald Eagle State Forest, Route 45 3 miles west of Hartleton  
**Duration:** 90 days  
**Contact:** Amy Griffith, District Forester, (717) 922-4696

## Financial Services—17

**098-119-001** Small Business Financing Office (SBFO) is soliciting proposals from CPA firms interested in providing financial consulting services to SBFO, which provides low-interest loans within the Department of Community and Economic Development. Independent financial consulting services are used to advise SBFO of financial credit worthiness or each prospective loan applicant. The contractor will be expected to perform these indicated services for the following loan programs: Underground Storage Tank Upgrade Loan Program (USTULP), Pennsylvania Minority Business Development Agency Loan Program (PMBDA) and other services as needed.

**Department:** Small Business Financing Office  
**Location:** Within the Commonwealth of Pennsylvania  
**Duration:** Five (5) years  
**Contact:** Brigid U. Des-Ogugua, Director, (717) 783-5046

## Food—19

**CRE-0225** Protein alternative products, to include, but not limited to, soy burgers, grainburgers, garden burgers, dry mixes, soy products. Quantities as required. Bid on file in agency Purchasing Department.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** May 1, 1998 to June 30, 1998  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, Ext. 166

**CRE-0226** Protein alternative products, to include, but not limited to, soy burgers, grainburgers, garden burgers, dry mixes, soy products. Quantities as required. Bid on file in agency Purchasing Department.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1998 to June 30, 1999  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, Ext. 166

**M-870** Meat and meat products; poultry and poultry products; fish; cheeses. Quantities may be obtained from facility upon request. Deliveries to be made only at request of facility.

**Department:** Labor and Industry  
**Location:** Hiram G. Andrews Center, FOB Shipping Platform, 727 Goucher Street, Johnstown, PA 15905  
**Duration:** July, August, September 1998  
**Contact:** C. A. Sloan, Purchasing Agent, (814) 255-8228

**PA-1 Protein Alternatives** Frozen spicy black bean burgers—6,000 lbs.; frozen garden burgers—6,000 lbs.; frozen soy burgers—6,000 lbs.; frozen grain burgers—6,000 lbs.; dry mix soy chili—6,000 lbs.; dry mix bar-b-q—6,000 lbs.; tofu—10,000 lbs.; yogurt, nonfat—10,000 lbs. To be bid out by institution as needed.

**Department:** Corrections  
**Location:** State Correctional Institution at Coal Township, 1 Kelley Drive, Coal Township, PA 17866  
**Duration:** June 1, 1998, through June 30, 1999  
**Contact:** Nancy A. Lasko, Purchasing Agent II, (717) 644-7890, Ext. 142

### Fuel Related Services—20

**401-BL-571** Provide all labor, equipment and material necessary to completely remove and dispose of one 550 gallon and two 2,000 gallon underground fuel storage tanks and appurtenances. After removal the contractor will be required to furnish and install a new 6,000 gallon double wall fuel tank, tank monitor/leak detection system and card access fuel management system, that will interface into existing building management system. To obtain a copy of the bid documents will require a nonrefundable \$75 deposit to Reilly Associates, 222 Wyoming Avenue, West Pittston, PA 18643, (717) 654-2473. Bids and plans will be mailed to bidders in early May 1998 and will contain all bidding information and information related to prebid dates and material.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA 17815  
**Duration:** 90 days  
**Contact:** Joseph C. Quinn, (717) 389-4311

**Project No. AST-163** Project title: Install 15 ASTs. Project description: Install 15 1,000 gallon gas/1,000 gallon diesel dual aboveground fuel storage tanks (ASTs). Fuel tanks, tank accessories and concrete base slabs provided by the Pennsylvania Game Commission. Contractor to coordinate tank delivery and provide crane to lift and set tank; install electrical conduit, junction boxes, conductors, light fixture and switches; install leak detection probes and alarm box. Bid opening date May 29, 1998.

**Department:** Game Commission  
**Location:** 15 sites in 14 counties throughout the Commonwealth of Pennsylvania  
**Duration:** 90 calendar days from issuance of contract  
**Contact:** Engineering and Contract Management Division, (717) 787-9620

**S42466** Service required to remove one 2,600 gallon diesel storage tank. Contractor must be certified by Pennsylvania Department of Environmental Protection (DEP). Backfill site with 2A stone gravel, compacted and excavated to grade. In addition to the above, an 8,000 gallon diesel UST will need the required 1998 upgrade. Contact Phil Keller at (412) 761-1955, Ext. 384 for additional details.

**Department:** Corrections  
**Location:** State Correctional Institution Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233  
**Duration:** July 01, 1998 to December 31, 1998  
**Contact:** Ronald J. Dudek, Purchasing Agent, (412) 761-1955, Ext. 212

### Hazardous Material Services—21

**H-5600** Transportation of asbestos-containing material to an approved disposal site (this is not an abatement project). To receive specifications, send written request to Beverly O. Epting, Hamburg Center, Hamburg, PA 19526, fax (610) 562-6025.

**Department:** Public Welfare  
**Location:** Hamburg Center, Hamburg, PA 19526  
**Duration:** October 1, 1998 to September 30, 2001  
**Contact:** Beverly O. Epting, (610) 562-6031

### HVAC—22

**Project No. 016** Provide emergency and routine repair work for heating system. The contractor must respond to the call within 4 hours of receiving a call either directly or by a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board. Tentative bid opening—May 15, 1998.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 72 North Broad Street, Ridgway, Elk County, PA  
**Duration:** July 1, 1998—June 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 017** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 4 hours of receiving a call either directly or by a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board. Tentative bid opening—May 15, 1998.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 125 Goodridge Lane, Washington, Washington County, PA  
**Duration:** July 1, 1998—June 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 020** Provide emergency and routine repair work for roof top air conditioners. The contractor must respond to the call within 2 hours of receiving a call either directly or by a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 125 Goodridge Lane, Washington, Washington County, PA  
**Duration:** July 1, 1998—June 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. KU98-21** Kutztown University is seeking qualified plumbing contractors to remove/install shower valves in Detrick and Rothermel Halls. Work to include but is not limited to the removal and installation of 64 shower valves, core drilling all necessary holes and install insulation on hot lines with PVC jackets. Bid packages are available from: Tim Albright, Electrical/Mechanical System Manager, Kutztown University, Kutztown, PA 19530 or phone (610) 683-1387, fax (610) 683-4886 or e-mail: albright@kutztown.edu. Bid packages are available May 11, 1998 through May 22, 1998. No prebid meeting has been scheduled but interested parties should contact Tim Albright at (610) 683-1387 to schedule an appointment. Bids will be received and opened on May 22, 1998 at 2 p.m. in Room 314, Stratton Administration Building at Kutztown University.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 30 days after notice to proceed  
**Contact:** Barbara Barish, Contracts Specialist, (610) 683-4602

### Janitorial Services—23

**JC-6-98** Janitorial services: Will be responsible for maintaining a neat, clean and sanitary office by mopping floors, dusting furniture, emptying wastebaskets and trash cans on a daily basis. Will maintain sanitary conditions in restrooms by cleaning floors, sinks and commodes daily. Will dust and clean window sills and venetian blinds regularly. Will vacuum carpeting throughout office daily and wash doors and walls, as necessary, or at the request of the office manager. All cleaning agents and materials needed to perform proper maintenance will be supplied by the contractor. Building consists of 5,745 sq. ft. of space. Approximately 90% of the floor space is carpeted.

**Department:** Labor and Industry  
**Location:** Sunbury Job Center, 535 Chestnut Street, Sunbury, Northumberland County, PA 17801  
**Duration:** October 1, 1998 to September 30, 2000  
**Contact:** Gerald E. Steis, Manager, (717) 988-5540

**OVR-2-98** Janitorial services: Combined footage is 24,477 sq. ft. To be provided on a daily basis, Monday through Friday, except State holidays. A mandatory onsite inspection will be scheduled prior to bid submission. Bid specifications will be sent to interested parties.

**Department:** Labor and Industry  
**Location:** Office of Vocational Rehabilitation, 160 Hamilton Street, Allentown, Lehigh County, PA 18101  
**Duration:** July 1, 1998 through June 30, 2000  
**Contact:** Thomas C. Harp, Administrator, (610) 821-6441

**SP-381404** Contractor to wash and wipe dry the interior and exterior of windows in Headquarters Offices of the Department of Public Welfare within the Health and Welfare Building twice per year. Complete specifications can be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** Division of Office Services, Health and Welfare Building, Commonwealth and Forster Streets, Harrisburg, PA  
**Duration:** July 1, 1998—June 30, 2003  
**Contact:** Rose Wadlinger, (717) 783-3767

## Laboratory Services—24

**IFB 98-002** Comprehensive forensic toxicology drug screening service. All inquiries must be received no later than May 19, 1998.

**Department:** State  
**Location:** 124 Pine Street, 6th Floor, Harrisburg, PA 17101  
**Duration:** July 1, 1998 through June 30, 2003  
**Contact:** Toniann D. Noss, (717) 783-7210

**SP Bid No. 9803** Laboratory services.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** July 01, 1998 to June 30, 1999  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

## Lodging/Meeting Facilities—27

**SP 342667** Provide meeting room, lodging, meals and breaks. Facility must be located within 5 miles of PA Turnpike Exit No. 6 (Monroeville).

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Forest Fire Protection, within 5 miles of PA Turnpike Exit No. 6 (Monroeville)  
**Duration:** September 8 through September 11, 1998  
**Contact:** Cory Gaiski, (717) 783-0760

## Medical Services—29

**0882-131** Psychological services. All services will be provided by a licensed clinical psychologist here at the Center. Services will include testing and/or evaluation of our residents at the Center, with a report provided for each resident evaluated and/or tested. The results of the test/evaluation will be dictated by the psychologist on recording equipment available at the Center. Reports will be transcribed by the medical records staff. Psychologist will also perform nonstructured and verbal testing/evaluation procedures for our residents who are not able to read, have visual or hearing impairments, have limited ability to verbalize, or have intellectual or emotional impairments which preclude using the standard written or interpretive testing mechanisms. The psychologist will also function as a consultant to our professional staff and members of the treatment teams on an individual or group basis. Services will be held at times and days mutually agreed upon. Additional information may be obtained by contacting the Center.

**Department:** Public Welfare  
**Location:** South Mountain Restoration Center, 10058 South Mountain Road, South Mountain, PA 17261  
**Duration:** July 1, 1998 through June 30, 2001  
**Contact:** Cathy J. Tarquino, Purchasing Agent, (717) 749-4030

**Inquiry No. 30232** Nursing services—to provide services of registered nurses (RNs) and licensed practical nurses (LPNs) to the individuals of Western Center; to include rotating shifts, 3 shifts per day, 7 days per week.

**Department:** Public Welfare  
**Location:** Western Center, 333 Curry Hill Road, Canonsburg, PA 15317  
**Duration:** July 1, 1998—June 30, 2000  
**Contact:** Ginny Stinespring, Purchasing Agent I, (724) 873-3256

**RFP No. 97-07-14** Request for Proposal to conduct a pilot project in one of the four family planning councils to provide a genetic counselor who will provide onsite genetic counseling and educate patients identified at risk for a genetic condition at family planning clinics.

**Department:** Health  
**Location:** One Family Planning Region  
**Duration:** 2 years  
**Contact:** Jana Burdge, (717) 783-8143

## Property Maintenance—33

**Project No. 018** Roof repairs at the following locations: PAARNG Armory, 229 Walnut Street, Columbia, PA; PAARNG Armory, 438 North Queen Street, Lancaster, PA. \$3,000 per year for each location.

**Department:** Military and Veterans Affairs  
**Location:** Columbia and Lancaster Armories, Lancaster County, PA  
**Duration:** July 1, 1998—June 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**040102** Provide window cleaning service to approximately 280 sq. ft. window area at the Welcome Center/Rest Area facility on SR 6 and SR 209 in Matamoras, Pike County. Requests for bids may be received by fax at (717) 963-4245 "Attn: Roadside" or by phoning (717) 963-4048 between 8 a.m. and 3 p.m. Monday through Friday. This is a rebid of contract bid opening on February 4, 1998.

**Department:** Transportation  
**Location:** Pike County, PA  
**Duration:** 2 years with one renewal  
**Contact:** Martha S. Spaide, (717) 963-4048

**040103** Furnish and apply seed, soil supplements and mulch to areas disturbed through excavation associated with maintenance activities within Engineering District 4-0. Requests for bids may be received by fax at (717) 963-4245 "Attn: Roadside" or by phoning (717) 963-4048 between 8 a.m. and 3 p.m. Monday through Friday.

**Department:** Transportation  
**Location:** Lackawanna, Pike, Susquehanna and Wyoming Counties, PA  
**Duration:** One year with renewal option  
**Contact:** Martha Spaide, (717) 963-4048



**WC 685** West Chester University is soliciting sealed bids for the Life Safety Facade Repairs to be made to Goshem, Ramsey, Recitation and Ruby Jones Halls. The work includes sounding each serpentine stone on Recitation and Ruby Jones and patching and removing delaminated portions, also removing lintel stones and providing new cast stone lintels or serpentine stone to match existing. On Ramsey Hall this includes removal and replacement of all brick above the top shelf angle, flashing and shelf angle as well as removal and replacement of spalled cast stone lintels. On Goshem work includes anchoring of existing precast panels and removal of loose spalled fragments on existing precast panels. Scaffolding, high reaches, and the like will be needed to access the work. Prevailing wages apply. Contract bonds will be required.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA 19383  
**Duration:** 60 days for completion after Notice to Proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

### Real Estate Services—35

**65A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Labor and Industry with 6,003 useable square feet of existing office space, with parking for 11 vehicles, within the following boundaries: within a 3 mile radius of the Labor and Industry Building, Harrisburg. Space must be located within Dauphin County, PA. In areas where street or public parking is not available, an additional 20 parking spaces are required. Proposals due: May 18, 1998. Solicitation No. 92676.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17105  
**Duration:** Indeterminate 1997-98  
**Contact:** Jennings Ward, (717) 787-7405

### Sanitation—36

**0820** Dumpsters/roll off refuse containers. Rental and disposal of waste.

**Department:** Transportation  
**Location:** Various locations in Cumberland County, PA  
**Duration:** July 1, 1998 to June 30, 1999 with four 1-year renewals  
**Contact:** Barry Strock, (717) 243-5414, Ext. 303

**No. 8317** Contractor to provide 30 yard roll-off dumpster on an as-needed basis. Contractor will deliver dumpster to the site where required and will pick up dumpster when full.

**Department:** Public Welfare  
**Location:** Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931  
**Duration:** July 01, 1998—June 30, 1999  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288

### Security Services—37

**46-8-002** Building security system that will provide the following: 24 hour monitoring; complete repair and maintenance of all equipment (including portal to portal travel time); monthly reports of all opening and closing times; toll free telephone number to call; system shall include fire and smoke protection for the entire building. All requests for bid packages can be received by fax at (717) 783-4438 (Attn: Carla Crist).

**Department:** Transportation  
**Location:** Equipment Division, 17th Street and Arsenal Boulevard, Harrisburg, PA 17120  
**Duration:** 5 years  
**Contact:** Carla Crist, (717) 787-2335

### Miscellaneous—39

**98-02** The Department of Corrections is soliciting proposals for a Hostage Recovery Training Program for the Department's 18-member hostage recovery team. Program will include weapons training, team safety, sniper entries, tactical planning, and the like.

**Department:** Corrections  
**Location:** 2520 Lisburn Road, Camp Hill, PA 17011  
**Duration:** Maximum 1 year  
**Contact:** Suzanne Malhenzie, (717) 975-4973

**356409** Typewriter maintenance: Provide maintenance on 46 various types of typewriters. Maintenance shall include all labor, equipment and materials necessary to make repairs, when notified of malfunction of a typewriter or typewriters occurring between inspection. This shall include any adjustments and replacement of worn and/or broken parts. Preventive maintenance on 46 various type or typewriters shall be provided twice during each fiscal year.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** July 1, 1998 through June 30, 2001, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**Project No. AST-164** Project title: Install Guiderail. Project description: Install approximately 35 feet of standard galvanized guiderail, 13 steel I-beam posts and 6 buffer ends at each of 15 separate sites. Additionally, install 6 buffer ends on existing guiderail at each of another 15 sites. Guiderail systems are being installed as part of aboveground fuel storage tank facilities. Bid opening May 29, 1998.

**Department:** Game Commission  
**Location:** Thirty separate sites in 27 counties throughout the Commonwealth of Pennsylvania  
**Duration:** 90 calendar days after Issuance of Contract  
**Contact:** Engineering and Contract Management Division, (717) 787-9620

**DGS-Network "98"** The Commonwealth of Pennsylvania, Department of General Services is planning a convention for August 24, 25, 26, 27 1998 at the Valley Forge Convention in King of Prussia, PA. The convention will attract Commonwealth municipal and college personnel from all over the State working in such areas as purchasing, public works, real estate, maintenance, administration, MIS and more. The current plans are to have a vendor show in the afternoon of August 25, 1998 and the morning of August 26, 1998. The size of the vendor booths will be 10' x 10' and cost \$600. Persons who are interested in participating in the vendor show, should fax the following information to (717) 783-9078 or (717) 783-6241: contact person, company name, address, phone number, fax number.

**Department:** General Services  
**Location:** King of Prussia, PA  
**Duration:** Indeterminate 1997-98  
**Contact:** Paul Wolf

**L&I-06-98** Interpreter services: Required by the Office for the Deaf and Hard of Hearing (ODHH) in Counties of Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York.

**Department:** Labor and Industry  
**Location:** Office for the Deaf and Hard of Hearing (ODHH), Room 1110 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, Dauphin County, PA 17120  
**Duration:** July 01, 1998—June 30, 1999 with one 1-year renewal option  
**Contact:** Donna A. Sallie, Procurement Manager, (717) 787-2560

**ME No. 80024, RFP No. 1998-1** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Camp Hill leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Camp Hill, P. O. Box 8837, Camp Hill, PA 17001-8837  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Tom Bandle, Project Director, (717) 737-4531

**ME No. 80025, RFP No. 1998-2** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Dallas leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Dallas, Drawer K, Dallas, PA 18612-0286  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Ken Malia, Project Director, (717) 675-1011

**ME No. 80026, RFP No. 1998-3** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Huntingdon leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Huntingdon, 1100 Pike Street, Drawer R, Huntingdon, PA 16654-1112  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Rick Baver, Project Director, (814) 643-2400

**ME No. 80027, RFP No. 1998-4** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Muncy leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Muncy, P. O. Box 180, Muncy, PA 17756-0180  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Carol Cozza, School Principal, (717) 546-3171

**ME No. 80028, RFP No. 1998-5** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Retreat leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621-9580  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Ken Malia, Project Director, (717) 735-8754

**ME No. 80029, RFP No. 1998-6** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Graterford leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Graterford, P. O. Box 246, Route 29, Graterford, PA 19426-0246  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** James Symmons, Project Director, (610) 489-4151

**ME No. 80030, RFP No. 1998-7** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Pittsburgh leading to Certificates of Specialization in the following areas: Business Management; Secretarial Science; and/or Heating, Ventilating and Air Conditioning (HVAC) Technology.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Pittsburgh, P. O. Box 99901, Pittsburgh, PA 15233-0901  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Catherine Morelli, Project Director, (412) 761-1955

**ME No. 80031, RFP No. 1998-8** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Rockview leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Rockview, R.F.D. 8, Box A, Route 26, Bellefonte, PA 16823-0820  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** James Connor, Project Director, (814) 355-4874

**ME No. 80032, RFP No. 1998-9** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Waynesburg leading to a Certificate of Specialization in Business Management.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Waynesburg, R. D. 1, Box 67, Waynesburg, PA 15370-9441  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Debbie Higgins, Administrative Assistant, (724) 627-6185

**ME No. 80048, RFP No. 1998-10** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Albion leading to Certificates of Specialization in the following areas: Business Management; Management Information Systems; and/or Accounting.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Albion, 10745 Route 18, Albion, PA 16475-0001  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Harold Heckler, Project Director, (814) 756-5778

**ME No. 80049, RFP No. 1998-11** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Cambridge Springs leading to Certificates of Specialization in the following areas: Business Management; Management Information Systems; and/or Accounting.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Cambridge Springs, 451 Fullerton Avenue, Cambridge Springs, PA 16403-1229  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** Harold Heckler, Project Director, (814) 398-5400

**ME No. 80050, RFP No. 1998-12** The contractor will be required to provide Middle States accredited vocational or business related educational program services to inmates at the State Correctional Institution at Houtzdale leading to Certificates of Specialization in the following areas: Business Management; and/or Heating, Ventilating and Air Conditioning (HVAC) Technology.

**Department:** Education  
**Location:** Bureau of Correction Education, State Correctional Institution Houtzdale, P. O. Box 1000, State Route 2007, Houtzdale, PA 16698-1000  
**Duration:** September 1, 1998—June 30, 2003  
**Contact:** James Hudack, School Principal, (814) 378-1000

**RFP-98-1** Job Creation Assistance on Behalf of Persons with Severe Disabilities in Allegheny County. Contract services will develop and implement a Job Creation Assistance Program in conjunction with the Pittsburgh District Office, PA Office of Vocational Rehabilitation. The Job Creation Assistance Program will increase employment of OVR-eligible persons and stimulate economic growth in Allegheny County.

**Department:** Labor and Industry  
**Location:** Office of Vocational Rehabilitation, Allegheny County, PA  
**Duration:** October 1, 1998—September 30, 2007  
**Contact:** Raymond F. Halla, (717) 787-5735

**SP343355** Site preparation, installation and all materials for woven wire fencing around all or a portion of each timber sale at four locations on the Tioga State Forest. The sites are located (1) off T-780 (Taylor Run Road) in Liberty Township, Tioga County approximately 5,670 lin. ft. perimeter; (2) off T-780 in Liberty Township, Tioga County approximately 4,600 lin. ft. perimeter; (3) off Tannery Hill Road in Morris Township, Tioga County approximately 3,750 lin. ft. perimeter; (4) off Deadman Hollow Road in Shippen Township, Tioga County approximately 4,800 lin. ft. perimeter.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, One Nessmuk Lane, Wellsboro, PA 16901  
**Duration:** September 1, 1998 to May 10, 1999  
**Contact:** William C. Beacom, (717) 724-2868

[Pa.B. Doc. No. 98-758. Filed for public inspection May 8, 1998, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

## STATE CONTRACTS INFORMATION

2211

## Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
0031-11	04/29/98	Continental Press, Inc.	18,991.76
1289157-01	04/28/98	Allentown Caging Equipment Co., Inc.	129,910.00
1689207-01	04/28/98	Jerry's Sport Center, Inc.	20,350.00
1690117-01	04/28/98	Lindgren Corporation	71,250.00
1737217-01	04/28/98	Larry's Lumber	12,138.40
1750357-01	04/28/98	Schlegel Associates, Inc.	14,947.00
1781047-01	04/28/98	Starr Uniform	62,624.50
1796167-01	04/28/98	Clearview Printing Company, Inc.	2,500.00
1805047-01	04/28/98	Bortek Industries, Inc.	39,973.00
1822077-01	04/28/98	Calapro, Inc.	17,760.00
1822077-02	04/28/98	CSI	3,600.00
1851117-01	04/28/98	W. S. Jenks & Sons	17,990.00
5680-02 RIP No. 1	04/29/98	Concrete Concepts, Inc.	55,245.00
6530-03	05/01/98	Red Line Medical Supply	45,856.00
6530-03	05/01/98	Blackburn's Physicians Pharmacy, Inc.	160,181.00
6530-03	05/01/98	Jordan-Reses Home Health Care	144,317.00
6530-02	05/01/98	Manley-Regan Chemical Div. of EE (US), Inc.	37,962.00
6830-02	05/01/98	Refron, Inc.	10,062.90
6830-02	05/01/98	Chemply Div. of EE (US), Inc.	13,167.00
6830-02	05/01/98	Mid State Chemical Div. of E & E (US), Inc.	11,088.00
7350-05 RIP No. 1 and SUPP No. 1	04/24/98	Anchor Equipment	30,000.00

Requisition or Contract #	Awarded On	To	In the Amount Of
7350-05 RIP No. 1 and SUPP No. 1	04/24/98	United Restaurant Equipment, Inc.	10,000.00
7490-03	05/01/98	A. Rifkin Company	5,000.00
7490-03	05/01/98	Ascom Hasler Mailing Systems, Inc.	10,000.00
7490-03	05/01/98	Neopost	5,000.00
7490-03	05/01/98	Kwik-File	5,000.00
7490-03	05/01/98	Docutronix	5,000.00
7490-03	05/01/98	Priority Systems, Inc.	15,000.00
7490-03	05/01/98	Standard Register Company	5,000.00
7490-03	05/01/98	Ikon Office Solutions	5,000.00
7490-03	05/01/98	Opex Corporation	5,000.00
7490-03	05/01/98	Adolph Sufrin, Inc.	5,000.00
7490-03	05/01/98	Pitney Bowes, Inc.	10,000.00
7920-05	04/29/98	US Polychemical Corp.	30,000.00
7920-05	04/29/98	Industrial Soap Company	50,000.00
7920-05	04/29/98	Customized Environmental Sys.	55,000.00
7920-05	04/29/98	Eagle Janitorial Supply Co.	20,000.00
7920-05	04/29/98	Xpedx	270,000.00
7920-05	04/29/98	AGF Company	125,000.00
8119460-01	04/28/98	IKG Greulich	8,858.86
8234580-01	04/28/98	Eres International, Inc.	301,360.00
8504330-01	04/28/98	Vehicle Maintenance Program, Inc.	12,285.00
9135-05	05/01/98	Harrisburg Jet Center	132,600.00

GARY E. CROWELL,  
Secretary

[Pa.B. Doc. No. 98-759. Filed for public inspection May 8, 1998, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 87 AND 88]

#### Water Supply Protection/Replacement (Mining)

The Environmental Quality Board (Board) by this order amends Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal). These amendments address water supply replacement (coal surface mining) and revegetation of previously disturbed and unreclaimed areas.

This order was adopted by the Board at its meeting of January 20, 1998.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information contact Roderick A. Fletcher, Bureau of Mining and Reclamation, P.O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103, or Joseph Pizarchik, Assistant Counsel, P.O. Box 8464, Rachel Carson State Office Building, Bureau of Regulatory Counsel, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final rulemaking is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

#### C. *Statutory Authority*

The final rulemaking is being made under the rulemaking authority of section 4.2(a) of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P.S. § 1396.4b(a)) which provides the Department's general rulemaking authority, sections 4(a) and 4.2(f) of SMCRA which establish requirements relating to water supply protection and revegetation and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20) which authorizes the Board to adopt regulations necessary for the Department to perform its work.

#### D. *Background and Summary*

These amendments to Chapters 87 and 88 were developed in part to update the Department's coal mining regulations in light of the amendments to SMCRA (52 P.S. §§ 1396.1—1396.31) by the act of December 18, 1992 (P.L. 1384, No. 173) (Act 173) and the act of May 22, 1996 (P.L. 232, No. 43) (Act 43).

Act 173 amended section 4(a)(2)(C) of SMCRA to establish minimum vegetative cover requirements for areas previously disturbed by surface mining activities (that is, abandoned coal mine lands) which are proposed for remining. Section 4.2(f)(1) of SMCRA was amended to extend the water supply replacement requirement to anyone who affects a supply while performing government-financed reclamation. Also, section 4.2(f)(2) of SMCRA was amended by Acts 173 and 43 to provide rebuttable presumption provisions concerning replacement of water supplies affected by the surface coal

mining. Section 4.2(f)(2) of SMCRA, the presumption of liability provision, does not apply to persons engaged in government-financed reclamation contracts or to surface mining operations conducted under a mining permit issued by the Department before February 16, 1993.

These amendments are also based on several Commonwealth Court and Environmental Hearing Board (EHB) rulings which clarify the water supply replacement requirements of SMCRA and Department regulations. These clarifications address the character of the replacement water supply, including control, reliability and cost.

These amendments do not address water supply replacement requirements governing underground coal mining.

These regulatory changes were reviewed and discussed with the Mining and Reclamation Advisory Board (MRAB) which is the Department's advisory body for regulations pertaining to the surface mining of coal. A draft of the final-form regulations was reviewed and discussed with the MRAB's Regulation, Legislation and Technical Committee on October 23, 1997. The MRAB concurred with the rulemaking at its meeting on October 24, 1997.

The following summary identifies the sections of the regulations being amended along with a description of the specific change.

#### *§§ 87.1 and 88.1 (Definitions)*

A definition of "de minimis cost increase" is being added. A de minimis cost increase over the cost to operate and maintain the original water supply is one that is either no more than \$60 or no more than 15% of the cost to operate and maintain the original supply. For example, if the original supply cost \$500 per year to run and the replacement supply cost \$570 per year, the cost increase is \$70 or 14% of the original cost. Although \$70 is greater than \$60, it is less than 15% of the cost of the original. Consequently, the \$70 increase is a de minimis cost increase. The definition is needed when determining whether a replacement water supply is adequate.

A definition of "water supply" is being added to §§ 87.1 and 88.1. The definition is not new language but is existing language that is being relocated from §§ 87.119 and 88.107.

A definition of "water supply survey" is being added to §§ 87.1 and 88.1 for the purpose of clarity. The language of Act 173 simply refers to a survey. The term is used in the context of water supplies. What is intended is a water supply survey, as opposed to some other type of survey such as a property survey or an archeological survey. The definition of "water supply" survey also describes the contents of the survey.

The survey is to collect the specified information that is reasonably available. Information that is reasonably available is information which can be collected without extraordinary efforts or the expenditure of excessive sums of money. For example, if the well owner does not possess information on the length of the well casing, an operator would not be expected to spend the money for a borehole camera to determine the length of the casing or to remove a structure, such as a sunroom, that had been constructed over the well.

§§ 87.119(a) and 88.107(a) (Water Supply Replacement Obligations)

The phrase "or any person engaged in government-financed reclamation" has been added based on sections 4.2(f)(1) and 4.8(g) of SMCRA which establish water supply replacement requirements for persons engaged in government-financed reclamation, including reclamation under a no-cost government-financed reclamation contract.

For years, section 4.2(f)(1) of SMCRA and §§ 87.119(a) and 88.107(a) have required an operator who affects a water supply to replace the affected supply with an alternate source adequate in water quantity and quality for the purpose served by the supply. Neither the statute nor the regulations defined the term "adequate." This resulted in litigation. The resulting court decisions provide guidance in determining whether a replacement water supply is "adequate." The court decisions addressed increased operation and maintenance costs, increased maintenance and the control, accessibility, reliability and permanence of the replacement water supply. These sections are amended to incorporate these court decisions and clarify what is meant by "adequate" for the purposes of a restored or replaced water supply.

In *Carlson Mining Co. v. DER*, 639 A.2d 1332 (Pa. Cmwlth. 1994) and *Carlson Mining Co. v. DER*, EHB 91-547-E the courts addressed increased operating and maintenance costs of a restored or replacement water supply. The courts found that for a replacement water supply to be adequate, any increase in operation and maintenance costs must be de minimis. The coal company is permanently responsible for any increase in operation or maintenance costs that are not de minimis. The term "de minimis cost increase" is defined in §§ 87.1 and 88.1 and is addressed in §§ 87.119 and 88.107.

Other decisions have also dealt with cost differentials for water supplies. These cases are *Gioia Coal Co. v. DER*, 1986 EHB 82 and *Buffy & Landis v. DER*, 1990 EHB 1665. In *Gioia*, the EHB held that, unless operation and maintenance costs were excessive, the Department could not require the operator to pay for the additional costs of the replacement supply. What would be "excessive" was not defined. In *Buffy & Landis*, the EHB held that: ". . . (a) proposal for a replacement water supply cannot be considered as an alternative source of water adequate in quantity and quality unless it demonstrates that either the O&M (operation and maintenance) costs for the proposed replacement source are substantially the same as the existing system and the existing supply's users agree to shoulder these costs or that the miner has included in its proposal a satisfactory method for compensating the users of the existing supply for the replacement supply's increased costs." In *Carlson*, the EHB found that costs were excessive if there is more than a de minimis cost increase. The costs of the replacement supply included an annual increase of \$200.24 and a five-fold increase between the costs of operating and maintaining the original supply and the replacement supply. The EHB found these costs to be more than marginally higher and excessive.

"De minimis cost increase" has been defined in these amendments as an annual cost increase which is either less than 15% of the annual operating and maintenance costs of the previous supply or less than \$60 per year. The factor of 0.15 is based on the fact that multiple cost estimates for the same water supply can vary by a factor of 15%. This factor is clearly less than the five-fold increase which was found to be excessive in *Carlson*. The

amount of \$60 is also based on *Carlson*, where the amount of \$200.24 was found to be excessive. Sixty dollars is less than three-tenths of the cost increase for *Carlson* and is an average of \$5 per month, which is an amount less than typical discretionary expenditures for most households. The definition of "de minimis" given above is much less than the values disputed in *Carlson* and is intended to avoid disagreements over amounts that are essentially the same, or of insignificant difference.

A cost increase less than 15% of the annual operating and maintenance costs of the previous supply is a de minimis cost regardless of the amount. For example, if the annual operation and maintenance costs of the previous supply were \$1,000 and the annual operation and maintenance costs of the replacement supply are \$1,140, the increase of \$140 is a de minimis cost because it is less than 15% of the annual operation and maintenance costs of the previous water supply. This is true even though the increased costs are more than \$60.

Similarly, an annual cost increase of less than \$60 is a de minimis cost. This is true even though the increase may be 15% or more of the annual operation and maintenance costs of the previous supply. For example, if the annual operation and maintenance costs of the previous supply were \$120 and the annual operation and maintenance costs of the replacement supply are \$144 (an increase of \$24 or 20%) the increase is still de minimis because it is less than \$60.

It does not matter whether the increase in annual operation and maintenance costs exceeds the previous supply's operation and maintenance costs by 15% or more or if they are \$60 or more as long as the increase in annual operation and maintenance costs is less than one of these amounts. If it is less than one of these amounts, and it does not matter which one, the cost increase is de minimis.

The new provision concerning adequacy of the replacement supply in regards to maintenance, control, accessibility, reliability and permanence is being added to address a portion of the decisions in *Gioia*, *Buffy & Landis* and *Haydu v. DER & PBS Coals Co., Inc.*, 1994 EHB 826. In *Gioia* the EHB found that: ". . . the user of a replacement water supply-who originally had complete control over his supply-be able to avoid having the replacement supply cut off at any time by the acts of another person." In *Buffy & Landis*, the EHB ruled that ". . . when *Buffy & Landis*, exclusively control their existing private sources of supply, the proposal for a community replacement source of water must demonstrate that *Buffy & Landis* retain substantially equal control over it or consent thereto, if it is to be judged an adequate replacement proposal." It should be noted here that the term "community replacement source of water" in *Buffy & Landis* refers to a well that was to service five homes, and does not refer to a public water supply. In *Haydu*, the EHB found that: ". . . (t) to satisfy the requirements of section 4.2(f) of the SMCRA, a replacement water supply: must have an adequate quantity and quality; must not be unreliable; must not require excessive maintenance; and must provide the property owner with as much control as he exercised over his previous supply." The provisions in these regulations at §§ 87.119(a)(1) and (2) and 88.107(a)(1) and (2), address these decisions.

It has been Department practice for several years to allow a water supply owner to waive an operator's obligation to restore or replace an affected water supply. The waiver had to be in writing on a Department form

and had to be approved by the Department. The MRAB, after considerable debate, recommended that a waiver provision be included in these amendments. The debate revolved around who should be allowed to submit the waiver. For example, if the landowner had leased the property as a residence, could the landowner or the tenant waive the requirement to replace the water supply without considering the interests of the other or was it necessary for both to agree to the waiver?

The statutory obligation to replace an affected water supply extends to the use of the water resource. The obligation to replace is not conditioned upon the user also being the landowner. In recognition of the possibility that more than one person can have a legal interest in a water supply, the waiver provisions added as §§ 87.119(a)(3) and 88.107(a)(3) allow for the waiver of the obligation to replace a water supply if everyone possessing a legal interest in the water supply agrees to the waiver. This approach is necessary to protect everyone's rights and to avoid needless disputes. The waiver must be in writing on a form prepared by the Department. Everyone possessing an ownership interest in the affected water supply must sign the waiver. For example, if the landowner has leased the property as a residence, both the landowner and the tenant must sign the waiver.

It is also intended that the requirement to restore or replace a water supply can be waived in its entirety or in part. For example, if the affected water supply has been replaced with a water supply that is adequate in every respect except that the replacement supply costs more to operate and maintain, the owner may waive the requirement to pay the increased operation and maintenance costs. This would occur when the operator agrees to pay the future operation and maintenance costs in a lump sum instead of when costs are incurred. This is both more efficient and less onerous on the user and the operator.

*§§ 87.119(b) and 88.107(b) (Presumption of Liability for Pollution)*

Acts 173 and 43 added section 4.2(f)(2)–(7) to SMCRA which creates a presumption of liability on the part of a surface mine operator or mine owner for pollution or diminution of public or private water supplies located within 1,000 feet (304.80 meters) of areas bonded and affected by coal mining operations, areas of overburden removal and storage and support areas except for haul and access roads. This provision is not applicable to persons engaged in government-financed reclamation contracts. Section 4.2(f) of SMCRA also contains five conditions which a surface mine operator or surface mine owner may use to rebut the presumption of liability. The same presumption of liability applies to unpermitted surface mining activities.

It should be noted that, with or without a rebuttable presumption of liability, the Department will continue to carefully evaluate each instance of water supply contamination or diminution based on the best scientific and technical information available, prior to ordering a surface mine operator or mine owner to restore or replace a water supply.

*§§ 87.119(c) and 88.107(c) (Defenses to Presumption of Liability)*

The language for §§ 87.119(c) and 88.107(c) reflects the provisions of section 4.2(f) of SMCRA as amended by Acts 173 and 43. The language identifies conditions which may be applied by a mine operator in defense to a presumption of liability for pollution or diminution of a public or private water supply.

*§§ 87.119(d) and 88.107(d) (Notification to the Department)*

These provisions require the surface mine operator or mine owner to provide the Department with all information pertaining to available defenses. This will allow the Department to evaluate any defenses to the presumption of liability available to the surface mine operator or mine owner and will enable the Department to avoid issuing orders when there are defenses. Evaluating defenses before issuing orders will save the operator and the Department expenses related to appeals of these orders when there are defenses.

*§§ 87.119(e) and (f) and 88.107(e) and (f) (Immediate Replacement of Water Supply and Department Cost Recovery)*

These subsections were added to implement section 4.2(f)(3) of SMCRA. These requirements authorize the Department to restore or replace a water supply when the surface mine operator or mine owner fails to comply with an order issued by the Department to restore or replace a water supply which the Department determined had been affected by the operator. The requirements authorize the Department to recover incurred costs, including costs for providing a temporary water supply, from the surface mine operator or mine owner.

*§§ 87.119(g) and 88.107(g) (Operator Cost Recovery)*

These subsections reflect the provisions of section 4.2(f)(5) of SMCRA and allow a surface mine operator or mine owner who provides a successful defense to the presumption of liability to seek recovery of reasonable costs from the Department. These costs include costs incurred for providing a temporary water supply, design, construction, restoration or replacement costs, attorney fees and expert witness fees.

*§§ 87.119(h) and (j) and 88.107(h) and (j) (Other Remedies and Departmental Authority)*

These subsections reflect section 4.2(f)(6) of SMCRA which allows a landowner, water supply user or water supply company who claims pollution or diminution of a water supply to pursue other legal remedies than are provided for by section 4.2(f) of SMCRA and these regulations. Subsections (j) in §§ 87.119 and 88.107 provide notice that the Department's authority to take other actions is not limited by those sections.

*§§ 87.119(i) and 88.107(i) (Issuance of New Permits)*

These subsections reflect section 4.2(f)(4) of SMCRA. If the Department issues an order under § 87.119 or § 88.107 and that order is appealed, the Department cannot use the appealed order as the basis for blocking the issuance of new permits to the operator or the release of bonds when all other requirements for bond release have been satisfied. If the operator does not appeal the Department order, the order can serve as the basis for blocking the issuance of new permits to the operator or releasing bonds on any site.

*§§ 87.119(k) and 88.107(k) (Exception)*

These subsections reflect section 4.2(f)(7) of SMCRA which provides that the provisions relating to the presumption of liability for replacement of water supplies do not apply to surface coal mine permits issued before February 16, 1993.

*§§ 87.147(b), 88.121(b) and 88.209(b) (Revegetation)*

These sections were revised to provide for a different vegetative cover requirement. Section 4(a)(2)C of SMCRA allows the Department to approve a lesser vegetative

cover requirement for areas previously disturbed by surface mining activities that were not reclaimed to the standards of SMCRA and Chapters 87 and 88 and are proposed for re-mining.

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

The proposed rulemaking was published at 27 Pa.B. 2245 (May 3, 1997). Public hearings on the proposed rulemaking were held by the Board on June 10, 1997, in Greensburg, PA and June 12, 1997, in Pottsville, PA. The public comment period expired on July 2, 1997.

This section contains a summary of comments received by the Board during the public comment period. Comments were received from three commentators and the Independent Regulatory Review Commission (IRRC). A detailed description of comments, along with responses, is contained in the Department's Comment and Response Document which is available from the Bureau of Mining and Reclamation at the address shown in Section B of this Preamble.

The Department submitted the proposed rulemaking to the Federal Office of Surface Mining (OSM) on May 13, 1997, for their informal review as an amendment to Pennsylvania's Federally-approved mining regulatory program. The OSM's comments were received subsequent to the close of the public comment period. A discussion of the OSM's comments is, nevertheless, included in this section.

A summary of the comments and responses on the proposed rulemaking is presented as follows:

*§§ 87.1 and 88.1. Definitions*

One commentator stated that the definition of "water supply survey" is unclear because it references "reasonably available information" without providing any direction on what is considered "reasonably available." The commentator recommended criteria be included in the regulation to improve clarity and provide guidance for determining whether information to be collected when conducting a water supply survey is reasonably available. The Board agrees and additional language has been added to the definition of "water supply survey" in §§ 87.1 and 88.1 providing this guidance.

*§§ 87.119 and 88.107. Hydrologic balance: water rights and replacement.*

*§§ 87.119(a)(1)(iii) and 88.107(a)(1)(iii)*

One commentator indicated that the requirement that a replacement water supply not require "excessive maintenance" was unclear. IRRC recommended defining "excessive maintenance" to improve the clarity of the regulation. The OSM indicated that the requirement that the replacement water supply not require excessive maintenance may be inconsistent with the Federal rule which requires that the replacement water supply be an equivalent water delivery system. The Department believes the regulation is as effective as the Federal rule.

Inclusion of this requirement in the regulations was the result of the *Haydu* EHB decision which found that a replacement water supply "must not require excessive maintenance." The court did not define what was "excessive." Due to the variable factual situations encountered, the Board has not developed a definition that would address all circumstances. Therefore, the Board feels it is in the best interest of all parties to leave the term undefined and to apply a common sense approach.

*§§ 87.119(a)(3) and 88.107(a)(3)*

One commentator identified the requirement of § 87.119(a)(3) that restoration or replacement of an affected water supply may be waived upon approval by the Department and indicated that there are no provisions in SMCRA which address waivers. The commentator agreed that a landowner may elect to negotiate an agreement with the surface mining operator in lieu of restoration or replacement of its water supply. The commentator disagreed with a requirement that water supply waiver agreements between two private parties must be approved by the Department. The Board agrees that water supply waiver agreements between two private parties should not require Department approval but that the Department simply be informed that a solution acceptable to the owners of interest has been reached. The regulation has been revised to delete the requirement for Department approval.

One commentator suggested that the language in § 87.119(a)(3), "everyone who possesses an ownership interest," should be defined. Another commentator suggested § 87.119(a)(3) be modified to limit who has ownership rights in a water supply. The Board believes it is inappropriate and unnecessary to define who possesses an ownership interest in a water supply. Whether someone possesses an ownership interest in a water supply is a matter of Pennsylvania law and it is inappropriate for these regulations to establish property rights. No changes were made to the regulations based upon these comments.

One commentator noted that § 87.119(a)(3) should be amended. The commentator indicated § 87.119(a)(3), as written, could be construed to only allow complete waivers of the water supply replacement obligation. The Board agrees and has amended the provision to allow waivers of any of the requirements of § 87.119(a).

The OSM indicated that waiver of the requirement to restore or replace a water supply under certain circumstances appears to be less effective than Federal requirements. The Department believes the amendments are as effective as Federal requirements.

*§§ 87.119(c) and (d) and 88.107(c) and (d)*

One commentator questioned why "water supply user" in §§ 87.119(c)(1) and 88.107(c)(1) was included as a party who could refuse access to property. The commentator also questioned how the landowner, who could potentially lose the protection of the presumption of the operator's liability, would be aware that the "water supply user" had refused access to the property. The commentator noted that SMCRA limits the parties to "the landowner or water supply company" and recommended the Board remove the phrase "water supply user" for consistency with SMCRA. The Board agrees and the language "water supply user" has been deleted from §§ 87.119(c)(1) and 88.107(c)(1). In addition, §§ 87.119(d) and 88.107(d) have been revised by adding language to ensure that the landowner or water supply company is aware that the refusal to provide access to a surface mine operator or mine owner to conduct a water supply survey could be used by the mine operator or mine owner to rebut a presumption of liability.

One commentator indicated §§ 87.119(c)(1) and (5) and 88.107(c)(1) and (5) refer to surface mine operators or owners having reasonable access to conduct a water supply survey or determine the cause of pollution; however, the sections do not address the meaning of "reasonable access." The commentator recommended that the



regulations include criteria which will outline what is "reasonable access." The Board has deleted the word "reasonable" from these sections so as to conform with the statutory provision relating to these sections.

*§§ 87.119(g) and 88.107(g)*

One commentator indicated § 87.119(g) should be amended to delete the word "seek" from the language indicating a mine operator or owner be entitled to seek recovery of reasonable costs after providing a successful defense to a Department order to the presumption of liability. The Board agrees and has deleted the word "seek" from § 87.119(g) as well as § 88.107(g).

Another commentator noted that §§ 87.119(g) and 88.107(g) provide a mine owner or operator who appeals a Department order and provides a successful defense to the presumptions of liability, is entitled to seek recovery of reasonable costs. The commentator also noted that the mine owner or operator is entitled to recovery of costs only if the owner or operator "is not otherwise held responsible for the pollution or diminution." Although the commentator indicated section 4.2(f)(5) of SMCRA creates an absolute entitlement for a mine owner or operator to recovery of legal fees and agreed with the Department that a mine owner or operator who is ultimately held responsible for contaminating a water supply should not be entitled to legal fees, it believed that the Board cannot incorporate the phrase "and not otherwise held responsible" in the regulations unless SMCRA is amended. Section 4.2(a) of SMCRA requires mining to be conducted in accordance with reasonable regulations deemed necessary by the Department for fulfillment of the purposes of SMCRA. This regulation is necessary to carry out the purpose of fulfilling the provisions allowing an aggrieved operator to appeal a Department order and if successful, to be awarded costs and fees. An operator who appeals a Department order, successfully rebuts the presumption of liability but is ultimately found to be legally responsible has not been aggrieved by the Department. The Board has made no change in the regulations based upon these comments.

*Chapters 87 and 88: Water Supply Protection/Replacement Rulemaking*

One commentator asked whether the proposed rule-making will eventually apply to noncoal (industrial minerals) surface mining activities in this Commonwealth. The commentator indicated a major concern with respect to presumption of liability for water supplies within 1,000 feet (304.80 meters) if the requirements ultimately applied to noncoal (industrial mineral) mining. These changes are based upon amendments to SMCRA which only apply to coal mining. This rulemaking does not apply to noncoal (industrial mineral) mining.

*F. Benefits, Costs and Compliance*

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

*Benefits*

The benefits of these final-form regulations are that water supplies within 1,000 feet (304.80 meters) of land affected by surface mining activities (under a permit issued after February 16, 1993) should be replaced more expeditiously. The final-form regulations relating to revegetation impose no additional costs to surface coal mine operators and could save operators an estimated \$32,000 annually (\$40 reclamation cost savings per acre × 800 acres of abandoned mine land remined per year = \$32,000). In addition, the regulations relating to revegetation should pro-

vide some additional incentive for surface coal mine operators to remined previously mined and unreclaimed lands.

*Compliance Costs*

The final-form regulations impose no additional mandatory costs on the coal operator other than those currently required under the statutory provisions of SMCRA. Operator costs for permanent replacement or restoration of degraded water supplies would be approximately \$7,500 per supply. Operator costs for providing a temporary water supply (until permanent replacement or restoration) would be approximately \$1,000 based upon providing a household with four residents with 75 gallons (283.88 liters) a day per resident for 2 months. The annual costs for water supply replacement would amount to an estimated \$40,800, assuming 5% of the operators degrade one water supply during a 5-year period ( $\$8,500 \text{ per supply} (\$7,500 + \$1,000) \div 5 \text{ years} = \$1,700 \text{ per year} \times 24 \text{ operators} (5\% \text{ of } 480 \text{ operators}) = \$40,800 \text{ per year}$ ).

The Commonwealth's costs of administering and enforcing these requirements will not change significantly beyond what is currently required under the statutory provisions of SMCRA. The statutory provisions could significantly increase the Commonwealth's costs if the Department is unsuccessful in defending appeals by mine operators of Department orders to replace water supplies. The Department currently investigates approximately 80 complaints annually concerning degraded water supplies in the vicinity of surface coal mine operations. If the Department issued two compliance orders annually for replacement or restoration of a degraded water supply within 1,000 feet (304.80 meters) of a mining operation and the mine operator was successful in defending an appeal of the orders under the rebuttable presumption provisions, the estimated minimum annual costs to the Department would be \$17,000 ( $\$8,500 \text{ per water supply} \times 2 \text{ supplies per year} = \$17,000 \text{ per year}$ ). These are minimum costs and do not account for attorney fees and expert witness fees which the operator would also be entitled to recover under the statutory provisions relating to rebuttable presumption and under these final-form regulations. These costs represent a very conservative estimate of what the overall costs may be to the Department if litigation costs are taken into account.

*Compliance Assistance Plan*

The coal mining regulatory program has existed for several years in this Commonwealth. Compliance assistance will inform the coal surface mining industry of the specific changes resulting from this rulemaking through technical guidance and fact sheets. Regional roundtable meetings with the industry will be arranged if needed.

*Paperwork Requirements*

These amendments will not result in additional forms or reports. Additional recordkeeping to document access to water supplies and costs associated with temporary and permanent replacement supplies will be necessary to implement section 4.2(f) of SMCRA.

*G. Sunset Review*

These final-form regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the final-form 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 April 16, 1997, the Department

submitted a copy of the proposed rulemaking to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble. The Committees did not provide comments on the proposed rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on March 16, 1998. IRRC met on March 26, 1998, and approved the final-form regulations.

I. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa. B. 2245 (May 3, 1997).

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

J. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapters 87 and 88, are amended by amending §§ 87.1, 87.119, 87.147, 88.1, 88.107, 88.121 and 88.209 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

JAMES M. SEIF,  
Chairperson

**Fiscal Note:** Fiscal Note 7-315 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 87. SURFACE MINING OF COAL

Subchapter A. GENERAL PROVISIONS

§ 87.1. Definitions.

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

\* \* \* \* \*

*De minimis cost increase*—For purposes of § 87.119 (relating to hydrologic balance: water rights and replacement), a cost increase which meets one of the following criteria:

(i) Is less than 15% of the annual operating and maintenance costs of the previous water supply that is restored or replaced.

(ii) Is less than \$60 per year.

\* \* \* \* \*

*Water supply*—For the purpose of § 87.47 (relating to alternative water supply information) and § 87.119, an existing or currently designated or currently planned source of water or facility or system for the supply of water for human consumption or for agricultural, commercial, industrial or other uses.

*Water supply survey*—

(i) The collection of reasonably available information for a water supply to establish:

(A) The location, type and use of the water supply.

(B) The chemical and physical characteristics of the water.

(C) The quantity of the water.

(D) The physical description of the water supply, including the depth and diameter of the well, length of casing and description of the treatment and distribution systems.

(E) Hydrogeologic data such as the static water level and yield determination.

(ii) Reasonably available information is information which can be collected without extraordinary effort or the expenditure of excessive sums of money.

\* \* \* \* \*

Subchapter E. SURFACE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 87.119. Hydrologic balance: water rights and replacement.

(a) *Water supply replacement obligations.* The operator of any mine or a person engaged in government-financed reclamation who affects a water supply by contamination, pollution, diminution or interruption shall restore or replace the affected water supply with an alternate source, adequate in water quantity and water quality, for the purpose served by the water supply.

(1) To be adequate, the restored or replacement water supply, at a minimum, shall:

- (i) Be as reliable as the previous water supply.
- (ii) Be as permanent as the previous water supply.
- (iii) Not require excessive maintenance.

(iv) Provide the owner and the user with as much control and accessibility as exercised over the previous water supply. The use of a public water supply as a replacement water supply provides the owner and the user adequate control and accessibility.

(v) Not result in more than a de minimis cost increase to operate and maintain.

(2) If the operating and maintenance costs of the restored or replacement water supply are more than a de minimis cost increase, the operator shall provide for the permanent payment of the increased operating and maintenance costs of the restored or replacement water supply.

(3) The requirement contained in this subsection to restore or replace an affected water supply or an individual requirement of paragraphs (1) and (2) may be waived. The waiver shall be in writing on a form prepared by the Department. Everyone who possesses an ownership interest in the water supply shall sign the waiver. The form shall be recorded at the office of the recorder of deeds in the county in which the water supply is situated and a notarized copy of the form shall be provided to the Department.

(b) *Presumption of liability for pollution.*

(1) It shall be presumed, as a matter of law, that a surface mine operator or mine owner is responsible without proof of fault, negligence or causation for all pollution, except bacteriological contamination, and diminution of public or private water supplies within 1,000 linear feet (304.80 meters) of the boundaries of the areas bonded and affected by coal mining operations, areas of overburden removal and storage and support areas except for haul and access roads.

(2) If surface mining activities are conducted on areas which are not permitted or bonded, it shall be presumed, as a matter of law, that the surface mine operator or mine owner is responsible without proof of fault, negligence or causation for all pollution, except bacteriological contamination, and diminution of public or private water supplies within 1,000 linear feet (304.80 meters) of the land affected by the surface mining activities.

(c) *Defenses to presumption of liability.* There are only five defenses to the presumption of liability provided in subsection (b). For any of the five defenses to apply, the mine operator or mine owner shall affirmatively prove by a preponderance of evidence that one or more of the following conditions exists:

(1) The landowner or water supply company refused to allow the surface mine operator or mine owner access to conduct a water supply survey prior to commencing surface mining activities.

(2) The water supply is not within 1,000 linear feet (304.80 meters) of:

(i) The boundaries of areas bonded and affected by coal mining operations, areas of overburden removal and storage and areas used for support but not including haul and access roads.

(ii) The boundaries of areas affected by surface mining activities in areas which are not bonded.

(3) The pollution or diminution existed prior to the surface mining activities as evidenced by a water supply survey conducted prior to commencing surface mining activities and as documented in the approved surface mine permit application submitted to the Department prior to permit issuance.

(4) The pollution or diminution occurred as a result of some cause other than the surface mining activities.

(5) The landowner, water supply user or water supply company refused to allow the surface mine operator or mine owner access to determine the cause of pollution or diminution or to replace or restore the water supply.

(d) *Notification to Department.* The surface mine operator or mine owner shall notify the Department and provide all information which supports a defense to the presumption of liability when one or more of the five defenses to the presumption of liability provided in subsection (c) are met. If a surface mine operator's or mine owner's defense to the presumption of liability is based on the conditions of subsection (c)(1), the operator or owner shall submit evidence to the Department demonstrating that the landowner or water supply company was notified by certified mail or personal service that the refusal of access to conduct a water supply survey could be used to rebut a presumption of liability.

(e) *Immediate replacement of water supply.* If the Department finds that immediate replacement of an affected water supply used for potable or domestic purposes is required to protect public health or safety and the surface mine operator or mine owner has failed to comply with an order issued under section 4.2(f) of SMCRA (52 P. S. § 1396.4b(f)), the Department may use moneys from the Surface Mining Conservation and Reclamation Fund to restore or replace the affected water supply.

(f) *Department cost of recovery.* The Department will recover the costs of restoration or replacement, the costs of temporary water supply and costs incurred for design and construction of facilities from the responsible surface mine operator or mine owner. Costs recovered will be deposited in the Surface Mining Conservation and Reclamation Fund.

(g) *Operator cost recovery.* A surface mine operator or mine owner who appeals a Department order, provides a successful defense during the appeal to the presumptions of liability and is not otherwise held responsible for the pollution or diminution is entitled to recovery of reasonable costs incurred, including, but not limited to, the costs of temporary water supply, design, construction, restoration or replacement costs, attorney fees and expert witness fees from the Department.

(h) *Other remedies.* Nothing in this section prevents a landowner, water supply user or water supply company who claims pollution or diminution of a water supply from pursuing any other remedy that may be provided for in law or in equity.

(i) *Issuance of new permits.* A Department order issued under this section which is appealed will not be used to block issuance of new permits or the release of bonds when a stage of reclamation work is completed.

(j) *Department authority.* Nothing in this section limits the Department's authority under section 4.2(f)(l) of SMCRA.

(k) *Exception.* A surface mining operation conducted under a surface mining permit issued by the Department before February 16, 1993, is not subject to subsections (b)—(i), but is subject to subsections (a) and (j).

§ 87.147. **Revegetation: general requirements.**

(a) Vegetation shall be established on land affected by surface mining activities.

(b) Revegetation shall provide for a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process when desirable and necessary to achieve the approved postmining land use plan. Vegetative cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the approved postmining land use, when compared with the utility of naturally occurring vegetation during each season of the year.

(1) For areas previously disturbed by surface mining activities that were not reclaimed to the standards of SMCRA and this chapter, and are proposed to be reaffected or redisturbed, the Department may approve a vegetative cover which, at a minimum, may not be less than the vegetative cover existing before redisturbance and shall be adequate to control erosion and achieve the approved postmining land use.

(2) For areas designated as prime farmland, §§ 87.177—87.181 apply.

(c) Revegetation shall provide a quick-germinating, fast-growing vegetative cover capable of stabilizing the soil surface from erosion.

(d) Revegetation shall be completed in compliance with the plans submitted under § 87.68 (relating to reclamation information) as approved by the Department in the permit and carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved postmining land use.

**CHAPTER 88. ANTHRACITE COAL**

**Subchapter A. GENERAL PROVISIONS**

**PRELIMINARY PROVISIONS**

§ 88.1. **Definitions.**

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

\* \* \* \* \*

*De minimis cost increase*—For purposes of § 88.107 (relating to hydrologic balance; water rights and replacement), a cost increase which meets one of the following criteria:

(i) Is less than 15% of the annual operating and maintenance costs of the previous water supply that is restored or replaced.

(ii) Is less than \$60 per year.

\* \* \* \* \*

*Water supply*—For the purpose of § 88.27 (relating to alternative water supply information) and § 88.107, an existing or currently designated or currently planned source of water or facility or system for the supply of water for human consumption or for agriculture, commercial, industrial or other uses.

*Water supply survey*—

(i) The collection of reasonably available information for a water supply to establish:

(A) The location, type and use of the water supply.

(B) The chemical and physical characteristics of the water.

(C) The quantity of the water.

(D) The physical description of the water supply, including the depth and diameter of the well, length of casing and description of the treatment and distribution systems.

(E) Hydrogeologic data such as the static water level and yield determinations.

(ii) Reasonably available information is information which can be collected without extraordinary efforts or the expenditure of excessive sums of money.

\* \* \* \* \*

**Subchapter B. SURFACE ANTHRACITE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

§ 88.107. **Hydrologic balance: water rights and replacement.**

(a) *Water supply replacement obligations.* The operator of any mine or a person engaged in government-financed reclamation who affects a water supply by contamination, pollution, diminution or interruption shall restore or replace the affected water supply with an alternate source, adequate in water quality and water quantity for the purpose served by the water supply.

(1) To be adequate, the restored or replacement water supply, at a minimum, shall:

(i) Be as reliable as the previous water supply.

(ii) Be as permanent as the previous water supply.

(iii) Not require excessive maintenance.

(iv) Provide the owner and the user with as much control and accessibility as exercised over the previous water supply. The use of a public water supply as a replacement water supply provides the owner and the user adequate control and accessibility.

(v) Not result in more than a de minimis cost increase to operate and maintain.

(2) If the operating and maintenance costs of the restored or replacement water supply are more than a de minimis cost increase, the operator shall provide for the permanent payment of the increased operating and maintenance costs of the restored or replacement water supply.

(3) The requirement contained in this subsection to restore or replace an affected water supply or an individual requirement of paragraphs (1) and (2) may be waived. The waiver shall be in writing on a form prepared by the Department. Everyone who possesses an ownership interest in the water supply shall sign the waiver. The form shall be recorded at the office of the recorder of deeds in the county in which the water supply is situated and a notarized copy of the form provided to the Department.

(b) *Presumption of liability for pollution.*

(1) It shall be presumed, as a matter of law, that a surface mine operator or mine owner is responsible without proof of fault, negligence or causation for all pollution, except bacteriological contamination, and diminution of public or private water supplies within 1,000 linear feet (304.80 meters) of the boundaries of the areas bonded and affected by coal mining operations, areas of overburden removal and storage and support areas except for haul and access roads.

(2) If surface mining activities are conducted on areas which are not permitted or bonded, it shall be presumed, as a matter of law, that the surface mine operator or mine owner is responsible without proof of fault, negligence or causation for all pollution, except bacteriological contamination and diminution of public or private water supplies within 1,000 linear feet (304.80 meters) of the land affected by the surface mining activities.

(c) *Defense to presumption of liability.* There are only five defenses to the presumption of liability provided in subsection (b). For any of the five defenses to apply, a mine operator or mine owner shall affirmatively prove by a preponderance of evidence that one or more of the following conditions exists:

(1) The landowner or water supply company refused to allow the surface mine operator or mine owner access to conduct a water supply survey prior to commencing surface mining activities.

(2) The water supply is not within 1,000 linear feet (304.80 meters) of:

(i) The boundaries of areas bonded and affected by coal mining operations, areas of overburden removal and storage and areas used for support but not including haul and access roads.

(ii) The boundaries of areas affected by surface mining activities in areas which are not bonded.

(3) The pollution or diminution existed prior to the surface mining activities as evidenced by a water supply survey conducted prior to commencing surface mining activities and as documented in the approved surface mine permit application submitted to the Department prior to permit issuance.

(4) The pollution or diminution occurred as a result of some cause other than the surface mining activities.

(5) The landowner, water supply user or water supply company refused to allow the surface mine operator or mine owner access to determine the cause of pollution or diminution or to replace or restore the water supply.

(d) *Notification to the Department.* The surface mine operator or mine owner shall notify the Department and provide all information which supports a defense to the presumption of liability when one or more of the five defenses to the presumption of liability provided in subsection (c) are met. If a surface mine operator's or mine owner's defense to the presumption of liability is based on the conditions of subsection (c)(1), the operator or owner shall submit evidence to the Department demonstrating that the landowner or water supply company was notified by certified mail or personal service that the refusal of access to conduct a water supply survey could be used to rebut a presumption of liability.

(e) *Immediate replacement of water supply.* If the Department finds that immediate replacement of an affected water supply used for potable or domestic purposes is required to protect public health or safety and the surface mine operator or mine owner has failed to comply with an order issued under section 4.2(f) of SMCRA (52 P. S. § 1396.5b(f)), the Department may use moneys from the Surface Mining Conservation and Reclamation Fund to restore or replace the affected water supply.

(f) *Department cost of recovery.* The Department will cover the costs of restoration or replacement, the costs of temporary water supply and costs incurred for design and construction of facilities from the responsible surface

mine operator or mine owner. Costs recovered will be deposited in the Surface Mining Conservation and Reclamation Fund.

(g) *Operator cost recovery.* A surface mine operator or mine owner who appeals a Department order, provides a successful defense during the appeal to the presumptions of liability and is not otherwise held responsible for the pollution or diminution is entitled to recovery of reasonable costs incurred, including, but not limited to, the costs of temporary water supply, design, construction, restoration or replacement costs, attorney fees and expert witness fees from the Department.

(h) *Other remedies.* Nothing in this section prevents a landowner, water supply user or water supply company who claims pollution or diminution of a water supply from pursuing any other remedy that may be provided for in law or in equity.

(i) *Issuance of new permits.* A Department order issued under this section which is appealed, will not be used to block issuance of new permits or the release of bonds when a stage of reclamation work is completed.

(j) *Departmental authority.* Nothing in this section limits the Department's authority under section 4.2(f)(1) of SMCRA.

(k) *Exception.* A surface mining operation conducted under a surface mining permit issued by the Department before February 16, 1993, is not subject to subsections (b)—(i) but is subject to subsections (a) and (j).

**§ 88.121. Revegetation: general requirements.**

(a) Vegetation shall be established on all land affected by surface mining activities.

(b) Revegetation shall provide for a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process when desirable and necessary to achieve the approved postmining land use plan. For areas previously disturbed by surface mining activities that were not reclaimed to the standards of SMCRA and this chapter, and are proposed to be reaffected or redisturbed, the Department may approve a vegetative cover which, at a minimum, may not be less than the vegetative cover existing before redisturbance and shall be adequate to control erosion and achieve the approved postmining land use.

(c) Revegetation shall provide a quick, fast-growing vegetative cover capable of stabilizing the soil surface from erosion.

(d) Revegetation shall be completed in accordance with the reclamation plan of the permit application as approved by the Department.

(e) Revegetation shall be consistent with the approved postmining land use and specified in the permit application.

**Subchapter C. ANTHRACITE BANK REMOVAL AND RECLAMATION: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 88.209. Vegetation: general requirements.**

(a) Vegetation shall be established on all land affected by bank removal and reclamation activities.

(b) Seeding and planting shall provide for a diverse, effective and permanent vegetative cover of the same

seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the vegetation process when desirable and necessary to achieve the approved postmining land use plan. For areas previously disturbed by surface mining activities that were not reclaimed to the standards of SMCRA and this chapter, and are proposed to be reaffected or redisturbed, the Department may approve a vegetative cover which, at a minimum, may not be less than the vegetative cover existing before redisturbance and shall be adequate to control erosion and achieve the approved postmining land use.

(c) Seeding and planting shall provide a quick, fast-growing vegetative cover capable of stabilizing the soil surface from erosion.

(d) Seeding and planting shall be completed in accordance with the reclamation plan of the permit application as approved by the Department.

(e) Vegetation shall be consistent with and support the approved postmining land use as specified in the permit application.

[Pa.B. Doc. No. 98-760. Filed for public inspection May 8, 1998, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 86—90]

#### Coal Mine Permitting and Performance Standards

The Environmental Quality Board (Board) by this order adopts amendments to Chapters 86—90. The amendments address coal mine permitting requirements and various performance standards relating to coal mining.

This order was adopted by the Board at its meeting of January 20, 1998.

##### A. Effective Date

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

##### B. Contact Persons

For further information contact Roderick A. Fletcher, P.E., Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103, or Joseph Pizarchik, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

##### C. Statutory Authority

These amendments are adopted under the rulemaking authority of section 4.2(a) of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b(a)); section 5(b) of The Clean Streams Law (CSL) (35 P. S. § 691.5(b)); section 3.2(a) of the Coal Refuse Disposal Control Act (CRDCA) (52 P. S. § 30.53b(a)); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) which authorizes the Board to adopt regulations necessary for the Department to perform its work.

##### D. Background and Summary

This final-form rulemaking amends existing provisions relating to permitting and performance standards for surface coal mining, underground coal mining and coal refuse disposal operations. The permitting provisions being amended include modifying the criteria for permit approval; expanding upon circumstances when permit terms may be extended; expanding right of entry requirements to address circumstances where the mineral estate has been severed from the surface estate; revising a permit applicant's proof of publication requirement and adding an additional land use category. Performance standards being amended relate to coal exploration, casing and sealing drill holes, oil and gas well operator approval of mining activities within 125 feet (38.1 meters) of an oil or gas well, topsoil removal, general hydrology and effluent limits, use of explosives, grading, postmining land use, haul roads and access roads and auger mining. The amendments also modify the regulatory scope of Chapters 86—90 and amend provisions relating to bond

release after revegetation and bond release for remining areas with preexisting pollutional discharges.

This final-form rulemaking is the result of the Department's Regulatory Basics Initiative (RBI) which was initiated in August 1995 and Governor Ridge's Executive Order 1996-1, titled "Regulatory Review and Promulgation," dated February 6, 1996. Under the RBI, the Department solicited public input concerning existing regulations in the August 19, 1995, *Pennsylvania Bulletin*. Comments received by the Department and the Department's own review of the regulations under the RBI and Executive Order 1996-1 have identified the sections in this rulemaking which are more stringent than corresponding Federal requirements without a compelling and articulable State interest, imposing disproportionate economic costs, being too prescriptive or technology specific or lacking clarity. Additionally, the Department has inserted, when appropriate, measures in equivalent standard international units.

These regulatory changes were reviewed and discussed with the Mining and Reclamation Advisory Board (MRAB) which is the Department's advisory body for regulations pertaining to the surface mining of coal. A draft of the final-form rulemaking was reviewed and discussed with the MRAB's Regulation, Legislation and Technical Committee on October 23, 1997, and with the full MRAB on October 24, 1997. The MRAB concurred with the final rulemaking at a special meeting of the MRAB on November 7, 1997.

The following summary identifies the section of the regulations being amended along with a description of the specific change. Since most of the changes are being made so as to be no more stringent than Federal requirements, the corresponding Federal regulation for each section is also listed.

##### § 86.2. Scope.

30 CFR 700.11

Subsection (a) is modified to correct grammatical errors. Subsection (b) was proposed to reflect exemptions from the definition of surface mining activities in the SMCRA. The Office of Surface Mining Reclamation and Enforcement (OSM) indicated subsection (b) is based upon SMCRA provisions which have not been approved by OSM and raised various issues with the SMCRA provisions. Consequently, subsection (b) is deleted.

##### § 86.37(a)(4). Criteria for permit approval or denial/hydrologic balance.

30 CFR 773.15(c)(5)

The criterion relating to the probable cumulative impacts of mining on the hydrologic balance is revised to require that the mining be designed to prevent "material" damage to the hydrologic balance "outside" the proposed permit area. The current regulation does not include the term "material" and includes the term "within" the proposed permit area. This change is made to conform with the language of the corresponding Federal regulation and is not intended to lessen the requirements under the CSL and SMCRA for prevention of pollution to streams and other waters of this Commonwealth.

##### § 86.31. Public notices of filing of permit applications.

30 CFR 713.13(a)

This section is amended by adding subsection (e) to provide for mine operator notification to oil and gas well owners when surface mining activities are proposed

within 125 feet (38.1 meters) of their oil or gas well. This provision is added on final rulemaking in response to comments on the proposed changes to §§ 87.93, 88.83, 88.283 and 90.93. The changes to §§ 87.93, 88.83, 88.283 and 90.93 are discussed within this section and Section E of this Preamble.

*§ 86.32. Opportunity for submission of written comments or objections on the permit application.* 30 CFR 773.13(b)

Subsection (a) is amended to provide the opportunity for oil and gas well owners (who receive notification under § 86.31(e)) to submit to the Department a description of measures the well owner believes are necessary to minimize damage, destruction or disruption of services provided by the oil or gas well which may be caused by the proposed surface mining activities. Subsection (a) is amended on final rulemaking in response to comments on the proposed changes to §§ 87.93, 88.83, 88.283 and 90.93. The changes to §§ 87.93, 88.83, 88.283 and 90.93 are discussed within this section and Section E of this Preamble.

*§ 86.34. Informal conferences.* 30 CFR 773.13(c)

Subsection (a) is amended to provide for oil and gas well owners (who receive notification under § 86.31(e)) to request informal conferences on permit applications. Subsection (a) is amended on final rulemaking in response to comments on the proposed changes to §§ 87.93, 88.83, 88.283 and 90.93. The changes to §§ 87.93, 88.83, 88.283 and 90.93 are discussed within this section and Section E of this Preamble.

*§ 86.37(a)(6). Criteria for permit approval or denial/historic resources.* 30 CFR 761.11(c) and 773.15(c)

The criterion that permit applicants demonstrate that mining activities will not adversely affect historic resources is modified to apply only to historic places actually listed on the National Register of Historic Places. The Department must still take into account the effect of the proposed mining activities on properties listed on or eligible for listing on the National Register of Historic Places. In addition, the Department's consideration must be documented in writing and may be supported by appropriate permit conditions or operational plan changes to protect historic resources or a documented decision that no additional protective measures are necessary. This amendment conforms with the corresponding Federal regulations.

*§ 86.40(b). Permit term.* 30 CFR 773.19(e)(2)(ii)

This subsection requires operators to begin mining activities within 3 years of issuance of a permit unless the operator shows that additional time is needed because of litigation. This amendment expands the reasons for extending the start of mining activities to include conditions which are beyond the control of the operator. This change matches similar provisions in the corresponding Federal regulation.

*§ 86.64. Right of entry.* 30 CFR 778.15

The requirement for permit applicants to demonstrate right of entry to conduct coal mining activities is amended to address circumstances where the mineral estate has been severed from the surface estate. Also, language is added to clarify the requirements for describing the documents which provide the applicant's legal right to enter and conduct coal mining activities. The corresponding Federal regulation contains the same requirements. The amendment also clearly states that the

Federal requirements for right of entry are in addition to those State law requirements arising under section 4 of SMCRA (52 P. S. § 1396.4).

*§ 86.70. Proof of publication.* 30 CFR 778.21

These amendments allow a permit applicant to demonstrate its intent to publish a notice in a local newspaper instead of submitting a statement from the newspaper. Additionally, the applicant may submit a copy of each weekly newspaper advertisement (that is, 4 copies) as an alternative to submitting a notarized proof of publication. These changes conform to the corresponding Federal regulation.

*§ 86.132. Definitions (relating to coal exploration).* 30 CFR 701.5

The definition of "substantially disturb," in the context of coal exploration, is modified to apply to significant impacts upon land, air or water resources. The current language refers to any impacts. The amended language is consistent with the Federal definition of "substantially disturb."

*§ 86.133. General requirements.* 30 CFR 772.11(a) and 772.12(a)

The limit for coal removal during coal exploration is changed from less than 250 tons (226 metric tons) of coal to 250 tons (226 metric tons) or less as found in Federal regulations.

*§ 86.134. Coal exploration performance and design standards.* 30 CFR 815.15

Requirements for measuring environmental characteristics during coal exploration, specifying who has responsibility for revegetating lands disturbed during exploration activities and placing limitations on vehicular travel on land where coal exploration occurs are deleted. These deletions eliminate overly prescriptive requirements.

*§ 86.174(b). Standards for release of bonds.* 30 CFR 800.40(c)(2)

This subsection is revised to clarify the standards for Stage 2 reclamation bond release. The current wording of this section has the potential for being misinterpreted relative to application of the standards for successful revegetation associated with Stage 2 bond release. This amendment applies a more general standard to be consistent with section 4(b)(2) of SMCRA and the corresponding Federal regulations.

*§§ 87.1, 88.1 and 90.1. Definitions.* 30 CFR 701.5

A category of "unmanaged natural habitat" is added to the list of recognized land uses included in the definition of "land use." This category is equivalent to the Federal land use definition for "undeveloped land or no current use or land management." This change provides a land use category which allows permit applicants to more realistically identify lands which remain in a basically unmanaged natural state. The change will provide more flexibility in approving land use changes.

*§§ 87.62, 88.42 and 90.31. Operational information.* 30 CFR 780.11

New paragraphs (that is, paragraph (4) for § 87.62 and paragraph (5) for §§ 88.42 and 90.31) are added which requires that the operation plan of a mining application demonstrate the notification requirements of § 86.31(e) have been satisfied. These paragraphs are added on final rulemaking in response to comments on the proposed changes to §§ 87.93, 88.83, 88.283 and 90.93. The



changes to §§ 87.93, 88.83, 88.283 and 90.93 are discussed within this section and Section E of this Preamble.

§§ 87.77(a), 88.56(a), 88.492(f)(1), 30 CFR 780.31(a)  
89.38(b) and 90.40(a) Protection and 784.17(a)  
of parks and historic places.

The requirement for a permit application to contain a description of measures for preventing or minimizing adverse impacts to public parks or historic places is changed to apply only to publicly owned parks. There are no changes made to the protections afforded historic places actually listed on the National Register of Historic Places. However, consistent with Federal regulations, the Department retains the authority to require the applicant to protect places eligible for listing on the National Register of Historic Places. These amendments are made so as to be no more restrictive than the corresponding Federal regulations.

§§ 87.93, 88.83, 88.283 and 90.93. 30 CFR 816.13  
Casing and sealing of drill holes. and 817.13

The wording within §§ 87.93(a)(2) and 88.83(a)(2) for protection of the hydrologic balance is changed from "prevent to the maximum extent possible" to "minimize" disturbance to the prevailing hydrologic balance. These changes are not intended to lessen the requirements under the CSL and SMCRA for prevention of pollution to streams and other waters of this Commonwealth. The changes are made solely for purposes of having these sections conform with the current language in §§ 88.283 and 90.93 and the language of the corresponding Federal regulations.

The requirement in §§ 87.93(e), 88.83(e), 88.283(e) and 90.93(e) for having oil and gas well operators agree in writing to mining activities closer than 125 feet (38.1 meters) to a well was proposed to be deleted with no replacement language. Replacement language to these sections as well as changes to §§ 86.31, 86.32, 86.34, 87.62, 88.42 and 90.31 have been added at final rule-making and are discussed in Section E of this Preamble. The corresponding Federal regulations do not contain this requirement. Further, the reference in § 90.93(d) to the act regulating oil and gas well operations is being corrected.

§§ 87.97 and 90.97. Topsoil removal. 30 CFR 816.22  
and 817.22

The provisions which allow for supplementing or substituting other materials for subsoil are changed to apply to topsoil in keeping with the corresponding Federal regulations.

§§ 87.101(a), 88.91(a), 88.291(a) and 30 CFR 816.41(a)  
90.101(a). Hydrologic balance/ and 817.41(a)  
general requirements.

The wording that calls for mining activities to be planned and conducted to protect the hydrologic balance is being amended. The phrase "prevent to the maximum extent possible" has been replaced with "minimize" as it concerns disturbances to the prevailing hydrologic balance within the permit area and adjacent area. Also, requirements are added for preventing material damage to the hydrologic balance outside the permit area and for the Department requiring measures to assure that the material damage is prevented. These amendments are made solely to conform with the language of the corresponding Federal regulations and are not intended to lessen the requirements under the CSL and SMCRA for prevention of pollution to streams and other waters of this Commonwealth.

§§ 87.102(a), 88.92(a), 88.187(a), 30 CFR 816.42  
88.292(a), 89.52(c) and 90.102(a). and 817.42  
Hydrologic balance/effluent and 40 CFR Part 434  
standards.

The effluent limit for manganese is deleted for surface water runoff from storm events of less than or equal to a 10-year, 24-hour storm to be consistent with the corresponding Federal regulations.

§§ 87.106, 88.96, 88.191, 88.296 30 CFR 816.45  
and 90.106. Hydrologic balance/ and 817.45  
sediment control measures.

The wording which provides for the design, construction and maintenance of sediment control measures is changed from "prevent erosion to the maximum extent possible" to "minimize erosion to the extent possible," and from "prevent to the maximum extent possible" to "prevent to the extent possible" contributions of sediment to stream flow or runoff outside the affected area. These changes are made solely to conform with the language of the corresponding Federal regulations and are not intended to lessen the requirements under the CSL and SMCRA for prevention of pollution to streams and other waters of this Commonwealth.

§ 87.126(a)(1). Use of explosives/ 30 CFR 816.64(b)(1)  
public notice of blasting schedule.

The requirement for the blasting schedule to be published in a newspaper is changed from not more than 20 days to not more than 30 days before beginning blasting. This amendment is made so as to be no more restrictive than the corresponding Federal regulations.

§ 87.127. Use of explosives/ 30 CFR 816.67(c)  
surface blasting requirements. and 817.67(c)

The standard for fly rock from blasting is changed from no fly rock beyond the "line of property owned or leased by the permittee" to no fly rock beyond the "permit boundary." This change conforms with Federal requirements.

§§ 87.138, 89.65, 89.82 and 90.150. 30 CFR 816.9,  
Protection of fish, wildlife and 816.97 and 817.97  
related environmental values.

The language concerning protection of fish, wildlife and related environmental values is amended by replacing the word "prevent" disturbances and adverse impacts with the term "minimize to the extent possible" relative to disturbances and adverse impacts on these protected resources. Additional wording changes provide for roads to be located and operated to "avoid or minimize" instead of "prevent" impacts on fish and wildlife, and to "avoid and enhance where practicable or restore" instead of "prevent" disturbances to habitats of unusually high value to fish and wildlife. The new terminology is intended solely to track the language of the corresponding Federal regulations.

§§ 87.144 and 88.118. Backfilling 30 CFR 816.102  
and grading/final slopes. and 817.102

Performance standards for construction of terraces and for final grading are deleted. These deletions eliminate unnecessarily prescriptive requirements.

§§ 87.146 and 89.87. Regrading 30 CFR 816.95  
or stabilizing rills and gullies. and 817.95

The requirement to fill, grade or otherwise stabilize rills and gullies deeper than 9 inches (23 centimeters) is

more prescriptive than Federal requirements. The language of this section is rewritten to require that any rill or gully which is disruptive to the postmining land use or causing or contributing to a violation of water quality standards be filled, regraded or otherwise stabilized.

§§ 87.159, 88.133, 88.221, 88.334, 30 CFR 816.133.  
89.88 and 90.166. Postmining land and 817.133 use.

The requirements to consider premining land management practices and historic use of the land when comparing premining to postmining land use, and to have plans for the postmining land use designed by a registered engineer are more stringent than the Federal regulations and are deleted.

§§ 87.160(a), 88.138(a), 88.231(a), 30 CFR 816.150(b)  
88.335(a), 89.90(a) and 90.134(a). and 817.150(b)  
Haul roads and access roads.

The phrase "prevent to the maximum extent possible" erosion and other pollution or damage is replaced with the Federal language to "control or prevent" erosion or other pollution or damage. These amendments are not intended to lessen the requirements under the CSL and SMCRA for prevention of pollution to streams and other waters of this Commonwealth.

§§ 87.166, 88.144, 88.237, 88.341 30 CFR 816.150(c)—(f)  
and 90.140. Haul road and access and 817.150(c)—(f)  
road/restoration.

The time period for meeting various haul road and access road restoration standards is changed from "immediately" to "as soon as practicable" after the road is no longer needed for the mining activities. Also, the standard for restoration is being changed from "ripping, plowing and scarifying" the roadbed to "ripping or scarifying" the roadbed. These changes are being made so that the language of this section would be no more stringent than the corresponding Federal regulations.

§§ 87.173(a), 89.67(a) and 90.147(a). 30 CFR 816.181  
Support facilities and utility and 817.181  
installations.

These amendments delete the phrase "designed, constructed, maintained and used to prevent to the extent possible" which pertains to damage to fish, wildlife and related environmental values. The wording requires support facilities to be "located, maintained and used to minimize damage" to these resources. The language is equivalent to the terminology in the corresponding Federal regulations.

§ 87.174. Steep slope operations. 30 CFR 816.107  
and 817.107

The requirement prohibiting unlined or unprotected drainage channels on backfilled areas with steep slopes unless approved by the Department is deleted. This requirement is unnecessarily prescriptive and is not found in the Federal regulations dealing with steep slope operations.

§ 87.176. Auger mining. 30 CFR 819.15

Existing subsection (d), which prohibits auger mining to the rise of the coal unless the mine operator demonstrates the augering will not pose a threat of water pollution, is deleted since it is redundant with the provisions of subsection (e). The amendment eliminates a technology specific requirement and imposes the obligation to make certain demonstrations with respect to adverse water quality impacts, fill stability, resource recovery and subsidence on persons conducting surface mining activities.

§§ 87.209 and 88.509. Criteria and schedule for bond release on pollution abatement areas. No equivalent Federal regulation

These sections relate to bond release on areas with preexisting pollutional discharges when remining was authorized under Chapter 87, Subchapter F and Chapter 88, Subchapter G. The maximum bond amount which may be released for completing backfilling, regrading and drainage control on pollution abatement areas is changed from 50% to 60%. Also, the maximum of 35% of the bond amount which may be released for completing revegetation is replaced with a requirement that the Department retain an amount of bond sufficient to reestablish vegetation. The modified bond release amounts are equivalent to the standard Stage 1 and Stage 2 bond releases. Other modifications deal with the time period for demonstrating that the required standards for pollution loads have been achieved. In addition, the requirement relating to the 5-year period of liability on the bond is clarified. These amendments are made to reduce requirements which impose disproportionate economic costs, to provide clarification and to conform with the 1996 amendments (Act 43) to SMCRA.

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

Notice of proposed rulemaking was published at 27 Pa.B. 2255 (May 3, 1997). The proposal set forth a 60-day public comment period. Public hearings on the proposed rulemaking were held by the Board on June 10, 1997, in Greensburg, PA and on June 12, 1997, in Pottsville, PA. The public comment period expired on July 2, 1997.

This section contains a summary of comments received by the Board during the public comment period. It also addresses comments from the Independent Regulatory Review Commission (IRRC). Comments were received from five commentators in addition to IRRC. The Department has completed a review of the comments and has prepared a comment and response document that addresses each comment on the proposed amendments. The Department's Comment and Response Document is available from the Bureau of Mining and Reclamation at the address shown in Section B of this Preamble.

The Department submitted the proposed rulemaking to the OSM on May 13, 1997, for their informal review as an amendment to the Commonwealth's Federally-approved mining regulatory program. The OSM's comments were received subsequent to the close of the public comment period, but were considered by the Board and are discussed in this section of the Preamble.

A summary of the comments and responses on the proposed rulemaking is presented as follows.

#### § 86.2. Scope.

Proposed § 86.2(b) has been withdrawn. The OSM indicated that the proposed § 86.2(b) was based on statutory provisions which had not been approved by the OSM. The OSM also indicated that approval of the statutory provisions was a prerequisite to approval of § 86.2(b) and raised various issues with the statutory provisions. Consequently, proposed § 86.2(b) has been withdrawn from this final-form rulemaking.

#### § 86.37. Criteria for permit approval or denial.

A commentator objected to the change to § 86.37(a)(4) to add the word "material" before the term "damage to the hydrologic balance." The commentator noted that under the existing regulations permit applicants must affirmatively demonstrate that their mining activities

were designed to prevent any damage to the hydrologic balance, whereas, under this change to the regulations, permit applicants shall demonstrate that their activities are designed to prevent material damage to the hydrologic balance. The commentator stated there is no definition of the modifier "material," but the obvious purpose is to make the permit applicant's burden lighter, and therefore to allow some damage to the hydrologic balance. Two commentators objected to deleting the words "within and" after the term "damage to the hydrologic balance." One of the two commentators noted this change requires the permit applicant to demonstrate that mining activities are designed to prevent material damage to the hydrologic balance only outside the proposed permit area, which lessens the burden for the operator by restricting the geographic area within which it must demonstrate that its activities will not materially damage the hydrologic balance. The commentator further noted that based upon the definition of "hydrologic balance" in the regulations, the focus should be upon hydrologic units, not the permit boundary line.

The changes to § 86.37(a)(4) were made to conform with the corresponding Federal regulations at 30 CFR 773.15(c)(5). A permit applicant must continue to provide a plan in accordance with §§ 87.69, 88.49, 89.36 and 90.35 for ensuring the protection of the quality and quantity of surface and groundwater both within the proposed permit area and the adjacent area. "Adjacent area" is defined in the regulations as land outside the permit area where air, surface or groundwater, fish, wildlife, vegetation or other resources may be adversely affected by mining activities. The change to § 86.37(a)(4) does not restrict the geographic area within which a permit applicant must determine hydrologic impacts of mining. In addition, § 86.37(a)(4) continues to require an assessment by the Department of the probable cumulative impacts of all anticipated coal mining in the general area on the hydrologic balance. The "general area" is defined in the regulations as the topographic and groundwater basin (with respect to hydrology) surrounding a permit area which is of sufficient size to allow assessment of the probable cumulative impacts of mining on the quality and quantity of surface water and groundwaters. In addition to these regulations, which continue to require protection of the hydrologic balance, § 86.37(a)(3) requires a permit applicant to demonstrate that there is no presumptive evidence of potential pollution to the waters of this Commonwealth.

The MRAB discussed § 86.37(a)(4) and suggested that the word "material" needed to be properly defined. The Department provided the MRAB with a copy of its existing technical guidance (DEP Document ID 563-2112-219) titled "Cumulative Hydrologic Impact Assessments." This technical guidance defines "material damage to the hydrologic balance." The Department indicated to the MRAB that since the OSM had not defined material damage in the context used in the federal regulation corresponding to § 86.37(a)(4) (that is, 30 CFR 773.15(c)(5)), the Department's recommended approach was to rely upon the technical guidance for providing definition to the term "material damage."

The proposed deletion of the words "or eligible for inclusion on" (relating to listing historic resources on the National Register of Historic Places) from § 86.37(a)(6) was objected to by two commentators. They indicated that protection of historic resources is weakened by deleting the requirement that a permit applicant demonstrate that the proposed mining activities will not adversely affect places eligible for inclusion on the National Register of

Historic Places. One commentator noted that a site eligible for listing on the National Register of Historic Places may not actually be listed for many months during which time the site could be ruined by mining activities. The commentator noted that only those places actually included on the National Register of Historic Places would be protected.

The changes to § 86.37(a)(6) do not result in protection being afforded to only those places actually included on the National Register of Historic Places. Sections 87.42(2), 88.22(2), 88.491(a)(1)(ii), 89.38(a) and 90.11(a)(3) of existing regulations require applicants for coal mining permits to provide information on historic resources eligible for listing on the National Register of Historic Places. These sections of the regulations also provide the Department with the authority to require the applicants to identify and evaluate important historic resources that may be eligible for listing on the National Register of Historic Places. In addition, Department procedures require permit applicants to notify the Pennsylvania Historical and Museum Commission when proposing mining activities. No change was made to § 86.37(a)(6) based upon these comments. However, based upon discussions at the February 18, 1997, Board meeting, the order of the first and second sentence in § 86.37(a)(6) has been reversed for clarity.

*§ 87.77(a), 88.56(a), 88.492(f)(1), 89.38(b) and 90.40(a). Protection of parks and historic places.*

Two commentators opposed changing "public parks" to "publicly-owned parks." A commentator noted there is no discussion about the effects of the change nor mention of the definition of the terms. The commentator further notes that: the corresponding Federal regulation (that is, 30 CFR 780.31) refers to "public parks" in the title of the regulation and to "publicly-owned parks" in the body of the regulation; and Pennsylvania regulations already have a definition of "public parks," so the effect of the change will be to remove from protection certain facilities that are now protected.

The Board agrees with the commentator that "public park" should not be changed to "publicly-owned park" in the heading to §§ 87.77, 88.56 and 88.492(f), since these sections continue to have applicability to "public parks" as a result of the references to Chapter 86, Subchapter D. The heading to these sections has been changed to retain the current wording. Chapter 86, Subchapter D continues to afford protection to publicly-owned parks as well as public parks.

*§ 87.93, 88.83, 88.283 and 90.93. Casing and sealing of drill holes.*

Four commentators provided responses to the changes to §§ 87.93(e), 88.83(e), 88.283(e) and 90.93(e) for deleting the requirement that oil and gas well operators agree in writing to mining activities closer than 125 feet (38.1 meters) to an oil or gas well. The Pennsylvania Oil and Gas Association noted that deletion of the requirement to obtain the written consent of the well operator to allow mining activity within 125 feet (38.1 meters) of an operating or inactive oil or gas well creates serious potential public safety problems and disrupts the foundation for communication and cooperation between private parties who share common interests in real property.

The Pennsylvania Coal Association supported the proposed change and suggested that § 87.93(e)(2) be clarified to mimic Federal intent; that is, if the mine operator provides access to the well at all times and the integrity of the well is maintained, the Department should auto-

matically grant a variance to allow mining at a distance less than 125 feet (38.1 meters) from the oil or gas well.

The Pennsylvania Mining Professionals (PMP) suggested that no regulation is needed for a 125-foot (38.1-meter) barrier to an oil or gas well as long as access to the well and integrity of the well is maintained. The PMP noted that elimination of the requirement for well operator written approval would give the Department total discretion for allowing a lesser distance.

IRRC stated that the Independent Oil and Gas Association of Pennsylvania, in addition to the Pennsylvania Oil and Gas Association, opposed the proposed change while the Pennsylvania Coal Association supported the proposed change. IRRC indicated that with the proposed change, well operators will no longer be able to dictate what must be done to prevent damage to their wells. IRRC acknowledges that § 87.173(b), regarding mining activities minimizing damage, destruction or disruption of services provided by oil and gas wells and pipelines unless otherwise approved by the owner of those facilities, still provides protection. In addition, IRRC indicated that if the requirement for well operator written approval is deleted, subsection (e)(2)(iii) of §§ 87.93, 88.83, 88.283 and 90.93 should be further amended to require a coal operator to provide written notification to the operator of an existing operating well when proposing mining activities within 125 feet (38.1 meters) of the well. In addition, the notice should be provided to the well operator no later than contemporaneously with the coal operator's variance request to the Department.

IRRC identified several portions of the Department's coal mine permit application which address protection of oil and gas wells during mining and suggested these provisions be added to §§ 87.173(b), 89.73(b) and 90.147(b). These provisions of the mining permit application already have a basis in regulations. Chapter 209 (relating to coal mines) contains safety provisions for coal mining and § 209.34 (relating to pipelines and wells) prohibits excavation during coal mining within 100 feet (30.5 meters) of any pipelines or active or inactive oil or gas wells until precautions have been taken to ensure and prevent inadvertent rupturing of the lines or wells. Section 209.60(c) (relating to protection of persons and property) requires a coal operator to notify the owner of a pipeline when intending to blast within 200 feet (61.0 meters) of the pipeline and provide the owner with a description of the precautionary measures which will be taken.

The MRAB held extensive discussions on the issue of mining near oil and gas wells—first at its October 23, 1997, meeting of its Regulation, Legislation and Technical Subcommittee and then at its full Board meeting on October 24. Representatives of the coal industry, the oil and gas industry and a representative of the Oil and Gas Technical Advisory Board attended and provided input at both meetings. These discussions helped clarify the concerns of the oil and gas industry and the coal industry regarding mining activities within 125 feet (38.1 meters) of an oil or gas well. After these MRAB meetings, the Department and representatives of this Commonwealth's oil and gas and coal industries met. The parties negotiated regulatory changes which are acceptable to both industries and the Department. The negotiated language provides for a more balanced comprehensive approach for mining within 125 feet (38.1 meters) of an oil or gas well. The negotiated language establishes notification requirements with more focus placed upon the mine operator identifying what measures would be taken to minimize

adverse impacts on an oil or gas well and the services provided by the wells. The agreed upon regulatory provisions are reflected in modifications of §§ 86.31, 86.32, 86.34, 87.62, 87.93, 88.42, 88.83, 88.283, 90.31 and 90.93.

*§§ 87.101(a), 88.91(a), 88.291(a) and 90.101(a). Hydrologic balance/general requirements.*

One commentator indicated the proposed changes will weaken protection of the hydrologic balance by allowing mine operators to merely "minimize" instead of "prevent to the maximum extent possible" disturbances to the prevailing hydrologic balance. In addition, the commentator states that the present regulation requiring disturbances to the prevailing hydrologic balance be "prevented in the permit and adjacent areas" would be weakened by the proposed requirement to "prevent material damage to the hydrologic balance outside the permit area." The changes to these sections were made to conform with the corresponding Federal regulations in 30 CFR 816.41 and 817.41 regarding protection of the hydrologic balance. However, upon further analysis of these Federal regulations, there are additional Federal requirements for protection of the hydrologic balance which relate to and contribute towards implementation of the regulations proposed for change. These additional Federal requirements have been added to §§ 87.101, 88.91, 88.291 and 90.101 to the extent authorized by the CSL.

*§§ 87.102(a), 88.92(a), 88.187(a), 88.292(a), 89.52(c) and 90.102(a). Hydrologic balance/effluent standards.*

The Department has proposed the deletion of manganese from the effluent standards for surface water runoff when a precipitation event is greater than a 10-year 24-hour storm event. One commentator has suggested that this change should not be made. The change makes the Commonwealth's effluent standards for manganese consistent with the corresponding Federal requirements of 40 CFR Part 434. Manganese continues to be an effluent standard for discharges of mine pit water and other discharges during dry weather flow conditions. No change has been made in response to this comment.

*§§ 87.106, 88.96, 88.191, 88.296 and 90.106. Hydrologic balance/sediment control measures.*

One commentator indicated the proposed changes weaken the requirements for protection of the hydrologic balance by weakening the requirements for erosion and sedimentation control measures.

Another commentator suggested maintaining the language "prevent to the maximum extent possible contributions of sediment to stream flow or to runoff outside the affected area" in §§ 88.96(1), 88.191(1), 88.296(1) and 90.106(a)(1) and the language "prevent erosion to the maximum extent possible" in §§ 87.106(3), 88.96(3), 88.191(3) and 90.106(a)(3).

The changes to these sections were made to conform with the corresponding Federal regulations in 30 CFR 816.45 and 817.45. These sections require sediment control measures to be designed, constructed and maintained using the best technology currently available. The term "best technology currently available" is defined in §§ 87.1, 88.1 and 90.1 in part as "equipment devices, systems, methods or techniques which will prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by applicable state or Federal laws." The proposed changes along with applying the term "best technology currently available" provide protection of the

hydrologic balance consistent with State law. In addition, §§ 87.70, 88.96(4) and 90.37 require that sediment control measures comply with the requirements of Chapter 102 (relating to erosion control). No change has been made in response to these comments.

§§ 87.138, 89.65, 89.82 and 90.150. *Protection of fish, wildlife and related environmental values.*

One commentator indicated that the proposed changes to these sections reduce protection available to fish, wildlife and other environmental values. The commentator noted that the regulations currently in effect require the mine operator to prevent disturbance to the habitat of unusually high value to fish and wildlife while the proposed amendments allow the mine operator to avoid disturbance to the habitats, enhance where practical, or restore the habitats. Another commentator suggested maintaining the language "Prevent disturbances and adverse impacts on fish, wildlife and related environmental values . . ." in §§ 87.138(a)(1), 89.65(a), 89.82(a) and 90.150(a)(1); maintaining the language "Locate and operate haul and access roads to prevent impacts to fish and wildlife . . ." in §§ 87.138(a)(2), 89.65(d)(1) and 90.150(a)(2); and maintaining the language "Prevent disturbance to . . ." in §§ 87.138(a)(3), 89.65(d)(2) and 90.150(a)(3). The Game Commission expressed objections to IRRC on the proposed deletion of the wording "prevent to the maximum extent possible" and replacing the wording with "minimize to the extent possible" under §§ 87.138, 89.65, 89.82 and 90.150.

These sections were proposed for change to track the language in the corresponding Federal regulations of 30 CFR 816.97 and 817.97. These sections currently require the protection of fish, wildlife and related environmental values using best technology currently available. The term "best technology currently available" is defined in §§ 87.1, 88.1, 89.1 and 90.1 and in Federal regulations in part as "equipment, devices, systems, methods or techniques which will minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources when practicable." The proposed changes are consistent with Federal regulations and with application of the term "best technology currently available." No change has been made based upon these comments.

§§ 87.159, 88.133, 88.221, 88.334, 89.88 and 90.166. *Postmining land use.*

The MRAB at its October 23, 1997, subcommittee meeting, discussed the proposed revisions to these sections for deleting the requirement that the landowner provide a written statement approving alternative land uses proposed by mine operators. This revision had been proposed because there was no corresponding provision in Federal regulations. The MRAB and the Department feel it is in the best interests of all parties (that is, industry, the Department and the landowner) that this requirement be retained to ensure that the landowner and mine operators are in agreement on the postmining land use and to minimize litigation involving disputes as to the land use to which the mined site was restored following mining. Consequently, these sections have been modified to retain the requirement for landowner approval.

§§ 87.160, 88.231 and 88.335. *Haul roads and access roads.*

One commentator suggested maintaining the language in subsection (a) that haul roads and access roads shall be designed, constructed and maintained "to prevent, to the maximum extent possible," erosion and contributions

of sediment. The language "to prevent, to the maximum extent possible," has been changed to "control or prevent" to conform with corresponding Federal regulations in 30 CFR 816.150(b) and 817.150(b). Coal operators must still design, construct and maintain haul roads and access roads in a manner that controls erosion and sedimentation and prevents pollution to streams and other waters. In addition, §§ 87.70 and 88.96, which are not affected by this rulemaking, require that sediment control measures comply with Chapter 102. No change has been made based upon the comment.

§§ 87.173, 89.67 and 90.147. *Support facilities and utility installations.*

One commentator suggested adding the word "maximum" to § 87.173(a)(2)(ii) to read "to the maximum extent possible . . ." The commentator suggested maintaining all of the language that is proposed to be deleted from § 89.67(a) and keeping the proposed additions to reinforce environmental protection. In addition, a recommendation was made by the commentator to maintain the current language of § 90.147 when the word "prevent" is used so that prevention to the maximum extent possible will be provided for the protection of fish, wildlife and related environmental issues.

These sections were proposed for change to track language in the corresponding Federal regulations in 30 CFR 816.181 and 817.181. These sections currently require the protection of fish, wildlife and related environmental values using best technology currently available. The term "best technology currently available" is defined in §§ 87.1, 89.1 and 90.1 and in Federal regulations. The proposed changes are consistent with Federal regulations and with application of the term "best technology currently available." It should be recognized that these sections apply to locating, maintaining and using support facilities (such as, mine buildings and loading facilities) when conducting the mining operation. No change has been made based upon the comment.

#### F. *Benefits, Costs and Compliance*

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

##### *Benefits*

These amendments were proposed for purposes of making the regulations no more stringent than Federal requirements and to modify regulations imposing disproportionate economic costs, lacking clarity or being too prescriptive or technology specific. The coal mining industry, the Department and local governments will benefit from these amendments.

The benefit to the regulated community will be a potential cost savings of approximately \$28,000 annually. The savings to the regulated community is based upon: (1) eliminating the requirement to monitor and test runoff water for manganese, which amounts to an estimated annual savings of \$24,000 based upon an estimated 1,000 water discharges monitored 4 times a year at a cost of \$6 per sample (1,000 discharges × 4 samples × \$6 per sample = \$24,000); and (2) expanding the circumstances upon which a permit term may be extended which amounts to an estimated annual savings of \$4,000 based upon an estimated 2 permits per year at a cost of \$2,000 per permit application (2 permits × \$2,000 per permit application = \$4,000).

##### *Compliance Costs*

These changes in the regulations will impose no additional compliance costs on the regulated community.

### Compliance Assistance Plan

The coal mining regulatory program has existed for several years in this Commonwealth. Compliance assistance will focus upon providing written notification of these changes to the coal mining industry. If necessary or requested, regional meetings with the industry will be arranged. Department technical guidance will be modified based upon these regulatory changes and the guidance made available to the coal mining industry.

### G. Sunset Review

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

### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 16, 1997, the Department submitted a copy of this proposed rulemaking to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble. The Committees did not provide comments on the proposed rulemaking.

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committees on March 16, 1998. IRRC met on March 26, 1998, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

### I. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 2255.

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

### J. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapters 86—90, are amended by amending §§ 86.2, 86.31, 86.32, 86.34, 86.37, 86.40, 86.64, 86.70, 86.132—86.134, 86.174, 87.1, 87.62, 87.77, 87.93, 87.97, 87.101, 87.102, 87.106, 87.126, 87.127, 87.138, 87.144, 87.146, 87.159, 87.160, 87.166, 87.173, 87.174, 87.176, 87.209, 88.1, 88.42, 88.56, 88.83, 88.91, 88.92, 88.96, 88.118, 88.133, 88.138, 88.144, 88.187, 88.191, 88.221, 88.231, 88.237, 88.283, 88.291, 88.292, 88.296, 88.334, 88.335, 88.341, 88.492, 88.509, 89.38, 89.52, 89.65, 89.67, 89.82, 89.87, 89.88, 89.90, 90.1, 90.31, 90.40, 90.93, 90.97,

90.101, 90.102, 90.106, 90.134, 90.140, 90.147, 90.150 and 90.166 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

JAMES M. SEIF,  
Chairperson

**Fiscal Note:** 7-307 No fiscal impact; (8) recommends adoption.

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 1806 (April 11, 1998).)

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE I. LAND RESOURCES

#### CHAPTER 86. SURFACE AND UNDERGROUND MINING OF COAL: GENERAL

##### Subchapter A. GENERAL PROVISIONS

#### § 86.2. Scope.

This chapter specifies certain general procedures and rules for those persons who engage in coal mining activities. This chapter together with Chapters 87—90 specifies the procedures and rules for those who engage in coal mining activities.

##### Subchapter B. PERMITS

#### REVIEW, PUBLIC PARTICIPATION AND APPROVAL, DISAPPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS

#### § 86.31. Public notices of filing of permit applications.

(a) An applicant for a permit, transfer or renewal, or for revision as required by § 86.54 (relating to public notice of permit revision) shall place at the time of filing an application with the Department, an advertisement in a local newspaper of general circulation in the locality of the proposed coal mining activities at least once a week for 4 consecutive weeks. The advertisement shall contain, at a minimum, the following information:

- (1) The name and business address of the applicant.
- (2) A map or description which shall:

(i) Clearly show or describe towns, rivers, streams or other bodies of water, local landmarks and other information, including routes, streets or roads and accurate

distance measurements, necessary to allow local residents to readily identify the proposed permit area.

(ii) Clearly show or describe the exact location and boundaries of the proposed permit area, and the receiving stream.

(iii) State the name of the United States Geological Survey 7.5 minute quadrangle map which contains the area shown or described.

(iv) Indicate the north point, if a map is used.

(3) The location where a copy of the application is available for public inspection under subsection (b).

(4) The name and address of the Department's appropriate district or regional office to which written comments, objections or requests for informal conferences on the application may be submitted under §§ 86.32 and 86.34 (relating to opportunity for submission of written comments or objections on the permit application; and informal conferences).

(5) A concise statement describing the public road, the particular part to be relocated, where the relocation is to occur and the duration of the relocation, if an applicant seeks a permit to mine within 100 feet (30.48 meters) of the outside right-of-way of a public road or to relocate a public road.

(6) If an applicant seeks a variance to conduct coal mining activities within 100 feet (30.48 meters) of a stream, a description of the activities and the name of the stream.

(b) No later than the first date of the newspaper advertisement under subsection (a), the applicant for a new permit, except as provided in § 86.35(a) (relating to public availability of information in permit applications), shall file a complete copy of the application for the public to copy and inspect at a public office approved by the Department in the county where the coal mining activities are to occur. The applicant shall file a subsequent revision of the application for a new permit with that office at the same time the revision is submitted to the Department. In the case of repermitting under §§ 86.12 and 86.14 (relating to continued operation under interim permits; and permit application filing deadlines), permit renewals under § 86.55 (relating to permit renewals: general requirements), permit revisions under § 86.52 (relating to permit revisions) and permit transfers under § 86.56 (relating to transfer of permit), the permittee shall indicate in the public notice that a copy of the permit and accompanying documents is available for inspection and copying at the appropriate district or regional office.

(c) Upon receipt of a complete application, the Department will publish notice of the proposed activities in the *Pennsylvania Bulletin* and send notice to the following:

(1) By registered mail, the city, borough, incorporated town or township in which the activities are located.

(2) Sewage and water treatment authorities and water companies that may be affected by the activities.

(3) Governmental planning agencies with jurisdiction to act with regard to land use, air or water quality planning in the area of the proposed activities.

(4) Federal, State and local government agencies with jurisdiction over or an interest in the area of the proposed activities, including, but not limited to, general governmental entities and fish and wildlife and historic preservation agencies.

(d) The content of the notice shall include:

(1) The application number.

(2) The name and address of the applicant.

(3) The township and county in which the operation is located.

(4) The receiving stream.

(5) A brief description of the operation and the location.

(6) The location where a copy of the application may be inspected.

(7) The location where comments on the application may be submitted.

(8) A statement that the application is for a new permit, a renewal of an existing permit or the transfer of an existing permit to a new operator.

(e) The applicant for a permit, transfer or renewal or revision for surface mining activities who proposes to conduct surface mining activities within 125 feet (38.1 meters) of a permitted or registered oil or gas well shall send to each permittee or to any owner or agent of any owner of a permitted or registered oil or gas well a notice, by certified mail, return receipt requested, that the applicant intends to conduct surface mining activities within 125 feet (38.1 meters) of the well. The notice shall include the information required by subsection (a)(1)—(4). The notice shall be sent by certified mail prior to the filing of the surface mining activities permit application with the Department. If the applicant demonstrates that it has made a good faith effort to comply with this requirement by mailing the required notice to the address of record or last known address of the registered well owner or permittee, and the notice has been returned as undeliverable or refused, notice may be deemed made by publication in compliance with subsection (a). Where a permittee under an approved surface mining permit proposes to conduct surface mining activities within 125 feet (38.1 meters) of a permitted or registered oil or gas well, and if publication of the proposed activities is not required, the surface mining permittee shall send the notice required by this subsection by certified mail, return receipt requested, to the owner, agent of an owner or permittee of a permitted or registered oil or gas well within 125 feet (38.1 meters) of the activities at least than 60 days prior to conducting the activities.

**§ 86.32. Opportunity for submission of written comments or objections on the permit application.**

(a) Written comments or objections on the permit application or application for permit revision may be submitted to the Department within 30 days after the last publication of the newspaper advertisement placed by the applicant under § 86.31(a) (relating to public notices of filing of permit applications) by a person or an officer or head of a Federal, State or local government agency or authority. In addition to submitting comments, the permittee, owner or agent of an owner of an oil or gas well who receives a notice required by § 86.31(e) may provide the Department, within 30 days after the last publication of the newspaper advertisement placed by the applicant, or if publication of the advertisement is not required, within 45 days after receipt of the notice required by § 86.31(e), a description of the measures the well permittee, owner or agent believes are necessary to minimize damage, destruction or disruption of services provided by the oil or gas well which may be caused by the proposed surface mining activities. The Department will also publish notice of permit applications in the *Pennsylvania Bulletin*.

(b) The Department will immediately transmit comments or objections received under this section to the applicant and the office where the applicant filed a copy of the application for public inspection under § 86.31(b).

**§ 86.34. Informal conferences.**

(a) A person or the officer or head of a Federal, State or local government agency or authority or the owner or operator of an oil and gas well who receives a notice required by § 86.31(e) (relating to public notices of filing of permit applications) may, in writing, request that the Department hold an informal conference on an application for a permit. The request shall:

(1) Briefly summarize the issues or objections to be raised by the requestor at the conference.

(2) State whether the requestor desires to have the conference conducted in the locality of the proposed coal mining activities.

(3) Be filed with the Department within 30 days after the last publication of the newspaper advertisement placed by the applicant under § 86.31(a) or within 30 days of receipt of notice by the public entities to whom notification is provided under § 86.31(c).

(b) Except as provided in subsection (c), if an informal conference is requested in accordance with subsection (a), the Department will hold an informal conference within 60 days of the close of the public comment period. The informal conference will be conducted according to the following:

(1) The conference will be held in the locality of the proposed mining, if requested under subsection (a)(2).

(2) The date, time and location of the informal conference will be advertised by the Department in a newspaper of general circulation in the locality of the proposed mine at least 2 weeks prior to the scheduled conference.

(3) If requested, in writing, by a conference requestor in a reasonable time prior to the conference, the Department may arrange with the applicant to grant parties to the conference access to the permit area for the purpose of gathering information relevant to the conference.

(4) The conference will be conducted by a representative of the Department who may accept oral or written statements and other relevant information from a party to the conference. An electronic or stenographic record will be made of the conference proceeding, unless waived by all parties. The record will be maintained and will be accessible to the parties of the conference until final release of the applicant's performance bond under Subchapter F (relating to bonding and insurance requirements).

(c) If all parties requesting the informal conference stipulate agreement before the requested informal conference and withdraw their request, the informal conference need not be held.

(d) Informal conferences held in accordance with § 86.103(c) (relating to procedures) may be used by the Department as the public hearing required under proposed uses or relocation of public roads.

(e) The Department will give its findings of the conference to the permit applicant and to each person who is a party to the conference within 60 days of the conference.

(f) Within 60 days of the informal conference, the Department will notify the applicant of its decision to approve, disapprove or of its intent to disapprove the

application subject to the submission of additional information to resolve deficiencies.

**§ 86.37. Criteria for permit approval or denial.**

(a) A permit or revised permit application will not be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of the information in the application or from information otherwise available, which is documented in the approval, and made available to the applicant, that the following apply:

(1) The permit application is accurate and complete and that the requirements of the acts and this chapter have been complied with.

(2) The applicant has demonstrated that the coal mining activities can be feasibly accomplished as required by the act and this chapter under the operation and reclamation plan contained in the application.

(3) The applicant has demonstrated that there is no presumptive evidence of potential pollution of the waters of this Commonwealth.

(4) The assessment of the probable cumulative impacts of all anticipated coal mining in the general area on the hydrologic balance as described in § 87.69, § 88.49, § 89.36 or § 90.35 has been made by the Department, and the activities proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area.

(5) The proposed permit area is not one of the following:

(i) Included within an area designated unsuitable for mining under Subchapter D (relating to areas unsuitable for mining).

(ii) Within an area which has been included in a petition for designation under § 86.124(a)(6) (relating to procedures: initial processing, recordkeeping and notification requirements).

(iii) On lands subject to the prohibitions or limitations of Subchapter D.

(iv) Within 100 feet (30.48 meters) of the outside right-of-way line of any public road, except as provided for in Subchapter D.

(v) Within 300 feet (91.44 meters) from any occupied dwelling, except as provided for in Subchapter D.

(vi) Within 100 feet (30.48 meters) of a stream, except as provided for in § 86.102 (relating to areas where mining is prohibited or limited).

(6) The proposed activities will not adversely affect any publicly owned parks or places included on the National Register of Historic Places, except as provided for in Subchapter D. The effect of the proposed coal mining activities on properties listed on or eligible for listing on the National Register of Historic Places has been taken into account by the Department. This finding may be supported in part by inclusion of appropriate permit conditions or operational plan changes to protect historic resources, or a documented decision that no additional protective measures are necessary.

(7) Prior to approval of the bond under Subchapter F (relating to bonding and insurance requirements), a right of entry has been obtained from the landowner for each parcel of land to be affected by the coal mining activities in accordance with § 86.64 (relating to right of entry).



(8) The applicant has submitted proof that a violation related to the mining of coal by the applicant, a person owned or controlled by the applicant or a person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1 (relating to definitions) or by a related party of the acts, a rule, regulation, permit or license of the Department has been corrected or is in the process of being corrected to the satisfaction of the Department, whether or not the violation relates to an adjudicated proceeding, agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. A permit issued under this paragraph on the basis that a violation is in the process of being corrected or pending the outcome of an appeal, and the appropriate regulatory authority program having jurisdiction over the violation provides for a stay of execution of the abatement procedure or a court of competent jurisdiction has issued a supersedeas providing that relief, will be issued conditionally.

(9) A statement from the applicant that all reclamation fees required by 30 CFR Part 870 (relating to abandoned mine reclamation fees) have been paid.

(10) There are no past or continuing violations which show the applicant's, a person owned or controlled by the applicant or a person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1, lack of ability or intention to comply with the acts or the regulations promulgated thereunder, whether or not the violation relates to an adjudicated proceeding, agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. If the Department makes a finding that the applicant or the operator specified in the application or a person who owns or controls the applicant or operator or a person owned or controlled by the applicant or operator, has demonstrated a pattern of willful violations of the acts of a nature and duration and with resulting irreparable damage to the environment as to indicate an intent not to comply with the acts, a permit will not be issued.

(11) The applicant has submitted proof that a violation by the applicant or by a person owned or controlled by the applicant or by a person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1, of a law, rule or regulation of the United States or a state—other than the law of the Commonwealth—law, rule or regulation pertaining to air or water environmental protection enacted under Federal law, has been corrected or is in the process of being satisfactorily corrected. A permit issued under this paragraph on the basis that a violation is in the process of being corrected or pending the outcome of an appeal, and the appropriate regulatory authority program having jurisdiction over the violation provides for a stay of execution of the abatement procedure or a court of competent jurisdiction has issued a supersedeas providing that relief, will be issued conditionally.

(12) The applicant shall submit the bond required under Subchapter F prior to the issuance of the permit.

(13) The applicant has satisfied the requirements of § 87.53, § 88.32, § 88.491(k), § 89.121 or § 90.22.

(14) The proposed postmining land use of the permit area meets the requirements of § 87.159, § 88.89, § 88.183, § 88.289, § 88.493, § 89.88 or § 90.166.

(15) The proposed activities would not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 (16 U.S.C.A. §§ 1531—1544).

(16) A statement from the applicant that State and Federal final civil penalty assessments have been paid. Final civil penalty assessments are civil penalty assessments which have not been appealed within 30 days of assessment or appealed civil penalty assessments which have been adjudicated by the EHB or other applicable judicial forum. For purposes of this subsection, civil penalty assessments include State and Federal civil penalty assessments related to coal mining activities which are assessed by one of the following:

(i) The Department under the authority of the acts.

(ii) The Federal Office of Surface Mining Reclamation and Enforcement (OSMRE) under the authority of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1201—1328).

(iii) A State regulatory authority which has been granted primary jurisdiction by OSMRE to implement the Federal coal mining regulatory program within its boundaries.

(b) An incremental phase approval of the permit will not be granted to conduct mining or reclamation operations or to expand mining or reclamation operations within a permit area if the Department has already issued an incremental phase approval for the area to another permittee, except for an area used for access or haul roads. An incremental phase approval of the permit will not be granted to conduct mining or reclamation operations, or permission to expand mining or reclamation operations within a permit area which has been limited to a portion or phase of the entire area until the applicant:

(1) Has filed with the Department a bond in accordance with § 86.143 (relating to requirements to file a bond).

(2) Meets the requirements of subsection (a)(7)—(9).

(c) After an application is approved, but before the permit is issued, the Department will reconsider its decision to approve the application, based on the compliance review required by subsection (a)(8), (10) and (11) in light of new information submitted under §§ 86.62(d) and 86.63(c) (relating to identification of interests; and compliance information).

**§ 86.40. Permit terms.**

(a) Each permit shall be issued for a fixed term not to exceed 5 years. A longer fixed permit term may be granted, if:

(1) The application is full and complete for the specified longer term.

(2) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary internal or external financing of equipment, facilities or structures for the opening or continuance of the operation, and this need is confirmed in writing by the applicant's source for the financing.

(b) A permit shall terminate if the permittee has not begun the coal mining activities covered by the permit within 3 years of the issuance of the permit. However, the Department may grant reasonable extensions of time for commencement of these activities upon receipt of a written statement showing that the extensions of time are necessary if litigation precludes the commencement or threatens substantial economic loss to the permittee or if there are conditions beyond the control and without the

fault or negligence of the permittee. Requests for extensions shall be submitted to the Department prior to expiration of the permit.

(c) With respect to coal to be mined for use only in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced coal mining activities at the time that the construction of the synthetic fuel or generating facility is initiated.

#### **MINIMUM REQUIREMENTS FOR LEGAL FINANCIAL COMPLIANCE AND RELATED INFORMATION**

##### **§ 86.64. Right of entry.**

(a) An application shall contain a description of the documents upon which the applicant bases his legal right to enter and commence coal mining activities within the permit area and whether that right is the subject of pending court litigation. The description shall identify the documents by type and date of execution, identify the specific lands to which the document pertains and explain the legal rights claimed by the applicant.

(b) Where the private mineral estate to be mined has been severed from the private surface estate, an applicant shall also submit one of the following:

(1) A copy of the written consent of the surface owner for the extraction of coal by surface mining methods.

(2) A copy of the conveyance that expressly grants or reserves the right to extract coal by surface mining methods.

(3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the law of the Commonwealth, the applicant has the legal authority to extract the coal by those methods.

(c) This section will not be construed to provide the Department with the authority to adjudicate property rights disputes.

(d) Except for permit applications based upon leases in existence on January 1, 1964, for bituminous coal surface mines, or leases in existence on January 1, 1972, for anthracite coal surface mining operations or permit applications for coal refuse disposal areas, coal preparation facilities which are not situated on a surface mining permit area and the surface activities of underground mines, the application for a permit shall include, upon a form prepared and furnished by the Department, the written consent of the landowner to enter upon land to be affected by the activities by the operator and by the Commonwealth and of its authorized agents prior to the initiation of surface mining activities, during surface mining activities, and for 5 years after the activities are completed or abandoned for the purpose of reclamation, planting and inspection or for the construction of pollution abatement facilities as deemed necessary by the Department for the purpose of the acts. The forms shall be deemed to be recordable documents and, prior to the initiation of coal mining activities under the permit, the forms shall be recorded by the applicant at the office of the recorder of deeds in the county in which the area to be affected under the permit is situated.

(1) In the case of a lease in existence on January 1, 1964, for bituminous coal surface mines, or leases in existence on January 1, 1972, for anthracite coal surface mining operations, the application for permit shall include, upon a form prescribed and furnished by the

Department, a notice of the existence of the lease and a description of the chain of title.

(i) The forms shall be deemed to be recordable documents, and, prior to the initiation of coal mining activities under the permit, the forms shall be recorded by the applicant at the office of the recorder of deeds in the county in which the area to be affected under the permit is situated.

(ii) The forms shall require the information and execution necessary to provide entry upon land to be affected by the operation without constraints pertaining to the assignability, transferability or duration of the consent, except as provided for in the acts. This form may not alter or constrain the contractual agreements and rights of the parties thereto.

(2) In the case of permits for coal refuse disposal areas, coal preparation facilities which are not situated on a surface mining permit area, and underground mines, the applicant shall describe the documents upon which the applicant bases the right to enter upon the land and conduct coal mining activities. The Department will have access to the permitted surface facilities and lands during the mining activities and for 5 years after completion or abandonment of the mining and reclamation activities for the purpose of reclamation, planting and inspection or for the construction of pollution-abatement facilities deemed necessary by the Department. The Department may issue orders to require access. If a landowner fails or refuses to comply with an order to require access, the landowner shall be liable for reasonable legal expenses incurred by the Department in enforcing the order. For purposes of issuing orders and imposing liability for reasonable legal expenses under this subsection, a landowner includes a person holding title to, or having a proprietary interest in, surface or subsurface rights.

(3) The requirements of this subsection are in addition to the information required by subsections (a) and (b).

(e) For the purpose of this section the term "lease" means an agreement in which the surface landowner is the lessor and the applicant is the lessee or the assignee of the lessee. A deed of severance is not a lease.

(f) The information required in this section shall be made part of the permit application prior to approval of the bond under Subchapter F (relating to bonding and insurance requirements).

##### **§ 86.70. Proof of publication.**

An application shall contain an intent to publish and a copy of the language to appear in the public notice demonstrating that the advertisement requirement of § 86.31(a) (relating to public notices of filing of permit applications) is in the process of being satisfied, and prior to the issuance of the permit, but no later than 4 weeks after the last date of advertisement, the applicant shall submit a copy of the advertisements as required by § 86.31(a) or the original notarized proof of publication to the Department.

#### **Subchapter E. COAL EXPLORATION**

##### **§ 86.132. Definitions.**

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

*Coal exploration*—The field gathering of surface or subsurface geologic, physical or chemical data by mapping, trenching, drilling, geophysical or other techniques necessary to determine the quality of overburden and coal

of an area, or the gathering of environmental data, to establish the conditions of an area.

*Substantially disturb*—For purposes of coal exploration, including, but not limited to, to have a significant impact upon land, air or water resources by activities such as blasting, mechanical excavation or altering coal or water exploratory holes or wells, construction of roads and other access routes, removal of topsoil or overburden and the placement of structures, excavated earth or other debris on the surface of land.

**§ 86.133. General requirements.**

(a) A person who intends to conduct coal exploration shall, prior to conducting the exploration, file with the Department one copy of a written notice of intention to explore for each exploration area at least 10 days prior to the exploration on forms provided by the Department.

(b) The notice shall include:

(1) The name, address and telephone number of the person seeking to explore.

(2) The name, address and telephone number of the representative who will be present at and responsible for conducting the exploration activities.

(3) A map, at a scale of 1:24,000, of the exploration area showing the extent of the exploration, location of drill holes and exploration trenches, existing and proposed roads, occupied dwellings, topographic features, bodies of water and pipelines.

(4) A statement of the period of intended exploration.

(5) A description of the practices proposed to be followed to protect the environment from adverse impacts as a result of the exploration activities.

(c) A person who conducts coal exploration which substantially disturbs the natural land surface shall comply with § 86.134 (relating to coal exploration performance and design standards).

(d) The Department will, except as otherwise provided in § 86.137(b) (relating to public availability of information), place the notices on public file and make them available for public inspection and copying during regular office hours at the established fee.

(e) A person who intends to conduct coal exploration in which coal will be removed shall, prior to conducting the exploration, obtain a permit under this chapter. Prior to removal of coal, the Department may waive the requirements for the permit to enable the testing and analysis of coal properties, if 250 tons (226 metric tons) or less are removed. The removal of more than 250 tons (226 metric tons) of coal during coal exploration requires a permit under this chapter.

(f) Coal exploration on lands where a petition to declare an area unsuitable for mining has been received by the Department or on lands designated unsuitable for mining shall be conducted only after written approval is granted by the Department. The Department may prescribe conditions and requirements necessary to preserve the values sought to be protected in the petition before approving coal exploration in these areas. The exploration activities shall be conducted in accordance with § 86.129 (relating to coal exploration) to insure that the exploration activity does not interfere with a value for which the area has been designated unsuitable for mining.

(g) A person who conducts coal exploration by means of boreholes or coreholes shall case, line, seal or otherwise manage the hole to prevent degradation of the quality of

groundwater and surface water, minimize disturbance to the prevailing hydrologic balance and ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area, and meet the requirements of §§ 89.54 and 89.83 (relating to preventing discharges from underground mines; and closing of underground mine openings).

**§ 86.134. Coal exploration performance and design standards.**

The following performance standards are applicable to coal exploration which substantially disturbs the land surface:

(1) Habitats of unique value for fish, wildlife and other related environmental values may not be disturbed during coal exploration.

(2) Roads used for coal exploration shall comply with the following:

(i) A new road in the exploration area shall comply with §§ 87.160 and 87.166 (relating to haul roads and access roads; and haul roads and access roads: restoration).

(ii) Existing roads may be used for exploration in accordance with the following:

(A) Applicable Federal, State and local requirements shall be met.

(B) If the road is significantly altered for exploration, including, but not limited to, change of grade, widening or change of route, or if the use of the road for exploration contributes additional suspended solids to streamflow or runoff, paragraph (7) applies to the areas of the road which are altered or which result in the additional contributions.

(C) If the road is significantly altered for exploration activities or will remain as a permanent road after exploration activities are completed, the person conducting exploration shall ensure that the requirements of §§ 87.160 and 87.166, as appropriate, are met for the design, construction, alteration and maintenance of the road.

(iii) Promptly after exploration activities are completed, existing roads used during exploration shall be reclaimed to one or more of the following:

(A) A condition equal to or better than their preexploration condition.

(B) The condition required for permanent roads under §§ 87.160 and 87.166, as appropriate.

(3) If excavations, artificial flat areas or embankments are created during exploration, these areas shall be returned to the approximate original contour promptly after the features are no longer needed for coal exploration.

(4) Topsoil shall be removed, stored and redistributed on disturbed areas as necessary to assure successful revegetation.

(5) All areas disturbed by coal exploration activities shall be revegetated in a manner that encourages prompt revegetation and recovery of a diverse, effective and permanent vegetative cover.

(6) With the exception of small and temporary diversions of overland flow of water around new roads, drill pads and support facilities, ephemeral, intermittent or

perennial streams may not be diverted during coal exploration activities. Overland flow of water shall be diverted in a manner that:

- (i) Prevents erosion.
- (ii) Prevents additional contributions of suspended solids to streamflow or runoff outside the exploration area, to the extent possible using the best technology currently available.
- (iii) Complies with other applicable State or Federal requirements.

(7) Each exploration hole, borehole, well or other underground opening created or encountered by exploration shall meet the requirements of §§ 87.93, 89.54 and 89.83 (relating to casing and sealing of drilled holes; preventing discharges from underground mines; and closing of underground mine openings).

(8) Facilities and equipment shall be removed from the exploration area promptly when they are no longer needed for exploration, except for facilities and equipment that the Department determines may remain to do one of the following:

- (i) Provide additional environmental quality data.
- (ii) Reduce or control the onsite and offsite effects of the exploration activities.
- (iii) Facilitate future surface mining and reclamation operations by the person conducting the exploration, under an approved permit.

(9) Coal exploration shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance, and shall include sediment control measures, or sedimentation ponds which comply with Chapter 89, Subchapter A (relating to erosion and sedimentation control).

(10) Toxic- or acid-forming materials shall be handled and disposed of in accordance with §§ 87.110 and 87.145 (relating to hydrologic balance: acid-forming and toxic-forming spoil; and backfilling and grading: covering coal and acid-forming and toxic-forming materials.)

(11) Coal exploration and related reclamation activities shall be conducted to avoid damage to, or destruction of, known historic resources.

**Subchapter F. BONDING AND INSURANCE REQUIREMENTS**

**RELEASE OF BONDS**

**§ 86.174. Standards for release of bonds.**

(a) When the entire permit area or a portion of a permit area has been backfilled or regraded to the approximate original contour or approved alternative, and when drainage controls have been installed in accordance with the approved reclamation plan, Stage 1 reclamation standards have been met.

(b) When the entire permit area or a portion of the permit area meets the following standards, Stage 2 reclamation has been achieved:

- (1) Topsoil has been replaced and revegetation has been successfully established in accordance with the approved reclamation plan.
- (2) The reclaimed lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of the acts, regulations thereunder or the permit.

(3) If prime farmlands are present, the soil productivity has been returned to the required level when compared with nonmined prime farmland in the surrounding area, to be determined from the soil survey performed under the reclamation plan approved in Chapters 87—90.

(4) If a permanent impoundment has been approved as an alternative postmining land use, the plan for management of the permitted impoundment has been implemented to the satisfaction of the Department.

(c) When the entire permit area or a portion of the permit area meets the following performance standards, State 3 reclamation has been achieved:

(1) The permittee has successfully completed mining and reclamation operations in accordance with the approved reclamation plan so that the land is capable of supporting postmining land use approved under §§ 87.159, 88.133, 89.88 and 90.166.

(2) The permittee has achieved compliance with the requirements of the acts, regulations thereunder, the conditions of the permit and the applicable liability period under § 86.151 (relating to period of liability) has expired.

(d) Additional standards for release of bonds for underground mining operations are as follows: release of the bond posted for mine subsidence, 10 years after completion of mining and reclamation.

**CHAPTER 87. SURFACE MINING OF COAL**

**Subchapter A. GENERAL PROVISIONS**

**§ 87.1. Definitions.**

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

\* \* \* \* \*

*Land use*—Specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Department. Land use may be defined as:

\* \* \* \* \*

(x) *Unmanaged natural habitat*. Idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished.

\* \* \* \* \*

**Subchapter D. SURFACE COAL MINES: MINIMUM REQUIREMENTS FOR OPERATION AND RECLAMATION PLAN**

**§ 87.62. Operational information.**

An application shall contain a description of the surface mining activities proposed to be conducted during the life of the mine within the proposed permit area, including, at a minimum, the following:

- (1) A description of the type and method of coal mining procedures, proposed engineering techniques and the major equipment to be used.
- (2) An explanation of the construction, modification, use, maintenance and removal of the following facilities—unless retention of the facilities is approved for postmining land use under § 87.159 (relating to postmining land use):
  - (i) Dams, embankments and other impoundments.

(ii) Overburden and topsoil handling and storage area and structures.

(iii) Coal removal, handling, storage, cleaning and transportation area and structures.

(iv) Spoil, coal processing waste and noncoal waste removal, handling, storage, transportation and disposal areas and structures.

(v) Mine facilities.

(vi) Water and air pollution control facilities.

(vii) Erosion control facilities.

(3) A description or explanation of the relative sequence of surface mining activities, including the relative timing of various phases and the estimated life of the mine.

(4) A demonstration that the notification requirements of § 86.31(e) (relating to public notices of filing of permit applications) have been satisfied.

**§ 87.77. Protection of public parks and historic places.**

(a) For publicly owned parks or historic places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each application shall describe the measures to be used to accomplish the following:

(1) Prevent adverse impacts and meet the requirements of Chapter 86, Subchapter D (relating to areas unsuitable for mining).

(2) Minimize adverse impacts, if valid existing rights exist or joint agency approval is to be obtained under Chapter 86, Subchapter D.

(b) The Department may require the applicant to protect historic or archaeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance. The required measures shall be completed before the properties are affected by surface mining activity.

**Subchapter E. SURFACE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 87.93. Casing and sealing of drilled holes.**

(a) Each exploration hole, other drill or borehole, well or other exposed underground opening (except for holes solely drilled and used for blasting) shall be cased, sealed or otherwise managed as approved by the Department in order to:

(1) Prevent acid or other toxic drainage from entering groundwaters or surface waters.

(2) Minimize disturbance to the prevailing hydrologic balance.

(3) Ensure the safety of people, property, livestock, fish and wildlife and machinery in the permit and adjacent area.

(4) Prevent groundwater and surface water from entering underground mine workings.

(b) If these openings are uncovered or exposed by surface mining activities within the permit area, they shall be permanently closed unless approved for water monitoring, or otherwise managed in a manner approved by the Department.

(c) Use of a drilled hole, borehole or monitoring well as a water well shall meet the provisions of § 87.117 (relating to hydrologic balance: surface water monitoring).

(d) Gas and oil wells shall be sealed in accordance with the Oil and Gas Act (58 P. S. §§ 601.101—601.605).

(e) A solid barrier of undisturbed earth, 125 feet (38.1 meters) in radius shall be maintained around all oil and gas wells, except in the case of one of the following:

(1) The well is sealed in accordance with subsection (d).

(2) The Department approves, in writing, a lesser distance, if:

(i) Access to the well is provided at all times.

(ii) The integrity of the well is maintained.

(iii) The measures included in the permit to minimize damage, destruction or disruption of services under § 87.173(b) (relating to support facilities and utility installations) are implemented.

**§ 87.97. Topsoil: removal.**

(a) All topsoil shall be removed from the areas to be disturbed in a separate layer prior to drilling, blasting, mining or other surface disturbance. A vegetative cover which would interfere with the removal and use of the topsoil shall be removed prior to topsoil removal.

(b) In the event removal of vegetative matter, topsoil or other materials may result in erosion which may cause air or water pollution, the size of the area from which topsoil is removed at any one time shall be limited and other measures shall be taken that the Department may approve or require to control erosion.

(c) If topsoil is less than 12 inches (30.48 centimeters), a 12-inch (30.48 centimeters) layer which includes the topsoil and the unconsolidated materials immediately below the topsoil shall be removed, segregated, conserved and replaced as the final surface soil layer. If the topsoil and the unconsolidated material measure less than 12 inches (30.48 centimeters), the topsoil and all unconsolidated material shall be removed, segregated, conserved and replaced as the final surface soil layer.

(d) On areas that have been previously affected by mining and which have no available topsoil or subsoil, sufficient material best suited to support vegetation shall be segregated, conserved and redistributed as the final surface layer.

(e) The B horizon and portions of the C horizon, or other underlying layers demonstrated to have qualities for comparable root development, shall be segregated and replaced as subsoil if either of these is necessary to ensure soil productivity consistent with the approved postmining land use.

(f) When approved by the Department in writing, other materials may be substituted for or used as a supplement to topsoil if the operator demonstrates that the resulting soil medium is equal to or more suitable than topsoil for sustaining vegetation and soil productivity. In making this demonstration, the Department may require chemical and physical analyses of the substituted material and topsoil. These analyses may include determinations of pH, net acidity or alkalinity, phosphorus, potassium, texture class, field site trials or greenhouse tests, or other analyses as required by the Department.

**§ 87.101. Hydrologic balance: general requirements.**

(a) Surface mining activities shall be planned and conducted to minimize disturbances to the prevailing

hydrologic balance in the permit and adjacent areas and to prevent material damage to the hydrologic balance outside the permit area. The Department may require additional preventative, remedial or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented.

(b) Changes in water quality and quantity, the depth of groundwater, and the location of surface water drainage channels shall be minimized so that the approved postmining land use of the permit area is not adversely affected.

(c) The treatment requirements and effluent limitations established under § 87.102 (relating to hydrologic balance: effluent standards) may not be violated.

(d) Each person who conducts surface mining activities shall conduct the mining and reclamation operation to prevent water pollution and, when necessary, operate and

maintain the necessary water treatment facilities until applicable treatment requirements and effluent limitations established under § 87.102 are achieved and maintained.

(e) Surface mining activities shall be planned and conducted to prevent to the maximum extent practical the accumulation of water in the pit. Pit water shall be collected and pumped to approved water treatment facilities. Pit water may not be discharged from the surface mining operation by gravity drains.

**§ 87.102. Hydrologic balance: effluent standards.**

(a) *Discharge of water.* A person may not allow a discharge of water from an area disturbed by coal mining activities, including areas disturbed by mineral preparation, processing or handling facilities which exceeds the following groups of effluent criteria. The effluent limitations shall be applied under subsection (b).

<i>Parameter</i>	<i>Group A</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 <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> This parameter is applicable at all times

<i>Parameter</i>	<i>Group B</i>	
	<i>Instantaneous Maximum</i>	
iron (total)	7.0 mg/l	
settleable solids	0.5 ml/l	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity	greater than 6.0; less than 9.0	

<i>Parameter</i>	<i>Group C</i>	
	<i>Instantaneous Maximum</i>	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity	greater than 6.0; less than 9.0	

\* \* \* \* \*

**§ 87.106. Hydrologic balance: sediment control measures.**

Appropriate sediment control measures shall be designed, constructed and maintained using the best technology currently available to:

- (1) Prevent to the extent possible contributions of sediment to streamflow or to runoff outside the affected area.
- (2) Meet the treatment requirements and effluent limitations of § 87.102 (relating to hydrologic balance: effluent standards).
- (3) Minimize erosion to the extent possible.
- (4) Meet the requirements of Chapter 102 (relating to erosion control).

**§ 87.126. Use of explosives: public notice of blasting schedule.**

- (a) *Blasting schedule publication.*
  - (1) Each person who conducts surface mining activities shall publish a blasting schedule in a newspaper of

general circulation in the locality of the proposed site, at least 10 days, but not more than 30 days, before beginning a blasting program in which blasts that use more than 5 pounds of explosives or blasting agents are detonated.

- (2) Copies of the schedule shall be distributed by mail to local governments and public utilities and by mail or delivered to each resident within 1/2 mile of the blasting area. Copies sent to residents shall be accompanied by information advising the owner or resident how to request a preblasting survey.
- (3) The person who conducts the surface mining activities shall republish and redistribute the schedule by mail at least every 12 months.

(b) *Blasting schedule contents.*

- (1) A blasting schedule may not be so general as to cover the entire permit area or all working hours, but shall identify as accurately as possible the location of the blasting sites and the time periods when blasting will occur.

(2) The blasting schedule shall contain at a minimum the following:

(i) Identification of the specific areas in which blasting will take place. Each specific blasting area described shall be reasonably compact and not larger than 300 acres (121.4 hectares).

(ii) Dates and time periods when explosives are to be detonated. Each period may not exceed 4 hours.

(iii) Methods to be used to control access to the blasting area.

(iv) Types of audible warnings and all-clear signals to be used before and after blasting.

(v) A description of possible emergency situations that might prevent blasting at times announced in the blasting schedule, such as rain, lightning, other atmospheric conditions or operator or public safety which may require unscheduled detonation.

(c) *Public notice of changes to blasting schedules.*

(1) The person who conducts the surface mining activities shall prepare a revised blasting schedule before blasting in areas or at times not in a previous schedule.

(2) The blasting schedule shall be revised, published and distributed in accordance with this action. Advice on requesting a preblast survey need not be provided to those parties advised in the original distribution under subsection (a)(2).

**§ 87.127. Use of explosives: surface blasting requirements.**

\* \* \* \* \*

(f) Requirements for blasting are as follows:

\* \* \* \* \*

(5) Flyrock, including blasted material traveling along the ground, may not be cast from the blasting vicinity more than one-half the distance to the nearest dwelling or other occupied structure and in no case beyond the permit boundary, or beyond the area or regulated access required under subsection (d).

\* \* \* \* \*

**§ 87.138. Protection of fish, wildlife and related environmental values.**

(a) A person conducting surface mining activities shall, to the extent possible using the best technology currently available:

(1) Minimize disturbances and adverse impacts of the activities on fish, wildlife and related environmental values, and achieve enhancement of the resources when practicable.

(2) Locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife species or other species protected by State or Federal law.

(3) Avoid disturbance to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife.

(4) Restore, enhance when practicable, or maintain natural riparian vegetation on the banks of streams, lakes and other wetland areas.

(5) Not use restricted pesticides on the areas during surface mining and reclamation activities, unless approved by the Department of Agriculture.

(6) Do the following, if fish and wildlife habitat is the postmining land use, in addition to the requirements of §§ 87.147—87.153, 87.155 and 87.156:

(i) Select plant species to be used on reclaimed areas, based on the following criteria:

(A) Their proven nutritional value for fish and wildlife.

(B) Their uses as cover for fish and wildlife.

(C) Their ability to support and enhance fish and wildlife habitat after release of bonds.

(ii) Distribute plant grouping to maximize benefit to fish and wildlife. Plants should be grouped and distributed in a manner which optimizes edge effect, cover and other benefits for fish and wildlife.

(7) Intersperse the fields with trees, hedges or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals, when cropland is to be the alternative postmining land use and when appropriate for wildlife and crop management practices. Wetlands shall be preserved or created rather than drained or otherwise permanently abolished.

(8) Intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals, unless the green belts are inconsistent with the approved postmining land use, when the primary land use is to be residential, public service or industrial land use.

(9) Design fences, overland conveyors and other potential barriers to permit passage for large mammals, except if the Department determines that the requirements are unnecessary.

(10) Fence, cover or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

(b) A person who conducts surface mining activities shall promptly report to the Department the presence in the permit area of threatened or endangered species under State or Federal laws of which that person becomes aware and which was not previously reported to the Department by that person. Upon notification, the Department will consult with the Game Commission or the Fish and Boat Commission and appropriate Federal fish and wildlife agencies and, after consultation, will identify whether, and under what conditions, the operator may proceed.

(c) Surface mining activity may not be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest or its eggs. The operator shall promptly report to the Department a golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department will consult with the United States Fish and Wildlife Service and the Game Commission and, after consultation, will identify whether, and under what conditions, the operator may proceed.

(d) Surface mining activity may not be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the Interior, the Game Commission or the Fish and Boat Commission or which is likely to result in the destruction or adverse modification of designated critical habitats of these species in violation of the Endangered Species Act of 1973 (16 U.S.C.A. §§ 1531—1544).

**§ 87.144. Backfilling and grading: final slopes.**

(a) The final graded slopes shall approximate premining slopes, or any lesser slopes approved by the Department based on consideration of soil, climate or other characteristics of the surrounding area.

(b) Postmining final graded slopes need not be uniform, but shall approximate the general nature of the premining topography.

(c) On approval by the Department in order to conserve soil moisture, ensure stability and control erosion on final graded slopes, cut and fill terraces may be allowed if the terraces are compatible with the approved postmining land use and are substitutes for construction of lower grades on the reclaimed lands.

(d) Small depressions may be constructed, if they:

(1) Are approved by the Department to minimize erosion, conserve soil moisture or promote vegetation.

(2) Do not restrict normal access.

(3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(e) All surface mining activities on slopes above 20°, or on lesser slopes that the Department defines as steep slopes, shall meet §§ 87.158 and 87.159 (relating to cessation of operations: permanent; and postmining land use).

(f) All final grading, preparation of overburden before replacement of topsoil and placement of topsoil shall be conducted in a manner which minimizes erosion and provides a surface for replacement of topsoil which will minimize slippage.

**§ 87.146. Regrading or stabilizing rills and gullies.**

(a) Exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which do one of the following shall be filled, regraded or otherwise stabilized:

(1) Disrupt the approved postmining land use or the reestablishment of the vegetative cover.

(2) Cause or contribute to a violation of water quality standards for receiving streams.

(c) For the areas listed in subsection (b), the topsoil shall be replaced and the areas shall be reseeded or replanted.

**§ 87.159. Postmining land use.**

(a) Prior to the release of land from permit area in accordance with Chapter 86, Subchapter F (relating to bonding and insurance requirements), affected areas shall be restored in a timely manner to conditions that are capable of supporting the uses which they were capable of supporting before any mining, or to higher and better uses achievable under criteria and procedures of this section.

(b) The premining use of land to which the postmining land use is compared shall be determined by the following:

(1) The postmining land use for land that has not been previously mined and has been properly managed shall be judged on the basis of those uses which the land previously supported.

(2) The postmining land use for land that has been previously mined and not reclaimed shall be judged on the basis of the condition prior to any mining or to a higher or better use that can be achieved and is compatible with surrounding areas.

(c) Alternative land uses may be approved by the Department after consultation with the landowner or the

land management agency having jurisdiction over the lands and after determining that the following criteria are met:

(1) The proposed postmining land use is compatible with adjacent land use and applicable land use policies, plans, and programs and Federal, State and local law. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Department before surface mining activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State or Federal land management agencies, is obtained and remains valid throughout the surface mining activities.

(2) The owner of the surface requests in a notarized written statement that the alternative land use be approved.

(3) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria:

(i) Specific plans are prepared and submitted to the Department which show the feasibility of the postmining land use as related to projected land use trends and markets. The plan shall include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and how the development will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(ii) Provision for necessary public facilities is ensured with letters of commitment from parties other than the person who conducts surface mining activities, as appropriate to provide the public facilities in a manner compatible with the plans submitted under § 87.75 (relating to postmining land uses). The letters shall be submitted to the Department before surface mining activities begin.

(iii) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use will be practicable with respect to private financial capability for completion of the proposed use.

(4) The proposed use will neither pose an actual threat to public health or safety or of water diminution, interruption, contamination or pollution.

(5) The use will not involve unreasonable delays in reclamation or implementation.

(6) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values and threatened or endangered plants is obtained from the Department, and appropriate State and Federal fish and wildlife management agencies have been provided a 30-day period in which to review the plan before surface mining activities begin.

**§ 87.160. Haul roads and access roads.**

(a) Haul roads and access roads shall be designed, constructed and maintained to control or prevent erosion and contributions of sediment to streams or runoff outside the affected area; air and water pollution; damage to fish and wildlife or their habitat; and flooding and damage to public or private property. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for



grade, width, surface materials, surface drainage control, culvert placement and culvert size, in accordance with current, prudent engineering practices and necessary design criteria established by the Department. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored in accordance with § 87.166 (relating to haul roads and access roads: restoration) unless retention of the road and its maintenance plan is approved as part of the postmining land use.

(b) The haul or access road may not be located in or within 100 feet (30.48 meters) of a perennial or intermittent stream except in accordance with § 86.102 (relating to areas where mining is prohibited or limited). A crossing of a perennial or intermittent stream shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachment or water obstruction shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) Each road shall have a drainage system that is compatible with the natural drainage system, is structurally stable, and which will pass safely the peak flow from a 10-year, 24-hour precipitation event or larger event if required by the Department. The drainage system shall include a sloped or crowned road surface, cross drains or culverts, stabilized ditches, erosion-resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 87.106 (relating to hydrologic balance: sediment control measures).

(d) Roads shall be constructed on stable areas that avoid wet or unstable soils.

(e) Prior to the construction of the road, topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the haul road.

(f) Disturbed areas adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

(g) Haul roads shall be surfaced with material sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road. Acid or toxic-forming material may not be used for surfacing or construction of a road except where the road is within the confines of a coal refuse disposal or reprocessing area and the effluent meets the requirements of § 87.102 (relating to hydrologic balance: effluent standards).

(h) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired or reclaimed as soon as practicable after the damage has occurred.

(i) Haul roads and roads approved as part of the postmining land use shall be certified by a qualified registered professional engineer or qualified registered land surveyor that the roads have been constructed or reconstructed as designed in accordance with the approved plan.

**§ 87.166. Haul roads and access roads: restoration.**

Unless the Department approves retention of a road as suitable for the approved postmining land use in accordance with § 87.159 (relating to postmining land use), as soon as practicable after the road is no longer needed for the associated surface mining activities:

- (1) The road shall be physically closed to vehicular traffic.
- (2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage pattern.
- (3) Bridges and culverts shall be removed.

(4) Roadbeds shall be ripped or scarified.

(5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural drainage restoration standards.

(6) Cut slopes shall be shaped to blend with the natural contour.

(7) Cross drains, dikes and water bars shall be constructed to minimize erosion.

(8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut and fill slopes.

(9) Road surfacing materials shall be removed if the materials are incompatible with the postmining land use and establishment of vegetation.

(10) Disturbed areas shall be covered with topsoil in accordance with §§ 87.96—87.100 and revegetated in accordance with § 87.147 (relating to revegetation: general requirements).

(11) Excess material and debris shall be disposed of in a manner approved by the Department.

**§ 87.173. Support facilities and utility installations.**

(a) Support facilities required for, or used incidentally to, the operation of the mine, including, but not limited to, mine buildings, coal loading facilities at or near the mine-site, coal storage facilities, equipment storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops and other buildings shall be located, maintained and used in a manner that does the following:

(1) Prevents or controls erosion and siltation, water pollution and damage to public or private property.

(2) To the extent possible using the best technology currently available minimizes:

(i) Damage to fish, wildlife and related environmental values.

(ii) Additional contributions of suspended solids to streamflow or runoff outside the permit area. These contributions may not be in excess of limitations of State or Federal law.

(b) All surface mining activities shall be conducted in a manner which minimizes damage, destruction or disruption of services provided by oil, gas and water wells; oil, gas and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under or through the permit area, unless otherwise approved by the owner of those facilities and the Department.

**§ 87.174. Steep slope operations.**

(a) Each person who conducts or intends to conduct surface mining and reclamation operations on steep slopes shall comply with this subchapter and this section, except to the extent a variance is approved under § 87.175 (relating to variance to contouring).

(b) Debris, from clearing and grubbing of haul road construction, abandoned or disabled equipment, spoil material, waste mineral matter or other waste material may not be placed on the downslope below the bench or mining cut, except for material used to construct road embankment in accordance with §§ 87.160, 87.166 and 87.172 (relating to haul roads and access roads; haul roads and access roads: restoration; and other transportation facilities).

(c) The disturbed area shall be returned to approximate original contours by completely covering the highwall with compacted spoil and grading the area in accordance with §§ 87.141, 87.142 and 87.144—87.146. The person who conducts the surface mining and reclamation operation shall demonstrate to the Department, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the reclaimed land is at least 1.3.

(d) Land above the highwall may not be disturbed unless the Department finds that the disturbance facilitates compliance with this subchapter.

(e) Material in excess of that required by the grading and backfilling provisions of subsection (b) shall be disposed of in accordance with the requirements of § 87.131 (relating to disposal of excess spoil).

(f) Woody materials may not be buried in the backfilled area unless the applicant demonstrates that the proposed method for disposal of the woody materials will not deteriorate the stability of the backfilled area as required by subsection (b). Wood may be chipped and used as mulch if the requirements of § 87.153 (relating to revegetation: mulching) are met.

#### § 87.176. Auger mining.

(a) Auger mining associated with surface mining activities shall be conducted to maximize recoverability of mineral reserves remaining after the mining activities are completed. A person who conducts auger mining operations shall leave areas of undisturbed coal to provide access for removal of those reserves by future underground mining activities, unless the person who conducts surface mining activities demonstrates to the satisfaction of the Department that the coal reserves have been depleted or are limited in thickness or extent to the point that it will not be practicable to recover the remaining coal reserves.

(b) An auger hole may not be made closer than 500 feet (152.40 meters) in horizontal distance to abandoned or active underground mine workings, except as approved in accordance with § 87.135 (relating to protection of underground mining).

(c) To prevent pollution of surface water and groundwater and to reduce fire hazards, an auger hole shall be plugged to prevent the discharge of water from the hole and access of air to the coal. An auger hole shall be plugged within 30 days after completion by backfilling and compacting noncombustible and impervious material into the hole to a depth sufficient to form a watertight seal. Plugging shall be done within 72 hours after completion if the holes are discharging water containing acid or toxic forming material.

(d) The Department will prohibit auger mining unless the person conducting the surface mining activities demonstrates, the following

(1) Adverse water quality impacts can be prevented or corrected.

(2) Fill stability can be achieved.

(3) The auger mining is necessary to maximize the utilization, recoverability or conservation of the solid fuel resources.

(4) Subsidence resulting from auger mining will not disturb or damage powerlines, pipelines, buildings or other facilities.

#### Subchapter F. SURFACE COAL MINES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES

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

(a) The Department will release up to 60% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

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

(2) The operator has satisfactorily completed backfilling, regrading and drainage control under the approved reclamation plan.

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

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all ground and surface water monitoring conducted by the permittee under § 87.206(1) (relating to operational requirements) or conducted by the Department.

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

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

(1) The operator has replaced the topsoil or material conserved under § 87.97(d) (relating to topsoil: removal), completed final grading, planting and established revegetation under the approved reclamation plan and achieved the standards of success for revegetation in § 87.205(a)(5) (relating to approval or denial).

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

(3) The operator has complied with one of the following:

(i) Achieved the actual improvement of the baseline pollution load described in the approved abatement plan and shown by ground and surface water monitoring conducted by the permittee for the time provided in the abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5).

(ii) Achieved the following:

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

(I) For the 12 months prior to the date of application for bond release and until the bond release is approved

under subsection (b), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and § 87.207(e) (relating to treatment of discharges), for 12 months from the discontinuance of treatment under § 87.207(d), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 87.205(a)(5) have been completed.

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

(C) Caused aesthetic or other environmental improvements or the elimination of public health and safety problems by re-mining and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

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

(1) The operator has successfully completed the approved abatement and reclamation plans, and the pollution abatement area is capable of supporting the postmining land use approved under § 87.159 (relating to postmining land use).

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

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 87.207(e) for 5 years from the discontinuance of treatment under § 87.207(d).

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

**CHAPTER 88. ANTHRACITE COAL**

**Subchapter A. GENERAL PROVISIONS**

**PRELIMINARY PROVISIONS**

**§ 88.1. Definitions.**

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

\* \* \* \* \*

*Land use*—Specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. A change of land use from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Department. The term is further defined as:

\* \* \* \* \*

(x) *Unmanaged natural habitat*. Idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished.

\* \* \* \* \*

**OPERATION AND RECLAMATION PLAN**

**§ 88.42. Operational plan: general information.**

An application for anthracite coal surface mining activities shall include at a minimum:

(1) A narrative description of the type and method of mining and reclamation procedures and proposed engineering techniques and the major equipment to be used.

(2) A narrative explaining the construction, modification, use, maintenance and removal of the following facilities, unless retention of the facilities is approved for postmining land use:

(i) Dams, embankments and other impoundments.

(ii) Overburden, soil or vegetation-supporting material handling and storage areas.

(iii) Handling, storage, transportation areas and structures affected by coal removal.

(iv) Handling, storage, transportation and disposal areas and structures affected by mine spoil or coal processing waste.

(v) Mine facilities.

(vi) Water pollution control facilities.

(vii) Erosion control facilities.

(viii) Air pollution control methods.

(3) A description of the measures to be employed to ensure that all debris, potential acid-forming and potential toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with this chapter and a description of the contingency plans which have been developed to preclude combustion of these materials.

(4) A description of the measures to be employed to seal drill holes or encountered mine openings.

(5) A demonstration that the notification requirements of § 86.31(e) (relating to public notices of filing of permit applications) have been satisfied.

**§ 88.56. Protection of public parks and historic places.**

(a) For publicly-owned parks or historic places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each application shall describe the measures to be used to accomplish the following:

(1) Prevent adverse impacts and meet the requirements of Chapter 86, Subchapter D (relating to areas unsuitable for mining).

(2) Minimize adverse impacts, if valid existing rights exist or joint agency approval is to be obtained under Chapter 86, Subchapter D.

(b) The Department may require the applicant to protect historic or archaeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance if the required measures are completed before the properties are affected by any anthracite mining activity.

**Subchapter B. SURFACE ANTHRACITE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 88.83. Sealing of drilled holes: general requirements.**

(a) An exploration hole, other drill or borehole, well or other exposed opening (except for holes solely drilled and used for blasting), shall be sealed, backfilled or otherwise managed, as approved by the Department, in order to do the following:

(1) Prevent acid or other toxic drainage from entering groundwaters or surface waters.

(2) Minimize disturbance to the prevailing hydrologic balance.

(3) Ensure the safety of people, property, livestock, fish and wildlife and machinery in the permit and adjacent areas.

(4) Prevent groundwater and surface water from entering underground mine workings.

(b) If these openings are uncovered or exposed by surface mining activities within the permit area, they shall be permanently closed unless approved for water monitoring, or otherwise managed in a manner approved by the Department.

(c) Use of a drilled hole, borehole or monitoring well as a water well shall meet the provisions of § 88.106 (relating to hydrologic balance: surface water monitoring).

(d) Gas and oil wells shall be sealed in accordance with the Oil and Gas Act (58 P. S. §§ 601.101—601.605).

(e) A solid barrier of undisturbed earth, 125 feet (38.1 meters) in radius shall be maintained around all oil and gas wells, unless:

(1) The well is sealed in accordance with subsection (d).

(2) The Department approves in writing a lesser distance if:

(i) Access to the well is provided at all times.

(ii) The integrity of the well is maintained.

(iii) The measures included in the permit to minimize damage, destruction or disruption of services are implemented.

**§ 88.91. Hydrologic balance: general requirements.**

(a) Surface mining activities shall be planned and conducted to minimize disturbances to the prevailing hydrologic balance in the permit and adjacent areas and to prevent material damage to the hydrologic balance outside the permit area. The Department may require additional preventive, remedial or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented. Where the area has been previously mined, the surface mining activity shall be planned and conducted to maximize the abatement of water pollution and the reclamation of the land.

(b) Changes in water quality and quantity, the depth to groundwater, and the location of surface water drainage channels shall be minimized so that the approved postmining land use of the permit area is not adversely affected.

(c) The treatment requirements and effluent limitations established under § 88.92 (relating to hydrologic balance: effluent standards) may not be violated.

(d) A person who conducts surface mining activities shall conduct the mining and reclamation operation to prevent water pollution and, if necessary, operate and maintain the necessary water treatment facilities until applicable treatment requirements and effluent limitations established under § 88.92 are achieved and maintained. If these practices are not adequate, the person who conducts surface mining activities shall provide the necessary water treatment facilities to obtain the applicable water quality standards.

**§ 88.92. Hydrologic balance: effluent standards.**

(a) *Groups of effluent criteria.* A person may not allow a discharge of water from an area disturbed by mining activities which exceeds the following groups of effluent criteria. The effluent limitations shall be applied under subsection (b).

<i>Parameter</i>	<i>Group A</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 <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.

<i>Parameter</i>	<i>Group B</i>	
	<i>Instantaneous Maximum</i>	
iron (total)	7.0 mg/l	
settleable solids	0.5 ml/l	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity		

<i>Parameter</i>	<i>Group C</i>	
	<i>Instantaneous Maximum</i>	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity		

\* \* \* \* \*

**§ 88.96. Hydrologic balance: sediment control measures.**

Appropriate sediment control measures shall be designed, constructed and maintained to:

- (1) Prevent, to the extent possible, contributions of sediment to streamflow or to runoff outside the affected area.
- (2) Meet the treatment and effluent requirements of § 88.92 (relating to hydrologic balance: effluent standards).
- (3) Minimize erosion to the extent possible.
- (4) Meet the requirements of Chapter 102 (relating to erosion control).

**§ 88.118. Backfilling and grading: final slopes.**

(a) The final graded slopes shall approximate premining slopes, or slopes approved by the Department based on consideration of soil, rock formation, climate or other characteristics of the surrounding area.

(b) Postmining final graded slopes need not be uniform but shall approximate the general nature of the premining topography.

(c) Cut and fill terraces may be allowed on approval by the Department to conserve soil moisture, ensure stability and control erosion on final graded slopes, if the terraces are compatible with the approved postmining land use and are substitutes for construction of lower grades on the reclaimed lands.

(d) Small depressions may be constructed, if they:

- (1) Are approved by the Department to minimize erosion, conserve soil moisture or promote vegetation.
- (2) Do not restrict normal access.
- (3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(e) All surface mining activities on slopes above 20°, or on lesser slopes that the Department defines as steep slopes, shall meet the appropriate provisions.

(f) All final grading, preparation of overburden before replacement of soil or suitable vegetation support material shall be conducted in a manner which minimizes erosion and provides a surface for replacement of soil which will minimize slippage.

**§ 88.133. Postmining land use.**

(a) All affected areas shall be restored in a timely manner to conditions that are capable of supporting the uses which they were capable of supporting before mining, or to higher or better uses achievable under criteria and procedures of this section and prior to the release of land from the permit area in accordance with Chapter 86, Subchapter F (relating to bonding and insurance requirements).

(b) The premining use of land to which the postmining land use is compared shall be determined by the following:

- (1) The postmining land use for land that has not been previously mined and has been properly managed shall be judged on the basis of uses which the land previously supported.
- (2) The postmining land use for land that has been previously mined and not reclaimed shall be judged on

the basis of the condition prior to mining or to a higher or better use that can be achieved and is compatible with surrounding areas.

(c) Alternative land uses will be approved by the Department after consultation with the landowner or the land management agency having jurisdiction over the lands and after determining the following criteria have been met:

(1) The proposed postmining land use is compatible with adjacent land use and applicable land use policies, plans and programs and Federal, State and local law. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Department before surface mining activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State or Federal land management agencies, is obtained and remains valid throughout the surface mining activities.

(2) The owner of the surface requests in a notarized written statement that the alternative land use be approved.

(3) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria:

(i) Provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts surface mining activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under Subchapter A (relating to general provisions). The letters shall be submitted to the Department before surface mining activities begin.

(ii) Specific plans are prepared and submitted to the Department which show the feasibility of the postmining land use as related to projected land use trends and markets. The plan shall include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and how the development will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with mining and reclamation, and that the plans shall result in successful reclamation.

(4) The proposed use will neither pose an actual or potential threat to public health or safety or of water diminution, interruption, contamination or pollution.

(5) The use will not involve unreasonable delays in reclamation or implementation.

(6) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values and threatened or endangered plants is obtained from the Department and appropriate State and Federal fish and wildlife management agencies have been provided a 30-day period in which to review the plan before surface mining activities begin.

**§ 88.138. Haul roads and access roads: general.**

(a) Haul roads and access roads shall be designed, constructed and maintained to control or prevent erosion and contributions of sediment to streams or runoff outside the affected area; air and water pollution; damage to

fish and wildlife or their habitat; flooding and damage to public or private property. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored in accordance with § 88.144 (relating to haul roads and access roads: restoration) unless retention of the road and its maintenance plan is approved as part of the postmining land use.

(b) The haul road may not be located in or within 100 feet (30.48 meters) of a perennial or intermittent stream except in accordance with § 86.102 (relating to areas where mining is prohibited or limited). Any crossing of a perennial or intermittent stream shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachment or water obstruction shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) Each road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 10-year precipitation event or larger event if required by the Department. The drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 88.96 (relating to hydrologic balance: sediment control measures).

(d) Roads shall be constructed on stable areas that avoid wet or unstable soils.

(e) Prior to the construction of the road, all topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the haul road.

(f) Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

(g) Acid-forming or toxic-forming material may not be suitable for surfacing or construction of a road except where the road is within the confines of a road refuse disposal or reprocessing area and the effluent meets the requirements of § 88.92 (relating to hydrologic balance: effluent standards).

**§ 88.144. Haul roads and access roads: restoration.**

Unless the Department approves retention of a road as suitable for the approved postmining land use in accordance with § 88.133 (relating to postmining land use), as soon as practicable after the road is no longer needed for the associated surface mining activities:

(1) The road shall be physically closed to vehicular traffic.

(2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage pattern.

(3) All bridges and culverts shall be removed.

(4) Cross drains, dikes and water bars shall be constructed to minimize erosion.

(5) All disturbed areas shall be revegetated in accordance with § 88.122 (relating to revegetation: timing).

(6) All excess material and debris shall be disposed of in a manner approved by the Department.

**Subchapter C. ANTHRACITE BANK REMOVAL AND RECLAMATION: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 88.187. Hydrologic balance: effluent standards.**

(a) *Groups of effluent criteria.* A person may not allow a discharge of water from an area disturbed by mining activities which exceeds the following groups of effluent criteria. The effluent limitations shall be applied under subsection (b).

<i>Parameter</i>	<i>Group A</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 <sup>1</sup>		greater than 6.0; less than 9.0	

alkalinity greater than acidity<sup>1</sup>

<sup>1</sup> The parameter is applicable at all times.

<i>Parameter</i>	<i>Group B</i>	
	<i>Instantaneous Maximum</i>	
iron (total)	7.0 mg/l	
settleable solids	0.5 ml/l	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity		

<i>Parameter</i>	<i>Group C</i>	
	<i>Instantaneous Maximum</i>	
pH	greater than 6.0; less than 9.0	
alkalinity greater than acidity		

\* \* \* \* \*

**§ 88.191. Hydrologic balance: sediment control measures.**

Appropriate sediment control measures shall be designed, constructed and maintained to:

- (1) Prevent, to the extent possible, contributions of sediment to streamflow or to runoff outside the permit.
- (2) Meet treatment and effluent limitations of § 88.187 (relating to hydrologic balance: effluent standards).
- (3) Minimize erosion to the extent possible.
- (4) Meet the requirements of Chapter 102 (relating to erosion control).

**§ 88.221. Postmining land use.**

(a) All affected areas shall be restored in a timely manner to conditions that are capable of supporting the uses which they were capable of supporting before any mining, or to higher or better uses achievable under criteria and procedures of this section, and prior to the release of land from permit area in accordance with Chapter 86, Subchapter F (relating to bonding and insurance requirements).

(b) The premining use of land to which the postmining land use is compared shall be determined by the following:

(1) The postmining land use for land that has not been previously mined and has been properly managed shall be judged on the basis of uses which the land previously supported.

(2) The postmining land use for land that has been previously mined and not reclaimed shall be judged on the condition prior to mining or to a higher or better use that can be achieved and is compatible with surrounding areas.

(c) Alternative land uses shall be approved by the Department after consultation with the landowner or the land management agency having jurisdiction over the lands and after determining the following criteria are met:

(1) The proposed postmining land use is compatible with adjacent land use and applicable land use policies, plans and programs and Federal, State and local law. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Department before surface mining activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State or Federal land management agencies, is obtained and remains valid throughout the surface mining activities.

(2) The owner of the surface requests in a notarized written statement that alternative land use be approved.

(3) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria:

(i) Provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts surface mining activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under Subchapter A (relating to general provisions). The letters shall be submitted to the Department before surface mining activities begin.

(ii) Specific plans are prepared and submitted to the Department which show the feasibility of the postmining land use as related to projected land use trends and markets. The plan shall include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and how the development will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(4) The proposed use will neither pose an actual or potential threat to public health or safety or of water diminution, interruption, contamination or pollution.

(5) The use will not involve unreasonable delays in reclamation or implementation.

(6) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values and threatened or endangered plants is obtained from the Department, and appropriate State and Federal fish and wildlife management agencies have been provided a 30-day period in which to review the plan before surface mining activities begin.

**§ 88.231. Haul roads and access roads: general.**

(a) Haul roads and access roads shall be designed, constructed and maintained to control or prevent erosion and contributions of sediment to streams or runoff outside the affected area; air and water pollution; damage to fish and wildlife or their habitat; flooding and damage to public or private property. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored in accordance with § 88.237 (relating to haul roads and access roads: restoration) unless retention of the road and its maintenance plan is approved as part of the postmining land use.

(b) The haul road may not be located in or within 100 feet (30.48 meters) of a perennial or intermittent stream except in accordance with § 86.102 (relating to areas where mining is prohibited or limited). Any crossing of a perennial or intermittent stream shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachments or water obstructions comply with Chapter 105 (relating to dam safety and waterway management).

(c) Each road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 10-year precipitation event or larger event if required by the Department. The drainage system shall include sloped or crowned road surfaces, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 88.191 (relating to hydrologic balance: sediment control measures).

(d) Roads shall be constructed on stable areas that avoid wet or unstable soils.

(e) Prior to the construction of the road, all topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the haul road.

(f) Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

(g) Acid-forming or toxic-forming material may not be used for surfacing or construction of a road except where the road is within the confines of a coal refuse disposal or

reprocessing area and the effluent meets the requirements of § 88.187 (relating to hydrologic balance: effluent standards).

**§ 88.237. Haul roads and access roads: restoration.**

Unless the Department approves retention of a road as suitable for the approved postmining land use in accordance with § 88.221 (relating to postmining land use), as soon as practicable after the road is no longer needed for the associated surface mining activities:

- (1) The road shall be physically closed to vehicular traffic.
- (2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage pattern.
- (3) All bridges and culverts shall be removed.
- (4) Cross drains, dikes and water bars shall be constructed to minimize erosion.
- (5) All disturbed areas shall be revegetated in accordance with § 88.209 (relating to vegetation: general requirements).
- (6) All excess material and debris shall be disposed of in a manner approved by the Department.

**Subchapter D. ANTHRACITE REFUSE DISPOSAL: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**§ 88.283. Sealing of drilled holes: general requirements.**

(a) Each exploration hole, other drill or borehole, well or other exposed underground opening (except for holes solely drilled and used for blasting) shall be sealed, backfilled or otherwise managed, as approved by the Department to:

- (1) Prevent acid or other toxic drainage from entering groundwaters or surface waters.
- (2) Minimize disturbance to the prevailing hydrologic balance.
- (3) Ensure the safety of people, property, livestock, fish and wildlife and machinery in the permit and adjacent areas.
- (4) Prevent groundwaters and surface water from entering underground mine workings.
- (b) If these openings are uncovered or exposed by coal refuse disposal activities within the permit area, they shall be permanently closed unless approved for water monitoring, or otherwise managed in a manner approved by the Department.

(c) Use of a drilled hole, borehole or monitoring well as a water well shall meet the provisions of § 88.305 (relating to hydrologic balance: groundwater monitoring).

(d) Gas and oil wells shall be sealed in accordance with the Oil and Gas Act (58 P. S. §§ 601.101—601.605).

(e) A solid barrier of undisturbed earth, 125 feet (38.1 meters) in radius shall be maintained around all oil and gas wells, unless one of the following exists:

- (1) The well is sealed in accordance with subsection (d).
- (2) The Department approves, in writing, a lesser distance if:
  - (i) Access to the well is provided at all times.
  - (ii) The integrity of the well is maintained.
  - (iii) The measures included in the permit to minimize damage, destruction or disruption of services are implemented.

(f) All exploration holes, other drill or boreholes, wells (other than gas or oil wells) and other exposed underground openings which have been identified in the approved permit application for use to return waste to an underground mine as part of an operation approved under this chapter, or to be used to monitor groundwater conditions shall be protected by temporary seals, barricades, fences or other protective devices approved by the Department. These devices shall be periodically inspected and maintained in good operating condition during the coal refuse disposal activities.

**§ 88.291. Hydrologic balance: general requirements.**

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

(b) Prevent pollution of water and prevent, to the maximum extent possible, changes to water quality and quantity, the depth to groundwater and in the location of surface water drainage channels so that the approved post disposal land use of the permit areas is not adversely affected.

(c) The treatment requirements and effluent limitations established under § 88.192 (relating to hydrologic balance: treatment facilities) may not be violated.

(d) Each person who conducts surface mining and reclamation activities shall conduct the mining and reclamation operation to prevent water pollution and, if necessary, operate and maintain the necessary water treatment facilities until applicable treatment requirements and effluent limitations established under § 88.192 are achieved and maintained. If these practices are not adequate, the person who conducts bank removal and reclamation activities shall provide the necessary water treatment facilities to obtain the applicable water quality standards.

**§ 88.292. Hydrologic balance: effluent standards.**

(a) *Groups of effluent criteria.* A person may not allow a discharge of water from an area disturbed by mining activities which exceeds the following groups of effluent criteria. The effluent limitations shall be applied under subsection (b).

Parameter	Group A		
	30-day Average	Daily Maximum	Instantaneous Maximum
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



<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH <sup>1</sup> alkalinity greater than acidity <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> This parameter is applicable at all times.

*Group B*

<i>Parameter</i>	<i>Instantaneous Maximum</i>
iron (total)	7.0 mg/l
settleable solids	0.5 ml/l
pH alkalinity greater than acidity	greater than 6.0; less than 9.0

*Group C*

<i>Parameter</i>	<i>Instantaneous Maximum</i>
pH alkalinity greater than acidity	greater than 6.0; less than 9.0

\* \* \* \* \*

**§ 88.296. Hydrologic balance: sediment control measures.**

Appropriate sediment control measures shall be designed, constructed and maintained to:

- (1) Prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the affected area.
- (2) Meet the treatment and effluent requirements of § 88.292 (relating to hydrologic balance: effluent standards).
- (3) Minimize erosion to the extent possible.
- (4) Meet the requirements of Chapter 102 (relating to erosion control).

**§ 88.334. Postdisposal land use.**

(a) All affected areas shall be restored in a timely manner to conditions that are capable of supporting the uses which they were capable of supporting before refuse disposal, or to higher or better uses achievable under criteria and procedures of this section and prior to the release of land from the permit area in accordance with Chapter 86, Subchapter F (relating to bonding and insurance requirements).

(b) The predisposal use of land to which the postdisposal land use is compared shall be determined by the following:

- (1) The postdisposal land use for land that has not been previously mined and has been properly managed shall be judged on the basis of those uses which the land previously supported.
- (2) The postdisposal land use for land that has been previously mined and not reclaimed shall be judged on the basis of the condition prior to mining or to a higher or better use that can be achieved and is compatible with surrounding areas.
- (c) Alternative land uses shall be approved by the Department after consultation with the landowner or the land management agency having jurisdiction over the lands and after determining that the following criteria are met:

(1) The proposed postdisposal land use is compatible with adjacent land use and applicable land use policies, plans and programs and Federal, State and local law. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Department before refuse disposal activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State or Federal land management agencies, is obtained and remains valid throughout the coal refuse disposal activities.

(2) The owner of the surface shall request in a notarized written statement that the alternative land use be approved.

(3) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria:

(i) Provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts refuse disposal activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under Subchapter A (relating to general provisions). The letters shall be submitted to the Department before coal refuse disposal activities begin.

(ii) Specific plans are prepared and submitted to the Department which show the feasibility of the postmining land use as related to projected land use trends and markets. The plan shall include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and how the development will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(4) The proposed use shall neither pose an actual or potential threat to public health or safety or of water diminution or interruption, contamination or pollution.

(5) The use may not involve unreasonable delays in reclamation or implementation.

(6) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environ-

mental values and threatened or endangered plants is obtained from the Department, and appropriate State and Federal fish and wildlife management agencies have been provided a 30-day period in which to review the plan before coal refuse disposal activities begin.

**§ 88.335. Haul roads and access roads: general.**

(a) Haul roads and access roads shall be designed, constructed and maintained to control or prevent erosion and contributions of sediment to streams or runoff outside the affected area; air and water pollution; damage to fish and wildlife or their habitat; flooding and damage to public or private property. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored in accordance with § 88.341 (relating to haul roads and access roads: restoration) unless retention of the road and its maintenance plan is approved as part of the postmining land use.

(b) The haul road may not be located in or within 100 feet of a perennial or intermittent stream except in accordance with § 86.102 (relating to areas where mining is prohibited or limited). Any crossing of a perennial or intermittent stream shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachment or water obstruction shall meet the requirement of Chapter 105 (relating to dam safety and waterway management).

(c) Each road shall have a drainage system that is compatible with the natural drainage system, structurally stable and which will pass safely the peak flow from a 10-year precipitation event or larger event if required by the Department. The drainage system shall include sloped or crowned road surface, cross drains or culverts, stabilized ditches, erosion resistant surfacing, sediment traps and other appropriate control measures as required by § 88.296 (relating to hydrologic balance: sediment control measures).

(d) Roads shall be constructed on stable areas that avoid wet or unsuitable soils.

(e) Prior to the construction of the road, all topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the haul road.

(f) Any disturbed area adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

(g) Acid or toxic-forming material may not be used for surfacing or construction of a road except where the road is within the confines of a coal refuse disposal or reprocessing area and the effluent meets the requirements of § 88.292 (relating to hydrologic balance: effluent standards).

**§ 88.341. Haul roads and access roads: restoration.**

Unless the Department approves retention of a road as suitable for the approved postmining land use in accordance with § 88.334 (relating to postdisposal land use), as soon as practicable after the road is no longer needed for the associated surface mining activities:

(1) The road shall be physically closed to vehicular traffic.

(2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage pattern.

(3) All bridges and culverts shall be removed.

(4) Cross drains, dikes and water bars shall be constructed to minimize erosion.

(5) All disturbed areas shall be revegetated in accordance with § 88.322 (relating to revegetation: general requirements).

(6) All excess material and debris shall be disposed of in a manner approved by the Department.

**Subchapter F. ANTHRACITE UNDERGROUND MINES**

**§ 88.492. Minimum requirements for reclamation and operation plan.**

\* \* \* \* \*

(f) *Protection of public parks and historic places.*

(1) For publicly-owned parks or historic places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each application shall describe the measures to be used to accomplish the following:

\* \* \* \* \*

**Subchapter G. ANTHRACITE SURFACE MINING ACTIVITIES AND ANTHRACITE BANK REMOVAL AND RECLAMATION ACTIVITIES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES**

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

(a) The Department will release up to 60% of the amount of bond for the authorized pollution abatement area if the applicant demonstrates and the Department finds that:

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

(2) The operator has satisfactorily completed backfilling, regrading and drainage control in accordance with the approved reclamation plan.

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

(4) The operator has not caused degradation of the baseline pollution load at any time during the 6 months prior to the submittal of the request for bond release under this subsection and until the bond release is approved as shown by all ground and surface water monitoring conducted by the permittee under § 88.506(1) (relating to operational requirements) or conducted by the Department.

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

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

(1) The operator has replaced the topsoil or material conserved under §§ 88.87 and 88.183 (relating to vegetation-supporting material: available soil removal; and vegetation-supporting material: soil), completed final

grading, planting and established revegetation in accordance with the approved reclamation plan and achieved the standard of success for revegetation in § 88.505(a)(5) (relating to approval or denial).

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

(3) The operator has complied with one of the following:

(i) Achieved the actual improvement of the baseline pollution load described in the approved abatement plan and shown by all ground and surface water monitoring conducted by the permittee for the period of time provided in the abatement plan after completion of backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5).

(ii) Achieved all of the following:

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

(I) For 12 months prior to the date of application for bond release and until the bond release is approved under subsection (b), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5) have been completed.

(II) If treatment has been initiated at any time after initial bond release under subsection (a) and in accordance with § 88.507(e) (relating to treatment of discharges), for 12 months from the discontinuance of treatment under § 88.507(d), if backfilling, final grading, drainage control, topsoiling and establishment of revegetation to achieve the standard of success for revegetation in § 88.505(a)(5) have been completed.

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

(C) Caused aesthetic or other environmental improvements or elimination of public health and safety problems by re-mining and re-affecting the pollution abatement area.

(D) Stabilized the pollution abatement area.

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

(1) The operator has successfully completed all the approved abatement and reclamation plans and the pollution abatement area is capable of supporting the postmining land use approved under §§ 88.221 and 88.334 (relating to postmining land use; and postdisposal land use).

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

(3) The operator has not caused degradation of the baseline pollution load from the time of bond release under subsection (b) or, if treatment has been initiated after bond release under subsection (b) in accordance with § 88.507(e) for 5 years from the discontinuance of treatment under § 88.507(d).

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

**CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES**

**Subchapter B. OPERATIONS**

**INFORMATION REQUIREMENTS**

**§ 89.38. Archaeological and historical resources, public parks and publicly-owned parks.**

(a) The operation plan shall describe and identify the nature of archaeological, cultural and historic resources listed on or eligible for listing on the National Register of Historic Places and known significant archaeological or cultural sites and public parks within the proposed permit area and adjacent area. The description shall be based on available information, including, but not limited to, data of State and local archaeological, historical and cultural preservation agencies. The Department may require the applicant to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places, through one or more of the following:

- (1) The collection of additional information.
- (2) The conducting of field investigations.
- (3) Other appropriate analysis.

(b) For publicly owned parks or historic places listed on the National Register of Historic Places that may be adversely affected by the proposed underground mining activities, the plan shall describe the measures to be used to accomplish one of the following:

- (1) The prevention of adverse impacts and meet the requirements of Chapter 86, Subchapter D (relating to areas unsuitable for mining).
- (2) The minimization of adverse impacts if valid existing rights exist or joint agency approval is to be obtained under Chapter 86, Subchapter D.

(c) The Department may require the applicant to protect historic or archaeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance if the required measures are completed before the properties are affected by underground mining activity or coal preparation activity.

**PERFORMANCE STANDARDS**

**§ 89.52. Water quality standards, effluent limitations and best management practices.**

\* \* \* \* \*

(c) *Effluent limitations.* A person may not allow a discharge of water from an area disturbed by underground mining activities, including areas disturbed by mineral preparation, processing or handling facilities which exceeds the following groups of effluent standards. The effluent limitations shall be applied under subsection (d).

<i>Parameter</i>	<i>Group A</i>		
	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0mg/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 <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.

<i>Parameter</i>	<i>Group B</i>	
		<i>Instantaneous Maximum</i>
iron (total)		7.0 mg/l
settleable solids		0.5 ml/l
pH		greater than 6.0; less than 9.0
alkalinity greater than acidity		

<i>Parameter</i>	<i>Group C</i>	
		<i>Instantaneous Maximum</i>
pH		greater than 6.0; less than 9.0
alkalinity greater than acidity		

\* \* \* \* \*

**§ 89.65. Protection of fish, wildlife and related environmental values.**

(a) The operator shall to the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife and related environmental values, and achieve enhancement of the resources when practicable.

(b) The operator shall promptly report to the Department the presence in the permit area of any threatened or endangered species under State or Federal law of which that person becomes aware and which was not previously reported to the Department by that person.

(c) The operator shall ensure that the design and construction of any new electric power lines and other transmission facilities to be used for or incidental to the underground mining activities on the permit area shall be designed and constructed in accordance with the guidelines in Environmental Criteria for Electric Transmission Systems (USDI, ISDA (1970)), or in alternative guidance manuals approved by the Department. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10 Powerline Contact by Eagles and Other Large Birds or in alternative guidance manuals approved by the Department. For information purposes, these two documents are available at the Office of Surface Mining Office, United States Department of the Interior, South Interior Building, Washington, D.C., 20240, and at each Office of Surface Mining Regional Office, District Office and Field Office.

(d) The operator shall to the extent possible, using the best technology currently available:

(1) Locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife species or other species protected by State or Federal law.

(2) Avoid disturbances to, enhance where practicable, or restore habitats of unusually high value for fish and wildlife.

(3) When practicable, maintain natural riparian vegetation on the banks of streams, lakes and other wetland areas.

(4) Not use restricted pesticides or herbicides on the area during underground mining and reclamation activities unless approved by the Department of Agriculture.

**§ 89.67. Support facilities.**

(a) Support facilities required for, or used incidentally to, the operation of the underground mine, including, but not limited to, mine buildings, coal loading facilities at or near the mine site, coal storage facilities, equipment storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops and other buildings, shall be located, maintained and used in a manner that does the following:

(1) Prevents or controls erosion and siltation, water pollution and damage to public or private property.

(2) To the extent possible using the best technology currently available:

(i) Minimizes damage to fish, wildlife and related environmental values.

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Contributions may not be in excess of limitations of State or Federal law.

(b) All underground mining activities shall be conducted in a manner which minimizes damage, destruction or disruption of services provided by oil, gas and water wells; oil, gas and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under or through the permit area, unless otherwise approved by the owner of those facilities and the Department.

**Subchapter C. RECLAMATION  
PERFORMANCE STANDARDS**

**§ 89.82. Protection of fish, wildlife and related environmental values.**

(a) The operator shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of the resources where practicable.

(b) The operator shall promptly report to the Department the presence in the permit area of threatened or endangered species under State or Federal laws of which that person becomes aware and which was not previously reported to the Department by that person. Upon notification, the Department will consult with the Game Commission or the Fish and Boat Commission and appropriate Federal fish and wildlife agencies and, after consultation, identify whether, and under what conditions, the operator may proceed.

(c) The operator shall, to the extent possible using the best technology currently available:

(1) Restore, and enhance when practicable, natural riparian vegetation on the banks of streams, lakes and other wetland areas.

(2) Select plant species for their proven nutritional value and their ability to support and enhance fish and wildlife habitat, when the postmining land use is to be fish and wildlife habitat. Plants should be grouped and distributed in a manner which optimizes edge effect, cover and other benefits for fish and wildlife.

(3) Intersperse reclaimed lands with green belts, utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals, when the postmining land use is to be residential, public service or industrial land use.

(4) Design fences, overland conveyors and other potential barriers to permit passage for large mammals, except where the Department determines that these requirements are unnecessary.

(5) Fence, cover or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

(d) Underground mining activities may not be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest or its eggs. The operator shall promptly report to the Department a golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification the Department will consult with the United States Fish and Wildlife Service and the Game Commission and, after consultation, will identify whether, and under what conditions, the operator may proceed.

(e) Underground mining activities may not be conducted which are likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the Interior, the Game Commission or the Fish and Boat Commission or which are likely to result in the destruction or adverse modification of designated critical habitats of these species in violation of the Endangered Species Act of 1973 (16 U.S.C.A. §§ 1531—1544).

**§ 89.87. Regrading or stabilizing rills and gullies.**

(a) Exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which do one of the following shall be filled, regraded or otherwise stabilized:

(1) Disrupt the approved postmining land use or the reestablishment of the vegetative cover.

(2) Cause or contribute to a violation of water quality standards for receiving streams.

(c) For areas listed in subsection (b), the topsoil shall be replaced, and the areas shall be reseeded or replanted.

**§ 89.88. Postmining land use.**

(a) Surface land areas affected by underground mining activities shall be restored, in a timely manner, to conditions that are capable of supporting the use which the areas were capable of supporting before any mining, or to higher or better uses achievable under the criteria and procedures of subsection (c).

(b) The premining use of land to which the postmining land use is compared shall be those uses which the land previously supported, if the land had not been previously mined and had been properly managed.

(c) Alternative land uses may be approved by the Department after consultation with the landowner or the land management agency having jurisdiction over the lands, if the following apply:

(1) The proposed alternative land use is compatible with adjacent land use and, when applicable, with existing local, State or Federal land use policies and plans. When an alternative land use is proposed, the Department will notify authorities with statutory responsibility for land use policies and plans. These authorities shall have 60 days to submit written statements on the proposed alternative land use. Any required approval of local, State or Federal land management agencies, including any necessary zoning or other changes required for the land use, is obtained and remains valid throughout the mining activities.

(2) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by the following or other similar criteria: Specific plans are prepared and submitted to the Department which show the feasibility of the alternative land use as related to projected land use trends and markets, which include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining, and which show how the use will be sustained. The Department may require appropriate demonstrations to show how the use will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(3) The proposed uses will neither present actual nor probable hazard to public health, safety or water flow diminution or pollution.

(4) The proposed uses will not involve unreasonable delays in reclamation.

(5) Necessary approval of measures to prevent adverse effects on fish, wildlife and related environmental values and threatened or endangered plants are obtained from the Department and appropriate State and Federal fish and wildlife management agencies.

(6) Proposals to change premining land uses of range, fish and wildlife habitat, forest land, hayland or pasture to a postmining cropland use, when the cropland would require continuous maintenance such as seeding, plowing,

cultivation, fertilization or other similar practices to be practicable or to comply with applicable Federal, State and local laws, have been reviewed by the Department to ensure that:

(i) There is a firm written commitment by the operator or by the landowner or land manager to provide sufficient crop management after release of applicable performance bonds under Chapter 86, Subchapter F (relating to bonding and insurance requirements) to assure that the proposed postmining cropland use remains practical and reasonable.

(ii) There is sufficient water available and committed to maintain crop production.

(iii) Topsoil quality and depth are sufficient to support the proposed use.

**§ 89.90. Restoration of roads.**

(a) Unless the Department approves retention of a road as suitable for the approved postmining land use, as soon as practicable after the road is no longer needed for operations, reclamation or monitoring:

- (1) The road shall be closed to vehicular traffic.
- (2) The natural drainage patterns shall be restored.
- (3) Bridges and culverts shall be removed.
- (4) Roadbeds shall be ripped or scarified.
- (5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural drainage restoration standards.
- (6) Cut slopes shall be shaped to blend with the natural contour.
- (7) Cross drains, dikes and water bars shall be constructed to minimize erosion.
- (8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut-and-fill-slopes.
- (9) Road surfaces shall be covered with topsoil in accordance with § 89.85(b) (relating to topsoil use) and revegetated in accordance with § 89.86 (relating to revegetation).
- (b) Road-surfacing materials shall be removed, hauled or conveyed, and disposed of in accordance with § 89.63 (relating to disposal of noncoal wastes).

**CHAPTER 90. COAL REFUSE DISPOSAL**

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

**§ 90.1. Definitions.**

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

\* \* \* \* \*

*Land use*—Specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Department.

\* \* \* \* \*

(x) *Unmanaged natural habitat*—Idle land which does not require a specific management plan after the reclamation and revegetation have been accomplished.

\* \* \* \* \*

**Subchapter C. MINIMUM OPERATION AND RECLAMATION PLAN INFORMATION REQUIRED IN APPLICATIONS FOR COAL REFUSE DISPOSAL**

**§ 90.31. General requirements.**

An application shall contain a description of the coal refuse disposal activities proposed to be conducted during the life of the coal refuse disposal operations within the proposed permit area, including, at a minimum, the following:

- (1) A narrative description of the type and method of coal refuse disposal procedures and proposed engineering techniques and the major equipment to be used during operations.
- (2) A narrative explaining the construction, modification, use, maintenance and removal of the following facilities and structures, unless retention of the facility or structure is necessary for postdisposal land use as specified in § 90.166 (relating to postdisposal land use):
  - (i) Dams, embankments and other impoundments.
  - (ii) Overburden and topsoil handling and storage areas.
  - (iii) Coal removal, handling, storage, cleaning, processing and transportation areas and structures.
  - (iv) Spoil, coal refuse, mine development waste and noncoal waste removal, handling, storage, transportation and disposal areas and structures.
  - (v) Mine facilities.
  - (vi) Water and air pollution control facilities.
  - (vii) Erosion and sediment control facilities.
- (3) A description of the measures to be employed to ensure that all debris, potential acid-forming and potential toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with this chapter and a description of the contingency plans which have been developed to preclude combustion of the materials.
- (4) A description, including appropriate cross sections and maps, of the measures to be used to seal or manage mine openings, and to plug, case, line or manage exploration holes, other boreholes, wells and other openings within the proposed permit area.
- (5) A demonstration that the notification requirements of § 86.31(e) (relating to public notices of filing of permit application) have been satisfied.

(3) A description of the measures to be employed to ensure that all debris, potential acid-forming and potential toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with this chapter and a description of the contingency plans which have been developed to preclude combustion of the materials.

(4) A description, including appropriate cross sections and maps, of the measures to be used to seal or manage mine openings, and to plug, case, line or manage exploration holes, other boreholes, wells and other openings within the proposed permit area.

**§ 90.40. Protection of public parks and historic places.**

(a) For publicly-owned parks or historic places listed on the National Register of Historic Places that may be adversely affected by the proposed coal refuse disposal activities, each application shall describe the measures to be used to accomplish the following:

- (1) Prevent adverse impacts and meet the requirements of Chapter 86, Subchapter D (relating to areas unsuitable for mining).
- (2) Minimize adverse impacts if valid existing rights exist or joint agency approval is to be obtained under Chapter 86, Subchapter D.

(b) The Department may require the applicant to protect historic or archaeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance, if the required measures are completed before the properties are affected by coal refuse disposal activity.

**Subchapter D. PERFORMANCE STANDARDS FOR COAL REFUSE DISPOSAL**

**§ 90.93. Casing and sealing of drilled holes and underground workings.**

(a) An exploration hole, other drill or borehole, well or other exposed underground opening—except for holes solely drilled and used for blasting—shall be cased, sealed or otherwise managed, as approved by the Department to:

- (1) Prevent acid or other toxic drainage from entering groundwaters or surface waters.
- (2) Minimize disturbance to the prevailing hydrologic balance.
- (3) Ensure the safety of people, livestock, fish and wildlife and machinery in the permit and adjacent areas.
- (4) Prevent groundwater or surface water from entering underground mine workings.

(b) If these openings are uncovered or exposed by coal refuse disposal activities within the permit area, they shall be permanently closed unless approved for water monitoring, or otherwise managed in a manner approved by the Department.

(c) Use of a drilled hole, borehole or monitoring well as a water well shall meet the provisions of § 90.115 (relating to hydrologic balance: groundwater monitoring).

(d) Gas and oil wells shall be sealed in accordance with the Oil and Gas Act (58 P. S. §§ 601.101—601.605).

(e) A solid barrier of undisturbed earth, 125 feet (38.1 meters) in radius shall be maintained around all oil and gas wells, unless one of the following happens:

- (1) The well is sealed in accordance with subsection (d).
- (2) The Department approves, in writing, a lesser distance, if:
  - (i) Access to the well is provided at all times.
  - (ii) The integrity of the well is maintained.
  - (iii) The measures included in the permit to minimize damage, destruction or disruption of services under § 90.147(b) (relating to support facilities and utility installations) are implemented.

(f) All exploration holes, other drill or boreholes, wells—other than gas or oil wells—and other exposed underground openings which have been identified in the approved permit application for use to return waste to an underground mine as part of an operation approved under Chapter 89 (relating to underground mining of coal and coal preparation facilities), or to be used to monitor groundwater conditions, shall be protected by temporary seals, barricades, fences or other protective devices approved by the Department. These devices shall be periodically inspected and maintained in good operating condition during the coal refuse disposal activities.

**§ 90.97. Topsoil: removal.**

(a) All topsoil shall be removed from the areas to be disturbed in a separate layer prior to drilling, blasting, coal refuse disposal or other surface disturbance. Any

vegetation cover which would interfere with the removal and use of the topsoil shall be removed prior to topsoil removal.

(b) In the event removal of vegetative matter, topsoil or other materials may result in erosion which may cause air or water pollution, the size of the area from which topsoil is removed at any one time shall be limited and other measures taken that the Department may approve or require to control erosion.

(c) If topsoil is less than 12 inches (30.48 centimeters), a 12-inch (30.48 centimeters) layer of topsoil, subsoil and unconsolidated materials shall be removed, segregated, conserved and replaced as the final surface soil layer. If the topsoil and all unconsolidated material measures less than 12 inches (30.48 centimeters), all the topsoil, subsoil and unconsolidated material shall be removed and the mixture segregated and redistributed as the final surface soil layer.

(d) On areas that have been previously affected by mining or coal refuse disposal activities and have no available topsoil or subsoil, sufficient material best suited to support vegetation shall be segregated, conserved and redistributed as the final surface layer.

(e) The B horizon and portions of the C horizon, or other underlying layers demonstrated to have qualities for comparable root development, shall be segregated and replaced as subsoil if the Department determines that either of these is necessary or desirable to ensure soil productivity consistent with the approved postdisposal land use.

(f) When approved by the Department, in writing, other material may be substituted or used as a supplement to topsoil if the operator demonstrates that the resulting soil medium is equal or more suitable than topsoil for sustaining vegetation and soil productivity. In making this demonstration, the Department may require chemical and physical analyses of the substituted material and topsoil. These analyses may include determinations of pH, net acidity or alkalinity, phosphorus, potassium, texture class, field site trials or greenhouse tests or other analyses as required by the Department.

**§ 90.101. Hydrologic balance: general requirements.**

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

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

(c) In no case shall the treatment requirements and effluent limitations established under § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices) be violated.

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

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

**§ 90.102. Hydrologic balance: water quality standards, effluent limitations and best management practices.**

(a) A person may not allow a discharge of water from an area disturbed by coal refuse disposal activities, including areas disturbed by mineral preparation, processing or handling facilities which exceeds the following groups of effluent criteria. The effluent imitations are to be applied under subsection (b).

<i>Parameter</i>	<i>Group A</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 <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The parameter is applicable at all times.

<i>Parameter</i>	<i>Group B</i>
	<i>Instantaneous Maximum</i>
iron (total)	7.0 mg/l
settleable solids	0.5 ml/l
pH	greater than 6.0; less than 9.0
alkalinity greater than acidity	greater than 6.0; less than 9.0

<i>Parameter</i>	<i>Group C</i>
	<i>Instantaneous Maximum</i>
pH	greater than 6.0; less than 9.0
alkalinity greater than acidity	greater than 6.0; less than 9.0

\* \* \* \* \*

**§ 90.106. Hydrologic balance: erosion and sedimentation control.**

(a) Appropriate erosion and sediment control measures shall be designed, constructed and maintained using the best technology currently available to:

(1) Prevent, to the extent possible, contributions of sediment to stream flow or to runoff outside the affected area.

(2) Meet the treatment requirements and effluent limitations of § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(3) Minimize erosion to the extent possible.

(4) Meet the requirements of Chapter 102 (relating to erosion control).

(b) All areas disturbed by coal refuse disposal activities shall be permanently stabilized as soon as practicable.

**§ 90.134. Haul roads and access roads: general.**

(a) Haul roads and access roads shall be designed, constructed and maintained to control or prevent: contributions of sediment to streams or runoff outside the affected area; flooding; air and water pollution; damage to fish and wildlife or their habitat; and damage to public or private property. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the

design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement and culvert size, in accordance with current, prudent engineering practices, and necessary design criteria established by the Department. Upon completion of the associated surface mining activities, the area disturbed by the road shall be restored in accordance with § 90.140 (relating to haul roads and access roads: restoration), unless retention of the road and its maintenance plan are approved as part of the postmining land use.

(b) The haul road or access roads may not be located in or within 100 feet (30.48 meters) of a perennial or intermittent stream except in accordance with § 86.102 (relating to areas where mining is prohibited or limited). Crossing of a perennial or intermittent stream shall be made using bridges, culverts or similar structures. Bridges, culverts or other encroachment or water obstruction shall meet the requirements of Chapter 105 (relating to dam safety and waterway management).

(c) Each road shall have a drainage system that is compatible with the natural drainage system, structurally stable and will pass safely the peak flow from a 10-year, 24-hour precipitation event, or larger event if required by the Department. The drainage system shall include sloped or crowned road surface, cross drains or culverts, stabilized ditches, erosion-resistant surfacing, sediment traps and other appropriate sediment control measures as required by § 90.106 (relating to hydrologic balance: erosion and sedimentation control).



(d) Roads shall be constructed on stable areas that avoid wet or unstable soils.

(e) Prior to the construction of the road, all topsoil shall be removed, stored on a stable site and protected against erosion and compaction until restoration of the haul road.

(f) Disturbed areas adjacent to the road shall be vegetated or otherwise stabilized to prevent erosion.

(g) Haul roads shall be surfaced with material sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road. Acid or toxic-forming material may not be used for surfacing or construction of a road except when the road is within the confines of a coal refuse disposal or reprocessing area, and the effluent meets the requirements of § 90.102 (relating to hydrologic balance: water quality standards, effluent limitations and best management practices).

(h) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired or reclaimed as soon as practicable after the damage has occurred.

(i) Haul roads and roads approved as part of the postmining land use shall be certified by a qualified registered professional engineer or qualified registered land surveyor that the roads have been constructed or reconstructed as designed in accordance with the approved plan.

**§ 90.140. Haul roads and access roads: restoration.**

Unless the Department approves retention of a road as suitable for the approved postdisposal land use in accordance with § 90.166 (relating to postdisposal land use), as soon as practicable after the road is no longer needed for operations, reclamation or monitoring:

- (1) The road shall be physically closed to vehicular traffic.
- (2) The road and adjacent slopes shall be regraded to blend with the natural contours and drainage pattern.
- (3) Bridges and culverts shall be removed.
- (4) Roadbeds shall be ripped or scarified.
- (5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural drainage restoration standards.
- (6) Cut slopes shall be shaped to blend with the natural contour.
- (7) Cross drains, dikes and water bars shall be constructed to minimize erosion.
- (8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut and fill slopes.
- (9) Road surfacing materials shall be removed if the materials are incompatible with the postmining land use and establishment of vegetation.
- (10) Disturbed areas shall be covered with topsoil in accordance with §§ 90.96—90.100 and revegetated in accordance with § 90.151 (relating to revegetation: general requirements).
- (11) Excess material and debris shall be disposed in a manner approved by the Department.

**§ 90.147. Support facilities and utility installations.**

(a) Support facilities required for, or used incidentally to, the operation of the coal refuse disposal area, including, but not limited to, buildings, coal loading facilities at or near the coal refuse disposal site, coal storage facilities,

equipment storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops and other buildings, shall be located, maintained and used in a manner that does the following:

(1) Prevents or controls erosion and siltation, water pollution and damage to public or private property.

(2) To the extent possible using the best technology currently available minimizes:

(i) Damage to fish, wildlife and related environmental values.

(ii) Additional contributions of suspended solids to streamflow or runoff outside the permit area. These contributions may not be in excess of limitations of State or Federal law.

(b) All coal refuse disposal activities shall be conducted in a manner which minimizes damage, destruction or disruption of services provided by oil, gas and water wells; oil, gas and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under or through the permit area, unless otherwise approved by the owner of those facilities and the Department.

**§ 90.150. Protection of fish, wildlife and related environmental values.**

(a) A person conducting coal refuse disposal activities shall, to the extent possible using the best technology currently available:

(1) Minimize disturbances and adverse impacts of the activities on fish, wildlife and related environmental values, and achieve enhancement of the resources when practical.

(2) Locate and operate haul and access roads to avoid or minimize impacts to fish and wildlife species or other species protected by State or Federal law.

(3) Avoid disturbance to, enhance where practicable, or restore habitats of unusually high value for fish and wildlife.

(4) Restore, enhance when practicable, or maintain natural riparian vegetation on the banks of streams, lakes and other wetland areas.

(5) Not use restricted pesticides on the areas during coal refuse disposal activities, unless approved by the Department of Agriculture.

(6) Do the following, if fish and wildlife habitat is to be postdisposal land use, in addition to the requirements of §§ 90.151—90.157, 90.159 and 90.160:

(i) Select plant species to be used on reclaimed areas, based on the following criteria:

(A) Their proven nutritional value for fish and wildlife.

(B) Their uses as cover for fish and wildlife.

(C) Their ability to support and enhance fish and wildlife habitat after release of bonds.

(ii) Distribute plant groupings to maximize benefit to fish and wildlife. Plants shall be grouped and distributed in a manner which optimizes edge effect, cover and other benefits for fish and wildlife.

(7) Intersperse the fields with trees, hedges or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals when cropland is to be the alternative postdisposal land use and when appropriate for wildlife and crop management practices. Wetlands

shall be preserved or created rather than drained or otherwise permanently abolished.

(8) Intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals, unless the green belts are inconsistent with the approved postdisposal land use, when the primary land use is to be residential, public service or industrial land use.

(9) Design fences, overland conveyors and other potential barriers to permit passage for large mammals, except if the Department determines that the requirements are unnecessary.

(10) Fence, cover or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

(b) A person who conducts coal refuse disposal activities shall promptly report to the Department the presence in the permit area of threatened or endangered species under State or Federal laws of which that person becomes aware and which was not previously reported to the Department by that person. Upon notification, the Department will consult with the Game Commission or the Fish and Boat Commission and appropriate Federal fish and wildlife agencies and, after consultation, will identify whether, and under what conditions, the operator may proceed.

(c) Coal refuse disposal activities may not be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest or its eggs. The operator shall promptly report to the Department a golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department will consult with the United States Fish and Wildlife Service and the Game Commission and, after consultation, will identify whether, and under what conditions, the operator may proceed.

(d) Coal refuse disposal activities may not be conducted which are likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the Interior, the Game Commission or the Fish and Boat Commission or which are likely to result in the destruction or adverse modification of designated critical habitats of the species in violation of the Endangered Species Act of 1973, 16 U.S.C.A. §§ 1531—1544.

#### § 90.166. Postdisposal land use.

(a) Prior to the release of land from permit area in accordance with Chapter 86, Subchapter F (relating to bonding and insurance requirements), all affected areas shall be restored in a timely manner to conditions that are capable of supporting the uses which they were capable of supporting before any coal refuse disposal activities, or to higher or better uses achievable under criteria and procedures of this section.

(b) The predisposal use of land to which the postdisposal land use is compared shall be determined by the following:

(1) The postdisposal land use for land that has not been previously mined or had coal refuse disposal activities and has been properly managed shall be judged on the basis of those uses which the land previously supported.

(2) The postdisposal land use for land that has been previously mined and not reclaimed shall be judged on the basis of the condition prior to any mining, including

disposal, or the highest and best use that can be achieved and is compatible with surrounding areas.

(c) Alternative land uses may be approved by the Department after consultation with the landowner or the land management agency having jurisdiction over the lands and after determining that the following criteria are met:

(1) The proposed postdisposal land use is compatible with adjacent land use and applicable land use policies, plans, and programs and Federal, State and local law. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Department before coal refuse disposal activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State or Federal land management agencies, is obtained and remains valid throughout the coal refuse disposal activities.

(2) The owner of the surface requests in a notarized written statement that the alternative land use be approved.

(3) The proposed postmining land use is reasonably likely to be achieved which may be demonstrated by one or more of the following or other similar criteria:

(i) Specific plans are prepared and submitted to the Department which show the feasibility of the postdisposal land use as related to projected land use trends and markets. The plan shall include a schedule showing how the proposed use will be developed and achieved within a reasonable time after coal refuse disposal activities are completed and how the development will be sustained. The Department may require appropriate demonstrations to show that the planned procedures are feasible, reasonable and integrated with coal refuse disposal activities, and that the plans will result in successful reclamation.

(ii) Provision for necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts coal refuse disposal activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under § 86.34 (relating to informal conferences). The letters shall be submitted to the Department before coal refuse disposal activities begin.

(iii) Specific and feasible plans are submitted to the Department which show that financing, attainment and maintenance of the postdisposal land use are feasible and, if appropriate, are supported by letters of commitment from parties other than the person who conducts the coal refuse disposal activities.

(4) The proposed use will not present an actual or potential threat to public health or safety or of water diminution, interruption, contamination or pollution.

(5) The use will not involve unreasonable delays in reclamation.

(6) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values and threatened or endangered plants is obtained from the Department, and appropriate State and Federal fish and wildlife management agencies have been provided a 30-day period to review the plan before coal refuse disposal activities begin.

[Pa.B. Doc. No. 98-761. Filed for public inspection May 8, 1998, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

### Bottled Water Systems; Permit by Rule

The Environmental Quality Board (Board) proposes to amend Chapter 109 (relating to safe drinking water). The proposed amendments would establish a permit by rule for in-State permitted bottled water systems that meet certain specified criteria, reduce compliance monitoring for radionuclides for bottled water systems, retail water facilities and bulk water hauling systems, allow label information on the cap of returnable containers and allow new or additional proprietary labels to be submitted to the Department following production or distribution of the new or additional label product. Other minor revisions are also included pertaining to the submission of the coliform monitoring siting plan applicable to all public water systems and clarifying consecutive water system monitoring for lead and cadmium.

This proposal was adopted by the Board at its meeting of March 17, 1998.

#### A. Effective Date

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

#### B. Contact Persons

For further information contact Frederick Marrocco, Acting Director, Bureau of Water Supply Management, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 787-9035 or Pamela Bishop, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I 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) Web site (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

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

#### D. Background and Purpose

The act authorizes the Department to regulate public water systems in this Commonwealth. The act defines "public water system" to include a system which provides water for bottling or bulk hauling for human consumption.

Systems providing water for bottling include:

- (1) Bottled water systems, which provide water for bottling in sealed containers.
- (2) Vended water systems, which provide water for bottling through the use of water vending machines.

(3) Retail water facilities which provide water for bottling by dispensing, at a store counter, unit servings of water in a customer's or the system's containers.

Beginning in December 1984, the overall requirements in Chapter 109 pertaining to these water systems became effective. Chapter 109 was amended at 22 Pa.B. 2621 (May 16, 1992) to place all requirements pertaining to these types of systems in one subchapter rather than having the requirements interspersed among requirements for other public water systems throughout Chapter 109.

Representatives of the large in-State bottled drinking water operations have expressed concerns over the time and expense involved in obtaining permit amendments and the types of in-plant modifications which require permit amendments. The primary reason for the concern was that the requirements were affecting their ability to implement timely business decisions. In response, a workgroup was formed consisting of several bottlers in this Commonwealth: the International Bottled Water Association (IBWA), NSF International (NSF), representatives of a large tap water system, an engineering/consulting firm and the League of Women Voters in addition to representatives of the Department and the Departments of Agriculture and Health. The purpose of the workgroup was to develop a framework for a permit by rule for bottled water systems to streamline the permitting process and minimize business disruption while ensuring regulatory efficiency, compliance and protection of public health. This is part of the Governor's PRIME (Privatize, Retain, Innovate, Modify and Eliminate) Initiative to provide better services to the regulated community and to make government smaller, more efficient and responsive.

Bottled water is regulated at the Federal level as a food product by the Food and Drug Administration (FDA) under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C.A. §§ 301—397). The Federal requirements applicable to bottled water include: food adulteration and misbranding provisions of Federal law; general food and specific bottled water Good Manufacturing Practice (GMP) regulations; standards of identity and quality for bottled water; and both civil and criminal penalties for noncompliance with these FDA requirements. The Commonwealth's existing regulations require compliance with the FDA requirements under 21 CFR 129 (relating to processing and bottling of bottled water).

The IBWA is the trade organization for the bottled water industry. In addition to the FDA requirements, the IBWA's Model Bottled Water Code for IBWA members provides information and standards on bottled water manufacturing practices, operational requirements and quality control for the bottled water industry.

The NSF is an internationally recognized third-party inspection and certification agency. The NSF's bottled water certification program verifies that a bottling facility and product waters meets the requirements of the Federal FDA regulations governing bottled water. The NSF conducts an annual unannounced audit of the bottling and processing facilities including source/product water testing. Bottlers meeting the certification requirements are allowed to use the registered NSF listing mark in their advertising, promotional activities and product listing. The IBWA members have an annual unannounced

onsite audit conducted by the NSF; however, the NSF certification is not a requirement of the IBWA membership.

The Bottled Water Workgroup met on several occasions resulting in the cooperative development of a proposed permit by rule framework for in-State bottlers which addresses the bottled water industry concerns.

The permit by rule proposal would provide in-State permitted bottlers an option to obtaining a permit amendment for substantial modifications (except for the addition of new sources or expanded use of existing permitted sources) to the bottling, processing or manufacturing facilities provided certain specified criteria are met. Specific criteria would include: the source type (groundwater not under the direct influence of surface water or finished water from a community water system, or both); the source water quality (does not exceed FDA quality standards for health related chemical and radiological contaminants and requires only disinfection to meet the Pennsylvania primary maximum contaminant levels); use of acceptable treatment technologies; and demonstrated compliance with the National standards of the FDA and the IBWA Model Bottled Water Code as determined by an annual onsite evaluation conducted by a third-party organization such as the NSF. The bottler would first notify the Department of the intent to operate under the permit by rule. A bottled water system operating under the permit by rule would file with the Department descriptions of substantial modifications such as replacement of equipment or addition of a new product line within 30 days of operation of the modification.

New in-State bottled water systems would still be required to obtain a public water system permit for the construction and operation of the bottled water system after which they could operate under the permit by rule option if qualified. The permit by rule does not include new sources or expanded use of existing permitted sources which would continue to require a permit amendment from the Department under the present permitting requirements. Any bottler seeking to use the permit by rule would have to comply with all other applicable laws administered by the Department as required by section 7 of the act (35 P.S. § 721.7) and comply with other requirements of Chapter 109, including design, construction, operation, monitoring and reporting.

The draft proposed permit by rule was presented to the Water Resources Advisory Committee (WRAC) at its November 12, 1997, meeting and to the Advisory Board for the Small Systems Technical Assistance Center (TAC) at its November 18, 1997, meeting. The TAC Board approved the proposed amendments. The WRAC's review and recommendations resulted in the following changes to the draft proposal:

1. Deletion of the IBWA from the authority to determine the acceptability of the third-party inspection organization in § 109.1005(c)(3) (relating to permit requirements) so that only the Department determines the acceptability of the third-party evaluation organization.
2. Deletion of "operationally" in § 109.1005(c)(3)(i) since it infers that the third-party inspection organization is involved with operating a bottled water system.
3. Addition of a new § 109.1005(c)(3)(v) pertaining to the evaluation organization demonstrating the capability through experience or training, or both, to implement and conduct the onsite evaluation.

The WRAC also recommended that § 109.1005(c)(5) be changed to require the bottler to notify the Department of

substantial modifications to the system "...from 30 days following operation of the modification..." to "...at least 30 days prior to the operation of the modification..." One of the purposes of developing a permit by rule was to streamline the permitting process. The recommendation would require the bottler to determine in advance what substantial modifications (including replacement of existing equipment) would be required and would not authorize operation of the modification within the 30-day period. This could result in a delay in resuming production which would be costly to the bottler and result in possible loss of market share. The Department believes the proposed 30 days' notice following operation is appropriate and does not preclude the bottler from submitting the information in advance of the operation of the proposed facilities.

The proposed amendments pertaining to radionuclide compliance monitoring, labeling requirements for returnable containers and coliform monitoring site plan submission address issues determined through the Regulatory Basics Initiative (RBI) which identified regulations for possible revision that were obsolete, prescriptive, redundant, needing clarification or more stringent than Federal regulations.

The average daily consumption of drinking water is assumed to be 2 liters per person per day in establishing drinking water standards. Because a container smaller than a half gallon cannot provide one person's drinking water needs for 1 day, the Department, by policy published in the Preamble at 20 Pa.B. 2621 to Chapter 109, announced its intention to regulate only those bottled water systems providing water for bottling in 1/2 gallon or larger containers. Many specialized bottled water products are marketed as beverages or pharmaceuticals, and generally in small containers. The Department has not regulated the products which are generally regulated under State and Federal food and drug laws. Consumers' demands for more convenience in bottled drinking water has led to an increase in the small bottled water product market. Bottlers who bottle the large containers also use the same water in bottling in the small containers. There may be bottlers who only produce the smaller sizes for distribution in this Commonwealth and thus are not regulated under the Department's safe drinking water regulations.

As part of this proposed rulemaking, the Department is requesting comment with supporting data on whether it should modify its policy on regulating small bottled products (less than one-half gallon) and bottlers of small bottled products.

#### E. Summary of Regulatory Requirements

1. *Section 109.1. Definitions.* Added definition for "IBWA," the International Bottled Water Association and revised the definition for "NSF" to reflect the new name of NSF International.

2. *Section 109.301(8). Consecutive water system monitoring for lead and cadmium.* Subparagraph (ii)(B) was deleted, subparagraph (ii)(C) was renumbered as (ii)(B) and references to lead and cadmium monitoring in subparagraph (iii) were deleted. The current regulations are confusing in that consecutive systems under subparagraph (iii) are required to monitor for lead and cadmium in accordance with subparagraph (ii)(B) which was reserved. The intent of the Department was to delete the lead and cadmium monitoring requirement in subparagraph (iii). Consecutive systems are required to monitor for lead under § 109.1101(c). Cadmium is a contaminant in the metals used to galvanize pipe and in brass used in

faucets and generally gets into finished water by corrosion of galvanized pipes or into the source water by improper waste disposal. Compliance monitoring for cadmium is required at the entry point to the distribution system. Since corrosion control measures to meet the lead action level would also minimize the corrosion of cadmium from galvanized pipe and brass faucets, the lead and cadmium monitoring requirements in subparagraph (iii) are unnecessary.

3. *Section 109.701(a)(5). Siting plan.* The "...November 16, 1992..." date was deleted and replaced with "...within 30 days of receipt of the Department's request for this information" for submission of a siting plan for coliform monitoring. The present requirement was identified under the RBI as obsolete.

4. *Section 109.1003(a)(1)(vii). General monitoring requirements.* The monitoring for compliance with radiological maximum contaminant levels (MCLs) for bottled water systems, retail water facilities and bulk water hauling systems was reduced from "...annually..." to "...once every 4 years..." The present requirement was identified under the RBI as more stringent than the Federal requirements.

5. *Section 109.1005. Permit requirements.* A new subsection (c) "Special permit by rule requirement for bottled water systems" was added. The proposed subsection would provide an option for in-State permitted bottlers to obtain a permit amendment for modifications (except for the addition of new sources or expanded use of existing permitted sources) to the bottling, processing or manufacturing facilities provided the bottled water system meets certain specified criteria. Specific criteria would include the source type (groundwater not under the direct influence of surface water or finished water from a community water system, or both) and water quality (does not exceed FDA quality standards for health related chemical and radiological contaminants and requires only disinfection to meet the Pennsylvania primary maximum contaminant levels), use of acceptable treatment technologies and demonstrated compliance with the National standards of the FDA and the IBWA Model Bottled Water Code as determined by an annual onsite evaluation conducted by a third-party organization such as NSF or other organizations acceptable to the Department. To be acceptable to the Department, the organization must be independent of the bottlers using its services, have policies and procedures indicating the organization will support the Department's enforcement actions, have a system to respond to bottlers' complaints with appropriate due process safeguards, maintain a quality assurance and quality control program, and demonstrate its capability to conduct an onsite evaluation program. The bottler would be required to notify the Department of the intent to operate under the permit by rule and would notify the Department within 30 days following operation of a substantial modification to the bottling, processing or manufacturing facilities for the bottled water products.

6. *Section 109.1007(a). General labeling requirements.* The present regulation requires containers of bottled water to have labels which are designed to remain affixed to the container during usage. Through guidance, the Department has included the cap on returnable bottles under the "...affixed to the container during use..." in subsection (a). The present requirements were identified under the RBI as being unclear. The proposed amendments reflect the guidance.

7. *Section 109.1008(a)(3). Reporting and recordkeeping requirements for bottled water and vended water systems,*

*retail water facilities and bulk water hauling systems.* Bottlers are now required to submit new or proprietary labels to the Department for approval prior to beginning production of the new bottled water product. Subsection (a)(3) has been revised to require the bottler to submit new or proprietary labels to the Department within 10 days following the production or distribution of the new or additional bottled water product. The bottler can also submit the new or additional labels to the Department in advance for a Department review if desired. The bottler will still be required to comply with § 109.1007 (relating to labeling requirement for bottled water systems, vended water systems and retail water facilities).

#### F. *Benefits, Costs and Compliance*

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

##### *Benefits*

Bottlers in this Commonwealth who elect to operate under the permit by rule should realize time and cost savings from the streamlined permitting process by being able to make timely business decisions such as installation of a new or additional production line or replacement equipment without first obtaining a Department permit amendment. Along with the revised requirements for submitting new or additional product labels, this will provide bottlers in this Commonwealth greater flexibility and opportunity to respond to market conditions and increase competitiveness with out-of-State bottlers. The consumers of bottled water may also benefit from lower prices; however, this is difficult to quantify, due to the many factors affecting the retail price in producing bottled water products.

Over 90 bottled water systems, retail water facilities and bulk water hauling systems will benefit from the reduction in the compliance monitoring for radionuclides from annually to once every 4 years.

##### *Compliance Costs*

There should be no additional costs to State and local government or the regulated community to implement the proposed amendments.

The permit by rule is an option and a bottler of this Commonwealth is not required to operate under the permit by rule. Under the permit by rule option, there would be an annual cost estimated at \$600—\$800 for the third-party evaluation. Bottlers in this Commonwealth who are IBWA members or NSF certified should not experience an annual cost for the third-party inspection since this cost is included in IBWA's membership fee or NSF's certification fee. Bottlers in this Commonwealth who do not have an annual third-party evaluation and elect to operate under the permit by rule would experience the annual evaluation cost. However, this cost should be offset by the bottler not being required to pay a permit application fee of \$300 to \$750 for major amendments to the bottling process under the present permitting procedures and the cost savings from reducing the radionuclide compliance monitoring from annually to once every 4 years. Since the permit by rule is an option, it is difficult to estimate the additional costs (if any) to bottlers in this Commonwealth.

##### *Compliance Assistance Plan*

It is anticipated that extensive compliance assistance will not be necessary. The permit by rule is an option for bottlers in this Commonwealth. The other proposed amendments update, modify or clarify present requirements.

The Department will notify the regulated community through the *Environmental Protection Update Weekly Newsletter* and through revised Key Requirements summaries affected by the proposed amendments. The Key Requirements summaries are available to the regulated community and placed on the Department's Web site. If necessary, the Department will directly notify the regulated community, including out-of-State bottlers, through mailings. The Department staff will be available to assist the regulated community and any bottler in this Commonwealth considering operating under the permit by rule.

#### *Paperwork Requirements*

There should be no increase in the amount of paperwork. Overall, with the exception of the permit by rule, the proposed amendments update, clarify or revise present requirements and should not have any major impact on existing reporting, recordkeeping or other paperwork requirements.

Compared to obtaining a permit amendment under the present permitting process, bottlers in this Commonwealth would first notify the Department of the intent to operate under the permit by rule, file descriptions of substantial modifications within 30 days of operation of the modification and submit annual proof of compliance with the FDA standards and the IBWA Model Bottled Water Code based on the third-party evaluation. Bottlers operating under the permit by rule would still be required to comply with the other provisions of the act and regulations including design, construction, operation, reporting and recordkeeping. The Department anticipates the permit by rule would decrease paperwork requirements compared to obtaining a Department permit for modifications to the bottling, processing and manufacturing of bottled water. The reduction in radionuclide monitoring would reduce reporting and paperwork requirements for over 90 bottled water systems, retail water facilities and bulk water hauling systems.

#### *G. Sunset Review*

These amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments 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 April 28, 1998, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House 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.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the final-form regulations.

#### *I. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the

proposed amendments 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 June 8, 1998 (within 30 days of publication in the *Pennsylvania Bulletin*). 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 June 8, 1998 (within 30 days of publication in the *Pennsylvania Bulletin*). 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-form regulations will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us and must also be received by the Board by June 8, 1998. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF,  
*Chairperson*

**Fiscal Note:** 7-337. No fiscal impact; (8) recommends adoption.

#### **Annex A**

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

#### **Subpart C. PROTECTION OF NATURAL RESOURCES**

#### **ARTICLE II. WATER RESOURCES**

#### **CHAPTER 109. SAFE DRINKING WATER**

#### **Subchapter A. GENERAL PROVISIONS**

#### **§ 109.1. Definitions.**

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

\* \* \* \* \*

**IBWA—The International Bottled Water Association, Alexandria, Virginia 22314.**

\* \* \* \* \*

**NSF—[ The National Sanitation Foundation ] NSF International, Ann Arbor, Michigan 48106.**

\* \* \* \* \*

#### **Subchapter C. MONITORING REQUIREMENTS**

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

The monitoring and analytical requirements, including approved sampling procedures and analytical techniques, established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to national primary drinking water regulations), as of December 8, 1984, are incorporated by reference. Public water suppliers shall monitor for compliance with MCLs in accordance with the requirements established in the National Primary Drinking Water Regulations, except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements).

Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(ii) Community consecutive water suppliers shall:

\* \* \* \* \*

**(B) [ Reserved**

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

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

\* \* \* \* \*

**Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES**

**§ 109.701. Reporting and recordkeeping.**

(a) *Reporting requirements for public water systems.* Public water systems shall comply with the following requirements:

\* \* \* \* \*

(5) *Siting plan.* The water supplier shall submit to the Department a written sample siting plan for routine coliform sampling as required by § 109.303(a)(2) **[ by November 16, 1992 ]** within 30 days of receipt of the Department's request for this information.

\* \* \* \* \*

**Subchapter J. BOTTLED WATER AND VENDED WATER SYSTEMS, RETAIL WATER FACILITIES AND BULK WATER HAULING SYSTEMS**

**§ 109.1003. Monitoring requirements.**

(a) *General monitoring requirements.* Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall monitor for compliance with the MCLs in accordance with **[ the requirements under ]** § 109.301 (relating to general monitoring requirements) and shall comply with § 109.302 (relating to special monitoring requirements). The monitoring requirements shall be applied as follows, except that systems which have installed treatment to comply with a primary MCL shall conduct quarterly operational monitoring for the contaminant which the facility is designed to remove:

(1) Bottled water systems, retail water facilities and bulk water hauling systems, for each entry point shall:

\* \* \* \* \*

(vii) Monitor for compliance with radiological MCLs **[ annually ]** once every 4 years.

\* \* \* \* \*

**§ 109.1005. Permit requirements.**

\* \* \* \* \*

**(c) Special permit by rule requirement for bottled water systems.** A person owning or operating a bottled water system in this Commonwealth, permitted under this chapter shall obtain an amended permit before making substantial modifications to the processing and bottling facilities unless the bottled water system satisfies the conditions for a permit by rule in paragraphs (1)—(5). The permit-by-rule does not apply to the addition of new sources or the expanded use of existing permitted sources used by the bottled water system. For the addition of new sources or the expanded use of existing permitted sources, a permit amendment under subsection (f), relating to permit amendment applications, shall be obtained. The Department retains the right to require a bottled water system that meets the requirements of paragraphs (1)—(5) to obtain a permit, if, in the judgment of the Department, the bottled water system cannot be adequately regulated through the standardized specifications and conditions. A bottled water system which is released from the obligation to obtain a permit shall comply with the other requirements of this subchapter, including design, construction and operation requirements. The following are the conditions for a permit by rule:

(1) The bottled water system has as its sole sources of water permitted groundwater sources which are not under the direct influence of surface water as determined through a protocol established by the Department or approved by the Department or finished water from a Department approved community water system.

(2) The water quality of the source does not exceed the Food and Drug Administration quality standards for primary (that is, health-related) chemical and radiological contaminants specified in 21 CFR 165.110 (relating to beverages) as determined under sampling conducted under subsection (e)(4)(ii) and requires treatment no greater than disinfection to provide water of a quality that meets the primary MCLs established under Subchapter B (relating to MCLs and treatment techniques).

(3) Proof that the facilities meet the standards of the Food and Drug Administration in 21 CFR Parts 110, 129 and 165 (relating to processing and bottling of bottled drinking water; current good manufacturing practices; and beverages) and the IBWA model bottled water code as determined by an onsite evaluation conducted by a Nationally recognized, independent, not-for-profit third-party organization such as NSF or another organization acceptable to the Department. The onsite evaluation shall be conducted annually. The proof shall consist of the report issued by the organization which shall be submitted to the Department within

30 days following the completion of the onsite evaluation. To be acceptable to the Department, the organization shall:

(i) Demonstrate it is independent of the bottled water systems using the organization's services.

(ii) Have well developed, documented policies, procedures and contracts to support enforcement actions for meeting compliance objectives.

(iii) Have an established system for investigating complaints and taking appropriate actions, with an effective appeals process.

(iv) Maintain a documented ongoing quality assurance and quality control program.

(v) Demonstrate the capability through experience or training, or both, to implement and conduct an onsite evaluation program.

(4) A bottled water system intending to operate under this subsection shall submit written notification to the Department with documentation that the system complies with paragraphs (1)–(3).

(5) A bottled water system operating under this subsection shall file descriptions of substantial modifications made to the system with the Department within 30 days of operation of the modification. The description shall include documentation that the modification meets the following requirements as applicable:

(i) Compliance with the product water-contact materials and treatment chemical additives toxicological requirements of § 109.606 (relating to chemicals, materials and equipment) or alternatively, the Food and Drug Administration standards in 21 CFR Part 129.

(ii) Validated treatment technologies for the reduction of contaminants. Validation may be established by certification to an applicable ANSI/NSF standard or through protocols developed by organizations/consortia such as, but not limited to, NSF, the American Water Works Association Research Foundation and the EPA Technology Verification Program.

[(c)] (d) Permit amendments. A person may not substantially modify a bottled water or vended water system, retail water facility or bulk water hauling system operated under a public water system permit without obtaining a permit amendment from the Department or otherwise complying with subsection [(e)] (f).

\* \* \* \* \*

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

water system permit for a bottled water or vended water system, retail water facility or bulk water hauling system shall include:

\* \* \* \* \*

[(e)] (f) Permit amendment applications. A bottled water or vended water system, retail water facility or bulk water hauling system operating under a public water system permit shall obtain a permit amendment before making a substantial modification to the public water system.

(1) A water supplier shall submit an application for a major permit amendment in accordance with subsection [(d)] (e), if the proposed modification constitutes a major change to the public water system.

\* \* \* \* \*

(iii) For vended water systems, typical modifications which may be considered major changes are proposed additions or deletions of treatment techniques or processes, new product lines or types of products and the addition to the system of machines not certified by NAMA. For new sources, the supplier shall obtain a separate and distinct permit in accordance with subsection [(d)] (e) unless the system qualifies for a permit by rule under subsection (b).

\* \* \* \* \*

(3) The Department determines whether a particular modification requires a permit amendment under subsection [(e)] (f)(1) or a permit amendment under subsection [(e)] (f)(2). The Department's determination will include consideration of the magnitude and complexity of the proposed change and the compliance history of the public water system.

[(f)] (g) Emergency permits. In emergency [circumstances] situations, the Department may issue permits for construction, operation or modification to a bottled water or bulk water hauling system, which the Department determines may be necessary to assure that potable drinking water is available to the public.

(1) Emergency permits shall be limited in duration and may be conditioned on additional monitoring, reporting and the implementation of appropriate emergency response measures. The Department may revoke an emergency permit if it finds the water system is not complying with drinking water standards or the terms or conditions of the permit. An authorization for construction, operation or modifications obtained under an emergency permit will not extend beyond the expiration of the emergency permit unless the public water system receives a permit or permit amendment under subsection [(d)] (e) or [(e)] (f) for the construction, operation or modification initiated during the emergency.

\* \* \* \* \*

[(g)] (h) Department's review. Applications for public water system permits and permit amendments for bottled water and vended water systems, retail water facilities and bulk water hauling systems will be reviewed in accordance with the following procedures:

\* \* \* \* \*

(3) As a condition of receiving a public water system permit, a bottled water system shall comply with the standards of the Food and Drug Administration contained



in 21 CFR Part 129. Evidence shall be presented demonstrating compliance with subsection [ (d) ] (e)(7)(iii).

\* \* \* \* \*

[ (h) ] (i) *Permit fees.*

(1) An application for a new permit or major permit amendment under subsection [ (e) ] (f)(1) for a bottled water or vended water system, retail water facility or bulk water hauling system shall be accompanied by a check in the amount of \$750 payable to the "Commonwealth of Pennsylvania," except that:

(i) An application from an out-of-State bottled water system submitting proof of out-of-State approval under subsection [ (d) ] (e)(6) shall be accompanied by a fee of \$100.

\* \* \* \* \*

(2) A fee is not required for an emergency permit under subsection [ (f) ] (g) or a minor permit amendment under subsection [ (e) ] (f)(2).

**§ 109.1007. Labeling requirements for bottled water systems, vended water systems and retail water facilities.**

(a) *General labeling requirements.* Containers of bottled water distributed in this Commonwealth by bottled water systems, retail water facilities or, when appropriate, vended water systems, shall have labels which are designed to remain affixed to the container during use and which include the following information **as required by this section. Labels with the following information on the caps of bottled water containers designed for reuse by the bottler are deemed to meet this requirement if the Department-issued identification number and the manufacture date, lot or batch number are on the bottle:**

\* \* \* \* \*

**§ 109.1008. System management responsibilities.**

(a) *Reporting and recordkeeping requirements for bottled water and vended water systems, retail water facilities and bulk water hauling systems.* Bottled water and vended water systems, retail water facilities and bulk

water hauling systems shall comply with the reporting requirements in § 109.701(a) and (d) (relating to reporting and recordkeeping).

\* \* \* \* \*

(3) For bottled water systems and, if applicable, vended water systems and retail water facilities, new or additional proprietary labels shall be reported to the Department in writing, along with copies of the labels, **[at least] within 10 days [prior to commencing] following production or distribution of the new or additional label product. The new or additional proprietary labels may be submitted to the Department prior to the product production if the water supplier desires initial Department review. The new or additional proprietary labels shall comply with § 109.1007 (relating to labeling requirements for bottled water systems, vended water systems and retail water facilities).**

(b) *Operation and maintenance plan requirements.* Bottled water, vended water, retail water and bulk water suppliers shall develop an operation and maintenance plan for each system. The operation and maintenance plan shall conform to the guidelines contained in Part III of the Department's *Public Water Supply Manual* which is available from the Bureau of Water Supply **[and Community Health] Management**, Post Office Box 8467, Harrisburg, Pennsylvania 17105. The water supplier shall implement the operation and maintenance plan in accordance with this chapter, and if appropriate in accordance with accepted practices of the bottled water, vended water, retail water facility or bulk water hauling industry. The plan shall be reviewed and updated as necessary to reflect changes in the operation or maintenance of the water system. The plan shall be bound and placed in locations which are readily accessible to the water system's personnel, and shall be presented upon request to the Department.

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