

# PENNSYLVANIA BULLETIN

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See Part II page 5939 for the  
Department of Conservation and  
Natural Resources' State Forests

## **Part I**

### **Agencies in this issue:**

The Courts  
Delaware River Basin Commission  
Department of Banking  
Department of Conservation and Natural  
Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Revenue  
Department of Transportation  
Environmental Quality Board  
Executive Board  
Fish and Boat Commission  
Historical and Museum Commission  
Housing Finance Agency  
Independent Regulatory Review Commission  
Insurance Department  
Pennsylvania Public Utility Commission  
Turnpike Commission

**Detailed list of contents appears inside.**

**Latest Pennsylvania Code Reporter  
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**PENNSYLVANIA**



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# Contents

## THE COURTS

### CRIMINAL PROCEDURAL RULES

- Rule 303 relating to arraignment and Rule 1117 relating to presence of defendant ..... 5867  
 Rule 1117 relating to presence of defendant ..... 5868  
 Rule 9022 relating to filings ..... 5869

### DISCIPLINARY BOARD OF THE SUPREME COURT

- Notice of suspension ..... 5872

### JUDICIAL SYSTEM GENERAL PROVISIONS

- Promulgation of Consumer Price Index and judicial salaries pursuant to Act 51 of 1995; No. 200  
 Judicial Administration doc. no. 1 ..... 5866

### LOCAL COURT RULES

#### Fayette County

- Local Rule 1901: prompt disposition of matters; termination of inactive cases; No. 2243 of 1998, G.D. .... 5871

## EXECUTIVE AGENCIES

### DELAWARE RIVER BASIN COMMISSION

#### Notices

- Commission meeting and public hearing ..... 5891

### DEPARTMENT OF BANKING

#### Notices

- Action on applications ..... 5891

### DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

#### Rules and Regulations

- State forests (Part II) ..... 5939

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

*See Also ENVIRONMENTAL QUALITY BOARD*

#### Notices

- Applications, actions and special notices ..... 5894  
 Availability of technical guidance ..... 5914

### DEPARTMENT OF GENERAL SERVICES

#### Notices

- Contract awards ..... 5935  
 State contracts information ..... 5927

### DEPARTMENT OF HEALTH

#### Notices

- Application of Allegheny University Hospital—Canonsburg for exception to 28 Pa. Code § 107.25(b)(8) ..... 5914  
 Application of Clearfield Hospital for exception to 28 Pa. Code § 107.25(b)(8) ..... 5914

- Application of Ellwood City Hospital for exception to 28 Pa. Code § 153.12, Universal Accessibility Standards 4.21.6 ..... 5915  
 Application of Hanover General Hospital for exception to:  
 28 Pa. Code § 139.12(a) ..... 5915  
 28 Pa. Code § 139.13(a) AIA 7.4B Table 5 ..... 5915  
 Application of Healthsouth Rehabilitation Hospital of Altoona for exception to 28 Pa. Code § 107.2 ..... 5916  
 Application of Warren General Hospital for exception to 28 Pa. Code § 109.2 ..... 5916  
 Health Policy Board; meeting notice ..... 5916

### DEPARTMENT OF REVENUE

#### Rules and Regulations

- Single factor apportionment and student loan assets exempt by public policy; corporation taxes ..... 5886

### DEPARTMENT OF TRANSPORTATION

#### Notices

- Open-end contract for design support services ..... 5916

### ENVIRONMENTAL QUALITY BOARD

#### Rules and Regulations

- New Motor Vehicle Emissions Control Program ..... 5873

### EXECUTIVE BOARD

#### Statements of Policy

- Reorganization of the Department of Military Affairs ..... 5889

### FISH AND BOAT COMMISSION

#### Rules and Regulations

- Operation of personal watercraft ..... 5884

#### Notices

- Additional restrictions on Fish and Boat Commission property ..... 5919

### HISTORICAL AND MUSEUM COMMISSION

#### Notices

- National Register nominations to be considered at the Historic Preservation Board meeting ..... 5919

### HOUSING FINANCE AGENCY

#### Notices

- Request for proposals; 1999 tax-exempt qualified residential rental facilities seeking private activity bond allocations ..... 5919

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

- Actions taken by the Commission ..... 5920

---

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**INSURANCE DEPARTMENT**

**Notices**

Application for voluntary surrender of Pennsylvania  
Certificate of Authority to operate a continuing  
care retirement community..... 5922  
Children's Health Insurance Program; meeting no-  
tice ..... 5922  
List of names of qualified unlicensed reinsurers . . . . 5922  
Workers' Compensation Security Fund assessment .. 5924

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Petition of The Pennsylvania Telephone Association  
for waiver of 52 Pa. Code § 64.41; doc. no. P-  
00981357..... 5925

**TURNPIKE COMMISSION**

**Notices**

Request for bids (2 documents) ..... 5926

# 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.

## 4 Pa. Code (Administration)

### Adopted Rules

1	466
6	4619
5	471, 1746, 2128, 2366
7	356

### Proposed Rulemaking

116	2817
117	2822

### Statements of Policy

9	49, 382, 1640, 1842, 2045, 2414, 2511, 2929, 4949, 5259, 5345, 5889
---	--

## 7 Pa. Code (Agriculture)

### Proposed Rulemaking

130d	4923
------	------

## 10 Pa. Code (Banks and Banking)

### Adopted Rules

7 (with correction)	5094, 5340
11	14
13	14
17	14
35	14
41	14, 2687

### Proposed Rulemaking

41	44
----	----

### Statements of Policy

41	1956
81	2049

## 12 Pa. Code (Community and Economic Development)

### Adopted Rules

63	4629
135	4893

### Proposed Rulemaking

33	1530
----	------

### Statements of Policy

61	1139
123	3807

## 16 Pa. Code (Community Affairs)

### Proposed Rulemaking

81	5249
83	5249
85	5249
87	5249
91	5249

### Statements of Policy

45	5136, 5578
----	------------

## 17 Pa. Code (Conservation and Natural Resources)

### Adopted Rules

21	5939
----	------

## 19 Pa. Code (Corporations and Business Associations)

### Adopted Rules

41	799
----	-----

## 22 Pa. Code (Education)

### Adopted Rules

14	1002
101	2580
201	5226
211	5226
213	2688, 5226
215	5226
342 (with correction)	1004, 1135

### Proposed Rulemaking

4	3875
14	4939
16	4939
33	3506
44	2148
121	1535
201	1543
211	1543
213	1543
215	1543
342	4939
701	3412

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

77 (with correction)	619, 801
78	1234
79	1234
80	1234
86	15, 2227
87	2215, 2227
88	2215, 2227
89	2227, 2761
90	2227
93 (with correction)	137, 1633, 3378, 4510
94	4517
103	18
121	5873
126	5873
128	4525
129	4525
131	4525
139	2035, 4525
216	4894
218	4894
221	4894
223	4894
227	4894
228	4894
245 (with correction)	1135
803 (with correction)	3588
901	1136
1021	4714

### Proposed Rulemaking

86	941
92	4431
93	1635, 3507, 4431
95 (with correction)	4431, 5577
96	4431
97	4431
102	769
109	2265

121	4792, 4867
126	4792
129	4867
139	4792
215	881
217	881
219	881
220	881
224	881
225	881
226	881
230	881
232	881
250	4073
271	4319
272	4319
273	4319
277	4319
278	4319
279	4319
281	4319
283	4319
285	4319
287	4073
288	4073
289	4073
291	4073
295	4073
297	4073
299	4073
1021	807

**Statements of Policy**

83	4634
----	------

**28 Pa. Code (Health and Safety)**

**Adopted Rules**

6	5094
51	2643
136	2643
138	2643
139	2643
158	2643

**Proposed Rulemaking**

6	485, 1008
---	-----------

**Statements of Policy**

9	5011
---	------

**31 Pa. Code (Insurance)**

**Adopted Rules**

1	3753
5	3753
7	3753
9	3753
27	2406
41	4530
57	4531
67	5482
71 (with correction)	1401, 1518
73 (with correction)	1401, 1518, 1941
103	3755
113	1235, 1518
117	3756
131	1314
135	3758
137	1237

**Proposed Rulemaking**

33	5246
35	4932
64	4931
67a	5246
84	4794
84a	4927
121	3805
123	4932
124	4932
125	4796

**Statements of Policy**

301	5019
-----	------

**34 Pa. Code (Labor & Industry)**

**Adopted Rules**

50	5867
65	21
122	329
123	329
125	5459
127	329
131	329

**Proposed Rulemaking**

61	2925
63	2925
65	2925
121	4603

**37 Pa. Code (Law)**

**Adopted Rules**

81	2500
91	4719
93	2501, 4719
203	2924

**Proposed Rulemaking**

31	2037
33	2037
203	2925
309	5343

**40 Pa. Code (Liquor)**

**Adopted Rules**

3	1418
5	1418
9	279
11	279, 5103
13	1418, 4920
15	1418

**Proposed Rulemaking**

11	2591
13	488

**49 Pa. Code (Professional and Vocational Standards)**

**Adopted Rules**

1	5869
9	3273
15	5340
16	1315, 1316, 4721
23	2586
25	3282
27	4532, 5241, 5485
31	5870
33	2589
35	3938
36	1941
41	2412



**Proposed Rulemaking**

1 ..... 1559  
 15 ..... 3414  
 16 ..... 814  
 21 ..... 2693  
 31 ..... 2289, 2927  
 33 (with correction) ..... 3293, 3296, 3593  
 36 ..... 2036  
 41 ..... 1421

**Statements of Policy**

21 ..... 5345  
 43b ..... 5883  
 61 ..... 382

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

1 ..... 647  
 3 ..... 647, 3760, 5769  
 5 ..... 647, 801, 5769  
 21 ..... 647  
 23 ..... 647  
 29 ..... 647  
 31 ..... 647  
 37 ..... 801  
 53 ..... 801  
 54 ..... 3283, 3760, 3775, 3780, 3791  
 55 ..... 801  
 56 ..... 801, 3379  
 57 ..... 3385, 5770  
 58 ..... 25  
 59 ..... 3050  
 63 ..... 3394  
 64 ..... 3394  
 65 ..... 801, 804  
 69 ..... 801  
 71 ..... 801

**Proposed Rulemaking**

3 ..... 2143  
 5 ..... 2143  
 32 ..... 2146  
 53 ..... 508  
 53a ..... 508  
 54 ..... 490, 493, 501, 508, 514, 518, 2139  
 57 ..... 493, 4724  
 63 ..... 3059

**Proposed Statements of Policy**

41 ..... 3959  
 69 ..... 1425, 5497

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

141 ..... 3939  
 175 ..... 3939  
 177 ..... 3939  
 181 ..... 2810  
 183 ..... 3939

**Proposed Rulemaking**

140 ..... 1531  
 141 ..... 2287  
 147 ..... 2287  
 181 ..... 1531  
 289 ..... 2287  
 3480 ..... 1079  
 3490 ..... 1079  
 3680 ..... 953, 1320  
 3710 ..... 953, 1320  
 3760 ..... 953, 1320

3800 (with correction) ..... 953, 1138, 1320  
 3810 ..... 953, 1320  
 5310 ..... 953, 1320  
 6400 ..... 953, 1320

**Statements of Policy**

259 ..... 3301  
 1101 ..... 138  
 1163 ..... 2150  
 1187 ..... 138

**58 Pa. Code (Recreation)**

**Adopted Rules**

21 ..... 1238  
 51 ..... 30, 1521, 1753  
 53 ..... 30, 4788  
 61 ..... 5103  
 63 ..... 1753  
 65 ..... 1754, 1755, 4788  
 91 ..... 4789  
 93 ..... 30, 34, 40, 1006, 4788  
 95 ..... 4789  
 97 ..... 4789  
 109 ..... 30, 4789, 5884  
 113 ..... 4789  
 135 ..... 2504  
 139 ..... 2504, 5486  
 141 ..... 2504, 3801, 5486  
 143 ..... 1316, 3801, 5487  
 147 ..... 1316

**Proposed Rulemaking**

53 ..... 1837, 5132  
 61 ..... 45, 1322, 1322, 1758, 1840, 3591, 4542, 5779  
 65 ..... 45, 1322, 1322, 1758, 1937, 3058, 5134  
 75 ..... 3591, 4542, 5779  
 91 ..... 1533  
 93 ..... 1837, 3057, 5132  
 95 ..... 1533  
 97 ..... 1533, 5131  
 109 ..... 1533, 1954, 5132  
 103 ..... 1533  
 133 ..... 5244  
 135 ..... 1243  
 139 ..... 1243, 3804  
 141 ..... 1243, 2814, 3804  
 143 ..... 2814  
 145 ..... 5244  
 147 ..... 5244  
 163 ..... 4797  
 165 ..... 4797

**61 Pa. Code (Revenue)**

**Adopted Rules**

6 ..... 1522  
 8a ..... 1522  
 9 ..... 5488, 5492  
 35 (with correction) ..... 1522, 1836  
 47 ..... 5488, 5492  
 71 ..... 979  
 72 ..... 979  
 73 ..... 979  
 75 ..... 979  
 76 ..... 979  
 77 ..... 979  
 79 ..... 979  
 83 ..... 979  
 85 ..... 979  
 103 ..... 5104  
 117 ..... 5669

155 ..... 5886  
 162 ..... 4630  
 170 ..... 5886  
 858 ..... 5342  
 865 ..... 5342  
 870 ..... 3945

**Proposed Rulemaking**

7 ..... 366  
 31 ..... 366  
 32 ..... 366, 1320  
 33 ..... 366  
 34 ..... 366  
 42 ..... 366  
 44 ..... 366  
 45 ..... 366  
 46 ..... 366  
 47 ..... 366  
 58 ..... 366  
 101 ..... 1946  
 155 ..... 380

**Statements of Policy**

60 ..... 3418

**64 Pa. Code (Securities)**

**Adopted Rules**  
 203 ..... 2509

**Proposed Rulemaking**

202 ..... 3950  
 206 ..... 3950  
 302 ..... 3950  
 606 ..... 3950  
 609 ..... 3950  
 610 ..... 3950

**Statements of Policy**

604 ..... 3302

**67 Pa. Code (Transportation)**

**Adopted Rules**  
 43 ..... 5872  
 71 ..... 364  
 75 ..... 364  
 83 ..... 364  
 105 ..... 3588  
 175 ..... 5670

**Proposed Rulemaking**

60 ..... 2139  
 63 ..... 2139  
 255 ..... 2814  
 449 ..... 2510

**70 Pa. Code (Weights, Measures and Standards)**

**Proposed Rulemaking**  
 1 ..... 5109  
 2 ..... 5109  
 3 ..... 5109  
 4 ..... 5109  
 5 ..... 5109  
 6 ..... 5109  
 7 ..... 5109  
 8 ..... 5109  
 9 (with correction) ..... 5109, 5244  
 10 ..... 5109  
 21 ..... 5109  
 35 ..... 5109  
 39 ..... 5109

**Statements of Policy**

39 ..... 2416

**201 Pa. Code (Rules of Judicial Administration)**

**Adopted Rules**  
 7 ..... 2283, 5849

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**  
 29 (with correction) ..... 3252, 3253, 3502, 3586, 5667  
 71 (with correction) ..... 3503  
 81 ..... 5479  
 83 ..... 2024  
 89 ..... 1834, 3504  
 91 ..... 1933  
 211 ..... 5866  
 215 ..... 3928

**207 Pa. Code (Judicial Conduct)**

**Adopted Rules**  
 1 ..... 1632  
 5 ..... 359  
 7 ..... 2806  
 21 ..... 1388  
 33 ..... 5849  
 51 ..... 5850  
 119 ..... 2131  
 303 ..... 2283

**Proposed Rulemaking**

1 ..... 795  
 3 ..... 1632  
 5 ..... 5330  
 7 ..... 2025  
 119 ..... 646

**210 Pa. Code (Appellate Procedure)**

**Adopted Rules**  
 33 ..... 4624

**225 Pa. Code (Rules of Evidence)**

Unclassified ..... 2369, 4787

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**  
 100 ..... 3928  
 200 ..... 359, 3928, 3929, 3930  
 400 ..... 3373, 3928  
 1000 ..... 3928  
 1300 ..... 3930  
 1900 ..... 1391  
 2950 ..... 2026  
 3000 ..... 2026  
 4000 ..... 2026, 2131, 4175

**Proposed Rulemaking**

200 ..... 3253, 5759  
 400 ..... 5570  
 1300 ..... 5759  
 1910 ..... 1216  
 2120 ..... 5570  
 2150 ..... 5570  
 2170 ..... 5570  
 3000 ..... 5759  
 4000 ..... 2032, 3253

**234 Pa. Code (Rules of Criminal Procedure)**

**Adopted Rules**  
 50 ..... 1126  
 100 ..... 1126  
 300 ..... 4624

1100 .....	4883
1400 .....	480
6000 .....	4625
Unclassified .....	5330

**Proposed Rulemaking**

20 .....	475, 1505
50 .....	1510
100 .....	1505, 3931
300 .....	475, 3931, 5089, 5867
305 .....	276
1100 .....	475, 5867, 5868
6000 .....	3931
9000 .....	5869

**246 Pa. Code (Minor Court Civil Rules)****Proposed Rulemaking**

100 .....	2685
300 .....	2685

**249 Pa. Code (Philadelphia Rules)**

Unclassified (with correction) .....	997, 1516, 2919, 2920, 3021, 3373, 3586, 3935, 4627, 5336, 5668, 5850
--------------------------------------	--

**252 (Allegheny County Rules)**

Unclassified .....	133, 135, 1936, 3373, 5479
--------------------	----------------------------

**255 Pa. Code (Local Court Rules)**

Unclassified .....	8, 9, 10, 135, 136, 277, 481, 482, 646, 795, 796, 798, 1000, 1128, 1132, 1233, 1312, 1516, 1750, 1751, 1834, 1835, 1939, 2033, 2132, 2283, 2285, 2403, 2404, 2405, 2499, 2578, 2685, 2686, 2806, 2808, 2921, 2922, 2923, 3024, 3048, 3255, 3257, 3258, 3504, 3587, 3752, 3936, 3937, 4176, 4177, 4178, 4179, 4243, 4509, 4627, 4891, 5092, 5093, 5225, 5338, 5339, 5572, 5573, 5574, 5575, 5576, 5668, 5851, 5882, 5871
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# PENNSYLVANIA BULLETIN

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## **Part II**

This part contains the  
Department of Conservation and  
Natural Resources' State Forests

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

#### Promulgation of Consumer Price Index and Judicial Salaries Pursuant to Act 51 of 1995; No. 200 Judicial Administration Doc. No. 1

#### Order

*Per Curiam:*

And Now, this 19th day of November, 1998, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 1999, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 211. JUDICIAL SALARIES

Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 1999, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 200 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending October 1998, was 1.6 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Tuesday, October 17, 1998).

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

Section 2.1. Judicial salaries effective January 1, 1999.

(a) *Supreme Court.*—The annual salary of the Chief Justice of the Supreme Court shall be \$131,423 and the annual salary of each of the other justices of the Supreme Court shall be \$127,951.

(b) *Superior Court.*—The annual salary of the President Judge of the Superior Court shall be \$125,815, and the annual salary of the other judges of the Superior Court shall be \$123,944.

(c) *Commonwealth Court.*—The annual salary of the President Judge of the Commonwealth Court shall be \$125,815. The annual salary of each of the other judges of the Commonwealth Court shall be \$123,944.

(d) *Courts of common pleas.*—

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

(i) Allegheny County, \$113,259.

(ii) Philadelphia County, \$113,794.

(iii) Judicial districts having six or more judges, \$112,191.

(iv) Judicial districts having three to five judges, \$111,657.

(v) Judicial districts having one or two judges, \$111,122.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$112,191.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$111,657.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$112,191.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$111,657.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$111,122.

(e) *Philadelphia Municipal Court.*—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$110,054. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$108,185.

(f) *Philadelphia Traffic Court.*—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$58,767. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$58,233.

(g) *District justices.*—A district justice shall receive an annual salary payable by the Commonwealth of \$55,027.

(h) *Senior judges.*—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$339 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge

retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 98-1976. Filed for public inspection December 4, 1998, 9:00 a.m.]

# Title 234—RULES OF CRIMINAL PROCEDURE

## PART I. GENERAL

### [234 PA. CODE CHS. 300 AND 1100]

#### Rule 303 Relating to Arraignment and Rule 1117 Relating to Presence of the Defendant

##### Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 303 (Arraignment) and 1117 (Presence of the Defendant) to establish a uniform, statewide procedure permitting defendants who are represented by counsel to waive appearance at arraignment. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

*By the Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

##### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL

#### CHAPTER 300. PRETRIAL PROCEEDINGS

##### Rule 303. Arraignment.

**[(a) Arraignment]** (A) Except as otherwise provided in paragraph (C), arraignment shall be in such form and manner as provided by local court rule. Notice of arraignment shall be given to the defendant as provided in Rule 9024 or by first class mail. Unless otherwise provided by local court rule, or postponed by the court for cause shown, arraignment shall take place no later than 10 days after the information has been filed.

**[(b)] (B) \* \* \***

\* \* \* \* \*

**[(c) When permitted by local rule, a]** (C) A defendant may waive appearance at arraignment if the following requirements are met:

\* \* \* \* \*

(2) the defendant and counsel sign and file with the clerk of courts a waiver of appearance at arraignment which acknowledges that the defendant:

\* \* \* \* \*

(ii) understands the rights and requirements contained in paragraph **[(b)] (C)** of this rule; and

\* \* \* \* \*

**Official Note:** Formerly Rule 317, adopted June 30, 1964, effective January 1, 1965; paragraph (b) amended November 22, 1971, effective immediately; paragraphs (a) and (b) amended and paragraph (e) deleted November 29, 1972, effective 10 days hence; paragraphs (a) and (c) amended February 15, 1974, effective immediately. Rule 317 renumbered Rule 303 and amended June 29, 1977, amended and paragraphs (c) and (d) deleted October 21, 1977, and amended November 22, 1977, all effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended October 21, 1983, effective January 1, 1984; amended August 12, 1993, effective September 1, 1993; rescinded May 1, 1995, effective July 1, 1995, and replaced by new Rule 303. New Rule 303 adopted May 1, 1995, effective July 1, 1995; **amended \_\_\_\_\_, 1998, effective \_\_\_\_\_.**

##### Comment

\* \* \* \* \*

Under paragraph **[(a)] (A)**, in addition to other instances of "cause shown" for delaying the arraignment, the arraignment may be delayed **[where] when** the defendant **[was] is** unavailable for arraignment within the 10-day period after the information **[was] is** filed.

Paragraph **[(c)] (C)** is intended to facilitate, for defendants represented by counsel, waiver of appearance at arraignment through procedures such as arraignment by mail.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendments deleting the local rule prerogative for requiring a defendant to appear for arraignment proceedings published at 28 Pa.B. 5868 (December 5, 1998).**

#### CHAPTER 1100. TRIAL

##### Rule 1117. Presence of the Defendant.

**[(a)] (A)** The defendant shall be present **[at the arraignment,]** at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. The defendant's absence without cause shall not preclude proceeding with the trial including the return of the verdict.

**[(b)] (B) \* \* \***

**[(c)] (C) \* \* \***

**Official Note:** Adopted January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; **amended** \_\_\_\_\_, **1998, effective** \_\_\_\_\_.

**Comment**

Paragraph [ (c) ] (C) was added in 1994 to make it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendments deleting the requirement that a defendant be present for arraignment published at 28 Pa.B. 5868 (December 5, 1998).**

**REPORT**

Proposed Amendments to Pa.Rs.Crim.P. 303 and 1117

*WAIVER OF APPEARANCE AT ARRAIGNMENT*

1. *Rule 303 (Arraignment)*

In 1995, the Court adopted a new and reorganized Rule 303 containing a provision that authorized, when permitted by local rule, waiver of appearance at arraignment by defendants who are represented by counsel and who satisfy the requirements in paragraph (C). See 25 Pa.B. 1944 (May 20, 1995). The Committee found that this provision has met with favorable response from members of the bench and bar in those judicial districts adopting a local rule. The experiences with the local rules have demonstrated that the purposes of arraignment are achieved by consultation between attorney and client, and that permitting the waiver has significantly reduced the burdens on the court's resources and the defendants' and counsels' time. In view of these findings and the continued movement toward reducing the number of local rules to promote the uniform, statewide practice of law, the Committee agreed that Rule 303 should be amended to permit, as a uniform, statewide procedure, a represented defendant to waive formal arraignment.

Accordingly, the proposed amendment to Rule 303 would delete the local rule option language in paragraph (C). Because the waiver would be a statewide procedure, and an exception to the procedures in paragraph (A), we are recommending that paragraph (A) include "except as otherwise provided in paragraph (C)," to make this clear.

2. *Rule 1117 (Presence of Defendant)*

As part of our discussion about the waiver of arraignment, the Committee also noted that Rule 1117 sets forth the proceedings, including arraignments, that require the presence of the defendant. The Committee agreed that, because Rule 303 allows a represented defendant to waive appearance at arraignment, Rule 1117 should be amended to delete "arraignments" from the list of proceedings requiring the defendant's presence. In addition, it was agreed by the members that, since Rule 1117 is in Chapter 1100, it should only apply to the stages of trial.

[Pa.B. Doc. No. 98-1977. Filed for public inspection December 4, 1998, 9:00 a.m.]

**PART I. GENERAL**  
**[234 PA. CODE CH. 1100]**

**Rule 1117 Relating to Presence of the Defendant**

**Introduction**

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania approve revisions to the Comment to Rule 1117 (Presence of the Defendant) to clarify 1) the procedures concerning waiver of a defendant's presence at trial, and 2) the procedures when a defendant fails to appear for a trial de novo. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed Comment revisions precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

*By The Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 1100. TRIAL**

**Rule 1117. Presence of the Defendant.**

\* \* \* \* \*

**Official Note:** Adopted January 24, 1968, effective August 1, 1968; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; **revised** \_\_\_\_\_, **1998, effective** \_\_\_\_\_.

**Comment:**

**Nothing in this rule is intended to preclude a defendant from waiving the right to be present at any stage of the trial. See *Commonwealth v. Vega*, \_\_\_ A.2d \_\_\_ (Pa. 1998) (requirements for a knowing and intelligent waiver of a defendant's presence at trial includes a full, on-the-record colloquy concerning consequences of forfeiture of the defendant's right to be present).**

Paragraph (c) was added in 1994 to make it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial de novo. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority. **When the sentence imposed by the issuing authority includes imprisonment, the trial judge should take the necessary steps to bring the defendant before the court for the execution of the sentence of imprisonment.**



*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed revisions concerning waiver of presence and execution of sentence published at 28 Pa.B. 5869 (December 5, 1988).**

REPORT

Revisions to Pa.R.Crim.P. 1117

*WAIVER OF PRESENCE AT TRIAL; PROCEDURES WHEN A DEFENDANT FAILS TO APPEAR FOR A TRIAL DE NOVO*

The Committee is proposing a revision of the Comment to Rule 1117 (Presence of the Defendant) to address the requirements for the waiver of a defendant's presence at trial, and to clarify the procedures when a defendant fails to appear for a trial de novo.

A. *Waiver of Presence*

Rule 1117(a) requires that the defendant be present at all stages of the trial. On October 1, 1998, the Supreme Court, in a plurality opinion, decided *Commonwealth v. Vega*, \_\_\_ A.2d \_\_\_ (Pa. 1998), which sets forth the requirements of a knowing and intelligent waiver of a constitutional right in general, and specifically, a defendant's waiver of the right to be present at trial. Noting that Rule 1117 is silent concerning waiver, the Committee agreed that a citation to Vega should be added to the Rule 1117 Comment to make it clear that Rule 1117 is not intended to prohibit a defendant from waiving the right to be present at any stage of the trial, and that the court must conduct a colloquy of the defendant before permitting the waiver.

B. *Failure to Appear for Trial de Novo*

The Committee received correspondence concerning the procedures for executing sentence under Rule 1117(C), which provides that in summary cases appealed for a trial de novo, the trial judge may dismiss the case when the judge determines that the defendant is absent without cause, and enter judgment on the sentence of the issuing authority. The correspondence pointed out that in those cases in which an issuing authority has ordered imprisonment as part of a sentence and the defendant fails to appear for the trial de novo, there are no procedures to bring the defendant before the court for execution of the sentence of imprisonment. As a result, in some cases, the defendant may not serve the sentence, or the institution may refuse to accept the defendant without a document indicating the time and date of commencement of sentence. In light of this, the Committee agreed that it would be helpful to the bench and bar if there was some guidance concerning the sentencing procedures in these cases. Accordingly, we agreed that the Rule 1117 Comment should be revised to make it clear that when the sentence imposed by the issuing authority includes imprisonment, the trial judge should take the necessary steps to bring the defendant before the court for the execution of the sentence of imprisonment.

[Pa.B. Doc. No. 98-1978. Filed for public inspection December 4, 1998, 9:00 a.m.]

**PART II. LOCAL AND MINOR RULES  
[234 PA. CODE CH. 9000]  
Rule 9022 Relating to Filings**

**Introduction**

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt several amendments to Rule of Criminal Procedure 9022 (Filing). This proposal clarifies the procedures with regard to filings by represented defendants; filings that may be untimely; and filings by pro se prisoners. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed amendments precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901 no later than Wednesday, January 13, 1999.

*By the Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
PART II. LOCAL AND MINOR RULES  
CHAPTER 9000. GENERAL PROVISIONS**

**Rule 9022. Filing.**

**[ (a) ](A) \* \* \***

**[ (b) ](B) [ Except as provided in paragraph (c), when ] The clerk of courts shall accept all written motions, notices, or documents presented for filing. When a written motion, notice, or document is received by the clerk of courts, the clerk shall docket it and record the time of filing in the docket. A copy of these papers shall be promptly transmitted to such person as may be designated by the court.**

**[ (c) ](C) In any case in which a defendant is represented by an attorney, if the defendant submits for filing a written motion, notice, or document that has not been signed by the defendant's attorney, the clerk of courts shall [ not ] docket it [ or ] and record [ it ] the time of filing in the docket. [ , but ] A copy of the filing shall be [ forward ] forwarded [ it ] to the defendant's attorney and the attorney for the Commonwealth within 10 days of receipt.**

**[ (d) ](D) Filing may be accomplished by:**

- (1) personal delivery to the clerk of courts; or
- (2) mail addressed to the clerk of courts. **[ , provided, however, that ]**

Except as otherwise provided by law, filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

**Official Note:** Adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; amended , 1998, effective , 1998.

#### Comment

\* \* \* \* \*

Those rules that provide for filing with the trial court or the sentencing court are not exceptions to the general requirement of this rule that filing be with the clerk of courts. As used in this rule, "clerk of courts" is intended to mean that official in each judicial district who has the responsibility and function under state or local law to maintain the official court file and docket, without regard to that person's official title.

**Paragraph (B) of this rule requires that the clerk of courts accept all written motions, notices, or documents that are submitted for filing, and docket them whether or not they appear to be timely filed. Any challenge to the timeliness of a filing must be raised by the parties for determination by the court.**

The [second] last sentence of paragraph [(b)] (B) [is intended to provide] provides flexibility to the local courts to designate the court official, such as a local court administrator, who processes motions and other matters for appropriate scheduling and disposition.

**The 1998 amendments to [Paragraph (c)] paragraph (C) [was added in 1996 to provide a] modified the [a] uniform, statewide procedure [for] by which the clerks of courts [to] handle filings by represented defendants when the defendant's attorney has not signed the document being filed by the defendant. As amended, paragraph (C) requires, in all cases in which a represented defendant files a document, that the clerk of courts docket and record the defendant's filing and then forward a copy of the document to both the attorney of record and the attorney for the Commonwealth. Compare [See] Pa.R.A.P. 3304 (Hybrid Representation). The docketing of the filings in these cases only serves to provide a record of the filing, and does not trigger any deadline nor require any response.**

Paragraph [(c)] (C) only applies to cases in which the defendant is represented by counsel, not cases in which the defendant is proceeding pro se.

See *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997); and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings mailed by prisoners proceeding pro se (the "prisoner mailbox rule").

#### Committee Explanatory Reports:

\* \* \* \* \*

Final Report explaining the July 9, 1996 amendments concerning hybrid filings published with the Court's Order at 26 Pa.B. 3532 (July 27, 1996).

**Report explaining the proposed amendments concerning filings by represented defendants, untimely filings, and filings by pro se prisoners published at 28 Pa.B. 5870 (December 5, 1998).**

## REPORT

Proposed Amendments of Pa.R.Crim.P. 9022

### FILINGS IN CRIMINAL CASES

The Committee is proposing amendments to Rule of Criminal Procedure 9022 (Filings) that address three aspects of filing documents in criminal cases that have been causing confusion for individuals involved in the criminal justice system. First, the amendments clarify that the clerk of courts must accept all filings, even if the timeliness of the filing is in questions. Second, the amendments modify the procedures when a defendant, who is represented by counsel, files a document that has not been signed by counsel. Third, the amendments recognize the "prisoner mailbox rule" that has been developed by case law.

#### 1. Untimely Filings

This matter was raised by representatives of the statewide Clerks of Courts Association. They pointed out that, because the Criminal Rules do not address how a clerk of courts is to handle an untimely filing, there are different practices around the State. Some clerks accept and docket all filings. Other clerks accept all filings, but make a notation when a filing is late. And others refuse to accept any filings they determine to be untimely.

In view of these various practices, which are, at the very least, confusing, and in view of their opinion that clerks should not make timeliness determinations, the representatives asked the Committee to consider proposing a statewide rule that would require the clerks of courts to accept and docket all filings, whether or not the filing appeared to be timely.

Agreeing with the points made by the representatives of the Clerks of Court Association, the Committee is proposing an amendment to Rule 9022(B) that requires that the clerks of courts accept all written motions, notices, and documents presented for filing. The third paragraph of the Comment makes it clear that any challenges to the timeliness of a filing must be raised by the parties and determined by the court.

#### 2. Filings by Represented Defendants

Correspondence with the Committee suggested that the 1996 amendments to Rule 9022, which require the clerk of courts to forward any filings by a represented defendant to the defendant's attorney without docketing, creates problems in some of those cases in which the defendant is raising his or her attorney's ineffectiveness or is filing a petition to proceed pro se. The concern with the current Rule 9022(C) procedure is that there is no record in the clerk's office of the filing. If counsel of record is not actively working on the defendant's case, then important deadlines may be missed, or action on the defendant's claim of ineffectiveness or to proceed pro se may be delayed.

The Committee agreed that, at least as to ineffective counsel claims and petitions to proceed pro se, the filings should be docketed. However, after considering separating these two types of filings from all other filings by counseled defendants, the Committee concluded that, because many filings by defendants are not clearly identified, and it is not the responsibility of the clerk of courts to make a determination about the nature of a particular filing, this was not a workable option. In further discussions, the Committee weighed other options, including, for example, requiring that:

1) the clerk of courts docket and record all counseled defendant's filings in the same manner provided for other filings in paragraph (B), and then forward it to the attorney of record;

2) the clerk acknowledge receipt of the filing at the same time forwarding the filing to the attorney, and the acknowledgment would provide the record or proof of filing;

3) the clerk also forward a copy of the filing to the attorney for the Commonwealth in an effort to avoid day-of-trial surprises and delays;

4) if the filing is docketed and recorded, the matter should proceed in the same manner as filings under paragraph (B) by forwarding the filing to such person as may be designated by the court for further proceedings; or

5) if the filing is docketed and recorded, no other action is required by the court.

The Committee was persuaded that the concerns about delays and failure of counsel to act required that there should be some record of the filings by counseled defendants, and that the docketing and recording procedures, which are already in place, made more sense than requiring the clerks to send an acknowledgment of receipt. We rejected the notion that the case should proceed in the same manner as any other case, i.e., that it should be forwarded to, for example, the court administrator, for listing for further proceedings. We thought that (1) the responsibility rested with counsel to ensure that the defendant's filings were properly acted upon, and (2) because many of these counseled defendant's filings required clarification, these filings should not necessitate action by the attorney for the Commonwealth or the court. We also agreed that, to avoid the day-of-trial surprises and delays that might otherwise occur, the rule should require the clerk to also forward a copy of the filing to the attorney for the Commonwealth. The Comment makes it clear, however, that these filings serve only to provide a record, and, therefore, no action is required.

In view of these considerations, the Committee is proposing that Rule 9022(C) be amended to require that the clerk of courts docket the filings of represented defendants and record the time of filing in the docket. Paragraph (C) also requires that a copy of the filing be forwarded to both the defendant's attorney and the attorney for the Commonwealth.

### 3. The "Prisoner Mailbox Rule"

The "prisoner mailbox rule" is the "rule" being developed in a line of cases addressing the timeliness of appeals by prisoners proceeding pro se, and holding that, the prisoners' filings are timely when deposited with the prison authorities or in the prison mailbox within the time limits for filing. Although, to date, the case law has been limited to appeals and post conviction proceedings, the Committee reasoned that the basis for this "rule" put forth by the courts applies equally to criminal proceedings generally — that prisoners are unable to take the steps available to other litigants to monitor the process of their filings in order to ensure that the filings arrive before the deadline for filing. We, therefore, concluded that Rule 9022 should recognize the "prisoner mailbox rule" as an exception to the timeliness provision in paragraph (D). Accordingly, we are proposing that paragraph (D) be amended by the addition of "except as otherwise provided by law," before "filing by mail shall be timely only when

actually received by the clerk within the time fixed for filing." The Comment would be revised to include a citation to *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997), and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998), as examples of timeliness for mailings "otherwise provided by law."

[Pa.B. Doc. No. 98-1979. Filed for public inspection December 4, 1998, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### FAYETTE COUNTY

#### Local Rule 1901: Prompt Disposition of Matters; Termination of Inactive Cases; No. 2243 of 1998, G.D.

#### Order

*And Now*, this 16th day of November, 1998, it is hereby *Ordered* that Fayette County Rule of Civil Procedure 230.2 is hereby amended, renamed and renumbered as Fayette County Rule of Judicial Administration 1901. The following rule shall be effective 30 days after the publication in the *Pennsylvania Bulletin*.

The Prothonotary of Fayette County is *Ordered* and *Directed* to do the following:

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

(2) File two (2) certified copies of this Order and Amended Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy of this Order and Amended Rule with the Pennsylvania Civil Rules Committee.

(4) Forward one (1) copy for publication in the *Fayette Legal Journal*.

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

(6) Keep continuously available for public inspection copies of this Order and Rule.

*By the Court*

WILLIAM J. FRANKS,  
*President Judge*

#### RULE 1901

#### PROMPT DISPOSITION OF MATTERS; TERMINATION OF INACTIVE CASES

(a) In January of each year the Prothonotary shall list on an annual List of Cases Proposed to be Dismissed every pending civil matter in which no paper has been filed and no action taken for two (2) or more years prior to that year. The cases on each annual list shall be called at the call of the list for the April Session of Civil Jury Trials.

(b) Notice of the proposed dismissal of each matter on any list prepared pursuant to paragraph (b) shall be given by the Prothonotary to counsel of record and any parties not represented by counsel. If no action is taken and no written objection is docketed in any such matter prior to the commencement of the call of the list, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute. If action has been taken or written objection docketed prior to the call of the list, but good cause has not been shown at the call for continuing any matter remaining on the list, an order dismissing such action shall be entered by the Court forthwith.

(c) All notices required by this Rule shall be in writing and shall be given by the Prothonotary at least thirty (30) days before the date on which the list is to be called. Notice may be given to counsel of record in person or by ordinary mail and to a party by certified mail to the last address of record. If no such notice can be given, as shown by affidavit of the Prothonotary, notice may be given by publication once in the *Fayette Legal Journal* and in one newspaper of general circulation in Fayette County.

[Pa.B. Doc. No. 98-1980. Filed for public inspection December 4, 1998, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Bettyjo Theresa Jones, a/k/a Betty Jones-Terrell, having been suspended from the practice of law in the District of Columbia for a period of sixty (60) days, the Supreme Court of Pennsylvania issued an Order dated November 13, 1998, suspending Bettyjo Theresa Jones, a/k/a Betty Jones-Terrell from the Bar of this Commonwealth for a period of sixty (60) days. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 98-1981. Filed for public inspection December 4, 1998, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 126]

#### New Motor Vehicle Emissions Control Program

The Environmental Quality Board (Board) by this order amends Chapters 121 and 126 (relating to general provisions; and mobile sources) to read as set forth in Annex A.

The final rulemaking establishes a new motor vehicle emissions control program designed to reduce emissions of carbon monoxide (CO), nitrogen oxides (NOx) and volatile organic compounds (VOCs) from new passenger cars and light-duty trucks. These amendments create the mechanism to meet the requirements of the State opt-in provisions of the National Low Emission Vehicle (NLEV) program. These amendments also adopt and incorporate by reference certain requirements of the low-emissions vehicle program authorized under section 177 of the Federal Clean Air Act (CAA) (42 U.S.C.A. § 7507) (Section 177). The amendments will allow automobile manufacturers to voluntarily comply with the NLEV program as an alternative to complying with the Pennsylvania Clean Vehicles Program requirements.

The order was adopted by the Board at its meeting of September 15, 1998.

#### A. Effective Date

These amendments are effective immediately upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. Contact Persons

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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 through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

This action is made under the authority of section 5(a)(1) of the Air Pollution Control Act (act) (35 P.S. § 4005(a)(1)), which grants to the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The Board is also expressly authorized by section 5(a)(7) of the act to adopt regulations designed to reduce emissions from motor vehicles.

#### D. Background and Summary

The most persistent air pollution problem in this Commonwealth is ground level ozone. Ozone causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. Exposure to ozone for several hours at relatively low concentrations has been found to significantly reduce lung

function and induce respiratory inflammation in normal, healthy people during exercise. This decrease in lung function generally is accompanied by symptoms including chest pain, coughing, sneezing and pulmonary congestion.

Motor vehicles primarily emit three pollutants—CO, VOCs and NOx. Ozone is not directly emitted by motor vehicles, but is created as a result of the chemical reaction of NOx and VOCs, in the presence of light and heat, to form ozone in air masses traveling over long distances. Because of the higher temperatures in the summer months, the formation of ozone is greater at that time of year. One third of this Commonwealth's ozone pollution comes from motor vehicles.

The CAA was amended in 1977 to allow states to adopt emission standards for motor vehicles. Section 177 of the CAA authorizes states to adopt and enforce new motor vehicle emission standards for any model year if the standards are identical to the California standards and the state adopts the standards at least 2 years before the commencement of the model year. California's standards must also have been granted a waiver under section 209(b) from the CAA's prohibition against state emission standards. (42 U.S.C.A. § 7543(b)).

Congress amended Section 177 in 1990 to prohibit states from taking any action that would have the effect of creating a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards or otherwise create a "third vehicle." Shortly thereafter, many states began to consider clean vehicle or "low emission vehicle" (LEV) programs as a control strategy to achieve and maintain the National Ambient Air Quality Standard (NAAQS) for ozone.

Congress also recognizes that ground level ozone is a regional problem not confined to state boundaries. Section 184 of the CAA (42 U.S.C.A. § 7511c), establishes the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate ozone air pollution. The Commonwealth is a member OTC State.

Several years ago, the auto manufacturers, OTC states and the EPA began negotiations for a voluntary alternative LEV program described as the "49-State LEV Program" or NLEV program. Under this alternative LEV program, auto manufacturers would voluntarily agree to manufacture LEVs for 49 states as an alternative to the California LEV program. However, section 202(b)(1)(C) of the CAA (42 U.S.C.A. § 7521(b)(1)(C)) precludes the EPA from mandating new exhaust emission standards before the 2004 model year. Therefore, states and the auto manufacturers must voluntarily agree to accept the NLEV program as a compliance alternative to Section 177 state LEV programs.

On June 6, 1997, the EPA promulgated the first of two NLEV final rules. (62 F.R. 31192). The first rule establishes the basic framework for the voluntary program. It allows auto manufacturers to comply with tailpipe standards modeled after the California program, but provides less stringent fleet average nonmethane organic gases (NMOG) standards. The rule also provides for Federal implementation of the program.

The NLEV program allows manufacturers to certify light-duty vehicles and light-duty trucks certified by the California Air Resources Board (CARB) to one of the

following certification standards: Tier 1; transitional low emission vehicle (TLEV); low emission vehicle (LEV); ultra-low emission vehicle (ULEV); or zero-emission vehicle (ZEV). These certification categories contain tailpipe emission standards for CO, formaldehyde, NO<sub>x</sub>, NMOG and particulate matter (PM).

On January 7, 1998, the EPA promulgated a second, supplementary rule to conclude the Federal regulatory steps necessary to set up the NLEV program. (63 F. R. 926). This rule addresses the NLEV opt-in and opt-out procedures for auto manufacturers and OTC states.

Under this rule, OTC states commit to the NLEV program when: (1) the Governor and Secretary for environmental protection by letter indicate the state's intent to opt into the NLEV program; and (2) the state submits a State Implementation Plan (SIP) revision that incorporates its commitment to the NLEV program in state regulations, which the EPA will approve into a Federally enforceable SIP.

On January 26, 1998, the Commonwealth indicated its intent to opt into the NLEV program through letters submitted to the EPA by Governor Tom Ridge and the Department's Secretary James Seif. This final rulemaking incorporates that intent into State regulations.

Auto manufacturers opt into the NLEV program by submitting a written notification, signed by the Vice President for Environmental Affairs (or another company official who is authorized to bind the company to the NLEV program) that unambiguously states that the manufacturer opts into the program, subject only to conditions expressly contained in the regulations.

The final rulemaking also sets forth specific regulatory language it requests OTC states to use in the promulgation of its regulations. Because the OTC states and auto manufacturers are signing up for a voluntary program, using the specified language ensures that they sign up for the same program. Otherwise, the opt-ins might not represent agreement on the terms and conditions of the voluntary NLEV program.

If OTC states use the language specified, the EPA will be able to find the NLEV program in effect without the need for further rulemaking. Moreover, the EPA will be able to find that an OTC states' SIP revision meets the NLEV SIP requirements without further rulemaking. More importantly, an approved SIP revision is Federal law and has binding legal effect. It is this binding legal effect that makes the NLEV program enforceable for the EPA to grant states credits for SIP purposes. Finally, the importance of ensuring that all parties know what they are signing up for at the time of opt-in also supports the requirement for OTC states to use this exact language for the SIP revisions.

This specific regulatory language was not available to the Board when it published its proposed rulemaking at 27 Pa.B. 6303 (November 29, 1997). This EPA approved language is now available and it is in the final rulemaking.

The NLEV rule allows auto manufacturers to opt out of the NLEV program if an OTC state does any of the following: (1) takes final action in violation of its commitment to allow the NLEV program as a compliance alternative to a Section 177 program or to a ZEV mandate (in those OTC states without existing ZEV mandates); (2) fails to submit an NLEV SIP revision within the time frame set forth in the NLEV regulations; (3) submits an inadequate NLEV SIP revision; (4) takes final action (by an OTC state without an existing ZEV

mandate) adopting a ZEV mandate effective during the state's commitment to the NLEV program; or (5) opts out of the NLEV program.

Manufacturers may also opt out if another manufacturer opts out, or if the EPA fails to consider in-use fuel issues or changes certain NLEV emission standards.

The NLEV rule also allows OTC states to opt out of the NLEV program under the following two circumstances: (1) if an auto manufacturer were to opt out of the NLEV program; or (2) the EPA were to find that circumstances had changed which would have altered the EPA's initial determination that the NLEV program would produce emissions reductions equivalent to OTC state Section 177 programs.

The EPA's supplementary rule also addresses the issue of when under Section 177 the 2 year lead time period would start if a state with a backstop Section 177 Program were to delete the NLEV program (either in violation of its commitment to the NLEV program or legitimately by opting out) or if a manufacturer legitimately decided to opt out of the NLEV program. This interpretation of Section 177 applies only in the context of the NLEV program and only in the special circumstances that arise when a state has a backstop Section 177 program that allows the NLEV program as a compliance alternative.

The EPA determined that the NLEV program was officially in effect on March 2, 1998. (63 F. R. 11374, March 9, 1998). Nine northeastern states and 23 auto manufacturers opted into the NLEV program. Therefore, auto manufacturers must comply with the tailpipe emission standards and annual fleet average NMOG value established by the EPA's final NLEV rule.

This final rulemaking establishes the NLEV program as a compliance alternative to the Clean Vehicles Program and will serve as a mechanism to control new motor vehicle emissions in this Commonwealth. Under the authority of Section 177 of the CAA, these final amendments also establish the Pennsylvania Clean Vehicles Program that adopts and incorporates by reference the LEV program of California as a "backstop" to the NLEV program. This program will only be implemented if an auto manufacturer opts out of the NLEV program or at the conclusion of the NLEV program. The Board incorporates by reference new emission standards for passenger cars and light-duty trucks that are identical to the low emission standards adopted by California except for the ZEV production mandate and the emissions control warranty systems statement provisions.

The Pennsylvania Clean Vehicles Program does not mandate the sale or use of reformulated motor fuels that comply with the specifications for reformulated motor fuels mandated by the state of California. The courts have held that a state's failure to adopt California fuel requirements does not violate the Section 177 requirement that state emission standards be "identical to the California standards for which a waiver has been granted." (42 U.S.C.A. § 7507). *Motor Vehicle Manufacturers Association of the United States v. New York State Department of Environmental Conservation*, 17 F.3d 521 (2nd Cir. 1994); *American Automobile Manufacturers Association v. Greenbaum*, No. 93-10799-MA (D. Mass. October 27, 1993) aff'd., 31 F.3d 18 (1st Cir. 1994).

In addition, the Pennsylvania Clean Vehicles Program does not incorporate the California ZEV production mandate. Section 177 does not require adoption of all California standards, but only requires that if a state adopts

motor vehicle standards that those standards adopted be identical to the California standards. The EPA concludes that states adopting a Section 177 program need not adopt the ZEV mandate to comply with the requirements for identical standards under Section 177. (60 F. R. 4712, January 24, 1995).

This final rulemaking allows the Board to revise the Commonwealth's SIP to identify the NLEV program as an alternative to complying with the LEV standards of California specified in the Pennsylvania Clean Vehicles Program requirements. The NLEV program establishes emission requirements for light-duty vehicles and light-duty trucks rated at 6,000 pounds or less gross vehicle weight (GVW) (if designed to operate on gasoline).

The EPA provides several specified and limited conditions that allow auto manufacturers or states to opt-out of the NLEV program. These conditions are structured to maximize the stability of the NLEV program. If an auto manufacturer opts out of the NLEV program according to the opt out procedures in the NLEV regulations, and the opt out is effective, that manufacturer would be subject to the requirements of the Commonwealth's Section 177 program.

The EPA also includes provisions that govern any transition from the NLEV program to a state Section 177 Program in the event of an opt-out. The earliest date on which a transition could occur is governed by the 2 year lead time requirement under the CAA. Therefore, the earliest the Pennsylvania Clean Vehicles Program requirements could apply to auto manufacturers that opt-out would be to engine families for which production begins after the date 2 calendar years from the effective date of the final rule. Auto manufacturers can also opt out with a later effective date for their opt out.

At the end of the Commonwealth's participation in the NLEV program, auto manufacturers may no longer use it as a compliance alternative to the Pennsylvania Clean Vehicles Program. The Commonwealth's NLEV program participation ends with model year 2006. However, if by December 15, 2000, the EPA does not promulgate the next generation of Federal new car standards (Tier 2 standards) that are at least as stringent as the NLEV standards, and that would go into effect no later than model year 2006, the Commonwealth's participation in the NLEV program ends with model year 2004. Since neither the Federal Tier 2 nor the California post-2004 standards have yet been established, it is presently uncertain which program would be more appropriate for the Commonwealth in the middle of the next decade. Therefore, the Board intends to reassess the air quality needs and emission reduction potential of both programs well in advance of the end of the Commonwealth's commitment to the NLEV program.

This regulation will also be submitted to the EPA as a substitute for the Clean Fuel Fleet program required under sections 182(c)(4) and 246 of the CAA. (42 U.S.C.A. §§ 7511a(c)(4) and 7586).

The Department of Environmental Protection (Department) consulted with the Air Quality Technical Advisory Committee (AQTAC) on the final rulemaking. On May 29, 1998, AQTAC recommended that this rulemaking be submitted to the Board for consideration. As required under section 5(a)(7) of the act, the Department also consulted with the Pennsylvania Department of Transportation (PennDOT) during the development of these amendments.

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

The Board received four sets of comments on the regulatory proposal. The following summarizes the major issues and the Board's responses.

All commentators support participation in the NLEV program. One enthusiastically supported the Section 177 backstop program and two did not oppose the backstop. The auto manufacturers specified that they do not support the creation of the Pennsylvania Clean Vehicles Program as a backstop to the NLEV program. In the final rulemaking, the Board plans to retain the Pennsylvania Clean Vehicles Program and the NLEV program as a compliance alternative. Under Section 177 of the CAA, the backstop program is the only program that a state may establish by regulation. It is the backstop that creates the legal mechanism to establish the voluntary NLEV program in this Commonwealth. The Board believes the Pennsylvania Clean Vehicles Program is necessary to ensure that clean vehicles are sold in this Commonwealth for the duration of the Commonwealth's commitment to the NLEV program and thereafter.

One commentator believed that the Pennsylvania Clean Vehicles Program will increase consumer and administrative costs. The Board agrees that costs will increase slightly, but air quality will improve measurably, making the program a cost effective emission reduction strategy.

One commentator stated that the emission reduction estimates used by the Board are outdated. The Board understands that estimates will change as more information, and better estimation tools become available. Refined estimates of emission reductions from the NLEV program will be made when the Commonwealth includes the NLEV program in its Rate-of-Progress SIP.

One commentator was concerned that the technology used in the Pennsylvania Clean Vehicles Program will only achieve its greatest emissions reduction potential with low sulfur burning gasoline and consequently the backstop program should be abandoned. It is the backstop that creates the legal mechanism to establish the voluntary NLEV program in this Commonwealth. Consequently, the backstop cannot be abandoned. Moreover, the Board does not agree that it is a valid reason to dispense with the backstop provision. Both LEV and NLEV vehicles are certified to similar emission standards. Therefore, what is true about one vehicle is true about the other vehicle. In addition, the Commonwealth is precluded from requiring the low sulfur gasoline program in California, and the EPA continues to address the issue of low sulfur fuels on a National basis.

One commentator believed that in-use surveillance testing should be applied across this Commonwealth to assure that the benefits of the program are long term. The Board intends for testing results to be applied Statewide. Under the NLEV program, the in-use surveillance will be performed solely by the EPA as is current practice for Federal motor vehicle emission standards. If the Pennsylvania Clean Vehicles Program is implemented, the Board will utilize the program to assure that the benefits are long-term and Statewide.

Two commentators commended the Commonwealth for ensuring that the fuel requirements and zero emission vehicle mandates are not included in the proposal. The Board agrees that neither provision is appropriate and that the EPA will address fuel requirements on a National level.

One commentator thought that a single State fleet NMOG average provision is burdensome and not necessary. The Commonwealth is allowed to adopt only those standards authorized under Section 177 of the CAA. Accordingly, this includes the fleet NMOG average required by California for that model year.

One commentator did not oppose the Commonwealth using the California emission standards as a backstop to the NLEV program, but requested what other alternatives the Commonwealth can employ. Section 177 of the CAA precludes the Commonwealth from adopting its own emission standards. Therefore, except for the California standards, there are no other emission standards that can be used as a backstop to the NLEV program.

One commentator found that the regulations do not clearly indicate the procedures the Commonwealth may use if it chooses to opt out of the NLEV program. This commentator believed that if the Commonwealth does opt out of the NLEV program, it will need to promulgate a regulation that deletes the provisions relating to the NLEV program. This final rulemaking authorizes implementation of the NLEV program in this Commonwealth. As such, this authorization can only be revised through the regulatory process.

One commentator questioned the relevance of and need for having fleet average sales reports for California. Upon further consideration, the Board has deleted the requirement for fleet average sales reports from California.

#### F. Summary of Regulatory Requirements

This final rulemaking establishes the requirements for the implementation of a new motor vehicle emissions control program in this Commonwealth. The final rulemaking allows auto manufacturers to comply with the provisions of the NLEV program as an alternative to the low emission vehicle standards established under the Pennsylvania Clean Vehicles Program. A summary of the final rulemaking follows:

##### *Chapter 121. General Provisions*

The amendments to § 121.1 (relating to definitions) include terms and phrases applicable to the Pennsylvania Clean Vehicles Program. In part, the definitions include the following terms: "CARB—California Air Resources Board," "Clean Vehicles Program," "dealer," "fleet average," "GVWR—gross vehicle weight rating," "motor vehicle manufacturer," "model year," "motor vehicle," "NLEV—National Low Emission Vehicle," "NLEV Program," "new motor vehicle or new light-duty vehicle," "offset vehicle," "passenger car," "ultimate purchaser" and "ZEV—Zero-Emission Vehicle."

The definition of the term "emergency vehicle" is consistent with the statutory definition of "emergency vehicle" codified in 75 Pa.C.S. § 102 (relating to definitions).

The definitions "ATV—Advanced Technology Vehicle" and "emission standard" are deleted because neither term is referred to in the final rulemaking.

The rulemaking also amends the existing definition of "light-duty truck" to include a meaning in the "light-duty truck" definition that is consistent with Title 13 CCR Section 1900(b)(8). For purposes of the new motor vehicle emissions control program requirements, a "light-duty truck" means any motor vehicle rated at 6,000 pounds GVW or less, which is designed primarily for purposes of transportation of property or is a derivative of a vehicle, or is available with special features enabling off-road or off-highway operation and use.

#### *Chapter 126. Mobile Sources*

##### *Subchapter D. New Motor Vehicle Emissions Control Program*

Subchapter D contains provisions that establish a new motor vehicle emissions control program in this Commonwealth to reduce the emissions of CO, NO<sub>x</sub> and VOCs from passenger cars and light-duty trucks under Section 177 of the CAA. It also provides the regulatory framework to allow auto manufacturers to comply with the NLEV program requirements as an alternative to the Section 177 emission standards and to meet the requirements of the State opt-in provisions of the NLEV program.

Section 126.401 (relating to purpose), consistent with and under the authority of Section 177 of the CAA, establishes the Pennsylvania Clean Vehicles Program. It adopts and incorporates by reference certain provisions of the California LEV Program that serve as the basic framework for the Pennsylvania Clean Vehicles Program. The rule also recognizes the voluntary NLEV program as an acceptable compliance alternative to the Pennsylvania Clean Vehicles Program established under this subchapter. In addition, the final rulemaking deletes a duplicative regulatory provision.

Section 126.402 (relating to NLEV scope and applicability) allows motor vehicle manufacturers to comply with the NLEV program requirements as an alternative to the Section 177 program requirements of the Pennsylvania Clean Vehicles Program. The NLEV program requirements are applicable as a compliance alternative for passenger cars and light-duty trucks up through 6,000 pounds GVWR, or medium-duty trucks from 6,001 to 14,000 pounds if designed to operate on gasoline. The use of the NLEV program as a compliance alternative for the auto manufacturers was triggered on March 2, 1998, when the EPA found the NLEV program in effect. Consequently, the proposed language that set forth the contingency of the NLEV program "being in effect" is deleted.

In addition, the proposed language that states the condition of the NLEV program as "no longer in effect" is no longer accurate because the EPA, in its final supplementary rule, structured the program so that no single event automatically terminates the NLEV program. The EPA will make the NLEV program available as long as one or more manufacturers wish to remain in the program. Accordingly, the proposed language that set forth this condition is deleted.

This section includes a provision that the NLEV program is available as a compliance alternative to covered auto manufacturers that do not opt out of the NLEV program. However, if a covered auto manufacturer opts out of the NLEV program, and that opt out is effective, it is then subject to the Section 177 program requirements of this subchapter. The transition from the NLEV program to the Pennsylvania Clean Vehicles Program is governed by the EPA NLEV regulations provided under 40 CFR 86.1707 which are incorporated by reference.

In addition, this section also provides that the Pennsylvania Clean Vehicles Program applies to all applicable motor vehicles starting with the model year beginning 2 years after the effective date of this final rulemaking. The CAA allows a state to adopt Section 177 standards so long as it provides auto manufacturers with a 2 year lead time. Therefore, this 2-year lead time provision was added to be consistent with Federal law.

Finally, this section incorporates the specific language recommended by the EPA in its final supplementary rule.



This additional language will enable the EPA to find that Pennsylvania's SIP revision meets the NLEV SIP requirements. This additional language will also enable the EPA to approve the revision to Pennsylvania's SIP without further rulemaking. Moreover, this language was not available to the Board at the time the proposed rulemaking was published. Consequently, this section is revised to accommodate the EPA language.

Section 126.402(b) incorporates this specific language and commits the Commonwealth to participate in the NLEV program until model year 2006, except as provided in the NLEV regulatory State opt-out provisions. However, if by December 15, 2000, the EPA has not issued mandatory Tier 2 standards, at least as stringent as the NLEV standards, that would go into effect no later than model year 2006, the Commonwealth is committed to participate in the NLEV program only until model year 2004, except as provided in the NLEV regulatory provisions for state opt outs.

Section 126.402(c) also incorporates this specific language and provides that for the duration of the Commonwealth's commitment to the NLEV program, the auto manufacturers may comply with NLEV or mandatory Federal Tier 2 standards of at least equivalent stringency as a compliance alternative to the Pennsylvania Clean Vehicles Program standards that are applicable to passenger cars, light-duty or medium-duty trucks if designed to operate on gasoline.

Finally, § 126.402(e) incorporates this specific language and acknowledges that if a covered auto manufacturer opts out of the NLEV program under the opt-out provisions in the NLEV regulations, the transition from the NLEV program to the Pennsylvania Clean Vehicles Program is governed by the NLEV regulations which are incorporated by reference.

Section 126.411 (relating to general requirements) contains the provisions for the implementation of the Pennsylvania Clean Vehicles Program under the authority of and consistent with Section 177 of the CAA. This section adopts and incorporates by reference certain emission standards that are applicable in California. The rule adopts and incorporates by reference Title 13 CCR Chapter 1 (relating to motor vehicle pollution control devices) and Chapter 2 (relating to enforcement of vehicle emission standards and surveillance testing). This incorporation by reference includes exhaust emission standards for transitional low emission vehicles, low emission vehicles and ultra-low emission vehicles. However, the Pennsylvania Clean Vehicles Program does not adopt and incorporate the reformulated fuels component of the California LEV program. The final rule also changes the order of the subsection from the proposed rulemaking.

The Pennsylvania Clean Vehicles Program does not mandate the sale of ZEVs. Therefore, the final rulemaking does not incorporate the zero-emissions sales mandate provision specified in Title 13 CCR Section 1960.1(g)(2) (footnote 9) and will not require manufacturers complying with the Pennsylvania Clean Vehicles Program to include a specified percentage of ZEVs in the manufacturers sales fleet of passenger cars and light-duty trucks.

The rule does not adopt and incorporate the Emission Control Warranty Statement provisions in Title 13 CCR Section 2039 which describes a California warranty statement that is included along with the manufacturer's new motor vehicle warranty. The California statement includes references to California's Smog Check vehicle emission inspection program.

Section 126.412 (relating to emission requirements) prescribes that a person may not sell, import, deliver, purchase, lease, rent, acquire, receive or register a new motor vehicle that is subject to the Pennsylvania Clean Vehicles Program requirements which has not received a CARB Executive Order starting with the model year beginning December 5, 2000. All new passenger cars and light-duty trucks in the effective model year and subsequent model years would have to meet the California low emission vehicle standards.

Section 126.412(d) provides that new motor vehicles subject to the Pennsylvania Clean Vehicles Program must possess a valid emissions control label which meets the requirements of Title 13 CCR § 1965.

Section 126.413 (relating to exemptions) provides an exemption from the Pennsylvania Clean Vehicles Program for the following types of new motor vehicles: emergency vehicles and light-duty vehicles transferred by a dealer to another dealer; transferred for use exclusively off-highway; or transferred for registration out of State. This section also provides an exemption for vehicles granted a National security or testing exemption under section 203(b)(1) of the CAA and motor vehicles defined as military tactical vehicles or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to applicability of section 216(2)).

The final rulemaking includes exemptions for light-duty vehicles held for daily lease or rental to the general public as well as light-duty vehicles engaged in interstate commerce that are registered and principally operated outside this Commonwealth. The final rule adds the requirement that the motor vehicles be registered outside this Commonwealth.

An exemption from the Pennsylvania Clean Vehicles Program requirements is provided for light-duty vehicles acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth, if the replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

The final rule also provides exemptions for light-duty vehicles transferred by inheritance or court decree and light-duty vehicles transferred after the date on which this subchapter becomes applicable if the vehicles were registered in this Commonwealth before December 5, 1998.

The final rule exempts light-duty vehicles having a certificate of conformity issued under the Federal CAA and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth. Upon registration of the vehicle in this Commonwealth, the registrant must provide satisfactory evidence to PennDOT concerning the previous out-of-State residence and motor vehicle registration.

To obtain the exemptions authorized under § 126.413, the person seeking registration must provide satisfactory evidence that the exemption is applicable, as determined by PennDOT.

Section 126.421 (relating to new motor vehicle certification testing) provides that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements must be certified by auto manufacturers to meet the requirements of Title 13 CCR § 1960.1, as

determined by testing in accordance with Title 13 CCR Chapter 2, Sections 2101—2110, 2150 and 2151, which are incorporated by reference in this section. New Vehicle Compliance Testing determinations and findings made by CARB shall apply to testing conducted under this section.

Section 126.422 (relating to new motor vehicle compliance testing) requires that prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR § 1960.1, as determined by New Vehicle Compliance Testing, conducted under Title 13 CCR Chapter 2 §§ 2101—2110, 2150 and 2151 and incorporated by reference.

Section 126.423 (relating to assembly line testing) provides that each manufacturer of new motor vehicles subject to the requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct Inspection Testing and Quality Audit Testing under Title 13 CCR §§ 2061, 2106 and 2107, incorporated by reference. Inspection Testing and Quality Audit Testing determinations and findings made by CARB shall apply to assembly line testing conducted under this section.

Subsection (c) provides that if a motor vehicle manufacturing facility which manufactures vehicles certified by CARB, for sale in this Commonwealth, is not subject to the Inspection Testing and Quality Audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing under Title 13 CCR §§ 2061, 2106, 2107 and 2150, incorporated by reference. An auto manufacturer may, upon written request and demonstration of need, substitute functional testing. With the written consent of the Department, the testing of a statistically significant sample conducted under the procedures incorporated in Title 13 CCR § 2061 can be substituted for the 100% testing rate in Title 13 CCR § 2061.

Section 126.424 (relating to in-use motor vehicle enforcement testing) allows the Department to conduct in-use vehicle enforcement testing under the protocol and testing procedures in Title 13 CCR §§ 2136—2140, incorporated by reference, after consulting with CARB if motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements fail to meet the motor vehicle emission requirements of Title 13 CCR § 1960.1. In-use vehicle enforcement testing determinations and findings made by CARB shall apply to testing conducted under this section.

Section 126.425 (relating to in-use surveillance testing) provides that for purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB. The in-use surveillance testing determinations and findings made by CARB shall be applicable.

In-use surveillance is a process that allows CARB to collect emissions data from the in-use California fleet to update its highway vehicle model, identify vehicles that exceed emission standards, identify problem emission control equipment and evaluate manufacturers' warranty requirements. In-use surveillance is used only as an information gathering tool that enables CARB to require auto manufacturers to make repairs and necessary design and warranty modifications. The Commonwealth will use in-use surveillance in a similar fashion. In-use surveillance will not be used to determine an individual motorist's needs to make repairs like an inspection and mainte-

nance (I&M) program, nor does it substitute for an I&M program in this Commonwealth.

Specifically, CARB performs in-use surveillance by selecting 400 vehicles of different model year and engine class for each test cycle. The entire test cycle takes nearly a year. Each car is tested for emissions and faulty emission components. Necessary repairs are performed at no cost to the owner. Vehicles are obtained and randomly selected from citizens at large. If these citizens agree to the tests, they are reimbursed and provided with a rental car during the 5-day test period.

The Department will use in-use surveillance in the Clean Vehicles Program to determine whether a vehicle or emission component sold in this Commonwealth is responsible for excessive emissions. The Department will contract a qualified facility to perform the test.

Section 126.431 (relating to warranty and recall) specifies that a manufacturer of new motor vehicles, subject to the requirements of this subchapter, shall warrant to the owner that each vehicle shall comply over its warranty coverage period with all requirements of Title 13 CCR §§ 2035—2038, 2040 and 2041, as amended and incorporated by reference. Emission-Related Components reports, as defined in Title 13 CCR § 2144 for vehicles subject to this subchapter, must be submitted to the Department. The Emission-Related Components reports must comply with the procedures in Title 13 CCR §§ 2141—2149 and are incorporated by reference.

Subsection (c) provides that any voluntary or influenced emission-related recall campaign initiated by any automobile manufacturer under Title 13 CCR §§ 2113—2121 shall extend to all new motor vehicles subject to this subchapter, sold, leased, offered for sale or lease or registered in this Commonwealth.

Section 126.432 (relating to reporting requirements) specifies that for purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the model year beginning December 5, 2000, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year, in this Commonwealth. The final rule deletes reference to model year 2001 and replaces it with the model year beginning December 5, 2000.

Subsection (b) requires each motor vehicle manufacturer to submit to the Department, no later than March 1 of the calendar year following the close of the completed model year, an annual report of the fleet average NMOG emissions of its total deliveries for sale of light-duty vehicles in each engine family for this Commonwealth for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG Exhaust Emission Average, must be prepared according to the procedures in Title 13 CCR § 1960.1(g)(2).

Subsection (c) specifies that the fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth in relation to total fleet sales. References relating to the fleet sales of California and other states in the proposed rule is deleted in the final rule.

Section 126.441 (relating to responsibilities of motor vehicle dealers) provides that dealers may not sell, offer

for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the standards and requirements contained in Title 13 CCR § 2151 and incorporates those provisions by reference.

#### G. *Benefits and Costs*

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

##### *Benefits*

The new motor vehicle emissions control program will contribute to the attainment and maintenance of the ozone health standard in this Commonwealth due to emission reductions from the operation of low emission passenger cars and light-duty trucks. Modeling data from the Philadelphia area indicate that daily emissions of NO<sub>x</sub> and VOCs will be reduced by 13.5 and 11.5 tons, respectively, in 2005.

Implementation of the NLEV program as an alternative compliance strategy will result in significant environmental and health benefits. Modeling shows that the NLEV program provides greater emission reductions compared to a state-by-state adoption of Section 177 programs throughout the Ozone Transport Region. (62 F. R. 44757, August 22, 1997). The NLEV program will not only reduce ozone pollution, but will also reduce emissions of particulate matter, NMOG, formaldehyde and benzene. The EPA estimates that in the year 2005, the NLEV program will reduce benzene emissions by 7 tons per day and formaldehyde by 4 tons per day Nationwide. The NLEV program should achieve NO<sub>x</sub> emission reductions of 400 tons/day in 2005 and 1,250 tons/day in 2015 on a Nationwide basis. The NLEV program should also result in NMOG emission reductions of 279 tons/day in 2005 and 778 tons/day in 2015.

##### *Compliance Costs*

The NLEV program should result in a reduction in compliance costs for auto manufacturers. Manufacturers currently design, test and produce new motor vehicles meeting Federal or California emission standards. The NLEV program should streamline the new car certification requirements thereby reducing testing costs. The amendments should reduce compliance costs for auto manufacturers by eliminating duplicative reporting and recordkeeping requirements.

Consumers in this Commonwealth could be required to pay an additional \$76 to \$120 per vehicle for the cost of the required control technology. However, an additional \$76 associated with the purchase of a vehicle subject to the NLEV program would be less than 0.5% of the price of a new car. The EPA believes that the incremental cost for LEVs available Nationwide will be less than \$76 due to factors like continued advancement in automotive pollution control technology and the demonstrated rapid price decreases in successive model years for technology newly introduced by the auto industry. The incremental estimated costs per car for LEVs in California is approximately \$120. However, the EPA believes that LEV price estimates provided by CARB are usually higher than actual price differences.

##### *Compliance Assistance Plan*

Under both the NLEV program and the Pennsylvania Clean Vehicles Program compliance assistance will be provided to affected parties, primarily automobile dealers, through appropriate State trade organizations in the distribution of information to their membership. Information concerning the program will also be provided to affected consumers through AAA and Department newsletters.

#### *Paperwork Requirements*

When the Pennsylvania Clean Vehicles Program is implemented, auto manufacturers will be required to submit paperwork demonstrating compliance with the emission standards and other requirements of the Pennsylvania Clean Vehicles Program. Motor vehicle dealers, leasing and rental agencies and registrants of new motor vehicles must demonstrate to PennDOT's Bureau of Motor Vehicles that new vehicles subject to the final rulemaking meet the emission standards.

The NLEV program requires certain reports of vehicle sales from auto manufacturers to the EPA. The EPA estimates that the testing, recordkeeping and reporting requirements should be approximately 241 hours annually for each manufacturer under the NLEV program. Under the Pennsylvania Clean Vehicles Program, the incremental paperwork requirements would be considerably less since manufacturers are already required to do compliance testing under CARB requirements.

#### H. *Sunset Review*

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

#### I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 13, 1997, the Board submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to 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 Board also provided IRRC and the Committees with copies of the comments as well as other documents.

In preparing these final-form regulations, the Board 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 October 26, 1998. IRRC met on November 5, 1998, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

#### J. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 6303 (November 29, 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 and are reasonably necessary to achieve and maintain the NAAQS for ozone.

K. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 126, are amended by amending § 121.1 and by adding §§ 126.401—126.402, 126.411—126.413, 126.421—126.425, 126.431—126.432 and 126.441 to read as set forth in Annex A with the ellipses referring to the existing text of 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) These final-form regulations are effective upon publication in the *Pennsylvania Bulletin*.

JAMES M. SEIF,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 5818 (November 21, 1998).)

Fiscal Note: Fiscal Note 7-330 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 III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

CARB—California Air Resources Board—The board established and empowered to regulate sources of air pollution in California, including motor vehicles, under California Health & Safety Code Section 39003.

CARB Executive Order—A document issued by CARB certifying that a specified engine family or model year vehicle has met applicable Title 13 CCR requirements for certification and sale in California.

CCR—California Code of Regulations.

Clean Vehicles Program—A low-emissions vehicle program established under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) which implements the low emission standards for new motor vehicles and motor vehicle engines adopted by California under a waiver obtained from the Administrator of the EPA under section 209(b) of the Clean Air Act (42 U.S.C.A. § 7543(b)).

\* \* \* \* \*

Dealer—A person who is engaged in the sale or distribution of new motor vehicles or new motor vehicles to the ultimate purchaser as defined in section 216(4) of the Clean Air Act (42 U.S.C.A. § 7550).

Debit—Fleet average NMOG debits as calculated from the amount that the manufacturer's applicable fleet average NMOG value is above the applicable fleet average NMOG standard, times the applicable production for a given model year.

\* \* \* \* \*

Emergency vehicle—A fire, police or sheriff department vehicle, ambulance, blood-delivery vehicle, hazardous material response vehicle, armed forces emergency vehicle, one vehicle operated by a coroner or chief deputy coroner or deputy chief county medical examiner used for answering emergency calls. The term includes motor vehicles designated as emergency vehicles by the State Police under 75 Pa.C.S. § 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), or a privately-owned vehicle specified in 75 Pa.C.S. § 102 (relating to definitions) which is used in answering an emergency call by any of the following:

- (i) A police chief and assistant chief.
(ii) A fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief.
(iii) A fire police captain and fire police lieutenant.
(iv) An ambulance corps commander and assistant commander.
(v) A river rescue commander and assistant commander.
(vi) A county emergency management coordinator.
(vii) A fire marshal.
(viii) A rescue service chief and assistant chief.

\* \* \* \* \*

Fleet average—For the purposes of motor vehicles subject to Pennsylvania's Clean Vehicles Program requirements, a motor vehicle manufacturer's average vehicle emissions of all NMOG emissions from vehicles which are produced and delivered for sale in this Commonwealth in any model year.

\* \* \* \* \*

GVWR—Gross Vehicle Weight Rating— The total motor vehicle weight, including load, as designated by the manufacturer of the vehicle.

\* \* \* \* \*

LDT—light-duty truck—A motor vehicle rated at 8,500 pounds gross vehicle weight or less which is designed primarily for purposes of transportation or major components of the vehicle, including, but not limited to, chassis, frames, doors and engines. For purposes of Chapter 126, Subchapter D (relating to new motor vehicle emissions control program requirements), a light-duty truck is any motor vehicle, rated at 6,000 pounds gross vehicle weight or less which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

LDV—light-duty vehicles—A passenger car or light-duty truck.

\* \* \* \* \*

*Model year*—The manufacturer's annual production period (as determined under 40 CFR 85.2304 (relating to definition of production period)) which includes January 1 of the calendar year. If the manufacturer has no annual production period, the term means the calendar year.

\* \* \* \* \*

*Motor vehicle*—A self-propelled vehicle designed for transporting persons or property on a street or highway.

*Motor vehicle manufacturer*—A person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines or importing these vehicles or engines for resale. The term includes a person who acts for and is under the control of any manufacturer in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles, new nonroad engines. The term does not include a dealer with respect to new motor vehicles or new motor vehicle engines received by the dealer in commerce.

\* \* \* \* \*

*NLEV*— National Low Emission Vehicle.

*NLEV Program*—A voluntary low emission vehicle program specified in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) for light-duty vehicles and light-duty trucks.

*NMOG*—Nonmethane organic gases.

\* \* \* \* \*

*New motor vehicle or new light-duty vehicle*—A motor vehicle for which the equitable or legal title has never been transferred to the ultimate purchaser. For purposes of the Pennsylvania Clean Vehicles Program, the equitable or legal title to a motor vehicle with an odometer reading of 7,500 miles or more shall be considered to be transferred to the ultimate purchaser. If the equitable or legal title to a motor vehicle with an odometer reading is less than 7,500 miles, the vehicle will not be considered to be transferred to the ultimate purchaser.

\* \* \* \* \*

*Offset vehicle*—A light-duty vehicle which has been certified by California as set forth in the CCR, Title 13, Chapter 1, Section 1960.

\* \* \* \* \*

*Passenger car*—A motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.

\* \* \* \* \*

*Ultimate purchaser*—With respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

\* \* \* \* \*

*ZEV—Zero-Emission Vehicle*—A light-duty vehicle which is certified to produce zero emissions of any criteria pollutants under any possible operational modes and conditions. Incorporation of a fuel fired heater does not preclude a vehicle from being certified as a ZEV if the fuel fired heater cannot be operated at ambient temperatures above 40°F and the heater is demonstrated to have zero evaporative emissions under any operational modes and conditions.

**CHAPTER 126. MOBILE SOURCES**

**Subchapter D. NEW MOTOR VEHICLE EMISSIONS CONTROL PROGRAM**

**GENERAL PROVISIONS**

- Sec.
- 126.401. Purpose.
- 126.402. NLEV scope and applicability.

**PENNSYLVANIA CLEAN VEHICLES PROGRAM**

- 126.411. General requirements.
- 126.412. Emission requirements.
- 126.413. Exemptions.

**APPLICABLE NEW MOTOR VEHICLE TESTING**

- 126.421. New motor vehicle certification testing.
- 126.422. New motor vehicle compliance testing.
- 126.423. Assembly line testing.
- 126.424. In-use motor vehicle enforcement testing.
- 126.425. In-use surveillance testing.

**MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS**

- 126.431. Warranty and recall.
- 126.432. Reporting requirements.

**MOTOR VEHICLE DEALER RESPONSIBILITIES**

- 126.441. Responsibilities of motor vehicle dealers.

**GENERAL PROVISIONS**

**§ 126.401. Purpose.**

(a) This subchapter establishes a clean vehicles program under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone and other air pollutants from new motor vehicles.

(b) This subchapter allows motor vehicle manufacturers to comply with the voluntary NLEV program described in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks), as a compliance alternative to the Pennsylvania Clean Vehicles Program requirements described in §§ 126.411—126.441 and creates the mechanism to meet the requirements of the state opt-in provisions of the NLEV Program.

(c) The subchapter adopts and incorporates by reference certain provisions of the California Low Emission Vehicle Program.

(d) The subchapter also exempts certain new motor vehicles from the Pennsylvania Clean Vehicles Program.

**§ 126.402. NLEV scope and applicability.**

(a) Covered motor vehicle manufacturers as defined in 40 CFR 86.1702 (relating to definitions) that do not opt-out of the NLEV Program as provided under 40 CFR 86.1707 (relating to general provisions; opt-outs) may comply with the NLEV program requirements in 40 CFR Part 86, Subpart R (relating to general provisions for the voluntary national low emission vehicle program for light-duty vehicles and light-duty trucks) as an alternative to complying with the Pennsylvania Clean Vehicles Program requirements in §§ 126.411—126.441.

(b) The Commonwealth's participation in the NLEV Program extends until model year 2006, except as provided in 40 CFR 86.1707. If no later than December 15, 2000, the EPA does not adopt standards at least as stringent as the NLEV standards provided in 40 CFR Part 86, Subpart R that apply to new motor vehicles in Model Year 2004, 2005 or 2006, the Commonwealth's participation in the NLEV program extends only until Model Year 2004, except as provided in 40 CFR 86.1707.

(c) For the duration of the Commonwealth's participation in the NLEV Program, manufacturers may comply with the NLEV standards or equally stringent mandatory Federal standards in lieu of compliance with the Pennsylvania Clean Vehicles Program established in §§ 126.411—126.441 or any program, including any mandates for sales of ZEVs adopted by Pennsylvania under section 177 of the Clean Air Act (42 U.S.C.A § 7507) applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR or medium-duty vehicles from 6,001 to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in CCR, Title 13, Division 3, Chapter 1, Article 1, Section 1900.

(d) Except as provided in subsections (a) and (c), the Pennsylvania Clean Vehicles Program applies to all new-passenger cars, and light-duty trucks (if designed to operate on gasoline) sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth starting with the model year beginning after December 5, 2000, and each model year thereafter.

(e) If a covered manufacturer, as defined in 40 CFR 86.1702 (relating to definitions) opts out of the NLEV Program under the EPA NLEV regulations in 40 CFR 86.1707, the transition from the NLEV requirements to the Pennsylvania Clean Vehicles Program or any Pennsylvania Section 177 Program applicable to passenger cars, light-duty trucks up through 6,000 pounds GVWR or medium-duty vehicles from 6,001 pounds to 14,000 pounds GVWR if designed to operate on gasoline, as these categories of motor vehicles are defined in CCR, Title 13, Division 3, Chapter 1, Article 1, Section 1900, will proceed in accordance with the EPA NLEV regulations in 40 CFR 86.1707.

#### PENNSYLVANIA CLEAN VEHICLES PROGRAM

##### § 126.411. General requirements.

(a) The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received or registered in this Commonwealth starting with the model year beginning after December 5, 2000, and each model year thereafter.

(b) The provisions of the California Low Emission Vehicle Program, Title 13, CCR, Chapters 1 and 2, are adopted and incorporated herein by reference, and apply except for the following:

(1) The zero emissions vehicle sales mandate in Title 13 CCR Chapter 1, § 1960.1(g)(2) (footnote 9),

(2) The emissions control system warranty statement in Title 13 CCR, Chapter 2, § 2039.

##### § 126.412. Emission requirements.

(a) Starting with the model year beginning after December 5, 2000, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, incorporated herein by reference.

(b) Starting with the model year beginning after December 5, 2000, compliance with the fleetwide average in Title 13 CCR Chapter 1, § 1960.1(g)(2), shall be demonstrated for each motor vehicle manufacturer based on the

number of new light-duty vehicles delivered for sale in this Commonwealth. This requirement excludes the percentage requirement for zero emission vehicles included in footnote 9 of Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Credits and debits for calculating the fleet average shall be based on the number of light-duty vehicles delivered for sale in this Commonwealth and may be accrued and utilized by each manufacturer according to procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(d) New motor vehicles subject to the requirements of this subchapter shall possess a valid emissions control label which meets the requirements of Title 13 CCR Chapter 1, § 1965, incorporated herein by reference.

##### § 126.413. Exemptions.

(a) The following new motor vehicles are exempt from the Pennsylvania Clean Vehicles Program requirements of this subchapter:

(1) Emergency vehicles.

(2) A light-duty vehicle transferred by a dealer to another dealer.

(3) A light-duty vehicle transferred for use exclusively off-highway.

(4) A light-duty vehicle transferred for registration out of state.

(5) A light-duty vehicle granted a National security or testing exemption under section 203(b)(1) of the Clean Air Act (42 U.S.C.A. § 7522(b)(1)).

(6) A light-duty vehicle held for daily lease or rental to the general public which is registered and principally operated outside of this Commonwealth.

(7) A light-duty vehicle engaged in interstate commerce which is registered and principally operated outside of this Commonwealth.

(8) A light-duty vehicle acquired by a resident of this Commonwealth for the purpose of replacing a vehicle registered to the resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this Commonwealth if the replacement vehicle is acquired out of this Commonwealth at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(9) A light-duty vehicle transferred by inheritance or court decree.

(10) A light-duty vehicle defined as a military tactical vehicle or engines used in military tactical vehicles including a vehicle or engine excluded from regulation under 40 CFR 85.1703 (relating to application of section 216(2)).

(11) A light-duty vehicle sold after December 5, 2000, if the vehicle was registered in this Commonwealth before December 5, 2000.

(12) A light-duty vehicle having a certificate of conformity issued under the Clean Air Act and originally registered in another state by a resident of that state who subsequently establishes residence in this Commonwealth and upon registration of the vehicle provides satisfactory evidence to the Department of Transportation of the previous residence and registration.

(b) To register an exempted vehicle, the person seeking registration shall provide satisfactory evidence, as determined by the Department of Transportation, demonstrating that the exemption is applicable.

**APPLICABLE MOTOR VEHICLE TESTING**

**§ 126.421. New motor vehicle certification testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1 as determined by testing in accordance with Title 13 CCR Chapter 2, §§ 2101—2110, 2150 and 2151, incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB are applicable.

**§ 126.422. New motor vehicle compliance testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter shall be certified as meeting the motor vehicle requirements of Title 13 CCR Chapter 1, § 1960.1, as determined by New Vehicle Compliance Testing, conducted in accordance with Title 13 CCR Chapter 2, §§ 2101—2110, 2150 and 2151, and incorporated herein by reference.

(b) For purposes of complying with subsection (a), new vehicle compliance testing determinations and findings made by CARB are applicable.

**§ 126.423. Assembly line testing.**

(a) Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct inspection testing and quality audit testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106 and 2107, incorporated herein by reference.

(b) For purposes of complying with subsection (a), inspection testing and quality audit testing determinations and findings made by CARB are applicable.

(c) If a motor vehicle manufacturing facility which manufactures vehicles for sale in this Commonwealth certified by CARB is not subject to the inspection testing and quality audit testing requirements of the CARB, the Department may, after consultation with CARB, require testing in accordance with Title 13 CCR Chapter 2, §§ 2061, 2106, 2107 and 2150, incorporated herein by reference. Upon a manufacturer's written request and demonstration of need, functional testing under the procedures incorporated in Title 13 CCR Chapter 2, § 2061 of a statistically significant sample may substitute for the 100% testing rate in Title 13 CCR Chapter 2, § 2061, with the written consent of the Department.

**§ 126.424. In-use motor vehicle enforcement testing.**

(a) For purposes of detection and repair of motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements which fail to meet the motor vehicle emission requirements of Title 13 CCR Chapter 1, § 1960.1, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR Chapter 2, §§ 2136—2140, incorporated herein by reference.

(b) For purposes of compliance with subsection (a), in-use vehicle enforcement testing determinations and findings made by CARB are applicable.

(c) The results of testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

**§ 126.425. In-use surveillance testing.**

(a) For purposes of testing and monitoring the overall effectiveness of the Pennsylvania Clean Vehicles Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB.

(b) For purposes of program planning, in-use surveillance testing determinations and findings made by CARB are applicable.

(c) The results of in-use surveillance testing conducted under this section will not affect the result of any emission test conducted under 67 Pa. Code Chapter 177 (relating to enhanced emission inspection).

**MOTOR VEHICLE MANUFACTURERS' OBLIGATIONS**

**§ 126.431. Warranty and recall.**

(a) A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements of this subchapter which are sold, leased, offered for sale or lease or registered in this Commonwealth, shall warrant to the owner that each vehicle shall comply over its period of warranty coverage with the requirements of Title 13 CCR Chapter 2, §§ 2035—2038, 2040 and 2041, incorporated herein by reference.

(b) Each motor vehicle manufacturer shall submit to the Department failure of emission-related components reports, as defined in Title 13 CCR Chapter 2, § 2144, for motor vehicles subject to the Pennsylvania Clean Vehicles Program in compliance with the procedures in Title 13 CCR Chapter 2, §§ 2141—2149, incorporated herein by reference.

(c) For motor vehicles subject to the Pennsylvania Clean Vehicles Program, any voluntary or influenced emission-related recall campaign initiated by any motor vehicle manufacturer under Title 13 CCR Chapter 2, §§ 2113—2121 shall extend to all new motor vehicles sold, leased, offered for sale or lease or registered in this Commonwealth.

**§ 126.432. Reporting requirements.**

(a) For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, commencing with the model year beginning after December 5, 2000, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each engine family over that model year in this Commonwealth.

(b) For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, each motor vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG emissions of its total deliveries for sale of LDVs in each engine family for Pennsylvania for that particular model year. The fleet average report, calculating compliance with the fleetwide NMOG exhaust emission average, shall be prepared according to the procedures in Title 13 CCR Chapter 1, § 1960.1(g)(2).

(c) Fleet average reports shall, at a minimum, identify the total number of vehicles including offset vehicles sold in each engine family delivered for sale in this Commonwealth the specific vehicle models comprising the sales in

each state and the corresponding certification standards, and the percentage of each model sold in this Commonwealth in relation to total fleet sales.

#### **MOTOR VEHICLE DEALER RESPONSIBILITIES**

##### **§ 126.441. Responsibilities of motor vehicle dealers.**

A dealer may not sell, offer for sale or lease or deliver a new motor vehicle subject to this subchapter unless the vehicle conforms to the following standards and requirements contained in Title 13 CCR Chapter 2, § 2151 and incorporated herein by reference:

- (1) Ignition timing is set to manufacturer's specification with an allowable tolerance of  $\pm 3^\circ$ .
- (2) Idle speed is set to manufacturer's specification with an allowable tolerance of  $\pm 100$  revolutions per minute.
- (3) Required exhaust and evaporative emission controls including exhaust gas recirculation (EGR) valves, are operating properly.
- (4) Vacuum hoses and electrical wiring for emission controls are correctly routed.
- (5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

[Pa.B. Doc. No. 98-1982. Filed for public inspection December 4, 1998, 9:00 a.m.]

## **Title 58—RECREATION**

### **FISH AND BOAT COMMISSION**

#### **[58 PA. CODE CH. 109]**

#### **Operation of Personal Watercraft**

The Fish and Boat Commission (Commission) by this order amends § 109.3 (relating to personal watercraft). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendment relates to the operation of personal watercraft (PWC).

##### *A. Effective Date*

This amendment will go into effect upon publication of this order adopting the amendment.

##### *B. Contact Person*

For further information on the amendment, contact John F. Simmons, Director, Bureau of Boating and Education (717) 657-4538 or Laurie E. Shepler, Assistant Counsel (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This final rulemaking is available electronically through the Commission's Web site at <http://www.fish.state.pa.us>.

##### *C. Statutory Authority*

This amendment is published under the statutory authority of section 5123 of the code (relating to general boating regulations).

##### *D. Purpose and Background*

The amendment is designed to update, modify and improve Commission regulations pertaining to boating. The specific purpose of the amendment is described in more detail under the summary of changes.

##### *E. Summary of Changes*

PWCs are the fastest growing segment of recreational boating in this Commonwealth. In 1997, the Commission registered about 21,000 PWCs, about 6% of the total number of boats. It is projected that by the year 2000, there will be over 23,000 registered PWCs in this Commonwealth.

PWC operators are involved in a disproportionate number of boating accidents. In 1996, one third of all reported boating accidents involved at least one PWC, and 61% of all reported collisions between boats involved at least one PWC. Collisions are the most common type of accident reported, and they are usually caused by the operator not keeping a proper lookout or operating the boat in a reckless manner. Many of the accidents are caused by people new to PWC operation, and nearly all of these accidents are avoidable.

Some PWC operators do not seem to realize that they are operating boats when they operate PWCs. Some do not appear to understand that PWC operators must follow the same laws and regulations as other power boaters. As a result, a disproportionate number of boating regulation violations are by PWC operators. At a recent Commission meeting, over half of all proposed revocations of boating privileges that were considered were for violations by operators of PWC. The majority of the violations were for negligent operation of watercraft. In addition, a high percentage of complaints relate to actual or perceived PWC operational deficiencies. A number of the complaints concern noise issues which, although usually not a violation of Commission regulations, could be avoided if the PWC operator understood ethical operation of these watercraft. Many of the complaints pertain to wake violations and reckless operation.

Boating ethics are an important part of PWC operation that all operators must understand to reduce conflicts on the waters of this Commonwealth. Courtesy toward others on the water and people living along the shore cannot be overemphasized. Inconsiderate PWC operators prevent others from enjoying the same rights as they do. Spraying someone on shore, jumping another boat's wake too closely or riding near someone who is fishing have created hard feelings. Once negative opinions are formed, they are difficult to change. "Perception" of wrong doing can be just as strong as actually doing something wrong. PWC operators must be responsible and understand how their activity is being viewed by others.

If everyone who operates a PWC (or any boat for that matter) took a boating course, there would still be some accidents and conflicts. However, there is no question that the information that operators learn in an approved boating course provides operators with information that they would not learn on their own. Presumably, this education will give the operator information that will result in proper boating procedures and ethics. States, such as Connecticut, have indicated that they have had a proportional drop in accidents once they initiated mandatory boating education. Therefore, the Commission published a notice of proposed rulemaking, proposing to institute a mandatory education program for operators of PWCs and to amend its regulations to provide that effective January 1, 2000, a person may not operate a PWC on the waters of this Commonwealth unless the person has obtained a Boating Safety Education Certificate.

On final rulemaking, the Commission adopted the amendment on boating safety education certification for



operators of PWCs as set forth in Annex A, effective January 1, 2000, with no exceptions based on the age of the operator. It is the intent of the Commission that there be no extension of the January 1, 2000, deadline for operators of PWCs to obtain Boating Safety Education Certificates. In addition, the Commission, on final rulemaking, added language to address the concerns voiced by boat rental businesses and dealers. There appears to be a need to provide for issuance of temporary Boating Safety Education Certificates to operators of newly purchased PWCs after some training and completion of a written test. Staff are working on some more extensive proposed changes to the regulations on boat rental businesses to accommodate these new requirements. A proposed rulemaking on this subject should be ready for Boating Advisory Board (Board) and Commission review by the fall 1998 meetings. In addition, staff will present a draft of proposed rulemaking on temporary Boating Safety Education Certificates at the fall meetings.

#### F. Paperwork

The amendment will increase paperwork and will create new paperwork requirements in that, after January 1, 2000, all persons who wish to operate a PWC on Commonwealth waters will need to complete an appropriate boating safety course and receive a certification of completion of the course. The Commission's estimate is that there are about 60,000 operators of PWCs. They will need to complete a safe boating course and apply for and receive a Boating Safety Education Certificate prior to January 1, 2000. After the initial response to the training requirement, the Commission estimates that about 20,000 operators of PWCs will seek certification each year. In addition to this paperwork requirement, enforcement of this amendment may result in an increase of applications for duplicate or replacement Boating Safety Education Certificates, which will have to be carried by operators of PWCs.

#### G. Fiscal Impact

The amendment will have no adverse fiscal impact on political subdivisions. The amendment will impose some new costs on the Commonwealth, acting through the Commission. Conducting additional boating safety courses will result in some additional costs for time and materials. Many of these courses are conducted by Commission volunteers as well as the United States Coast Guard Auxiliary and the United States Power Squadron, but there will be some additional costs for administrative functions related to the increased number of persons completing boating safety courses, as well as overtime for instructors. The Commission estimates that the additional personnel costs should total about \$25,000 per year from the Boat Fund for FY 98-99 and FY 99-2000. After the initial response to the training requirements, the annual additional personnel costs should be about \$10,000 per year. The additional costs for course materials will total about \$7,500 per year for FY 98-99 and FY 99-2000 and \$5,000 per year thereafter. In addition, issuance of approximately 50,000 additional Boating Safety Education Certificates will impose additional costs of about \$20,000 in FY 98-99 and \$30,000 in FY 99-2000. Thereafter, the cost of printing, issuing and distributing certificates should level off at about \$15,000 per year. The Commission also expects to incur modest printing costs (less than \$1,000 per year) for the issuance of temporary Boating Safety Education Certificates to operators of newly purchased PWCs. All of the costs described previously will be paid from the Boat Fund, a special fund administered by the Commission.

The amendment also will impose additional costs on the private sector. Although the number of power boats registered as rental boats by boat liveries totals only about 100 in the entire State, those businesses that rent PWCs will face a reduction in business at least in the initial stages of implementation of the mandatory education requirement. If a person cannot rent a PWC unless the person has first completed a boating safety course, some potential customers may be discouraged from renting the watercraft.

The amendment will impose additional costs on the general public. Many boating safety courses are free, but some providers do charge a fee to take a course. It is expected that the private sector (community colleges, private schools, and the like) will come forward to meet some of the demand for boating safety courses and that these costs will be passed on to the members of the general public who take a course.

#### H. Public Involvement

A notice of proposed rulemaking containing the amendment was published at 28 Pa.B. 1954 (April 25, 1998). The Commission allowed for an extended public comment period of 60 days instead of the usual 30-day public comment period. Before and during the public comment period, the Commission received 76 written comments on the proposed requirement that PWC operators possess a Boating Safety Education Certificate. Thirty-two of the comments are generally in favor of the proposal. Thirty-three suggested that this requirement should apply to all boaters; some of these comments suggested that the amendment was discriminatory toward PWC users and, if it became law, should apply to all motorboat operators. Eleven commentators have miscellaneous observations or have expressed reservations or opposition to some aspects of the proposal. Most of the reservations concern the impacts on rental watercraft. Copies of all public comments were provided to the Commissioners.

In addition, a public hearing to solicit additional public comments was held on June 23, 1998, in Harrisburg. Seven persons provided comments during this hearing. Comments were generally in favor of the proposed amendment, as long as boat liveries and boat dealers are given some opportunity to provide training and temporary certification. A copy of the hearing transcript was provided to the Commissioners.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and that all comments received were considered.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 93, are amended by amending § 109.3 to read as set forth in Annex A.

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

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

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

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-78 remains valid for the final adoption of the subject regulation.

#### Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart C. BOATING

#### CHAPTER 109. SPECIALTY BOATS AND WATERSKIING ACTIVITIES

##### § 109.3. Personal watercraft.

(a) As used in this section, "personal watercraft" means a boat less than 16 feet in length which:

(1) Uses an internal combustion motor powering a water jet pump as its primary source of motive propulsion.

(2) Is designed to be operated by a person sitting, standing or kneeling rather than in the conventional manner of boat operation.

(b) It is unlawful for a person to operate, or be a passenger onboard, a personal watercraft on the waters of this Commonwealth unless the person is wearing a Type I, II, III or V United States Coast Guard approved personal flotation device. Inflatable personal flotation devices may not be used to meet this requirement.

(c) A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch shall attach the lanyard to his person, clothing or personal flotation device as appropriate for the specific vessel.

(d) A person may not operate a personal watercraft between sunset and sunrise.

(e) Subsections (b) and (c) do not apply to a performer participating in a permitted regatta, race, marine parade, tournament or exhibition or to a person preparing to participate in the event at the location and within 48 hours prior to the event.

(f) A rental business may not lease, hire or rent a personal watercraft to or for use by a person who is 15 years of age or younger.

(g) The operator of a personal watercraft with a capacity of two or less persons as determined by the manufacturer, may not tow water skiers or engage in water skiing or similar activities while operating a personal watercraft. Other personal watercraft may tow no more than one skier.

(h) Except as otherwise provided in this subpart, on or after January 1, 2000, a person may not operate a personal watercraft on the waters of this Commonwealth unless the person has obtained a Boating Safety Education Certificate as defined in § 91.6 (relating to certificates).

(1) The Executive Director may authorize boat rental businesses to issue temporary boating safety education certificates, effective for the period of rental only, to operators of rental personal watercraft if the boat rental business and the operator comply with the requirements governing the rental of personal watercraft and the operation of personal watercraft rental businesses as defined in Chapter 117 (relating to boat rental business).

(2) The Executive Director may authorize issuance of temporary boating safety education certificates to operators of newly purchased personal watercraft upon completion of training and examination the Executive Director may require.

(3) New purchasers of personal watercraft and members of their immediate families may be eligible for issuance of temporary certificates, which shall be valid for at least 90 and no more than 180 days from the date of purchase.

[Pa.B. Doc. No. 98-1983. Filed for public inspection December 4, 1998, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [61 PA. CODE CHS. 155 AND 170]

#### Single Factor Apportionment and Student Loan Assets Exempt by Public Policy; Corporation Taxes

The Department of Revenue (Department), under the authority contained in sections 408 and 603 of the Tax Reform Code of 1971 (TRC) (72 P. S. §§ 7408 and 7603), by this order adopts amendments to § 155.10 (relating to single factor apportionment) and deletes § 170.2 (relating to student loan assets exempt by public policy) to read as set forth in Annex A.

##### *Purpose*

It has long been the public policy of the Commonwealth to improve higher educational opportunities by assisting persons in meeting the educational expenses of higher education and by enabling the Pennsylvania Higher Education Assistance Agency, other lenders and educational institutions to make loans available to students and the parents of students for educational purposes. Financial assistance to students is provided through various Federal, State and private student loan programs.

The business trust form is frequently used as a financing vehicle to increase the availability of financing for student loans. In these trust structures, a trust is established to acquire student loan notes from originators of student loans. The trust certificates of beneficial interest and debt securities issued by the trusts to raise funds to acquire student loans from originators are secured by the student loan notes acquired, related Federal and State guarantees and subsidies of the student loans, and certain other related assets commonly held by student loan trusts to facilitate the ownership, maintenance and management of, and investment in or purchase and sale of, student loans. Legal title to the student loan notes is typically held by a financial institution serving as trustee and qualifying to hold title to the loans under applicable student loan laws and regulations. The investment in student loans through the trust structures serves the public purpose of increasing liquidity in

the student loan market and increasing the total funding available to make student loans.

The act of May 7, 1997 (P. L. 85, No. 7) (Act 7) amended section 601 of the TRC (72 P. S. § 7601) so as to change the definitions of "domestic entity" and "foreign entity" with the effect of subjecting all business trusts to the capital stock tax/foreign franchise tax, effective for tax years beginning on or after January 1, 1998. This amendment caused business trusts created for the securitization of student loans to be subject to the capital stock or foreign franchise tax.

Prior to the effective date of Act 7's amendments to the definitions, the Department determined that student loan assets held or owned by an entity created for the securitization of student loans should be exempt from taxation by reason of public policy. The Department published a statement of policy in the *Pennsylvania Bulletin* adopting this policy on November 14, 1997. See 61 Pa. Code § 170.2.

The Department's regulations also list certain assets that have been determined to be exempt from taxation by reason of public policy. See § 155.10(d)(4). Therefore, the Department published a proposed amendment on November 14, 1997, to revise the list of assets exempt from taxation by reason of public policy to include student loan assets held or owned by an entity created for the securitization of student loans.

Article VI of the TRC (72 P. S. §§ 7601—7603) has now been amended by Act 45 to specifically provide a statutory exemption from taxation for student loan assets held or owned by an entity created for the securitization of student loans. This statutory exemption applies to all taxable years beginning after December 31, 1997.

#### *Explanation of Regulatory Requirements*

Currently, assets that are statutorily exempt from the capital stock and foreign franchise tax are listed in § 155.10(d)(3). For purposes of implementing Act 45, the list of assets specifically exempt from taxation by Commonwealth statute is being amended to include student loan assets held or owned by an entity created for the securitization of student loans.

Act 45 also supersedes the Department's statement of policy exempting student loan assets from taxation by reason of public policy. Therefore, § 170.2 is being deleted contemporaneous with the promulgation of this amendment.

#### *Affected Parties*

Taxpayers subject to the capital stock or foreign franchise tax may be affected by this amendment.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 28 Pa.B. 380 (January 24, 1998). The amendment is being adopted with changes to the proposed rulemaking.

The Department received comments from the Independent Regulatory Review Commission (IRRC). The Department did not receive any comments during the public comment period. No objections or comments were raised by the Senate Finance Committee or the House Finance Committee.

IRRC had two comments. First, IRRC questioned the Department's authority to exempt student loan assets held by securitization trusts. IRRC requested the Department to cite specific statutory authority for the exemption.

Act 45 was enacted subsequent to the completion of IRRC's comments. Act 45 specifically amended section 602 of the TRC (72 P. S. § 7602) to provide that student loan assets held or owned by an entity created for the securitization of student loans are exempt from the capital stock and foreign franchise tax. See 72 P. S. § 7602. Section 601 of the TRC was also amended to provide a definition of "student loan assets." 72 P. S. § 7601.

IRRC also recommended that the phrase "or with respect to" be deleted from § 155.10(d)(4)(vi)(F) as unnecessary language. This phrase is also included within the definition of "student loan assets" adopted by the Legislature in Act 45. The Department recognizes IRRC's concern, but has elected to retain the language in the regulation for purposes of conforming the regulatory exemption with the recently enacted statutory language.

#### *Fiscal Impact*

The Department has determined that the amendment will have no fiscal impact on the Commonwealth.

#### *Paperwork*

The amendment will not generate additional paperwork for the public or the Commonwealth.

#### *Effectiveness/Sunset Date*

The amendment will become effective upon final publication in the *Pennsylvania Bulletin*. The amendment is scheduled for review within 5 years of final publication. No sunset date has been assigned.

#### *Contact Person*

The contact person for an explanation of the final-form regulation is Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 13, 1998, the Department submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 380 to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing this final-form regulation, the Department has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House and Senate Committee on October 27, 1998. IRRC met on November 5, 1998, and approved the final-form regulation in accordance with section 5(e) of the Regulatory Review Act.

#### *Findings*

The Department finds that:

(1) Public notice of intention to adopt the regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 469, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The regulation is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department acting under the authorizing statute, orders:

(a) The regulations of the Department, 61 Pa. Code Chapters 155 and 170, are amended by amending § 155.10 and deleting the statement of policy at § 170.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

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

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

ROBERT A. JUDGE, SR.,  
Secretary

**Fiscal Note:** 15-397. 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. 5818 (November 21, 1998.)

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart B. GENERAL FUND REVENUES**

**ARTICLE VI. CORPORATION TAXES**

**CHAPTER 155. CAPITAL STOCK TAX AND FOREIGN FRANCHISE TAX**

**§ 155.10. Single factor apportionment.**

\* \* \* \* \*

(d) *Exempt and taxable assets.* The following assets are exempt or taxable, as specified, for purposes of the taxable assets fraction. This listing is not exclusive.

\* \* \* \* \*

(3) Certain assets are specifically exempt by Commonwealth statute. These include:

\* \* \* \* \*

(v) Student loan assets that are owned or held by an entity created for the securitization of student loans, or by a trustee on its behalf, including:

(A) Student loan notes.

(B) Federal, State or private subsidies or guarantees of student loans.

(C) Instruments that represent a guarantee of debt, certificates or other securities issued by an entity created for the securitization of student loans, or by a trustee on its behalf.

(D) Contract rights to acquire or dispose of student loans and interest rate swap agreements related to student loans.

(E) Interests in or debt obligations of other student loan securitization trusts or entities.

(F) Cash or cash equivalents representing reserve funds or payments on or with respect to student loan notes, the securities issued by an entity created for the securitization of student loans, or the other student loan related assets. Solely for purposes of this exemption for student loan assets, "cash or cash equivalents" shall include:

(I) Direct obligations of the United States Department of the Treasury.

(II) Obligations of Federal agencies which obligations represent the full faith and credit of the United States of America.

(III) Investment grade debt obligations or commercial paper.

(IV) Deposit accounts.

(V) Federal funds and banker's acceptances.

(VI) Prefunded municipal obligations.

(VII) Money market instruments and money market funds.

\* \* \* \* \*

**CHAPTER 170. CORPORATION TAX PRONOUNCEMENTS—STATEMENT OF POLICY**

**§ 170.2. (Reserved).**

*Editor's Note:* This statement of policy is being deleted contemporaneously with the amendment to rule § 155.10 because the act of April 23, 1998 (P. L. 239, No. 45) supersedes § 170.2.)

[Pa.B. Doc. No. 98-1984. Filed for public inspection December 4, 1998, 9:00 a.m.]

# STATEMENT OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Military Affairs

The Executive Board approved a reorganization of the Department of Military Affairs effective November 19, 1998.

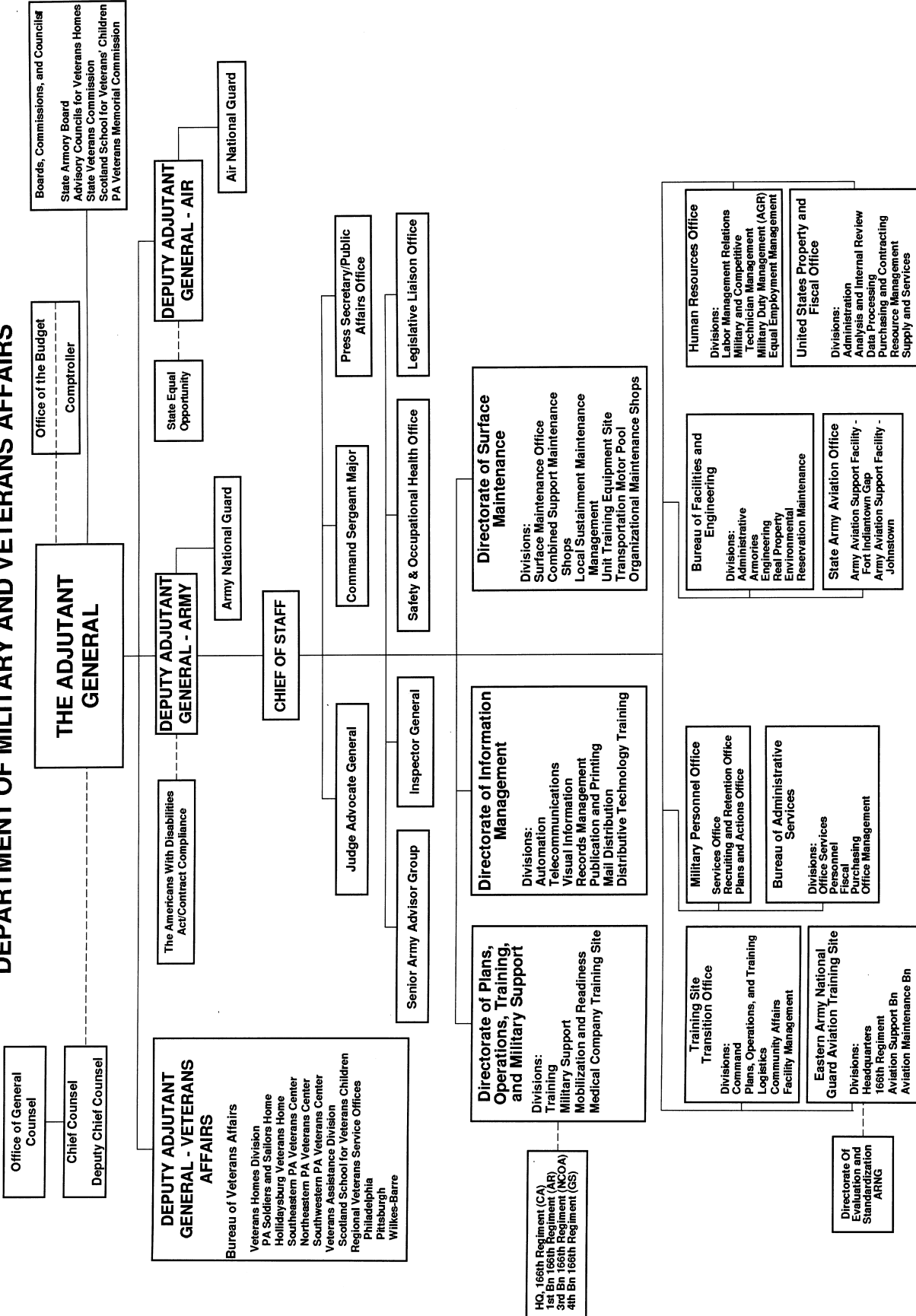
The organization chart at 28 Pa.B. 5890 (December 5, 1998) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 98-1985. Filed for public inspection December 4, 1998, 9:00 a.m.]

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DEPARTMENT OF MILITARY AND VETERANS AFFAIRS



# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold a public hearing on Wednesday, December 9, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be held at 10 a.m. at the same location and will include a Corps of Engineers presentation on Section 22 proposals as well as discussions of correspondence concerning upper Basin reservoir releases and proposals for interim reorganization and formation of a Watershed Council.

In addition to the subjects summarized below which are scheduled for public hearing at the business meeting, the Commission will also address the following: Minutes of the October 7, 1998, business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; consideration of resolutions concerning interim DRBC reorganization, establishment of a Water Management Advisory Committee, contract with the Northeast/Midwest Institute, interstate river basin commissions' role in Clean Water Action Plan and public dialogue.

The subjects of the hearing will be as follows:

*Current Expense and Capital Budgets.* A proposed current expense budget for the fiscal year beginning July 1, 1999, in the aggregate amount of \$4,106,600 and a capital budget reflecting revenues of \$2,508,748 and expenditures of \$2,331,242. Copies of the current expense and capital budgets are available from the Commission on request by contacting Richard C. Gore at (609) 883-9500 ext. 201.

*Applications for Approval of the Following Projects under Article 10.3, Article 11 and/or Section 3.8 of the Compact:*

1. *Summit Hill Water Authority D-84-3 CP RENEWAL*
2. An application for the renewal of a ground water withdrawal project to supply up to 13.8 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 1-4. Commission approval on December 14, 1988, was limited to 10 years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 13.8

mg/30 days. The project is located in Summit Hill Borough, Carbon County, PA.

2. *New Jersey-American Water Company D-90-108 CP Revised.* An application to revise an existing docket by the addition of Aquifer Storage and Recovery (ASR) Well No. 66 to recharge treated drinking water from the applicant's distribution system into the Middle PRM Aquifer during periods of low water demand. The stored high-quality water will be withdrawn and discharged to the distribution system during periods of high demand with no net withdrawal from the aquifer. The proposed ASR project will not increase monthly or annual allocation of ground water. The project is located in Cherry Hill Township, Camden County, New Jersey.

3. *West Goshen Sewer Authority D-98-20 CP.* A project to upgrade and expand the applicant's existing 4.5 million gallons per day (mgd) sewage treatment plant (STP) to 6.0 mgd to continue serving portions of East Goshen and West Goshen Townships, Chester County, PA. The STP is located off South Concord Road in West Goshen Township and will continue to discharge to Chester Creek (locally known as Goose Creek).

4. *Womelsdorf-Robeson Joint Authority D-98-23 CP.* An application for approval of a ground water withdrawal project to supply up to 8.1 mg/30 days of water to the applicant's distribution system from new Well No. 9, and to retain the existing withdrawal limit from all wells at 23 mg/30 days. The project is located in Millcreek Township, Lebanon County, PA.

*A Proposal to Adopt the 1999 Water Resources Program.* A proposal that the 1998 Water Resources Program and the activities, programs, initiatives, concerns, projections and proposals identified and set forth therein be extended and adopted as the 1999 Water Resources Program and that a staff report of progress during 1998 in completing elements of the program and policies in the 1998 Water Resources program be made a part thereof, in accordance with the requirements of Section 13.2 of the Delaware River Basin Compact.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883-9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883-9500 ext. 203 prior to the hearing.

SUSAN M. WEISMAN,  
Secretary

[Pa.B. Doc. No. 98-1986. Filed for public inspection December 4, 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 November 24, 1998.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-20-98	Harleysville National Corporation, Harleysville, to acquire 100% of the voting shares of Northern Lehigh Bancorp, Inc., Slatington	Harleysville	Filed

#### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-17-98	First National Bank of Jermyn Jermyn Lackawanna County <i>To:</i> First Liberty Bank & Trust Jermyn Lackawanna County	645 Washington Ave. Jermyn Lackawanna County	Filed

Application represents conversion from a nationally-chartered banking institution to a State-chartered banking institution.

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-17-98	Jersey Shore State Bank, Jersey Shore, and The First National Bank of Spring Mills, Spring Mills Surviving Institution—Jersey Shore State Bank, Jersey Shore	Jersey Shore	Approved
11-18-98	Minersville Safe Deposit Bank and Trust Company Minersville Schuylkill County Purchase of Assets/Assumption of Liabilities of the Office of Union Savings & Loan Association, Minersville, Located at: 156 Sunbury Street Minersville Schuylkill County	Minersville	Filed

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-28-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market 1758 Allentown Road Lansdale Montgomery County	Opened
10-30-98	Summit Bank Bethlehem Northampton County	Genuardi's Family Market 2850 Audubon Village Dr. Audubon Montgomery County	Opened
11-16-98	First Capitol Bank York York County	5 West High Street Red Lion York County	Opened
11-16-98	East Penn Bank Emmaus Lehigh County	951 State Street Mertztown Longswamp Township Berks County	Opened
11-17-98	1st Summit Bank Johnstown Cambria County	404 N. Center Ave. Somerset Somerset County	Filed



**NOTICES**

**5893**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-19-98	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 50 Lawrence Road Broomall Delaware County	Approved
11-19-98	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 420 McDade Boulevard Folsom Delaware County	Approved

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-19-98	Lafayette Ambassador Bank Easton Northampton County	<i>To:</i> 60 West Broad St. Bethlehem Northampton County  <i>From:</i> 231 East Broad St. Bethlehem Northampton County	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-13-98	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	2700 Eastern Blvd. York York County  1200 Greensprings Dr. York York County	Effective
11-13-98	The York Bank and Trust Company York York County 2220 South Queen Street York York County  West Manchester Mall 1800 Loucks Road York York County  Weis Market 800 South 12th Street Lebanon Lebanon County  Weis Market 1651 East Cumberland St. Lebanon Lebanon County	Effective 11-13-98, Dauphin Deposit merged with and into The First National Bank of Maryland, Baltimore, Maryland.  Eight Branch Offices at the Following locations:  Weis Market 4300 Linglestown Road Harrisburg Dauphin County  Weis Market 3885 Union Deposit Road Harrisburg Dauphin County  Weis Market 5000 Jonestown Road Harrisburg Dauphin County  Weis Market 2160 White Street York York County	Effective
11-17-98	Fulton Bank Lancaster Lancaster County	38 E. Roseville Rd. Lancaster Lancaster County	Filed

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 98-1987. Filed for public inspection December 4, 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 office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the 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 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 (800) 654-5984.

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

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

**PA 0038482.** Sewage. **Fox Township Sewer Authority**, Gahr Road, Kersey, PA 15846.

This application is for a renewal of an NPDES Permit to discharge treated sewage to the Unnamed Tributary to Daguscahonda Run in Fox Township, **Elk 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 the PA-American Water Company intake on the Clarion River located at Clarion, approximately 71 miles below point of discharge.

The proposed effluent limits, based on a design flow of 0.15 mgd, are:

*Outfall No. 001*

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	40	60	80
TSS	30	45	60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen		minimum 3.0 mg/l at all times	
Ammonia-Nitrogen (5-1 to 10-31)	18		36
Copper	0.107		0.214
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0101800.** Industrial waste, SIC: 2851. **Lord Corporation**, 601 South Street, P. O. Box 1050, Saegertown, PA 16433.

This application is for renewal of an NPDES Permit, to discharge of noncontact cooling water and stormwater to French Creek (Outfall 001) and Woodcock Creek (Outfalls 002 and 003) in Saegertown Borough, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes (Outfall 001) and cold water fishes (Outfall 002 and 003), 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 City of Franklin on French Creek located at Franklin, approximately 33 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.461 mgd, are:

*Outfall No. 001*

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX		
Temperature	XX	XX	
Total Residual Chlorine (TRC)	XX		XX
pH		6.0—9.0 at all times	

XX—Monitor and Report on Monthly DMRs.

The proposed discharge limits, based on a design flow of n/a mgd, are:

*Outfall Nos. 002 and 003*

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
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These discharges shall consist of uncontaminated stormwater runoff only. Refer to Special Condition 3 in Part C.

The EPA waiver is in effect.

**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 writer 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 specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

**WQM Permit No. 4398420.** Sewage, **James and Laura Carlson SRSTP**, 340 Vernon Road, Greenville, PA 16125. This project is for the construction of a Single Residence Sewage Treatment Plant in West Salem Township, **Mercer County**.

**WQM Permit No. 4398421.** Sewage, **Jeri L. Sauer, SRSTP**, 325 Fredonia Road, Greenville, PA 16125. This project is for the construction of a Single Residence Sewage Treatment Plant in Hempfield Township, **Mercer 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 effluent 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 discharge.

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 of 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 appealable 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 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 (800) 654-5984.

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

*Northampton County Conservation District, District Manager; R. R. 4, Nazareth, PA 18064-9211, (610) 746-1971.*

**NPDES Permit PAS10U103.** Stormwater. **Charles Conroy**, 6835 Franklin Hill Road, Bangor, PA 18013, has applied to discharge stormwater from a construction activity located in Plainfield Township, **Northampton County**, to Bushkill Creek.

*Southcentral Regional Office: Regional Water Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 657-4707.*

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

**NPDES Permit PAS-10-C039.** Stormwater. **New Morgan Academy**, Thomas Rathjen, Managing Director, Cornell Corrections, Inc., 4801 Woodway, Suite 100-E, Houston, Texas 77056-1805 has applied to discharge stormwater from a construction activity located in New Morgan Borough, **Berks County**, to Conestoga and Hay Creeks.

## SAFE DRINKING WATER

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

*Northwest Regional Office: Regional Manager; 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.*

**A. 1098507.** Public water supply. **CSC Academy (Summit Academy)**, 839 Herman Road, Herman, PA 16036. This proposal involves the permitting of two existing wells (No. 1 and No. 3) and relocating the chlorination equipment to an adjacent building in Herman, **Butler County**.

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

**A. 5398501.** The Department has received a construction permit application from **Galeton Borough** (2 Sherman Street, P. O. Box 222, Galeton, PA 16922; Galeton Borough, **Potter County**) for permitting of a polyphosphate addition system for corrosion control.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 1

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

Sections 302 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 of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.*

**Xpress Lube Site**, City of Philadelphia, **Philadelphia County**. Richard D. Trimpi, P.G., Trimpi Associates, Inc.,

889 Seminary Street, Pennsburg, PA 18073, has submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide health standard. A Final Report was simultaneously submitted.

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

**Helfrich Residence**, Palmyra Township, **Pike County**. Kevin Van Kuren, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Notice of Intent to Remediate (on behalf of his client, Carson Helfrich, HCR No. 1, Box 59, Paupack, PA 18451) concerning the remediation of site soils found to have been contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds and polycyclic aromatic hydrocarbons. The applicant proposes to meet the Statewide human health standard. A Final Report was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 57416N46725 (Mylert Street)**, City of Scranton, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard. A Final Report was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

*Northcentral Regional Office, Michael C. Welch, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.*

**Kephart Property**, Decatur Township, **Clearfield County**. Patty Kephart, 607 Kate Street, Osceola Mills, PA 16666 has submitted a Notice of Intent to Remediate soil contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Progress* on October 19, 1998. Also note Bulletin notice for Final Report submission in another section of this *Pennsylvania Bulletin*.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

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

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a

Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known 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.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified below, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified below. During this comment period a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken PA 19428, (610) 832-5950.*

**Avondale Manufactured Gas Plant Site**, Borough of Avondale, **Chester County**. Michael F. Heisler, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with heavy metals, BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Kennett Paper* on November 5, 1998.

*Northcentral Regional Office: Michael C. Welch, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.*

**Anchor/Darling Valve Company**, City of Williamsport, **Lycoming County**. Anchor/Darling Industries, Inc., Suite 400, 3 Radnor Corp. Center, Radnor, PA 19807 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with heavy metals, solvents, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet the Site-specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Williamsport Sun-Gazette* on October 21, 1998.

## AIR QUALITY

### 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.

Notice is hereby given that 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 to schedule an appointment.

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 permit 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

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

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**21-329-001: Naval Inventory Control Point** (P. O. Box 2020, Mechanicsburg, PA 17055) for operation of five uncontrolled emergency generators in Hampden Township, **Cumberland County**.

**36-303-011A: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506) for operation of a modified asphalt batch plant in East Cocalico Township, **Lancaster County**.

**67-399-021: American Ash Recycling Corp. of America** (1072 Roosevelt Avenue, York, PA 17404) for operation of an ash recycling facility in West Manchester Township, **York County**.

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

Under 25 Pa. Code § 127.521, notice is given that 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 (relating to operating permit requirements) and G (relating to Title V operating permits).

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management at the regional office telephone number noted below. For additional information, contact the regional office noted below.

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.*

**46-00096: Connelly Containers, Inc.** (Righters Ferry Road, Bala Cynwyd, PA 19004) located in Lower Merion Township, **Montgomery County**. The facility's significant emission points are two boilers.

**23-00025: Fibre-Metal Products Company** (Route 1 and Brinton Lake Road, Concordville, PA) located in Concord Township, **Delaware County**. The facility's major emission points include paint booths and compression molding which emit major levels of Volatile Organic Compounds (VOCs).

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Attn: Kanubhai L. Patel, (717) 705-4702.*

**67-05020: PECO Energy Co.** (1848 Lay Road, Delta, PA 17314) located in Peach Bottom Township, **York County**. The facility is an electrical generating facility. The operations primarily emit nitrogen oxides (NO<sub>x</sub>).

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

#### Notice of Intent to Revise Title V Operating Permits 16-00021

**16-00021: Crawford Furniture Mfg. Corp.** (Route 28 North, New Bethlehem, PA 16242) located in Redbank Township, **Clarion County**. The facility is taking an emission limit on their HAPs. This limit will make the facility minor for HAP emissions, thus 40 CFR 63 Part JJ is not applicable. The revision to the existing Title V

permit is to delete the nonapplicable NESHAP requirements and to add the emission limitations for HAPs and the associated recordkeeping and reporting requirements to ensure compliance.

#### 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, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**06-3001A: Unicast Corp.** (241 Washington Street, Boyertown, PA 19512) for a foundry sand system controlled by a fabric collector in Boyertown Borough, **Berks County**.

**22-03025: John M. Shultz Funeral Home** (406 Market Street, Lykens, PA 17048) for installation of a human remains crematorium in Lykens, **Dauphin County**.

**28-03018: CECO/Taylor Co.** (150 Derbyshire Street, Chambersburg, PA 17201) for installation of two paint spray booths in Chambersburg Borough, **Franklin County**.

**36-05004A: M&M/MARS, Inc.** (295 Brown Street, Elizabethtown, PA 17022) for modification of the existing chocolate and cocoa products manufacturing facility, to include the installation of a replacement fabric filter, in Elizabethtown, **Lancaster County**.

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

**49-313-035M: Merck & Co., Inc.** (P. O. Box 600, Danville, PA 17821-0600) for modification of a dedicated pharmaceutical process facility to a campaign basis antibiotic production facility in Riverside Borough, **Northumberland County**.

**41-303-006A: Glenn O. Hawbaker, Inc.** (P. O. Box 135, State College, PA 16804) for modification of a drum mix asphalt plant and associated air cleaning device (a fabric collector) by increasing the maximum allowable production rate from 150 tons per hour to 220 tons per hour and for the construction of a dust additive system in Fairfield Township, **Lycoming County**. This asphalt plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**47-310-002C: Royer Limestone Co.** (c/o HRI, Inc., P. O. Box 155, State College, PA 16804-0155) for construction of a batch asphalt plant and associated air cleaning device (a fabric collector) in Limestone Township, **Montour County**. This plant will be subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**19-320-001E: Haddon Craftsmen, Inc.** (4411 Old Berwick Road, Bloomsburg, PA 17815) for construction of a heatset web offset printing press, a book block binding line and a scrap handling system in South Centre Township, **Columbia County**.

**41-310-011: Milestone Materials, Inc.** (P. O. Box 231, Easton, PA 18044-0231) for construction of a sand and gravel processing plant and associated air cleaning device (a water spray dust suppression system) in Montoursville Borough and Fairfield Township, **Lycoming County**. This plant will be subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

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

**65-837A: CNG Transmission Corp.** (CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15222) for operation of two convective heaters at Oakford Compressor Station in Salem Township, **Westmoreland County**.

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

**10-313-028A: Indspec Chemical Corp.** (133 Main Street, P. O. Box 307, Petrolia, PA 16050) for installation of a new scrubber system to replace the existing scrubber under permit No. 10-313-028 in the Borough of Petrolia, **Butler County**.

**42-399-017A: Borden Chemical, Inc.** (P. O. Box 7227, Mt. Jewett, PA 16740) for minor modification to quantify emissions based on testing of the resin kettle located on Hutchins Road in Sergeant Township, **McKean County**.

**42-302-021A: Borden Chemical, Inc.** (P. O. Box 7227, Mt. Jewett, PA 16740) for minor modification to increase the hours of operation of the boiler located on Hutchins Road in Sergeant Township, **McKean County**.

**42-399-018D: Borden Chemical, Inc.** (P. O. Box 7227, Mt. Jewett, PA 16740) for minor modification to increase tank throughput from 135,000 lb/yr to 400,000 lb/yr located on Hutchins Road in Sergeant Township, **McKean County**.

**PA-20-284A: Multi-Tool, Inc.** (Route 198 South Street, P. O. Box 708, Saegertown, PA 16433) for installation of a mist eliminator to the facility's hard chromium plating system in the borough of Saegertown, **Crawford County**. This source is subject to 40 CFR 63 Subpart N (MACT Standard for Chrome plating).

**PA-20-272A: Universal Stainless & Alloy Products, Inc.** (121 Caldwell Street, Titusville, PA 16354) for installation of a baghouse (750 acfm) on an existing mold cleaning operation in Titusville, **Crawford 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.

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

**52-0024: The Miller Group—Pottsville Bleaching & Dyeing Co.** (P. O. Box 348, Schuylkill Haven, PA 17972) for Combustion Units in Port Carbon Borough, **Schuylkill County**.

**39-00002: Tarkett, Inc.** (1139 Lehigh Avenue, Whitehall, PA 18052) in Whitehall Township, **Lehigh County**. This modification to the RACT Operating Permit will establish specific recordkeeping and emission limit requirements. This RACT Operating Permit will be submitted to the United States Environmental Protection Agency as a revision to Pennsylvania's State Implementation Plan (SIP).

**54-00022: Alumax Extrusion, Inc.** (53 Pottsville Street, P. O. Box 129, Cressona, PA 17929-0129) in Cres-

sona Borough, **Schuylkill County**. This RACT Operating Permit will establish specific inspection, maintenance and recordkeeping requirements. This RACT Operating Permit will be submitted to the United States Environmental Protection Agency as a revision to Pennsylvania's State Implementation Plan (SIP).

The Department of Environmental Protection has made a preliminary determination to approve the RACT plan and amendments to the State Implementation Plan (SIP) for the following facility:

**The Miller Group—Pottsville Bleaching and Dyeing Co., Port Carbon Borough, Schuylkill County**

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in the RACT approval for this facility to comply with current regulations.

The RACT plan, if finally approved, will be incorporated into an operating permit for this facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following are the main sources at Pottsville Bleach & Dye's Port Carbon Plant subject to operating permit requirements. The following is the summary of the preliminary RACT determination for this facility:

<i>Source</i>	<i>Emissions</i>
Two (2) Boilers	NO <sub>x</sub> Emissions
Three (3) Textile Dryers	NO <sub>x</sub> Emissions
Two (2) Air Make Up Units	NO <sub>x</sub> Emissions
Nineteen (19) Unit Heaters	NO <sub>x</sub> Emissions

For the above facility, the public hearing will be held for the purpose of receiving comments on the proposed issuance of a RACT operating permit and the proposed SIP revisions. This public hearing is scheduled as follows:

<i>Facility Name</i>	<i>Location of Hearing</i>	<i>Date and Time</i>
The Miller Group—Pottsville Bleaching & Dyeing Co.	DEP Wilkes-Barre Regional Office	December 28, 1998, 1 p.m.

Persons wishing to present testimony at the hearing listed above should contact: Mark Carmon, Community Relations Coordinator, (717) 826-2511 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations, should do so by contacting the person listed, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate them.

Persons wishing to present testimony at the hearing should contact: Richard Shudak, (717) 826-2060 or the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD).

Those unable to attend the hearing, but wishing to comment, should provide written comments to Michael S. Saffo, Engineering Services Chief, Pennsylvania DEP, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Comments should be submitted within 30 days of the date of this publication notice.

All pertinent documents are also available for review from 8 a.m. to 4 p.m. at the DEP Regional Office, 2 Public

Square, Wilkes-Barre. Appointments for scheduling a review must be made by calling the DEP contact person noted previously.

## 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 such 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 request 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 sum-



mary 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:*

**56920111, Permit Renewal. Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650), commencement, operation and restoration of bituminous strip mine, coal preparation plant, and coal refuse disposal in Jenner Township, **Somerset County**, affecting 80.0 acres, receiving stream unnamed tributary to Quemahoning Creek, application received November 13, 1998.

**56830107, Permit Renewal. PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541), commencement, operation and restoration of bituminous strip mine, for reclamation, only in Stonycreek Township, **Somerset County**, affecting 165.3 acres, receiving stream unnamed tributary to/and Glades Creek, application received November 16, 1998.

**4173SM5, Permit Revision. G. M. & W. Coal Company** (P. O. Box 68, Boswell, PA 15531), to change the land use from forestland to wildlife habitat in Stonycreek Township, **Somerset County**, affecting 13.41 acres, receiving stream unnamed run to Glades Creek to Stonycreek to Conemaugh River to Kiskiminetas River to Allegheny River to Ohio River, application received November 16, 1998.

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

**65980106. LMM, Inc.** (P. O. Box 517, Stoystown, PA 15563). Application received for commencement, operation and reclamation of a bituminous surface auger mine located in South Huntingdon Township, **Westmoreland County**, proposed to affect 40.0 acres. Receiving streams: unnamed tributary to Sewickley Creek, Sewickley Creek to the Youghiogheny River. Application received November 16, 1998.

*Knox District Office, P. O. Box 669, Knox, PA 16232.*

*General Permits:*

**24981801-GP101-01. Glenn O. Hawbaker, Inc.** (P. O. Box 135, State College, PA 16804). Application for a general permit to install and use a temporary crossing over Pete Buck Hollow Run in Horton Township, **Elk County**. Receiving streams: Pete Buck Hollow Run. Application received November 5, 1998. Permit granted November 19, 1998.

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

*Industrial Minerals NPDES Permit Renewal Applications Received:*

**56920302. New Enterprise Stone & Lime Company, Inc.** (P. O. Box 77, New Enterprise, PA 16664), renewal of NPDES Permit No. PA0212326, in Shade Township, **Somerset County**, receiving stream Laurel Run, NPDES Renewal application received November 10, 1998.

**56940301 and 4074SM8. Keystone Lime Company, Inc.** (P. O. Box 278, Springs, PA 15562), renewal of NPDES Permit No. 0606197, in Addison and Elk Lick Townships, **Somerset County**, receiving stream Christner Run, NPDES Renewal application received November 13, 1998.

### **Bureau of Deep Mine Safety Maple Creek Mining Inc.**

The Bureau of Deep Mine Safety has received a request for variance from Maple Creek Mining, Inc. The following notification contains a summary of this request. Complete copies of the variance request may be obtained from Matthew A. Bertovich by calling (724) 439-7469.

The Department is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to: Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (52 P. S. §§ 701—702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 242(c) states that where belt conveyors are installed, main stoppings and regulators shall be so arranged as to reduce the quantity of air traveling in the belt conveyor entry to a minimum for effective ventilation and to provide an intake air split as an escapeway from the face area to the main air current.

*Summary of the request:* Maple Creek Mining, Inc. requests a variance to allow for the common ventilation of belt conveyor entries with other entries in the Sundust Shaft area of the Maple Creek Mine.

### **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 any 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.

**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.**

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

**E51-172.** Encroachment. **CCC Assoc., LP**, 1601 S. Christopher Columbus Blvd., Philadelphia, PA 19148-

1402. To operate and maintain a parking lot access road and associated potable water, sanitary sewer, and storm sewer lines for the proposed CVS Pharmacy in the floodway of Cobbs Creek (TSF), located west of the intersection of Saybrook Avenue and Island Avenue, (Philadelphia, PA Quadrangle N: 7.7 inches; W: 17.0 inches) in the City of Philadelphia, **Philadelphia County**.

**E46-824.** Encroachment. **Six Tower Bridge**, One Tower Bridge, 100 Front St., Ste. 900, West Conshohocken, PA 19428. To install and maintain a 36-inch outfall structure with associated R-5 riprap, to perform minor grading and to extend an existing sidewalk an additional 40 feet within the floodway of the Schuylkill River for the construction of a parking facility and walkway associated with the proposed Six Tower Bridge Complex located at the corner of Washington Street and Ash Street (Norristown Quadrangle N: 12.8 inches; W: 7.8 inches) in Conshohocken Borough, **Montgomery County**.

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

**E35-304.** Encroachment. **Bureau of Abandoned Mine Reclamation**, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711-0790. To reconstruct approximately 1,610 linear feet of the channel of Lucky Run for the purpose of eliminating multiple deep mined infiltration points. The project (OSM 35 (2185) 101.1, Keyser Avenue/Scranton) is located in McDade Park approximately 0.3 mile northwest of the intersection of S. R. 3002 and S. R. 3011 (Scranton, PA Quadrangle N: 7.3 inches; W: 11.7 inches), Taylor Borough, City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E48-278.** Encroachment. **Ahold Real Estate Company**, One Atlanta Plaza, 950 East Paces Ferry Road, Suite 2575, Atlanta, GA 30326. To place fill in a de minimis area of PSS Wetlands equal to 0.01 acre and to construct and maintain: (1) a stream enclosure in a tributary to Saucon Creek consisting of a 5-foot × 3-foot concrete box culvert having a length of 640 feet; (2) a channel change in a tributary to Saucon Creek having a length of 335 feet; and (3) a retaining wall and earthfill having a maximum height of 15 feet in the 100-year floodway of Saucon Creek. This work is associated with the proposed Creek Side Marketplace Commercial Development, located southwest of the intersection of S. R. 0412 (Leighsville Road) and Township Road T376 (Meadows Road) (Hellertown, PA Quadrangle N: 11.5 inches; W: 12.7 inches), Lower Saucon Township, **Northampton County** (Philadelphia District, U. S. Army Corps of Engineers).

**E52-157.** Encroachment. **Donald P. Ziccardi**, 1700 Broadway, 35th Floor, New York, NY. To construct and maintain a single-span steel beam bridge, having a span of approximately 80 feet and an underclearance of approximately 12.5 feet, across Shohola Creek (HQ-CWF). The project includes the construction of a gravel approach roadway, including placement of fill in 0.07 acre of wetlands. The purpose of the project is to provide access to a 71.5-acre parcel for residential use. The project is located approximately 500 feet south of the western intersection of S. R. 0434 and T-401 (Shohola, PA-NY Quadrangle N: 9.0 inches; W: 12.7), Shohola Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

*Southcentral Regional Office, Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.*

**E07-301.** Encroachment. **Penn State University—Altoona Campus**, Rick Wareham, 3000 Ivyside Park, Altoona, PA 16601. To construct and maintain a pedestrian bridge having a span of 50 feet and an underclearance of about 8.5 feet across Spring Run (WWF) located at the Penn State University—Altoona Campus (Altoona, PA Quadrangle N: 7.4 inches; W: 5.1 inches) in Logan Township, **Blair County**.

**E36-662.** Encroachment. **East Hempfield Township**, George Marcinko, 1700 Nissley Rd., Landisville, PA 17538. To construct and maintain twin 8-foot high × 16-foot wide concrete box culverts in Brubaker Run to provide a connection between the two existing sections of Good Drive and link Columbia Avenue and Marietta Pike (Lancaster, PA Quadrangle N: 8.25 inches; W: 15.2 inches) in East Hempfield Township, **Lancaster County**.

**E07-302.** Encroachment. **Zane Johnsonbaugh**, 3200 S. 10th Avenue, P. O. Box 2326, Altoona, PA 16603. To place fill in 0.1 acre of wetlands for the purpose of developing a 8.671 acre commercial property to include a warehouse, general office building and maintenance structures for an existing trucking business located approximately 0.3 mile north of the I-99 Pincroft Interchange (Bellwood, PA Quadrangle N: 12.75 inches; W: 9.5 inches) in Antis Township, **Blair County**.

**E07-303.** Encroachment. **Tyrone Township**, John Burket, R. R. 1, Box 407, Tyrone, PA 16686. To permanently authorize the construction and maintenance of a corrugated metal arch culvert constructed under General Permit No. 8 (Minor Road Crossings) GP-08-07-98-102, having a radial span of 8.0 feet and a length of about 38.0 feet in Sinking Run for purposes of local highway maintenance located on Township Road T-526, 100 feet south of SR 1013, and about 2.2 miles west of the intersection of SR 1013 and SR 1008 (Spruce Creek, PA Quadrangle N: 17.75 inches; W: 14.75 inches) in Tyrone Township, **Blair County**.

**E22-394.** Encroachment. **Dermody Properties**, David Loring, 1200 Financial Blvd, Reno, NV 89502. To place fill in 0.36 acre of wetlands and 0.69 acre of open water to construct a warehouse distribution center along a tributary to Beaver Creek at a point west of the Route 81/Route 39 Intersection (Hershey, PA Quadrangle N: 18.5 inches; W: 15.8 inches) in West Hanover Township, **Dauphin County**.

**E50-195.** Encroachment. **Jackson Township**, Darlene Cauffman, R. D. 1, P. O. Box 21, Blain, PA 17006. To remove an existing structure and to construct and maintain a bridge having a clear span of 57 feet and an underclearance of 5 feet, 11 inches across the channel of Browns Run at a point at Mount Pleasant Road (T-304) (Blain, PA Quadrangle N: 11.6 inches; W: 6.45 inches) in Jackson Township, **Perry County**.

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

**E02-1259.** Encroachment. **Linmar Realty Company II, A Pennsylvania Partnership**, 1800 Moler Road, Columbus, OH 43207. To place and maintain fill in approximately 0.404 acre of wetlands (0.234 acre PEM and 0.17 acre PSS) associated with an unnamed tributary to Brush Creek (WWF) for the purpose of expanding an existing warehouse. The project is located approximately 900 feet south from the intersection of Thorn Hill Road

and Keystone Drive (Mars, PA Quadrangle N: 7.8 inches; W: 14.8 inches) in Marshall Township, **Allegheny County**.

#### ENVIRONMENTAL ASSESSMENT

#### Requests for Certification under Section 401 of the Federal Water Pollution Control Act

The following requests have been made to the Department of Environmental Protection (Department) for certification under section 401(a) of the 1972 amendments to the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), that there is reasonable assurance that the construction herein described will not violate applicable Federal and State water quality standards.

Prior to final approval or the proposed certification, consideration will be given to any comments, suggestions or objection which are submitted in writing 30 days of the date of this Notice. Comments should be submitted to the Department at the address indicated above each of the following requests for certification. All comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed, and a concise statement of comments, objections or suggestions in sufficient detail to inform the Department of the exact basis of the proposal 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 comments if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated above each request for certification between the hours of 8 a.m. and 4 p.m. on each working day.

*SSIP Application Number*

N/A

*Applicant Name and Address*

Ergon Trucking, Inc.  
P. O. Box 1639  
Jackson, MS 39215-1639

*County and Municipality*

Mercer County  
East Lackawannock Twp.

*Tank Type and Capacity*

3 Crude Oil AST's  
each totaling 37,800 gallons

#### 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 has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35

*Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.*

*Certification Request Initiated By: Dames and Moore, 2325 Maryland Road, Willow Grove, PA 19090.*

*Project Description/Location:* This activity involves low-pressure water cleaning prior to painting of the Betsy Ross Bridge. The request was submitted on behalf of the Delaware River Port Authority (DRPA), operator of the bridge which spans the Delaware River between Philadelphia, PA and Pennsauken, NJ. Best Management Practices for bridge painting projects are proposed. Potable wash water will be used without additives, at a flow rate of approximately 4 gpm from two spray wands and an average approximately 8,000 gpd over the 10-month project. Less than half of the cleaning is expected to occur over the Delaware River.

#### STORAGE TANKS

#### SITE SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site Specific Installation Permit application has been received by the Department and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Watershed Conservation, Division of Storage Tanks, P. O. Box 8555, Harrisburg, PA 17105-8555, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based.

P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. 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.

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 Services at (800) 654-5984.

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**Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 69.1—69.1001).**


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*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4795.*

**Permit No. 6798409.** Sewage. **West Manheim Township**, 31 Fairview Drive, Hanover, PA 17331. This permit approves the construction of sewers and appurtenances in Penn and West Manheim Townships in **York County**.

**Permit No. 2198408.** Sewage. **Silver Spring Township Authority**, 6475 Carlisle Pike, Mechanicsburg, PA 17055. This permit approves the construction of pump station in Silver Spring Township, **Cumberland County**.

**Permit No. 0572401.** Sewage. Amendment No. 1. **Municipal Authority of Borough of Bedford**, 244 West Penn Street, Bedford, PA 15522. This permit approves treatment plant rerating in Bedford Borough, **Bedford County**.

**NPDES Permit No. PA0070343.** Sewerage. **The Multicare Companies, Inc.**, 227 West Lancaster Avenue, Devon, PA 19333 is authorized to discharge from a facility located in Tilden Township, **Berks County** to the receiving waters named Hassler Run.

**NPDES Permit No. PA0028975.** Sewerage. **Womelsdorf Sewer Authority**, 498 North Water Street, Womelsdorf, PA 19567-1108 is authorized to discharge from a facility located in Heidelberg Township, **Berks County** to the receiving waters named Tulpehocken Creek.

**NPDES Permit No. PA0030597. Amendment No. 1.** Sewerage. **Franklin County General Authority**, 5000 Letterkenny Road, Suite 320, Chambersburg, PA 17201-8382 is authorized to discharge from a facility located in Letterkenny Township, **Franklin County** to the receiving waters named Rocky Spring Branch.

**NPDES Permit No. 0084395. Amendment No. 1.** Sewerage. **Pennsylvania Department of Corrections**, P. O. Box 8837, Camp Hill, PA 17001-8837 is authorized to discharge from a facility located in Lower Allen Township, **Cumberland County** to the receiving waters named Cedar Run.

**NPDES Permit No. PA0083542.** Industrial. **Flight Systems, Inc.**, 505 Fishing Creek Road, Lewisberry, PA 17339-9517 is authorized to discharge from a facility located in Silver Spring Township, **Cumberland County** to a drainage swale to Hogestown Run.

**NPDES Permit No. PA0009776.** Industrial. **The Pfaltzgraff Company**, Thomasville Plant, Bowman Road, P. O. Box 244, Thomasville, PA 17364 is authorized to discharge from a facility located in West York Borough, **York County** to an unnamed tributary of Codorus Creek.

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

**WQM Permit No. 2598414.** Sewage. **Bob Smith Treatment Facility Association**, 10301 Lake Pleasant Road, Waterford, PA 16441. This project is for the construction and operation of a small flow treatment facility in Greene Township, **Erie County**.

**WQM Permit No. 1098408.** Sewerage, **David and Laurie McClevish, SRSTP**, 355 Sunbury Dr., Slippery Rock, PA 16057. Construction of David and Laurie McClevish SRSTP located in Clay Township, **Butler County**.

**WQM Permit No. 4398418.** Sewerage, **Verna D. Smith, SRSTP**, 66 Birchwood Dr., Transfer, PA 16154. Construction of Verna D. Smith SRSTP located in Pymatuning Township, **Mercer County**.

**NPDES Permit No. PA0004596.** Industrial waste. **Gleason Corporation, Penn Industrial Products, Inc.**, 1700 Orco Drive, Conneautville, PA 16406-0483 is authorized to discharge from a facility located in Conneautville Borough, **Crawford County** to Conneaut Creek.

**NPDES Permit No. PA0103772.** Sewage. **Patrick and Joseph Hodapp, Hodapp Apartments**, 9275 Kuhl Road, Erie, PA 16510 is authorized to discharge from a facility located in Greene Township, **Erie County** to an unnamed tributary to Four Mile Creek.

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**INDIVIDUAL PERMITS**
**(PAR)**

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 the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit. (2) General 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  
PAG-2

General Permit For Discharge from Stripper Oil Well Facilities  
General Permit for Discharges of Stormwater From Construction Activities

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

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—PAG2*

*Facility Location  
County and  
Municipality*

<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>
Centre County College Township	PAR10F080 Kevin Zimmerman Birch Tree Assoc. 742 Benner Pike Bellefonte, PA 16823	Unt. Spring Creek	Centre County CD 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Union County Greg Township	PAR106827 Union County Industrial Dev. Joe Vetelj 219D Hafer Rd. Lewisburg, PA 17837	Unt. Susquehanna River	Union County CD 60 Bull Run Crossing Lewisburg, PA 17837
Tyrone Borough Snyder Township Blair County	PAR-10-0671 Reservoir Acres S & A Customs Homes, Inc. 501 Rolling Ridge Drive State College, PA 16801	Schell Run	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
Antis Township Blair County	PAR-10-0672 Parkview Estates S & A Custom Homes, Inc. 501 Rolling Ridge Drive State College, PA 16801	Little Juniata River	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
Logan Township Blair County	PAR-10-0673 Reservoir Acres S & A Custom Homes, Inc. 501 Rolling Ridge Drive State College, PA 16801	Brush Run	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
City of Altoona Blair County	PAR-10-0674 Cricket Knoll Yorkshire Group Ltd. 501 Rolling Ridge Drive State College, PA 16801	UNT Spring Run	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
Logan Township Blair County	PAR-10-0675 Camelot Woods Yorkshire Group Ltd. 501 Rolling Ridge Drive State College, PA 16801	Unt. Little Juniata River	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
Blair Township Blair County	PAR-10-0668 Blair Twp. Sewer & Water Auth. 577 Cedarcrest Drive Duncansville, PA 16635	Halter Creek Blair Gap Run Dry Run Frankstown Branch	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877

*Facility Location  
County and  
Municipality*

*Permit No.*

*Applicant Name  
and Address*

*Receiving Stream  
or Body of Water*

*Contact Office and  
Telephone No.*

Snyder Township  
Blair County

PAR-10-0670

William E. Jones, Jr.  
210 Main Street  
Tyrone, PA 16686

Unt Little Juniata

Blair County CD  
1407 Blair Street  
Hollidaysburg, PA  
16648  
(814) 696-0877

*General Permit Type—PAG 4*

*Facility Location  
County and  
Municipality*

*Permit No.*

*Applicant Name  
and Address*

*Receiving Stream  
or Body of Water*

*Contact Office and  
Telephone No.*

Washington Township,  
Erie County

PAG048551

John R. Suminski  
3400 Crane Rd.  
Edinboro, PA 16412

Unnamed Tributary  
to Little  
Conneauttee  
Creek

DEP  
Northwest Region  
Water Management  
230 Chestnut St.  
Meadville, PA  
16335-3481  
(814) 332-6942

Pymatuning Township  
Mercer County

PAG048554

Verna D. Smith  
66 Birchwood Dr.  
Transfer, PA 16154

Tributary Shenango  
Reservoir

DEP  
Northwest Region  
Water Management  
230 Chestnut St.  
Meadville, PA  
16335-3481  
(814) 332-6942

*General Permit Type—PAG 8*

*Facility Location  
County and  
Municipality*

*Permit No.*

*Applicant Name  
and Address*

*Receiving Stream  
or Body of Water*

*Contact Office and  
Telephone No.*

Washington Township  
Erie County

PAG088304

Washington Township  
11800 Edinboro Rd.  
Edinboro, PA 16412

N/A

DEP  
Northwest Region  
Water Management  
230 Chestnut St.  
Meadville, PA  
16335-3481  
(814) 332-6942

## SEWAGE FACILITIES ACT

### PLAN APPROVAL

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Floor 2, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. 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 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.

**Plan Approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.*

### Borough of Thompson, Susquehanna County

The Department of Environmental Protection has reviewed the Plan Update Revision amended on June 9, 1995 (received by the Department on September 29, 1998) in conjunction with Addendum No. 1-1998 (received by the Department on August 4, 1998), with additional supplemental materials dated September 15, 1998 (received by the Department on September 29, 1998) and October 22, 1998 (received by the Department on October 26, 1998) as prepared by Nassaux-Hemsley Inc. and the Borough of Thompson.

The Department's review has found that the Plan Update Revision is acceptable and hereby grants planning approval. This review has also not identified any significant environmental impacts resulting from this proposal.

The wastewater disposal alternative chosen to be implemented is Alternative 7A as identified in the Plan Update Revision. This alternative proposes the construction of a 30,000 GPD wastewater treatment facility (sequencing batch reactor (SBR) system with stream discharge) and wastewater collection/conveyance system (with various appurtenances) to serve 130 Equivalent Dwelling Units (EDU's) located in the Borough of Thompson as shown on

Maps PS-1R, and 8-1 in the Plan Update Revision. The 130 EDU's includes 43 EDU's which currently discharge their untreated wastewater to a "wildcat" sewer system with two outfalls directly to Starrucca Creek. Sewer service will also be provided for an additional 19 EDU's which discharge untreated wastewater directly to Starrucca Creek or its immediate tributaries. In addition to eliminating all "wildcat" sewers within the Borough, the proposed wastewater collection system will serve 68 EDU's whose onlot wastewater disposal systems are currently malfunctioning or otherwise inadequate. The Plan Update Revision also provides for the establishment of an onlot sewage management program. The proposed program will provide for the long-term monitoring and continued safe operation of all remaining onlot wastewater disposal systems located within Thompson Borough.

Financing of the chosen wastewater disposal alternative's construction is proposed to be provided by the United States Department of Agriculture—Rural Utilities Service (RUS) in the form of a grant and long-term, low interest loan. A special appropriations grant administered by the United States Army Corps of Engineers will also be utilized to construct the proposed facilities. The Borough is also proposing a \$500 connection fee to reduce the total amount of funds required to be obtained through RUS.

In accordance with the provisions of the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20(a)) (Act 537), and Chapter 71 of the Department's regulations (25 Pa. Code Ch. 71) the Department will hold the Borough of Thompson responsible for the complete and timely implementation of the Plan Update Revision's chosen alternative, as listed in the Schedule of Implementation, contained in Addendum No. 1-1998 of the Plan Update Revision.

Any additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the Plan Update Revision must be in compliance with the Department's Regulations and be submitted to and approved by the Department in writing.

**Location: Stroud Township, Monroe County**

**Project Description:** The Department has completed its review of the Township's Act 537 Sewage Facilities Plan Update Revision for the S. R. 447 study area in the northeastern portion of Stroud Township, dated September 8, 1998, with revisions of September 30, 1998, and October 7, 1998. The Plan Update was prepared by Reilly Associates. The Department finds this Update Revision acceptable and hereby grants planning approval for the proposed modification of the municipality's Plan.

The study area is currently served by onlot sewage disposal systems with a potential health risk due to malfunction of the systems. To address existing and future sewage disposal needs of the study area, a centralized low pressure sewer collection system serving 127 EDU's from approximately 1,500 feet north of Learn Lane (Hayward Labs/United Steel) to the intersection of Business Rt. 209 and S. R. 447 is the recommended alternative of the Plan. The system will extend up Monroe Heights Road and continue south along B. R. 209 connection to an existing 12" diameter sewer line near the intersection of Oak Street and West Sixth Street in East Stroudsburg Borough, with subsequent treatment of the wastewater at the East Stroudsburg treatment plant. Estimated average daily sewage flow from the proposed system is 31,750 gpd.

The Department's review of the Plan Update Revision has not identified any significant environmental impacts

resulting from the proposal. In accordance with the provisions of the Pennsylvania Sewage Facilities Act, (35 P. S. §§ 750.1—750.20(a)) (Act 537), and Chapter 71 of the Department's Regulations (25 Pa. Code Ch. 71), the Department will hold the Township of Stroud responsible for the complete and timely implementation of this plan.

## **HAZARDOUS SITES CLEAN-UP**

**Under the Act of October 18, 1988**

**Proposed Consent Order and Agreement**

**DuPont/New Castle Junk Yard Site  
City of New Castle and Union Township, Lawrence  
County**

Under Section 1113 of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), notice is hereby provided that the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement (CO&A) with Anchor Hocking Corporation (Anchor) and Pfaltzgraff Company (Pfaltzgraff) concerning the cleanup of the DuPont/New Castle Junk Yard Site (Site).

In the past, hazardous substances were disposed at the Site and these substances contaminated the environment at the Site. The Department has incurred more than \$1,100,000 in response costs at the Site. The Department estimates that it will cost up to 14 million dollars more to abate the release and threatened release of hazardous substances at the Site. As an owner of a portion of the Site subsequent to hazardous substance disposal and initial releases at the Site, and during the time of the release and threatened release of hazardous substances at the Site, Anchor and Pfaltzgraff are each a "responsible party" as defined in section 103 of HSCA (35 P. S. § 6020.103). Under the terms of the CO&A, Anchor and Pfaltzgraff shall pay a total of \$804,945.59 to the Hazardous Sites Cleanup Fund in settlement of each of their shares of the responsibility for the cleanup of the Site. Anchor and Pfaltzgraff will also conduct a cleanup of the former China Manufacturing building under the terms of the CO&A. The Department anticipates that additional response actions will be conducted at the Site in 1999 to mitigate the threat to human health and the environment posed by the hazardous substances there.

The specific terms of this settlement are set forth in the CO&A between the Department and Anchor/Pfaltzgraff. The Department will receive and consider comments relating to the CO&A for 60 days from the date of this Public Notice. The Department has the right to withdraw its consent to the CO&A if the comments concerning the CO&A disclose facts or considerations which indicate that the CO&A is inappropriate, improper, or not in the public interest. After the public comment period, the Department's settlement with Anchor and Pfaltzgraff shall be effective upon the date that the Department notifies Anchor and Pfaltzgraff, in writing, that this Consent Order and Agreement is final and effective in its present form, and that the Department has filed a response to significant written comments to the CO&A, or that no such comments were received.

Copies of the CO&A are available for inspection at the Department's office at 230 Chestnut Street, Meadville, PA. Comments may be submitted, in writing, to Harold Nye, Project Manager, Department of Environmental Protection, Hazardous Sites Cleanup, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting Harold Nye at (814) 332-6648. TDD users may contact the Department through the Pennsylvania Relay Service at (800) 645-5984.

**SETTLEMENT****Former Transicoil Property, Worcester Township,  
Montgomery County, PA****North Penn Area 12 Superfund Site, Worcester  
Township, Montgomery County, PA**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1304), hereby gives notice that it has entered into a Prospective Purchaser Agreement (PPA) with Techni-Tool, Inc. and T-Squared Realty, L.L.C. associated with the purchase of the former Transicoil Property (Property) in Worcester, Montgomery County, PA.

The Property is located at 1547 N. Trooper Road within North Penn Area 12 (Site), a National Priority List Superfund Site in Worcester, PA. Environmental investigations have revealed the presence of groundwater contamination beneath the Site, including beneath the Property. Techni-Tool, Inc. and T-Squared Realty, L.L.C. (together the Settling Parties), the prospective purchasers of the Property, are not presently responsible persons with regard to contamination at the Site. The Settling Parties have resolved any potential liability to the United States which may be associated with the purchase of the Property through a prospective purchaser agreement.

Through the PPA, the Settling Parties would resolve any potential liability to the Department and become eligible for protection from contribution claims relating to the Site that may stem from the purchase and ownership of the Property. Under the terms of the PPA, Settling Parties agreed to remit certain response costs to the Department, provide access to the Department, cooperate with any response actions, and not exacerbate any contamination at the Site.

This Notice is being provided under section 1113 of HSCA (35 P. S. § 6020.1113). The Department will provide for a 60 day public comment period on the proposed PPA from the date of publication of this Notice. Under section 1113 of HSCA, the PPA will become final when the Department files its response to any significant public comments received during the comment period. The PPA may be examined from 8 a.m. to 4 p.m. in the Department's Southeast Field Office at Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Interested persons may contact Timothy Cherry at (610) 832-6204, or Paul M. Schmidt at (610) 832-6300. Persons may submit written comments to Timothy Cherry at the above address.

**LAND RECYCLING AND  
ENVIRONMENTAL REMEDIATION****Under Act 2, 1995****Preamble 3**

The following final reports were submitted to the Department of Environmental Protection (Department) under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for se-

lecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.*

**Xpress Lube Site**, City of Philadelphia, **Philadelphia County**. Richard D. Trimpi, P. G., Trimpi Associates, Inc. 889 Seminary St., Pottsville, PA 18073, has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

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

**Helfrich Residence**, Palmyra Township, **Pike County**. Kevin Van Kuren, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Final Report (on behalf of his client, Carson Helfrich, HCR #1, Box 59, Paupack, PA 18451) concerning the remediation of site soils found to have been contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds and polycyclic aromatic hydrocarbons. The report was submitted to document remediation of the site to meet the Statewide human health standard. A Notice of Intent to Remediate was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole #57416N46725 (Mylert Street)**, City of Scranton, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (Polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard. A Notice of Intent to Remediate was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole #59413N43623 (PA Route 307)**, Roaring Brook Township, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard.

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole #61579N52067**, Carbondale Borough, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA



18101 has submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard.

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole #71688N53690**, Berlin Township, Wayne County. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The report was submitted in order to document remediation of the site to meet the Statewide human health standard.

*Northcentral Regional Office, Michael C. Welch, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.*

**Kephart Property**, Decatur Township, Clearfield County. Patty Kephart, 607 Kate Street, Osceola Mills, PA 16666 has submitted a Final Report concerning remediation of site soils contaminated with BTEX and PAHs. The report is intended to document remediation of the site to meet the Statewide health standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### Under Act 2, 1995

#### Preamble 4

Provisions of Chapter 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the Act 2 (Land Recycling and Environmental Remediations Act) remediation standards. Plans and reports required by provisions of Act 2 for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the ability of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure facts, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, please contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the

appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has acted upon the following plans and reports:

*Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.*

**Redevelopment Authority of the City of Titusville, Crawford County**, 701 E. Spring Street, Titusville, PA 16354, has submitted a Baseline Remedial Investigation Report which was approved by the Department on November 16, 1998.

## AIR QUALITY

### 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.*

**09-330-011B: R3 Technologies, Inc.** (7 Steel Road East, Morrisville, PA 19067) issued for operation of an Asphalt Plant/Soil Remediation in Falls Township, **Bucks County**.

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

**TVOP-49-00011: Butter Krust Baking Co.** (249 North 11th Street, Sunbury, PA 17801) issued October 1, 1998, for sources used in the production of bread and rolls in Sunbury, **Northumberland County**.

**TVOP-59-00002: CNG Transmission Corp., Tioga Station** (5th Floor, 625 Liberty Street, Pittsburgh, PA 15222-3197) issued October 20, 1998, for sources used in the transmission of natural gas to customers in Farmington Township, **Tioga County**.

**TVOP-55-00002: Pennsylvania Dept. of Public Welfare, Selinsgrove Center** (P. O. Box 500, Selinsgrove, PA 17870) issued November 16, 1998, for operation of coal fired boilers, diesel and propane fueled emergency generators and other small miscellaneous combustion sources in Penn Township, **Snyder County**.

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

**63-641A: Regal Industrial Corp.** (P. O. Box 291, Donora, PA 15033) issued November 12, 1998, for installation of abrasive blasting at Donora Plant in Donora Boro, **Washington County**.

**11-423A: Johnstown Wire Technologies** (124 Laurel Avenue, Johnstown, PA 15906) issued November 12, 1998, for installation of automated cleaning house in Johnstown, **Cambria 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.*

**OP-46-0046A: Uniform Tubes, Inc.** (200 West 7th Avenue, Trappe, PA 19426) amended November 19, 1998, for Facility Operating Permit in Trappe Borough, **Montgomery County**.

**OP-09-0035: Coltec Industrial Products, Inc.** (23 Friends Lane, Newtown, PA 18940) amended November 19, 1998, for Facility Operating Permit in Newtown Township, **Bucks County**.

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**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.**

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*Southcentral Regional Office, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**GP3-06-5073: Warner Co.** (P. O. Box 188, Birdsboro, PA 19508) authorized use of the general permit for a portable/nonmetallic mineral processing plant in Robeson Township, **Berks County**.

**GP3-50-03001: Eastern Industries, Inc.** (P. O. Box 177, Winfield, PA 17889) authorized use of the general permit for a portable/nonmetallic mineral processing plant in Buffalo Township, **Perry County**.

**GP6-28-03015: Tip-Top Cleaners** (337 Wayne Avenue, Chambersburg, PA 17201) authorized use of the general permit for a petroleum dry cleaning unit in the Borough of Chambersburg, **Franklin County**.

#### PLAN APPROVALS

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**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.**

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

**PA-09-0101: WM Rowen Grant Funeral Home, Inc.** (659 Street Road, Southampton, PA 18966) issued November 2, 1998, for operation of a Crematory for Human Remains in Upper Southampton Township, **Bucks County**.

**PA-15-0021: Glasgow, Inc.** (660 Morehall Road, Frazer, PA 19335) issued October 29, 1998, for operation of an Asphalt Plant and Quarry in East Whiteland Township, **Chester County**.

**PA-46-0043: Glasgow, Inc.** (Conshohocken Road, Conshohocken, PA 19428) issued October 29, 1998, for operation of an Asphalt Plant and Quarry in Plymouth Township, **Montgomery County**.

**PA-23-0066: Pyropure, Inc.** (5 Commerce Drive, Aston, PA 19014) issued November 9, 1998, for operation of a three Crucible and three Rotay Furnaces in Chester Township, **Delaware County**.

**PA-09-0022A: Cleveland Steel Container Corp.** (350 Mill Street, Quakertown, PA 18951) issued November 19, 1998, for operation of a Tellkamp Roxidizer Thermal Incinerator in Quakertown Borough, **Bucks County**.

*Southcentral Regional Office, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**06-1007P: Carpenter Technology Corp.** (P. O. Box 14662, Reading, PA 19612) issued November 18, 1998, for modification of the fire heating furnaces at their Reading Plant in Reading/Muhlenberg Township, **Berks County**.

**06-1007Q: Carpenter Technology Corp.** (P. O. Box 14662, Reading, PA 19612) issued November 16, 1998, for modification of the specialty steel facility in Reading/Muhlenberg Township, **Berks County**.

**21-03031: Prepared Millwork, Inc.** (P. O. Box 422, New Kingstown, PA 17072) issued November 6, 1998, for installation of a wood surface finishing operation with complaint coatings and HVLP spray equipment in Silver Spring Township, **Cumberland County**.

**36-02017B: Conestoga Wood Specialties, Corp.** (P. O. Box 158, East Earl, PA 17519) issued November 19, 1998, for construction of a surface coating operation in East Earl Township, **Lancaster County**.

**36-05019A: Grinnell Corp.** (1411 Lancaster Avenue, Lancaster, PA 17512) issued November 17, 1998, for construction of foundry operations at their Columbia Plant in Columbia Borough, **Lancaster County**.

**67-03034: Brockway Standard, Inc.** (599 Davies Drive, York, PA 17402) issued November 16, 1998, for installation of metal press lines for the production of paint cans and components in Springettsbury Township, **York County**.

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

**63-632A: American Iron Oxide Co.** (Foster Plaza, 37, 661 Andersen Drive, Allenport, PA 15412) issued November 12, 1998, for installation of acid regeneration plant at Allenport Plant in Allenport Borough, **Washington County**.

**65-016D: Latrobe Steel Co.** (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) issued November 12, 1998, for installation of melt shop at Latrobe Plant in Latrobe Borough, **Westmoreland County**.

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

**PA-42-111A: Ethan Allen Mfg. Corp., Eldred Division** (Route 1, Eldred, PA 16731) issued October 14, 1998, for construction of a paint booth in Eldred Township, **McKean County**.

**PA-25-957A: Hanes Erie, Inc.** (2733 West 11th Street, Erie, PA 16505) issued November 4, 1998, for construction of a paint line in Erie, **Erie County**.

**PA-10-220A: ESM II, Inc.** issued November 10, 1998 for installation of a baghouse in Adams Township, **Butler County**.

**PA-37-302A: New Castle Battery Mfg. Co.** (3601 Wilmington Road, New Castle, PA 16105) issued October 13, 1998, for installation of air emission control devices in New Castle, **Lawrence County**.

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**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.**

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

**PA-09-0021: MRI Flexible Packaging** (122 Penns Trail, Newtown, PA 18940) issued November 9, 1998, for operation of a Flexographic Printing Press in Newtown Township, **Bucks County**.

**PA-46-0010: Montenay Energy Resources of Mont. Co.** (1155 Conshohocken Road, Conshohocken, PA 19428) issued November 13, 1998, for operation of a Residual waste and MW incinerators in Plymouth Township, **Montgomery County**.

*Southcentral Regional Office, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**22-301-060: Pinnacle Health at Polyclinic Hospital** (2601 North Third Street, Harrisburg, PA 17110) issued November 6, 1998, to authorize temporary operation of the bio-oxidizer system, under this Plan Approval until March 6, 1999, in the City of Harrisburg, **Dauphin County**.

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

**65-800A: Columbia Gas Transmission Corp.** (P. O. Box 1273, Charleston, WV 25325) issued November 12, 1998, for operation of reciprocating engines at Delmont Compressor Station in Salem Township, **Westmoreland County**.

**63-307-027: American Iron Oxide Co.** (Foster Plaza #7, 661 Andersen Drive, Pittsburgh, PA 15220) issued November 12, 1998, for operation of iron oxide production at Allenport Plant in Allenport Borough, **Washington 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-23-0025: Fibre-Metal Products, Co.** (US Rt. 1 @ Brinton Lake Road, Concordville, PA 19331) issued November 9, 1998, for Facility VOC/NOx RACT in Concord Township, **Delaware 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).

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

*Coal Applications Issued:*

**56703124, Permit Revision. Diamond T Coal Company** (P. O. Box 260, Friedens, PA 15541), revision for a stream variance to relocate a portion of Lamberts Run beginning at a point approximately 7,900 feet upstream from the intersection of Lamberts Run and SR 1007 (south of Lambertsville) and continuing upstream approximately 800 feet to a point in Lamberts Run. Also to add 6.4 acres for support use, only to the western side of the existing permit. Total SMP acres goes from 562.1 to 568.5 in Stonycreek Township, **Somerset County**, receiving stream to Lamberts Run, application received May 19, 1998, issued November 16, 1998.

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

*Coal Permits Issued*

**26940102R. Bridgeview Coal Company** (Route 40, Box 257, Farmington, PA 15437). Renewal issued for reclamation only of a bituminous surface mining site located in German Township, **Fayette County**, affecting 99.0 acres. Receiving streams: unnamed tributaries to Dunlap Creek. Application received September 17, 1998. Renewal issued November 17, 1998.

*Knox District Office, P. O. Box 669, Knox, PA 16232.*

**33980104. Cookport Coal Company, Inc.** (425 Market Street, Kittanning, PA 16201) Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Jefferson County** affecting 18.4 acres. Receiving streams: Unnamed tributary to McCracken Run. Application received June 4, 1998. Permit issued November 13, 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 Dam Safety and Encroachment 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, 400 Market Street, Floor 2, 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 the 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 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.*

**E15-581.** Encroachment Permit. **West Grove Borough Authority**, P. O. Box 61, 117 Rosehill Avenue, West Grove, PA 19390. To replace approximately 840 linear feet of existing West Grove Borough Authority sanitary sewer line which crosses an unnamed tributary to the East Branch of the White Clay Creek (CWF) and associated 100 year floodplain and wetlands. The proposed 8-inch PVC pipe replacement will begin near the intersection of Rosehill Avenue and Oakland Avenue and continues south from this intersection. The site is located approximately 1,200 feet southeast of the intersection of Old Baltimore Pike with Oakland Avenue (West Grove, PA-DEL Quadrangle N: 12.5 inches; W: 10.1 inches) in West Grove Borough, **Chester County**.

**E09-760.** Encroachment Permit. **Tower Investments of Warminster, Inc.**, 932 West Street Road, Warminster, PA 18974. To perform the following activities associated with the construction of the Warminster Town and Retail Center: a. To relocate two unnamed tributaries to Little Neshaminy Creek (WWF), approximately 1,300 and 525 linear feet, respectively, through proposed storm water management facilities; b. To place and maintain fill in two unnamed tributaries to the Little Neshaminy Creek and (WWF) within three adjacent wetland totaling 0.58 acre; c. To construct and maintain a retaining wall with two outfalls and associated fill within the assumed 100-year floodway. This permit requires the construction of 0.58 acre of replacement wetlands. The project is situated approximately 3,800 feet west northwest of the intersection of Street Road (S. R. 0132) and York Road (S. R. 0263) located (Hatboro USGS Quadrangle N: 15.3 inches; W: 15.5 inches) in Warminster Township, **Bucks County**.

**E51-167.** Encroachment Permit. **Fairmount Park Commission**, Memorial Hall, West Park, P. O. Box 21601, Philadelphia, PA 19131-0901. To modify and maintain the Fairmount Water Works along the Schuylkill River (WWF-MF). Work will include interior modifications to the lower level of the existing Engine House to provide kitchen and bathroom facilities, which will be located below the 100-year flood elevation. Work may also include some minor grading within the 100-year floodplain associated with landscaping and utility work. The site is located along the east bank of the Schuylkill River, between Fairmount Dam and the Spring Garden Street Bridge (Philadelphia USGS Quadrangle N: 16.5 inches; W: 8.2 inches) in the **City and County of Philadelphia**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

**E51-168.** Encroachment Permit. **City of Philadelphia Water Department**, 1101 Market Street, Aramark Tower, 2nd Floor, Philadelphia, PA 19107. To perform the following activities along the Pennypack Creek (WWF-

MF) and within its 100-year floodway, and floodplain for the replacement of an undersized combined sewer overflow pipe associated with the Philadelphia Water Department Sheffield Avenue Flood Relief Project: 1. To abandon a 4.5-foot diameter brick sewer pipe system which conveys combined sewer overflow from the Pennypack Creek Interceptor. This pipe will be completely filled with cement-sand grout and a 24-inch wide reinforced concrete plug will be placed at the terminus; 2. To install, operate and maintain a replacement combined sewer overflow system, consisting of 15 linear feet of reinforced concrete flared section, attached to approximately 320 linear feet of 8-foot by 7-foot reinforced concrete box culvert, attached to two intercepting chamber manholes, attached to approximately 96 linear feet of 6.5-foot by 10-foot reinforced concrete box culvert, attached to approximately 10 linear feet of reinforced concrete stepped section, attached to approximately 106 linear feet of 5-foot by 10-foot reinforced concrete box culvert, and terminating at a reinforced concrete outfall structure. A flexible flap gate will also be installed at the downstream terminus. All proposed box culverts will have a V-shaped bottom; 3. To install and maintain approximately 33 linear feet of 24-inch reinforced concrete connector pipe, and an associated manhole between the proposed combined sewer overflow pipe and the Pennypack Creek Interceptor; 4. To install and maintain approximately 67 linear feet of flow censor conduit, consisting of 3-inch galvanized rigid steel pipe; 5. To install and maintain approximately 200 linear feet of R-7 riprap bank protection along the west side of Pennypack Creek, on both the upstream and downstream sides of the proposed outfall structure; 6. To perform minor grading associated with the placement of the outfall of the aforementioned combined sewer overflow system, and the relocation of approximately 140 linear feet of bituminous bike path. The project is situated just north of the intersection of Rhawn Street (S. R. 1014) and the Amtrak Northeast Corridor Mainline Railway (Frankford, PA USGS Quadrangle N: 6.1 inches; W: 3.2 inches) in the **City and County of Philadelphia**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

**E46-818.** Encroachment Permit. **Towamencin Township**, P. O. Box 303, Kulpville, PA 19443. To excavate in 0.14 acre of wetlands to provide storage for a stormwater detention facility associated with the proposed Towamencin Township Municipal Complex. The project is located immediately northwest of the intersection of Troxell Road (SR 46047) and Keeler Road (Lansdale, PA Quadrangle N: 21.0 inches; W: 10.0 inches) in Towamencin Township, **Montgomery County**. The permittee will create 0.20 acre of wetlands replacement on the site.

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

**E40-495.** Encroachment. **Samuel and Doreen Kasper**, 223 Sutherland Drive, Mountaintop, PA 18707. To place fill in a de minimis area of wetlands equal to 0.05 acre, within the drainage basin of Big Wapwallopen Creek, for the purpose of filling a depression to provide a section of usable yard area adjacent to a recently-constructed home. The project is located on Lot 137, Kirby Estates (Wilkes-Barre West, PA Quadrangle N: 6.9 inches; W: 0.6 inch), in Fairview Township, **Luzerne County**.

*Southcentral Regional Office, Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.*

**E05-269.** Encroachment. **Pa. Dept of Transportation**, Engineering District 9-0, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a 4-span prestressed concrete I-beam bridge across the Raystown Branch Juniata River on SR 0030, Section 009, Segment 0630, Offset 0000 (Mench, PA Quadrangle N: 21.73 inches; W: 2.75 inches) in East Providence Township, **Bedford County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E07-298.** Encroachment. **Pennsylvania State University—Altoona Campus**, University Park, Physical Plant Bldg, University Park, PA 16802. To remove about 256 feet of existing collapsed gabion retaining wall and to construct and maintain about 180 feet of reinforced concrete retaining wall and approximately 106 feet of R-7 riprap slope protection along the south bank of Spring Run located at the Penn State University—Altoona Campus (Altoona, PA Quadrangle N: 7.3 inches; W: 5.0 inches) in Logan Township, **Blair County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

**E38-121.** Encroachment. **East Hanover Township**, William Duggan, R. D. 1, Box 6250, Grantville, PA 17028. To remove the existing bridge and to construct and maintain a bridge of reinforced concrete having a clear span of 15-foot on a 64 degree skew with an underclearance of 5-foot across Raccoon Creek on Zion Church Road (Indiantown Gap, PA Quadrangle N: 3.9 inches; W: 15.9 inches) in East Hanover Township, **Lebanon County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E01-181.** Encroachment. **Gettysburg Municipal Authority**, 601 East Middle Street, Gettysburg, PA 17325. To construct and maintain sewer lines under the streambed of Willoughby Run (Crossing #6) and other small stream Crossings #1 and #9 and de minimis wetlands (Wetlands 1 and 5) located within the boundary of Gettysburg National Military Park to convey wastewater to the Gettysburg Municipal Authority's Treatment Plant. (The stream crossings are located in Fairfield PA Quadrangle N: 16.3 inches; W: 0.95 inch and N: 7.7 inches; W: 1.98 inches) in Cumberland Township, Adams County. (The wetland crossings are located in Gettysburg, PA Quadrangle N: 10.56 inches; W: 14.95 inches) in Gettysburg Borough, **Adams County**. Permittee is not required to replace the de minimis wetlands. This permit also includes 401 Water Quality Certification.

**E01-195.** Encroachment. **Hamilton Township**, 272 Mummert's Church Road, Abbottstown, PA 17301. To remove an existing structure and to construct and maintain an 18-foot span precast concrete box culvert having an underclearance of 4 feet, 6 inches in Seven Hundred School Run (WWF) on 700 Road (T-523) west of Gun Club Road (T-493) (Hampton, PA Quadrangle N: 1.1 inches; W: 7.9 inches) in Hamilton Township, **Adams County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E01-196.** Encroachment. **Latimore Township**, David Myers, P. O. Box 218, York Springs, PA 17372. To remove

an existing structure and to construct and maintain a 14-foot, 6-inch single span timber bridge having an average underclearance of 3 feet, 6 inches for roadway improvements in Latimore Creek (CWF) on Myers Road (T-633) (Dillsburg, PA Quadrangle N: 10.1 inches; W: 14.5 inches) in Latimore Township, **Adams County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E05-268.** Encroachment. **Ivan Corle**, 1297 Burnt House Road, Imler, PA 16655. To remove a 250-foot long vegetated gravel bar to be used in constructing and maintaining a dike with 12-inch pipe rock riprap (R-4) in order to divert the flow of water to the original channel of Bob Creek located about 2.3 miles northeast of Weyant (Alum Bank, PA Quadrangle N: 21.5 inches; W: 10.5 inches) in Lincoln Township, **Bedford County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E21-282.** Encroachment. **Cumberland Valley School District**, Lee Brandt, 6746 Carlisle Pike, Mechanicsburg, PA 17055. To construct and maintain a 24-inch diameter outfall structure along the right bank of Conodoguinet Creek located about 180 feet west of Hampden Elementary School for the purpose of improving the storm drainage system (Harrisburg, PA Quadrangle N: 0.33 inch; W: 15.45 inches) in Hampden Township, **Cumberland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E31-148.** Encroachment. **Timothy English**, 447 Willow Crossing Road, Greensburg, PA 15601. To construct a 12-foot long by 10.5-foot wide kitchen addition and a 24-foot long, 8-foot wide porch onto an existing private residence in the floodway of the Juniata River (WWF) located along the north side of the River at its confluence with the Frankstown Branch of the Juniata River (Mount Union, PA Quadrangle N: 14.5 inches; W: 13.9 inches) in Henderson Township, **Huntingdon County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E36-658.** Encroachment. **Manheim Township**, Philip Mellott, 1840 Municipal Drive, Lancaster, PA 17601. To demolish and remove the existing Shreiner Station Road bridge across the Little Conestoga Creek (TSF), including both roadway approaches, and to stabilize the channel banks with rock riprap. The permit also authorizes construction of approximately 450 feet of new Shreiner Station Road roadway located within the 100-year floodplain of the Little Conestoga Creek for access from an existing apartment complex to McGovernsville Road (SR 0741) (Lancaster, PA Quadrangle N: 13.3 inches; W: 13.5 inches) in Manheim Township, **Lancaster County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E67-630.** Encroachment. **Gerry Golden**, 201 S. Fileys Road, Dillsburg, PA 17019. To place fill in 0.094 acre of wetlands for the purpose of constructing the Hemlock Drive cul-de-sac and stormwater detention facility located in the proposed Hemlock Hollow subdivision west of Steigerwalt Hollow Road and south of Lewisberry Road (Lemoyne, PA Quadrangle N: 14.0 inches; W: 0.8 inch) in Fairview Township, **York County**. The permittee is required to provide a minimum of 0.094 acre of replacement wetlands. This permit also includes 401 Water Quality Certification.

**E67-635. Encroachment. PA Dept. of Transportation,** Engineering District 8-0, 1240 Herr Street, Harrisburg, PA 17103. To (1) remove an existing structure; (2) construct and maintain a 50-foot single span reinforced concrete box beam bridge with a minimum underclearance of 5 feet, 6 inches over Bald Eagle Creek (TSF) and (3) place fill in a de minimis amount of wetlands (.003 acre) associated with this project. The bridge will be located 6 feet west of its existing location on SR 2030 Segment 0040 Offset 2432 (Deer Road), approximately 150 feet west of SR 0425 (Woodbine Road) (Airville, PA Quadrangle N: 3.6 inches; W: 7.6 inches) in Fawn Township, **York County**. This permit also includes 401 Water Quality Certification.

[Pa.B. Doc. No. 98-1988. Filed for public inspection December 4, 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 "July 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 Joe Sieber at (717) 783-8727.

#### *Final Technical Guidance—Substantive Revision*

DEP ID: 562-2112-503 Title: Coal Surface Mining and Blasting Near Underground Utility Lines and Pipelines Description: This document clarifies the permitting procedures and safety guidelines that coal surface mine operators should follow to ensure the protection of underground utility lines and pipelines. Effective Date: November 23, 1998 Contact: Nevin Strock at (717) 783-8845.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 98-1989. Filed for public inspection December 4, 1998, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Allegheny University Hospital— Canonsburg for Exception to 28 Pa. Code § 107.25(b)(8)

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Allegheny University Hospital—Canonsburg has requested an exception to the requirements of 28 Pa. Code § 107.25(b)(8) that it be permitted to hold Medical Executive Committee Meetings four times a year instead of at least ten times a year.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: [lvia@health.state.pa.us](mailto:lvia@health.state.pa.us).

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1990. Filed for public inspection December 4, 1998, 9:00 a.m.]

### Application of Clearfield Hospital for Exception to 28 Pa. Code § 107.25(b)(8)

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Clearfield Hospital has requested an exception to the requirements of 28 Pa. Code § 107.25(b)(8) that it be permitted to hold Medical Executive Committee Meetings six times a year instead of at least ten times a year.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: [lvia@health.state.pa.us](mailto:lvia@health.state.pa.us).

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be

reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1991. Filed for public inspection December 4, 1998, 9:00 a.m.]

### **Application of Ellwood City Hospital for Exception to 28 Pa. Code § 153.12, Universal Accessibility Standards 4.21.6**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Ellwood City Hospital has requested an exception to the requirements of 28 Pa. Code § 153.12 Universal Accessibility Standards 4.21.6, that it be permitted to replace a shower hose in an A.D.A. shower with a fixed shower head in a Med-Surg Unit being renovated into a Psychiatric Unit.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: lvvia@health.state.pa.us.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1992. Filed for public inspection December 4, 1998, 9:00 a.m.]

### **Application of Hanover General Hospital for Exception to 28 Pa. Code § 139.12(a)**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Hanover General Hospital has requested an exception to the requirements of 28

Pa. Code § 139.12(a) that it be permitted to have 16 Level I bassinets instead of the required 23 bassinets in a combined Ob-Gyn Unit.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: lvvia@health.state.pa.us.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL L. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1993. Filed for public inspection December 4, 1998, 9:00 a.m.]

### **Application of Hanover General Hospital for Exception to 28 Pa. Code § 139.13(a) AIA 7.4B Table 5**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Hanover General Hospital has requested an exception to the requirements of 28 Pa. Code § 139.13(a) AIA 7.4B Table 5 that it be permitted to have fewer than one oxygen, vacuum and medical air outlet per Level I bassinet.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: lvvia@health.state.pa.us.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT:

(717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1994. Filed for public inspection December 4, 1998, 9:00 a.m.]

### Application of Healthsouth Rehabilitation Hospital of Altoona for Exception to 28 Pa. Code § 107.2

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Healthsouth Rehabilitation Hospital of Altoona has requested an exception to the requirements of 28 Pa. § 107.2 that it be permitted to allow speech-language pathologists to accept verbal orders.

The request is on file with the Department. Persons may receive a copy of request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: lvia@health.state.pa.us.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1995. Filed for public inspection December 4, 1998, 9:00 a.m.]

### Application of Warren General Hospital for Exception to 28 Pa. Code § 109.2

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Warren General Hospital has requested an exception to the requirements of 28 Pa. Code § 109.2 (relating to director of nursing services) that it be permitted to have a nursing council instead of a full-time director of nursing that reports to the hospital chief executive officer.

The request is on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from: Division of Acute and Ambulatory Care, PA Department of Health, Room 532 Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: LVIA@HEALTH.STATE.PA.US.

Those persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed above.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aide service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1996. Filed for public inspection December 4, 1998, 9:00 a.m.]

### Health Policy Board; Meeting Notice

The Health Policy Board is scheduled to hold a meeting on December 9, 1998, at 10 a.m. in Room 812, Health & Welfare Building, Seventh & Forster Streets, Harrisburg, PA.

This meeting is 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, V/TT: (717) 783-6514 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 98-1997. Filed for public inspection December 4, 1998, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Open-End Contract for Design Support Services

#### Fayette, Greene, Washington and Westmoreland Counties

#### Project Reference No. 08430AG2269

The Department of Transportation will retain an engineering firm for an Open-End Contract to perform various structure design tasks and/or the review of contractor and consultant structure design submissions in Engineering District 12-0; that is, Fayette, Greene, Washington and Westmoreland Counties. The Contract will be for a sixty-(60) month period with projects assigned on an as-needed basis. The maximum amount of the Open-End Contract will be one Million (\$1,000,000) dollars.

The Department will establish an order of ranking of three (3) firms for the purpose of negotiating an Open-End Contract 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 acceptable Letters of Interest.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting acceptable Letters of Interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Consultant management process and expertise as well as engineering review expertise in structural design.
- c. Specialized experience and technical competence of firm in structural design.
- 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 who constitute the firm's team shall be considered.
- e. Location of consultant with respect to the District.
- f. Available staffing for this assignment.
- g. Current Workload.
- h. Relative size of firm to size of projects that may be completed under this Contract.

The work and services required under this Contract shall encompass structure design tasks to include, but not be limited to, size, and location studies, foundation submissions, hydrologic reports, final plan, specification and estimate submissions; temporary shoring; or rafting only.

The work and services required under this Contract shall also encompass structure review tasks to include, but not be limited to, type, size, and location studies; foundation submissions; hydraulic reports; final plan, specification and estimate submissions; temporary shoring, and shop drawings.

The selected engineering firm must assure that the format and content of all document submissions are in conformance and consistent with all applicable Federal and State regulations, manuals, policies, guidelines, and procedures, and provide comments and follow-up in a timely manner, where appropriate.

The Design support services identified above are the general work activities that can be expected under this Open-End Contract. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

The District copy of the Letter of Interest and required forms (see "General Requirements and Information" section) shall be sent to: Mr. Michael H. Dufalla, P.E. District Engineer, District 12-0, P. O. Box 459, N. Gallatin Avenue, Extention, Uniontown, PA 15401, Attn: Jeffery S. Thompson, P.E.

Technical questions concerning the submittal of the letter of interest for this Open-End Contract 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.

The Department requests that each Letter of Interest include the following information and that the information be packaged and presented in the order indicated below to facilitate the Department's review and evaluation.

The firm's ability and willingness to package and present the requested information in the above order to facilitate the Department's review and evaluation will be the first factor considered in the evaluation process.

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

2. A fact sheet that includes 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 should indicate on this fact sheet 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. If the project advertisement indicated the Department will retain an Land Surveying firm for the project, the applicant should indicate on this fact sheet the names and Professional Land Surveyor Registration Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's land surveying activities, and whose names and seals shall be stamped on all plans, plats, and reports issued by the firm.

3. Project Organizational Chart (one page, one side, maximum size 11" x 17")

This Chart should show key staff from the prime and each subconsultant and their area of responsibility.

4. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team)

The Standard Form 255 should 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 should 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 should not include 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.

5. 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, should 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.

These Forms should 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 Standard Form 255.

6. Authorization Letters (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 should be first, followed by subconsultant employees, in the same order as shown in Item 6 of Standard 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 should 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.

Letters of Interest will be rejected for the following reasons:

1. Received after the cut-off time and date specified above.

2. Failure to identify a Department Certified Disadvantaged Business Enterprise (DBE) if a DBE participation goal is identified in the advertised project.

3. Failure to include a copy of the registration to do business in the Commonwealth, if applicable.

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. 98-1998. Filed for public inspection December 4, 1998, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Additional Restrictions on Fish and Boat Commission Property

The Executive Director of the Fish and Boat Commission, acting under the authority of 58 Pa. Code §§ 53.15 (relating to Commission lakes or access areas under special time regulations) and 53.18 (relating to additional restrictions), has established the following additional restrictions for Fish and Boat Commission property. These restrictions shall be effective when posted at the site and shall remain in effect until further notice.

<i>County</i>	<i>Area</i>	<i>Additional Restrictions</i>
Cumberland	Big Spring Access Area	Closed to all use from 10 p.m. to 5 a.m.

PETER A. COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 98-1999. Filed for public inspection December 4, 1998, 9:00 a.m.]

## HISTORICAL AND MUSEUM COMMISSION

### National Register Nominations to be Considered at the Historic Preservation Board Meeting

The December 8, 1998 meeting will start at 9:45 a.m. in Room 515, Pennsylvania Historical and Museum Commission, Third and North Streets, Harrisburg, PA.

Individuals with a disability who wish to attend this meeting, and require an auxiliary aid, service or other accommodation to participate, should contact Dan Deibler at (717) 783-8946 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the agency can accommodate their needs. If there are any questions or comments, please contact the Bureau of Historic Preservation at (717) 783-8946.

#### *Southwestern Pennsylvania*

1. *Moxham Historic District*, roughly bounded by Dupont Street, Linden Avenue, Village Street and Park and Coleman Avenues, Johnstown, Cambria County

#### *Allegheny Plateau*

2. *Ellen and Charles F. Welles House*, 1 Grovedale Lane, Wyalusing Township, Bradford County

#### *Ridge and Valley*

3. *Newport Historic District*, roughly bounded by Fickes Lane, Oliver Street, Front Street, Little Buffalo Run, Bloomfield Avenue and Sixth Street, Newport and Oliver Townships, Perry County

4. *F. D. Roosevelt Grade School/Greenfield High School*, Bedford Street, Claysburg, Greenfield Township, Blair County

5. *Hugh D. and Martha S. Seeds Farm*, L. R. 31061, Eden Hill, Spruce Creek Township, Huntingdon County  
*Great Valley and Piedmont Region*

6. *Erwinna Historic District*, encompasses Erwinna village and historic resources located on River, Headquarters, Geigel Hill, Upper Tincum Church, Tettemer, Permanent School and Roaring Rocks Roads, Tincum Township, Bucks County

7. *East York Historic District*, bounded by Oxford, Wallace and Royal Streets and Eastern Boulevard, Springettsbury Township, York County

8. *Griest Building*, 8 North Queen Street, Lancaster, Lancaster County

9. *Watt and Shand Department Store*, Penn Square, Lancaster, Lancaster County

10. *Johannes Harnish Farmstead*, 202 Woodfield Crossing, West Lampeter Township, Lancaster County (Historic Farming Resources of Lancaster County Multiple Property Submission)

11. *Isaac Kulp Farm*, North Swedesford Road at intersection with Hancock Road, Upper Gwynned Township, Montgomery County

12. *Lower North Philadelphia Speculative Housing Historic District*, roughly bounded by N. 15th Street, Sydenham Street, N. 16th Street, Berks Street, Montgomery Avenue, N. 19th Street, Jefferson Street, Willington Street and Oxford Street, Philadelphia

*Anthracite Region and Poconos—no nominations*

BRENT D. GLASS,  
*Executive Director*

[Pa.B. Doc. No. 98-2000. Filed for public inspection December 4, 1998, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### Request for Proposals; 1999 Tax-Exempt Qualified Residential Rental Facilities Seeking Private Activity Bond Allocations

Private activity bonds to finance qualified residential rental facilities are subject to the limitations imposed through the Statewide unified private activity bond cap. The Department of Community and Economic Development (DCED) provides for the allocation of authority for the issuance of private activity bonds among the various qualified issuers in the Commonwealth of Pennsylvania. Certain allocations are made available to the Pennsylvania Housing Finance Agency (Agency) for the issuance of private activity bonds for housing purposes. The Agency has designed this Request for Proposals (RFP) to allow for a process of evaluation of qualified tax exempt residential

rental facilities funded through local issuers seeking allocations of 1999 private activity volume cap.

The RFP announces the limited availability of 1999 housing bond volume cap for the funding of selected qualified tax-exempt residential rental facilities that meet all qualifications of the Internal Revenue Code (Code). In the event additional volume cap becomes available in the Commonwealth for the provision of financing for qualified residential rental facilities, the Agency may determine to fund additional multifamily projects meeting the minimum qualifications set forth in the RFP.

In addition to meeting all requirements relating to private activity bonds set forth in all applicable sections of the Code, projects using Federal low income housing tax credits in their financing plan must also meet all requirements of section 42 of the Code, as amended, and the 1999 Agency tax credit program guide, processing guide and program submission deadlines.

The amount of volume cap available for multifamily projects is limited due to the competing uses of volume cap in the Commonwealth and among housing bond programs. Sponsors are advised and cautioned that funds will be competitive and many otherwise qualified projects may not receive funding due to the scarcity of resources. Any and all costs incurred in this application process are the sole responsibility of the sponsor.

Requests for a copy of the 1999 Request for Proposals and for an application for a 1999 private activity bond allocation may be submitted to:

Pennsylvania Housing Finance Agency  
Attn: Development Division  
P. O. Box 8029  
Harrisburg, PA 17105-8029  
(717) 780-3882  
TDD# (717) 780-1869

WILLIAM C. BOSTIC,  
*Executive Director*

[Pa.B. Doc. No. 98-2001. Filed for public inspection December 4, 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, November 19, 1998, and took the following actions:

#### *Regulations Approved:*

Department of Public Welfare #14-438: Subsidized Child Day Care Eligibility (amends 55 Pa. Code Chapters 165, 168, 183 and 3040)

Pennsylvania Securities Commission #50-112: Registration of Securities; Registration of Broker-Dealers; Agents and Investment Advisers; Administration (amends 64 Pa. Code Chapters 202, 206, 302, 606, 609 and 610)

Pennsylvania Public Utility Commission #57-190: Advanced Meter Deployment for Electricity (amends 52 Pa. Code Chapter 57)

State Board of Education #6-265: Academic Standards and Assessment (adds Chapter 4 to 22 Pa. Code)

*Regulations Deemed Approved under section 5(g) of the Regulatory Review Act—Effective November 6, 1998:*

Insurance Department #11-172: Fees For Out-Of-State Companies (repeals Chapter 121 of 31 Pa. Code)

*Commissioners Present:* John R. McGinley, Jr., Chairperson—Dissenting; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli—Dissenting; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
November 19, 1998

*Department of Public Welfare—Subsidized Child Day Care Eligibility; Regulation No. 14-438*

#### Order

On August 25, 1997, the Independent Regulatory Review Commission (Commission) received these proposed amendments from the Department of Public Welfare (DPW). This rulemaking amends 55 Pa. Code Chapters 165, 168, 183 and 3040. The authority for this rulemaking is Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703), and Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), Pub.L.No. 104-193, known as the Child Care and Development Block Grant (CCDBG) (42 U.S.C.A. §§ 9858—9858q). The proposed amendments were published in the September 6, 1997, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulations were submitted to the Commission on October 29, 1998.

As a result of Title VI of the Federal PRWORA and Act 35 at the state level, DPW is integrating existing child care subsidy regulations for families receiving Transitional Assistance for Needy Families, with child care subsidy provisions for low-income families. Previously, these were two separate programs which received funding from separate sources. Both categories will now be funded from the federal CCDBG and by an additional state appropriation.

We have reviewed these final-form regulations and find them to be in the public interest. The final-form regulations integrate programs for cash assistance recipients and low-income families for continuity of subsidized child care services. More children will be served as a result of the revised copayment schedule. The eligibility requirements will ensure the most needy children will benefit from the program.

*Therefore, It Is Ordered That:*

1. Regulation No. 14-438 from DPW, as submitted to the Commission on October 29, 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; John F. Mizner

Public Meeting held  
November 19, 1998

*Pennsylvania Securities Commission—Registration of Securities; Registration of Broker-Dealers; Agents and Investment Advisers; Administration; Regulation No. 50-112*

**Order**

On July 27, 1998, the Independent Regulatory Review Commission (Commission) received these proposed amendments from the Securities Commission. This rulemaking amends 64 Pa. Code Chapters 202, 206, 302, 606, 609 and 610. The authority for this rulemaking is 70 P. S. §§ 1-202(i), 1-206 (b) and (d), 1-302(f), 1-606(d), 1-609(a) and (c), and 610. The proposed amendments were published in the August 15, 1998, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulations were submitted to the Commission on October 23, 1998.

This proposal makes omnibus revisions to update existing Securities Commission regulations. Major changes will: eliminate requirements for financial institutions to register as broker-dealers in some cases; allow a certified public accountant to give a tax opinion in offerings of limited partnership interests; allow some issuers filing a registration to submit 2 years, instead of 3 years, of financial statements; and allow small business issuers filing for a public offering of corporate equity securities aggregating \$1 million or less to use reviewed financial statements in lieu of an audit.

We have reviewed these final-form regulations and find them to be in the public interest. Financial institutions offering services through a network with a brokerage affiliate will no longer have to register as a broker-dealer. Small businesses filing an offering under the Small Corporate Offering Registration Program will save an estimated 25% in accounting services. There will also be a reduction in accounting costs for filings where 2 years, instead of 3 years, of financial statements will be permitted.

*Therefore, It Is Ordered That:*

1. Regulation No. 50-112 from the Securities Commission, as submitted to the Commission on October 23, 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; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
November 19, 1998

*Pennsylvania Public Utility Commission Advanced Meter Deployment for Electricity; Regulation No. 57-190*

**Order**

On January 16, 1998, the Independent Regulatory Review Commission (Commission) received this proposed rulemaking from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code Chapter 57. The authority for this rulemaking is 66 Pa.C.S. §§ 501 and 2807(a) and (d). The proposed rulemaking was published in the January 31, 1998, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulations were submitted to the Commission on May 18, 1998.

At its June 18, 1998, public meeting, the Commission voted to disapprove the final-form regulations. On September 24, 1998, the PUC notified the Commission of its intent to revise and resubmit the regulations. On November 2, 1998, the revised final-form regulations were submitted to the Commission.

These final-form regulations implement portions of the Electricity Generation Customer Choice and Competition Act by establishing procedures for making advanced meters available to customers. The rulemaking establishes uniform procedures and standards for the customer selection and deployment of advanced meters and provides coordination with any electric distribution company (EDC) for the installation of advanced meter networks.

We have reviewed the revised final-form regulations and find them to be in the public interest. The initial final-form regulations contained three clarity errors. The PUC has corrected those errors. The final-form regulations establish procedures for making advanced meters available to those customers that request them. The final-form regulations will impact the 11 EDCs under the PUC's jurisdiction and any electric generation suppliers that apply for a license to sell electricity to customers in this Commonwealth.

*Therefore, It Is Ordered That:*

1. Regulation No. 57-190 from the PUC, as resubmitted to the Commission on November 2, 1998, is approved;
2. The Commission's bar to final publication of Regulation No. 57-190 issued under section 6(b) of the Regulatory Review Act is hereby rescinded; and
3. 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; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
November 19, 1998

*State Board of Education—Academic Standards and Assessment; Regulation No. 6-265*

**Order**

On July 29, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking adds Chapter 4 to 22 Pa. Code. The authority for this rulemaking is found in the Public School Code of 1949 (24 P. S. §§ 1-101—27-2702). The proposed rulemaking was published in the August 8, 1998, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulations were submitted to the Commission on October 27, 1998.

In these final-form regulations, the Board is deleting existing Chapters 3 (School Profiles), 5 (Curriculum) and 6 (Vocational Education) and adding a new Chapter 4 (Academic Standards and Assessments). The purpose of replacing these three chapters with one new chapter is to replace student-learning outcomes with more specific academic standards. In the new Chapter 4, most of the general provisions of the existing three chapters have been consolidated and rewritten to conform to the academic standards concept.

We have reviewed these final-form regulations and find them to be in the public interest. The final-form regulations establish specific and measurable standards to assess students' performance in the Commonwealth's schools.

*Therefore, It Is Ordered That:*

1. Regulation No. 6-265 from the Board, as submitted to the Commission on October 27, 1998, is approved; and

2. The Commission will transmit a copy of this order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 98-2002. Filed for public inspection December 4, 1998, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Voluntary Surrender of Pennsylvania Certificate of Authority to Operate a Continuing Care Retirement Community

United Presbyterian Women's Association of North America Home for Aged People, a domestic provider of a Continuing Care Retirement Community, has submitted an application for approval to surrender its Pennsylvania Insurance Department Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender, are invited to submit a written statement to the Pennsylvania Insurance Department within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Room 1311 Strawberry Square, Harrisburg, Pennsylvania 17120, by fax to (717) 787-8557, or by e-mail to rbrackbi@ins.state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-2003. Filed for public inspection December 4, 1998, 9:00 a.m.]

### Children's Health Insurance Program; Meeting Notice

The Insurance Department has scheduled a meeting of the Children's Health Advisory Council on December 17, 1998, at 1 p.m. in Room 1125, 11th Floor, Strawberry Square, Harrisburg, PA 17120. The Children's Health Care Act (Act 68 of 1998), charges the Advisory Council with the responsibility of overseeing outreach activities and evaluating access and quality of services provided to children enrolled in the Children's Health Insurance Program (CHIP). The public is invited to attend. Persons who need accommodation due to a disability and want to attend the meeting, should contact Tracey Pontius, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, or call (717) 787-4298, at least 24 hours in advance so that arrangements can be made.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-2004. Filed for public inspection December 4, 1998, 9:00 a.m.]

### List of Names of Qualified Unlicensed Reinsurers

Under section 319.1 of The Insurance Company Law of 1921 (40 P. S. § 442.1), the Insurance Commissioner hereby lists reinsurers not licensed by the Insurance Department which shall be considered qualified to accept reinsurance from insurers licensed by the Insurance Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Insurance Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa. B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 48 (November 27, 1993); 24 Pa.B. 33 (August 13, 1994); 24 Pa.B. 49 (December 3, 1994); 25 Pa.B. 50 (December 16, 1995); 26 Pa.B. 46 (November 16, 1996); 27 Pa.B. 21 (May 24, 1997); 27 Pa.B. 46 (November 15, 1997) and 28 Pa.B. 46 (November 14, 1998).

#### Insurance Department's Qualified Unlicensed Reinsurers List

1. 37958 Acceptance Insurance Company, Omaha, Nebraska
2. 37532 Agricultural Excess and Surplus Insurance Company, Wilmington, Delaware
3. 10651 AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey
4. 10103 American Agricultural Insurance Company, Indianapolis, Indiana
5. 41858 American Dynasty Surplus Lines Insurance Company, Wilmington, Delaware
6. 37990 American Empire Insurance Company, Cincinnati, Ohio
7. 88536 American Foundation Life Insurance Company, Birmingham, Alabama
8. 26883 American International Specialty Lines Insurance Company, Anchorage, Alaska
9. 91785 American Phoenix Life and Reassurance Company, Hartford, Connecticut
10. 27898 Americas Insurance Company, New Orleans, Louisiana
11. 10316 Appalachian Insurance Company, Johnston, Rhode Island
12. Assicurazioni General Di Trieste, Rome, Italy

- |     |       |  |     |       |  |
|-----|-------|--|-----|-------|--|
| 13. | 27189 | Associated International Insurance Company, Woodland Hills, California | 42. | 34991 | Genesis Indemnity Insurance Company, Bismarck, North Dakota                    |
| 14. | 50687 | Attorneys' Title Insurance Fund, Inc., Orlando, Florida                | 43. | 92673 | Gerling Global Life Insurance Company, Toronto, Canada                         |
| 15. | 19925 | Audubon Indemnity Company, Jackson, Mississippi                        | 44. | 87017 | Gerling Global Life Reinsurance Company, Los Angeles, California               |
| 16. | 18988 | Auto-Owners Insurance Company, Lansing, Michigan                       | 45. | 22098 | Grain Dealers Mutual Insurance Company, Indianapolis, Indiana                  |
| 17. | 36552 | Axa Reinsurance Company, Wilmington, Delaware                          | 46. |       | Guardian Royal Exchange Assurance Public Limited Company, London, England      |
| 18. | 61395 | Beneficial Life Insurance Company, Salt Lake City, Utah                | 47. | 42811 | Gulf Underwriters Insurance Company, Raleigh, North Carolina                   |
| 19. | 10021 | Capital Mortgage Reinsurance Company, New York, New York               | 48. |       | Hannover Ruckversicherungs-Aktiengesellschaft, Hannover, Germany               |
| 20. | 30180 | Capital Reinsurance Company, New York, New York                        | 49. | 39187 | Hansa Reinsurance Company of America, Tarrytown, New York                      |
| 21. | 36951 | Century Surety Company, Columbus, Ohio                                 | 50. | 87572 | Harbourton Reassurance, Inc., Wilmington, Delaware                             |
| 22. | 38989 | Chubb Custom Insurance Company, Dover, Delaware                        | 51. | 36200 | Health Providers Insurance Company, Deerfield, Illinois                        |
| 23. |       | CNA Reinsurance Company Limited, London, England                       | 52. | 78972 | Healthy Alliance Life Insurance Company, St. Louis, Missouri                   |
| 24. | 39993 | Colony Insurance Company, Richmond, Virginia                           | 53. | 42374 | Houston Casualty Company, Houston, Texas                                       |
| 25. | 40371 | Columbia Mutual Insurance Company, Columbia, Missouri                  | 54. | 27960 | Illinois Union Insurance Company, Chicago, Illinois                            |
| 26. | 27955 | Commercial Risk Re-Insurance Company, South Burlington, Vermont        | 55. |       | INEX Insurance Exchange, Chicago, Illinois                                     |
| 27. | 37567 | Commonwealth Insurance Company, Vancouver, British Columbia, Canada    | 56. | 10040 | Inner Harbor Reinsurance, Inc., Baltimore, Maryland                            |
| 28. | 20923 | Continental Reinsurance Corporation, San Francisco, California         | 57. | 22829 | Interstate Fire & Casualty Company, Chicago, Illinois                          |
| 29. | 17400 | Coregis Indemnity Company, Durham, North Carolina                      | 58. | 93505 | ITT Hartford International Life Reassurance Corporation, Westport, Connecticut |
| 30. | 42048 | Diamond State Insurance Company, Indianapolis, Indiana                 | 59. | 16187 | John Hancock Property and Casualty Insurance Company, Wilmington, Delaware     |
| 31. | 10928 | Eagle Insurance Company, Jersey City, New Jersey                       | 60. | 35637 | Landmark Insurance Company, San Francisco, California                          |
| 32. |       | E+S Ruckversicherungs-AG, Hannover, Germany                            | 61. | 29912 | Legion Indemnity Company, Chicago, Illinois                                    |
| 33. | 40509 | EMC Reinsurance Company, Des Moines, Iowa                              | 62. | 19437 | Lexington Insurance Company, Wilmington, Delaware                              |
| 34. | 90670 | ERC Life Reinsurance Corporation, Jefferson City, Missouri             | 63. |       | Lloyd's Underwriters, London, England  |
| 35. | 39020 | Essex Insurance Company, Wilmington, Delaware                          | 64. | 98078 | Manulife Reinsurance Corporation (USA), Buffalo, New York                      |
| 36. | 29700 | European Reinsurance Corporation of America, Manchester, New Hampshire | 65. | 32089 | Medmarc Mutual Insurance Company, Vergennes, Vermont                           |
| 37. | 35378 | Evanston Insurance Company, Evanston, Illinois                         | 66. | 97071 | Mercantile and General Life Reassurance Company of America, Lansing, Michigan  |
| 38. | 44792 | Executive Risk Specialty Insurance Company, Simsbury, Connecticut      | 67. | 23531 | Millers Mutual Fire Insurance Company, Ft. Worth, Texas                        |
| 39. | 32018 | First Excess and Reinsurance Corporation, Jefferson City, Missouri     | 68. | 33189 | Monticello Insurance Company, Wilmington, Delaware                             |
| 40. | 85472 | First ING Life Insurance Company of New York, New York                 | 69. | 20079 | National Fire & Marine Insurance Company, Omaha, Nebraska                      |
| 41. | 37362 | General Star Indemnity Company, Stamford, Connecticut                  | 70. | 41629 | New England Reinsurance Corporation, Hartford, Connecticut                     |

71. Odyssey Re (London) Limited, London, England
72. 31143 Old Republic Union Insurance Company, Montgomery, Alabama
73. 88099 Optimum Re Insurance Company, Dallas, Texas
74. 37338 Pacific Insurance Company, Los Angeles, California
75. 38636 Partner Reinsurance Company of the U.S., New York, New York
76. 29807 PXRE Reinsurance Company, Edison, New Jersey
77. 88340 Reassurance Company of Hannover, Orlando, Florida
78. 24481 Reliance Insurance Company of Illinois, Chicago, Illinois
79. River Thames Insurance Company, Ltd., London, England
80. St. Paul Reinsurance Company, Ltd., London, England
81. 21911 San Francisco Reinsurance Company, Novato, California
82. 41297 Scottsdale Insurance Company, Columbus, Ohio
83. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
84. 93483 Swiss-Am Reassurance Company, Wilmington, Delaware
85. Terra Nova Insurance Company, Limited, London, England
86. 19887 Trinity Universal Insurance Company, Dallas, Texas
87. 37982 Tudor Insurance Company, Keene, New Hampshire
88. Unionamerica Insurance Company, Limited, London, England
89. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
90. 39330 United Capitol Insurance Company, Atlanta, Georgia
91. 28053 United Coastal Insurance Company, Phoenix, Arizona
92. 13021 United Fire & Casualty Company, Cedar Rapids, Iowa
93. 38032 US International Reinsurance Company, Manchester, New Hampshire
94. 21067 Westchester Surplus Lines Insurance Company, Honolulu, Hawaii
95. 29548 Western Indemnity Insurance Company, Houston, Texas
96. 13196 Western World Insurance Company, Keene, New Hampshire
97. 40193 X.L. Insurance Company, New York, New York
98. Zurich Reinsurance (London) Limited, London, England

### **Changes to the Qualified Unlicensed Reinsurers List Since It Was Published on November 14, 1998**

The following companies were omitted in error from the list which was published on November 14, 1998:

American Foundation Life Insurance Company, Birmingham, Alabama

Swiss-Am Reassurance Company, Wilmington, Delaware

Trinity Universal Insurance Company, Dallas, Texas

The following company has changed its name since the list was published on November 14, 1998:

SAFR Reinsurance Corporation of the U.S., New York, New York has changed its name to Partner Reinsurance Company of the U.S., New York, New York

The following company has been removed because it merged out of existence since the list was published on November 14, 1998:

Neumann Insurance Company, Denver, Colorado

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-2005. Filed for public inspection December 4, 1998, 9:00 a.m.]

### **Workers' Compensation Security Fund Assessment**

The Insurance Commissioner has determined that assessments for the Workers' Compensation Security Fund (WCSF) for 1998 will be required of all insurers writing workers' compensation insurance in this Commonwealth. Accordingly, an assessment equal to 1% of each insurers net written premiums determined as of June 30, 1998, will be imposed.

Under section 5 of the Workers' Compensation Security Fund Act (77 P.S. § 1055), the Commissioner shall impose an assessment equal to 1% of each insurer's net written premiums if the WCSF Balance minus the WCSF Loss Reserve is less than 5% of the Insurers' Loss Reserve. The Commissioner ascertained that the Insurers' Loss Reserve as of June 30, 1998, is \$6,812,364,846. Five percent of that reserve is \$340,618,242. The WCSF Balance minus the WCSF Loss Reserve is \$131,114,929. Accordingly, the WCSF Balance less the WCSF Loss Reserve is less than 5% of Insurers Loss Reserve, triggering the need for the assessment.

Payment of the assessment is due no later than December 31, 1998. Insurers will be billed by the WCSF on December 7, 1998. Questions or comments regarding the assessment may be directed to: Michael P. Sullivan, Claims Manager, Workers' Compensation Security Fund, 901 N. 7th Street, Harrisburg, PA 17102, (717) 783-8093, Fax: (717) 705-0140.

Insurers are reminded that any carrier which fails to pay the contribution when due is subject to a 5% penalty



on the total unpaid contribution. Thereafter, for each month (or portion thereof) in which the contribution remains unpaid, a 1% penalty will be imposed on the unpaid balance. Additional penalties for nonpayment can also include revocation of the insurer's certificate of authority. See 77 P.S. § 1059.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 98-2006. Filed for public inspection December 4, 1998, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of The Pennsylvania Telephone Association for Waiver of 52 Pa. Code § 64.41; Doc. No. P-00981357

Public meeting held  
November 4, 1998

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

### Order

*By the Commission:*

By Petition filed April 3, 1998, The Pennsylvania Telephone Association (PTA) requests a waiver of the Commission's regulation found at 52 Pa. Code § 64.41, which reads:

#### § 64.41. Interest.

Interest at the rate of 9% per annum shall be payable on deposits without deductions for taxes thereon. Interest shall be paid annually to the customer or, at the option of either the LEC or the customer, shall be applied to the customer's bill.

This section was initially included in the proposed rulemaking to rescind obsolete regulations regarding telephone and residential telephone service, 52 Pa. Code Chapters 63 and 64, at Doc. No. L-00960113. We note that the proposed rulemaking intended to change the section to be consistent with § 56.57, which provides that the interest rate be determined by the average rate of 1-year Treasury Bills for the months of September, October and November of the previous year. Acting on PTA's comments, we were prepared to change our regulation from the current 9% to 6%, which is the current legal rate in the Commonwealth of Pennsylvania, despite OCA's comments that the rate should remain at 9% so that consumers will not be hurt if the market is paying higher interest.

We believed then, as we do now, that it is more important to set the interest rate at a level that provides incentive to collect a deposit in appropriate situations than to set the interest rate to ensure no loss in value to the consumer. Consumers who are dissatisfied with the interest paid on deposits need only pay their bills on time for 12 consecutive months to receive a refund of this money. See 52 Pa. Code § 64.37(3).

We removed this section from the rulemaking, however, when PTA filed this Petition, although removal was with the intent to include it in a future rulemaking. PTA states that its new position is justified

... in view of the increasingly competitive marketplace and the associated financial pressures that LECs now face. PTA requests that the Commission adopt a formula for the calculation of interest on deposits which mirrors the present financial climate faced by LECs. Specifically, the PTA requests that the Commission grant an immediate waiver of the current regulation and allow LECs to pay interest rates on customer deposits based on the rates of interest posted for one year U.S. Treasury bills for the months of September, October, and November, of the previous year. This method would allow for annual adjustment of interest rates to reflect accurately the current financial conditions faced by LECs and enjoyed by consumers, and is consistent with the Commission's regulations at 52 Pa. Code § 56.57. Petition, pp. 2—3.

The Petition further states that this

... waiver will ultimately benefit consumers of telecommunications services in the Commonwealth by reducing interest payments made by LECs. It also should foster an increased willingness on the part of LECs to require customer deposits in situations that warrant such measures. Both the LEC and the ultimate consumer should thereby benefit by possible reductions in uncollectable revenues. Petition, p. 3.

We agree. Notice of the PTA request was published on June 6, 1998, 28 Pa.B. 23, with a 20-day comment period set. Since there has been no response, hence no opposition filed to this Petition, we will grant it with the requirement that the affected utilities keep records indicating the effectiveness of this standard, which will aid us in determining how to best proceed in the future rulemaking; *Therefore,*

*It Is Ordered That:*

1. The Petition of the Pennsylvania Telephone Association in this docket is hereby granted.
2. The Commission's regulation appearing at 52 Pa. Code § 64.41 is hereby temporarily waived, consistent with the discussion in the body of this order, for all jurisdictional LECs and CLECS.
3. All jurisdictional LECs shall calculate interest rates on customer deposits based on the rates of the interest posted for 1-year U.S. Treasury bills for the months of September, October and November of the previous year.
4. To gauge the effectiveness of this standard, all jurisdictional LECs desiring to employ the revised interest rate standard permitted by this order shall keep records and shall submit a report comparing the customer deposits taken for the calendar year following entry of this order to the customer deposits taken for prior calendar years. Said report shall be filed at this docket by January 30, 2000.
5. The Secretary shall deposit this order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
6. This order shall become effective upon its publication in the *Pennsylvania Bulletin* and shall remain in

effect pending further Commission action, subsequent to review of reports filed under ordering paragraph no. 4, above.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 98-2007. Filed for public inspection December 4, 1998, 9:00 a.m.]

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## TURNPIKE COMMISSION

### Request for Bids

The Turnpike Commission is requesting sealed bids for:

1) Hazardous Waste Disposal for 20 Maintenance Facilities on PA Turnpike.

*Bid Opening:* December 21, 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 Dept., (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 98-2008. Filed for public inspection December 4, 1998, 9:00 a.m.]

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### Request for Bids

The Turnpike Commission is requesting sealed bids for:

1) Roof Renovation, Bowmansville Mtce. Facility, Lancaster County

*Mandatory Site Inspection:* December 11, 1998 at 10 a.m.

*Bid Opening:* December 21, 1998 at 11:30 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 Dept., (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 98-2009. Filed for public inspection December 4, 1998, 9:00 a.m.]

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# 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

**1351158** Alarm and signal system—1 system furnish, wire and install one alarm monitoring system.

**Department:** Agriculture  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1392118** Construction and building materials—398 each fiberglass wall and ceiling panel, Glasteel brand 1/16" x 4' x 8', white, pebbled finish; 635 each divider for Glasteel or equivalent fiberglass wall and ceiling panel, white; 52 each inside corner molding for Glasteel or equivalent fiberglass wall and ceiling panel, white; 72 each outside corner molding for Glasteel or equivalent fiberglass wall and ceiling panel, white; 132 each end cap for Glasteel or equivalent fiberglass wall and ceiling panel, white; 9,950 each blind rivet for Glasteel or equivalent fiberglass wall and ceiling panel, white; 84 each J-channel for white Gavalume steel roofing 16' long, white, used to join Glasteel or equivalent fiberglass wall and ceiling panel.

**Department:** Corrections  
**Location:** Karthaus, Clearfield County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1404118** Construction and building materials—15 each remove existing steel windows and furnish and install new aluminum windows.

**Department:** Corrections  
**Location:** Elizabethtown, Lancaster County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1374158** Electric and electronic equipment components—1 each furnish and install 100 KW diesel generator to provide normal/emergency power.

**Department:** Agriculture  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1332048** Laboratory instruments and equipment—1 each furnish and install one stackable unit consisting of two Percival Scientific Biological Incubators Model I-308BLL or equal.

**Department:** Agriculture  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1316218** Materials handling equipment—2 each furnish and set-up barrier free ceiling list systems for non-ambulatory patients in the East II and West II bath areas in Building 7 of the Ebensburg Center.

**Department:** Public Welfare  
**Location:** Ebensburg Center, Ebensburg, Cambria County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1380118** Metal working machinery—3 each tactical cutting torch kit Broco PC/TAC; 3 each handheld tactical cutting torch PC/MT Mod-1 (Mini Tac modified to include two 15 cubic foot oxygen cylinders); 3 each light weight battery PC/BISLW; 3 each 2-pole striker Assy PC/DSP-5; 50 each igniters (box of 10) PC-RFC-10; 20 each No. 3836 PC-25 3/8" x 36" cutting rods 33 rods per box; 20 each 1418 PC-25 1/4" x 18" cutting rods, 137 rods per box.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**8249720** Metal working machinery—6 each 069500—welder, 300 amp, skid mounted.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**8084870** Promotional items—225,000 packs 4 count crayons packaged or box = 1 pack packaged or boxed 4 packs of crayons, each pack to contain 1 stick each red, blue, green and yellow colors.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

**1330118** Steam plant and drying equipment—1 project furnish and install two Baily Fischer Porter Model No. 1392/41/3333/40/000/001/10/000/0000/0 or approved equal.

**Department:** Corrections  
**Location:** Elizabethtown, Lancaster County, PA  
**Duration:** FY 98—99  
**Contact:** Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

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# SERVICES

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## Environmental Maintenance—15

**AMD 57(0727)101.1** Acid Mine Drainage Abatement, White Ash No. 3 (Loyalsock Creek) involves approximately 23,600 c. y. excavation and embankment, 2,100 c. y. spent mushroom compost, 12,450 tons AASHATO No. 3 limestone aggregate and 4.5 acres of seeding.

**Department:** Environmental Protection  
**Location:** Cherry and Colley Townships, Sullivan County, PA  
**Duration:** 490 days after notice to proceed  
**Contact:** Construction Contracts Section, (717) 783-7994

## Extermination Services—16

**EXTERM-99-01** The contractor shall provide pest control/extermination services as required to the State Correctional Institution at Houtzdale.

**Department:** Corrections  
**Location:** State Correctional Institution at Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

## Food—19

**F-199** Contractor will provide fresh fruit and vegetables to the State Correctional Institution at Mahanoy, 301 Morea Road, Schuylkill County, Mahanoy Township, Frackville, PA. Bids and awards will be done weekly, bi-weekly or monthly at the discretion of the agency. Requests for bid package to be made in writing to the Purchasing Agent of the institution.

**Department:** Corrections  
**Location:** State Correctional Institution at Mahanoy, 301 Morea Road, Frackville, PA 17932  
**Duration:** January 1, 1999 to December 31, 1999  
**Contact:** Ann M. Gavala, Purchasing Agent II, (717) 773-2158

**F-299** Vendor will provide food stuffs including, but not limited to meat, poultry, seafood, bakery, dairy, frozen vegetable and fruit products to the State Correctional Institution at Mahanoy, 301 Morea Road, Schuylkill County, Mahanoy Township, Frackville, PA. Bids and awards to be done on a weekly, bi-weekly or monthly basis at the discretion of the agency. Bid package to be requested in writing to the Purchasing Agent of the institution.

**Department:** Corrections  
**Location:** State Correctional Institution at Mahanoy, 301 Morea Road, Frackville, PA 17932  
**Duration:** January 1, 1999 to December 31, 1999  
**Contact:** Ann M. Gavala, Purchasing Agent II, (717) 773-2158

**6500-070/Bread and Rolls** Bread and rolls—assorted varieties, quantities, specifications and delivery dates on file at institutional purchasing office.

**Department:** Corrections  
**Location:** State Correctional Institution at Retreat, R. D. 3 Box 500, Hunlock Creek, PA 18621  
**Duration:** January 5, 1999 to December 31, 1999  
**Contact:** Barbara Swiatek, Purchasing Agent, (717) 735-8754 x260

**FS-00199** Beans, dry: PA Spec. B-72, Eff. 3/77, and Amend. No. 1 Eff. 6/79: 100 lb. bags net weight including, but not limited to, lima, Type A, Extra No. 1, Type C., choice handpicked, red kidney, Type E, US No. 1. This would be on an infrequent basis as these items are presently under Contract No. 8920-06. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00299** Prepared foods: pastas including, but not limited to, rellendos de papas and alcapurrias. This would be on an infrequent basis as these items presently fall under State Contract No. 8920-06. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00999** Noodles and pasta: This would be on an infrequent basis as these items presently fall under State Contract No. 8920-06. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00399** Vega-Jel desserts: all vegetable products. This would be on an infrequent basis as these items presently fall under State Contract No. 8920-06. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-01099** Frozen items: vegetables, bakery products, entrees, pizza, etc. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00799** Canned vegetables: This would be on an infrequent basis as these items are seasonally supplied by Correctional Industries. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00499** Processed meats: including, but not limited to, turkey ham, turkey bologna, turkey salad, beef, Lebanon bologna, bacon, turkey franks, veal patties and Pullman hams. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**ALTPROTEIN-02** The contractor shall provide alternative sources of protein, i.e. grain burgers, bean burgers, vegetable burgers, tofu, yogurt, etc. for the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-01299** Poultry and poultry products—chicken fryers, turkey roast, ground turkey, etc. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00599** Fish and seafood: haddock and cod, breaded and unbreaded, minced clams and other seafood as required by this institution. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-01499** Ice cream for the period of July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-01199** Eggs: shell, white, Grade A, medium, naturals, PA Spec. E-10, Eff. 05/01/74, 30 dozen per case. Items will be bid above or below top wholesale price as published in the Tuesday edition of the USDA Poultry Market News Egg Report for the week prior to the week delivery is made.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00899** Produce: fresh fruits and vegetables, ready-to-use vegetables. Items to be monthly or as needed. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-00699** Bread and roll bases: including, but not limited to, Half-N-Half rye bread maker and flour conditioner, base; yeast, Bak-Krisp instant bread and roll base; Half-N-Half wheat bread base; and 20 lbs. dinner roll base. Items to be bid periodically. For the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**FS-01399** Frozen eggs: for the period July 1, 1999—June 30, 2000.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

## HVAC—22

**Project No. 536** Provide emergency and routine repair work for electrical system. The contractor must respond to the call within two 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, Smythe Park, Mansfield, Tioga County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 537** Provide emergency and routine repair work for heating system. The contractor must respond to the call within two 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, Smythe Park, Mansfield, Tioga County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 538** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within two 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, 894 Diamond Park, Meadville, Crawford County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 539** Provide emergency and routine repair work for electrical system. The contractor must respond to the call within two 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, 894 Diamond Park, Meadville, Crawford County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 540** Provide emergency and routine repair work for heating system. The contractor must respond to the call within two 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, 894 Diamond Park, Meadville, Crawford County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 541** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within two 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, 12 East State Street, Media, Delaware County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 542** Provide emergency and routine repair work for electrical system. The contractor must respond to the call within two 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, 12 East State Street, Media, Delaware County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 543** Provide emergency and routine repair work for heating system. The contractor must respond to the call within two 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, 12 East State Street, Media, Delaware County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 544** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within two 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, 490 East Main Street, Nanticoke, Luzerne County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 545** Provide emergency and routine repair work for electrical system. The contractor must respond to the call within two 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, 490 East Main Street, Nanticoke, Luzerne County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 546** Provide emergency and routine repair work for heating system. The contractor must respond to the call within two 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, 490 East Main Street, Nanticoke, Luzerne County, PA  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Emma Schroff, (717) 861-8518



**Property Maintenance—33**

**33** West Chester University is soliciting sealed bids for WC 651R—Tanglewood/E.O. Bull Center Project. (This is a rebid). The project consists of civil engineering, paving, landscaping, lighting and signage for the President's House (Tanglewood) and the E.O. Bull Center Theater Entry. Work includes, but is not limited to, all labor, supervision, materials, tools and equipment necessary to install a new sanitary sewer connection to the municipal sewer. Bid packages are available from Cecil Baker & Associates, 105 South 12th Street, Philadelphia, PA, (215) 928-0202 and are \$45 for pickup and \$55 if mailed. However, as this is a rebid, the drawings and specifications from the original bid (May, 1998) still apply and updated bid forms are available at no cost from Jacki Marthinsen, West Chester University, (610) 436-2705. The work should begin on or about May 1, 1999.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA 19383  
**Duration:** 60 days from notice to proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

**Real Estate Service—35**

**88A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 2,728 useable square feet of new or existing office space in York, York County, PA within the following boundaries: City of York, West Manchester Township, Springettsbury Township or North York Borough. The office must be situated within 3 blocks of a public transportation system. Proposals due: February 1, 1999. Solicitation No.: 92748.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17105  
**Duration:** Indeterminate 1998-99  
**Contact:** John A. Hocker, (717) 787-4394, ext. 3204

**89A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 4,362 useable square feet of new or existing office space in Williamsport, PA within the following boundaries: North: High Street, South: Via Bella, East: Market Street and West: Walnut Street. The office must be situated within 3 blocks of a public transportation system. Proposals due: January 25, 1999. Solicitation No.: 92747.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1998-99  
**Contact:** John A. Hocker, (717) 787-4394, ext. 3204

**90A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 4,505 useable square feet of new or existing office space in Berks County, PA within the following boundaries: City Limits of Reading. The office must be situated within 3 blocks of a public transportation system. Proposals due: February 15, 1999. Solicitation No. 92750.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17105  
**Duration:** Indeterminate 1998-99  
**Contact:** John A. Hocker, (717) 787-4394, ext. 3204

**91A** Lease Office Space to the Commonwealth of Pennsylvania. PA State Police, 6,480 useable square feet of new or existing warehouse space with parking for eight (8) vehicles, in the Pittsburgh, Allegheny County, PA area, within the following boundaries: (1) within a 3 mile radius of Interstate 76, Exit 5, Allegheny Valley Interchange or (2) within a 3 mile radius of Interstate 76 and I-376, Exit 6, Pittsburgh Interchange. Proposals due: January 19, 1999. Solicitation No.: 92751.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1998-99  
**Contact:** John A. Hocker, (717) 787-4394

**Vehicle Heavy Equipment—38**

**GENRPR-99-01** The contractor shall provide all labor, equipment, materials, repair parts necessary to provide preventive maintenance and repairs to 2 diesel generator units.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** January 01, 1999—June 30, 2002  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**Miscellaneous—39**

**038** Site preparation and installation for woven wire deer fence around four separate sites in the Laurel Mountain Division of the Forbes State Forest. The sites are located in Ligonier and Cook Townships, Westmoreland County, and Jefferson Township, Somerset County and is approximately a total of 27, 225 lineal feet. Prebid inspection will be on December 17, 1998. All four sites are to be bid as one contract.

**Department:** Conservation and Natural Resources  
**Location:** Forbes Forest District No. 4, P. O. Box 519, Laughlinton, PA 15655-0519  
**Duration:** Upon execution of the contract and terminate June 30, 1999  
**Contact:** Chris Jones or Ron Langford, (724) 238-9533

**8-0 AWARD** To supply the Department with Attendance and Safety Awards. Awards consist of Award Catalogs for certain dollar amounts that employees pick a gift from. The Department has also selected specific award items. This is a total bid award.

**Department:** Transportation  
**Location:** Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699  
**Duration:** 6 months  
**Contact:** Mark Haller, (717) 787-4740

**012-9006-04** PennServe announces the availability of grant funding for operation of Americorps National Service programs by nonprofit organizations, government agencies and educational institutions. A maximum of two proposals from Pennsylvania will be recommended to the Corporation for National Service to compete in a national competitive process for funding. Total funding of up to \$15 million is available nationwide. Applications can be obtained from PennServe (717) 787-1971. Applications are due by 4 p.m., Tuesday, January 5, 1999.

**Department:** Labor and Industry  
**Location:** PennServe, 1304 Labor and Industry Building, Harrisburg, PA 17120  
**Duration:** 1 year upon award  
**Contact:** Renee F. Johnson, (717) 787-1971

**A-9** The Pennsylvania Higher Education Assistance Agency (PHEAA) will issue an RFP during the first week of February for the purpose of outsourcing collection services. Interested vendors may obtain a copy of the RFP by contacting the Purchasing Office, (717) 720-2702, by 3 p.m. Wednesday, December 16, 1998. Please request to be added to the mailing of the "Collection Services RFP". Purchasing Office hours are 8 a.m. to 4:30 p.m. Monday through Friday.

**Department:** PA Higher Education Assistance Agency  
**Location:** 1200 North Seventh Street, Harrisburg, PA 17102-1444  
**Duration:** Indeterminate 1998-99  
**Contact:** Donna Orris, (717) 720-2702

**CATHCHAP-99-01** The contractor shall provide for the chaplaincy services to the inmates of the Catholic faith. For the period July 1, 1999 through June 30, 2002.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006

**NATAMER-99-01** The contractor shall provide for the chaplaincy services to the inmates of the Native American faith.

**Department:** Corrections  
**Location:** State Correctional Institution-Houtzdale, State Route 2007, P. O. Box 1000, Houtzdale, PA 16698-1000  
**Duration:** July 1, 1999—June 30, 2002  
**Contact:** Diane K. Davis, Purchasing Agent II, (814) 378-1006



**SP401330** Service required to provide prevention of sexual harassment/sensitivity training/workshop to over 1,200 Department of Conservation and Natural Resource employes within a 12 month period of time beginning in 1999. Training will be held at various locations throughout the State. Vendor must have a minimum of 2 years experience providing sexual harassment/sensitivity training.

**Department:** Conservation and Natural Resources

**Location:** Bureau of Personnel, Various locations throughout the Commonwealth of Pennsylvania

**Duration:** Through December 31, 1999

**Contact:** Cory Gaiski, (717) 783-0760

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**011 Textiles** 8,000 yards flannel per Pa. Spec. F-39, Eff. 5 Sep. 95 Type 1, Class 1, width 60" color storm gray (Pantone color No. 15-4003 TP).

**Department:** Corrections/Correctional Industries

**Location:** State Correctional Institution, Dallas, PA 18612

**Duration:** Indeterminate 1998-99

**Contact:** Joseph P. Kanjorski, (717) 773-2159, ext. 560

[Pa.B. Doc. No. 98-2010. Filed for public inspection December 4, 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*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
2550-02	12/01/98	Plasterer Equipment Co., Inc.	176,385.00
2550-02	12/01/98	Cleveland Brothers Equip. Co., Inc.	26,460.00
2550-02	12/01/98	Industrial Mo- tor Supply, Inc.	260,724.00
2550-02	12/01/98	Groff Tractor and Equip. Co.	30,276.20
2550-02	12/01/98	Sunbury Mo- tor Co.	94,880.00
5630-01 Re-bid in Part	12/01/98	Eastern Shore Pipe Co.	145,883.65
5850-02 Sup. No. 3	12/01/98	PC Parts, Inc.	10,000.00
5850-02 Sup. No. 3	12/01/98	Compucom Systems, Inc.	10,000.00
5850-02 Sup. No. 3	12/01/98	Compusa, Inc.	10,000.00
5850-02 Sup. No. 3	12/01/98	Edwin L. Heim Co.	10,000.00
5850-02 Sup. No. 3	12/01/98	KBK Commu- nications, Inc.	10,000.00

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
5850-02 Sup. No. 3	12/01/98	R. W. Commu- nications, Inc.	10,000.00
6605-05 Sup. No. 1	11/20/98	VWR Scientific Co.	60,000.00
6605-05 Sup. No. 1	11/20/98	Arthur H. Thomas Co.	60,000.00
6605-05 Sup. No. 1	11/20/98	Scientific Equip. Co.	60,000.00
6605-05 Sup. No. 1	11/20/98	Promega	60,000.00
6605-05 Sup. No. 1	11/20/98	A. Daigger and Co.	60,000.00
9155-01 Rebid	11/30/98	HNE Engi- neering, Inc.	283,000.00
1143218-01	11/20/98	GSH Home Med Care, Inc.	25,783.75
1197168-01	11/20/98	National Com- puter Sys- tems, Inc.	3,267.75
1210128-01	11/20/98	Digital Ink	24,635.69
1220118-01	11/20/98	J. A. Sexauer, Inc.	7,052.00
1249158-01	11/20/98	Moore USA, Inc.	11,394.30

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 98-2011. Filed for public inspection December 4, 1998, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 17—CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[17 PA. CODE CH. 21]

#### State Forests

The Department of Conservation and Natural Resources (Department), by this order amends Chapter 21 (relating to general provisions). The amendments will modernize the State Forest regulations which have not been updated in more than 25 years. The amendments will allow the Department to better manage the use of State Forest land and to protect fragile ecosystems.

#### 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 James R. Grace, Director, Bureau of Forestry, P. O. Box 8552, Rachel Carson State Office Building, Harrisburg, PA 17105-8552, (717) 787-2703, or Susan Wood, Assistant Counsel, P. O. Box 8767, Rachel Carson State Office Building, Harrisburg, PA 17105-8767, (717) 772-4171. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

#### C. *Statutory Authority*

The final rulemaking is being made under the authority of section 313 of the Conservation and Natural Resources Act (71 P. S. § 1340.313) which directs the Department to formulate, adopt and promulgate regulations regarding conduct on State Forest land.

#### D. *Background and Purpose*

The regulations which govern conduct on State Forest land have not been revised for more than 25 years. In their current form, they are badly outdated and are no longer sufficient to allow the Department to protect and control the use of State Forest land. The recreational and commercial use of State Forest land has increased dramatically in the last quarter century and these revisions are sorely needed.

The public was invited to submit comments during a 60-day period after publication of the proposed rulemaking on September 13, 1997. In addition, the Department's Advisory Council and the House and Senate Environmental Resources and Energy Committees and the Independent Regulatory Review Commission (IRRC) had the opportunity to comment on the proposed rulemaking. The Department also held 19 public meetings across this Commonwealth from September to November, 1997, to explain the proposed rulemaking and to respond to questions. In addition, the Department issued many press releases to inform the public about the proposed rulemaking.

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

The Department received comments from 1,195 commentators on the proposed rulemaking. Commentators included private citizens, other agencies, Legislators and IRRC.

The following is a discussion of significant comments received.

##### *§ 21.1 Definitions*

A commentator suggested revising the definition of "commercial activity" to read, "An activity in which a person, organization or association directly or indirectly . . . ."

The Department agrees with this suggestion and has changed the wording accordingly.

Commentators stated that the definition of "group activity" was unclear and asked if group activities include groups of hunters, hikers, and the like.

For an activity to fall under the definition of "group activity," three criteria must be met. It must be a scheduled event; it must require a large land area or unique land formation; and it must have the potential to conflict with traditional uses of State Forest land or pose a potential threat to the environment. Small groups of persons engaged in hunting or hiking would not ordinarily be included in this definition.

##### *§ 21.12(b) Mooring and Launching*

Section 21.12(b), in its proposed form, would not require launch permits on rivers and streams flowing through State Forest land. A commentator suggested revising the language to include rivers and streams.

The Department agrees. At the time the rulemaking was proposed, there were no launching facilities on rivers and streams on State Forest land. Therefore, the words "lakes and ponds" were substituted for the word "waters." However, since that time, launching facilities have been constructed on State Forest land giving access to the Susquehanna and Juniata Rivers and others are proposed. Therefore, the original word, "waters," has been retained so that the section includes all bodies of water on State Forest land.

##### *§ 21.12(d)*

In proposed rulemaking, the fee schedule for mooring and launching permits appearing in § 21.12(d) of the current regulations was deleted and replaced with a new provision concerning the launching of boats. The reason for the deletion of the fee schedule was the intention to publish it in the *Pennsylvania Bulletin* rather than promulgating it as a regulation. However, the Department inadvertently omitted any reference in the proposed rulemaking to the fact that fees will continue to be charged for mooring and launching permits and that the fee schedule will be published in the *Pennsylvania Bulletin*. Thus, in final rulemaking, the Department is including this reference to fees in subsection (d). The new provision concerning the launching of boats that had been inserted in proposed subsection (d) is now being moved to subsection (e), and the provision that was in proposed subsection (e) is now subsection (f).

*§ 21.12(d) (subsection (e) in final rulemaking)*

A commentator suggested adding wording to § 21.12(d) (subsection (e) in final rulemaking) to prohibit launching of boats from private docks without the owner's permission.

The Department has not added the suggested provision. The Department does not have the duty or power to enforce private property rights.

*§ 21.25 Parking*

A commentator requested that wording be added to § 21.25 that would prohibit an able-bodied vehicle operator from parking in designated handicapped parking areas.

The Department agrees with this suggestion. New language has been added accordingly.

*§ 21.26(1) Horses and Pack Animals and § 21.27(1) Bicycles and Person-Powered Vehicles*

Many commentators expressed concern with the provisions prohibiting use of horses, pack animals, bicycles and person-powered vehicles on National and State Forest Designated Hiking Trails unless posted as being open to their use. They felt that these provisions unreasonably favor one recreational use (hiking) to the disadvantage of other uses.

Many other commentators supported the provisions, claiming that these other uses, particularly horseback riding, damage trails meant for hiking.

There are two National Hiking Trails and 18 State Forest Designated Hiking Trails in this Commonwealth. The proposed amendments would impose the assumption that these trails would be closed for horses, pack animals, bicycles and person-powered vehicles unless posted as being open. In view of the controversy and confusion generated by these proposed amendments, the Department is deleting them from the proposed rulemaking. The Department intends to revisit these issues and will redraft these regulations regarding the use of horses and mountain bikes on State Forest land in consultation with a work group to be made up of interested groups and individuals. Meanwhile, the Department retains its authority under § 21.4 to post trails and other areas as being closed to certain uses.

*§ 21.31(1) Prohibitions*

The commentators suggested including a prohibition of planting exotic, invasive plant species. Further, one of the commentators suggested that paragraph (1) be changed by deleting the words, "berries, nuts, leeks and mushrooms" and substituting the words "edible wild plants or plant parts . . ."

The Department agrees with these comments and has made the suggested revisions.

*§ 21.61 Camping Permit*

A commentator suggested moving the definition of "camping" to § 21.1.

The Department agrees. The definition has been moved to § 21.1.

Commentators objected to § 21.61 in requiring primitive backpack campers to obtain a camping permit on the grounds that it is overly restrictive and often difficult to conveniently obtain a permit with short notice.

The Department will retain the existing wording in this section so that backpackers may camp without first obtaining a camping permit.

*§ 21.62 Open fires*

Commentators suggested adding a provision at the end of § 21.62 to the effect that this restriction does not apply to small self-contained camp stoves when used in a safe manner.

The Department agrees with this suggestion and has added the wording.

Commentators objected to § 21.62(b) prohibiting open fires from March 1 to May 25 and from October 1 to December 1 without authorization from the District Forester.

The Department did not make the suggested change. The spring and fall months are the highest fire danger months of the year. The Bureau of Forestry's field staff has been pointing out the need for this prohibition for many years. The District Forester's authorization for an open fire during these months is easy to obtain. A telephone call to a forest district office is all that is necessary since the authorization need not be in writing.

*§ 21.65 Target Shooting*

Since most of the commentators felt this section would allow target shooting virtually anywhere on State Forest land the wording in § 21.65 is apparently subject to too broad an interpretation.

The Department has changed this section to prohibit target shooting except where authorized by the District Forester.

*§ 21.70a Snow Plowing*

Commentators felt that § 21.70a, which prohibits snow plowing on State Forest roads without the approval of the District Forester, may lead to denying access to property owners.

The suggested change has not been made. The Department does not intend to deny access to any person with a legitimate need. However, it is important that the Department has control over how State Forest roads are plowed. Plowing snow from crowned earthen roads will lead to serious road damage if not done properly. Moreover, many of the State Forest roads are also part of the snowmobile system. It is important that roads be plowed in such a way that this sport is not adversely impacted. However, the wording of the section has been modified so that the District Forester's oral authorization is sufficient.

*§ 21.71 Closure*

A commentator suggested that since many provisions of this chapter refer to closure of portions of State Forest land for certain activities or times of year, additional emphasis be placed on this section by moving it to a more prominent location under "Preliminary Provisions."

The Department agrees. This section has been relocated and renumbered as § 21.4.

*§ 21.74 Disorderly Conduct*

Commentators suggested that a provision be added prohibiting loud noise that might disturb other visitors to State Forest land.

The Department agrees with this comment and has added paragraph (3) to § 21.74.

*§ 21.75 Sanitation*

Commentators suggested that this section is too confusing and too restrictive in its proposed form.

The Department agrees with this comment and has rewritten the section accordingly.

*§ 21.76(a) Feeding of Wildlife*

Commentators felt that § 21.76(a) should be changed to allow the summer feeding of wildlife.

The Department did not make the suggested change. Comments from the Game Commission, including one from that agency's chief game biologist, state that artificial feeding of wildlife is unnecessary and may actually harm wildlife.

*§ 21.76*

Commentators suggested prohibiting artificial feeding of wildlife, except for songbirds. The commentators felt that artificial feeding of wildlife is unnecessary and possibly harmful to wildlife.

The Department did not make this change. Although the Game Commission discourages artificial feeding of wildlife, many sportsmen have a tradition of feeding wildlife, especially in the winter months. An outright prohibition of this activity would be opposed by a large number of people. Instead, with the Game Commission's assistance, the Department will attempt to educate the public concerning the detrimental aspects of artificial feeding.

*§ 21.76(b)*

A commentator suggested that the prohibition be against placing of feeders that have a single or combined capacity of more than one-half bushel.

The Department agrees with this comment and has made the suggested change.

*§ 21.80(b) Trespass*

Commentators felt that the reference to 18 Pa.C.S. § 3503 (relating to criminal trespass) was vague. There are three subsections in 18 Pa.C.S. § 3503, each of which describes a different type of trespass and degree of offense. Clarification is needed as to the type of trespass and degree of offense referred to in § 21.80(b).

The Department has clarified § 21.80(b) by specifically referring to subsection (b) of 18 Pa.C.S. § 3503. Subsection (b) relates to defiant trespasser.

*§ 21.80*

A commentator objected to this section on the ground that it invites abuse of power.

The Department disagrees. Under the Conservation and Natural Resources Act (71 P.S. §§ 1340.101—1340.1102), the Department has the power and duty to manage, control, protect and regulate the use of State Forest land. The Department, like any landowner, must have the ability to deal with unruly visitors who might cause property damage or who are interfering with the rights of others. The proposed section simply states that a person who engages in this behavior may be ordered by a State Forest officer to leave State Forest land. A person who refuses to leave when ordered commits criminal trespass under 18 Pa.C.S. § 3503(b). The language in the proposed § 21.80 is identical to that in the Bureau of State Parks rules and regulations.

*Simplification, clarification, elimination of redundancies*

The following sections were revised since proposed rulemaking to simplify or clarify their language or to eliminate redundancies. Most of these revisions were made in response to comments. No substantive changes were made to these sections:

- 21.11 (Use)
- 21.12(e) (Mooring and launching)
- 21.13 (Motorized boats)
- 21.21(b)(3) (Motorized vehicles)
- 21.22(b) (Snowmobiles)
- 21.23(3) (Trail bikes)
- 21.23a(b) (All-terrain vehicles)
- 21.23a(c) (All-terrain vehicles)
- 21.32 (Designated trees)
- 21.62 (Open fires)
- 21.63(b) (Hunting and trapping)
- 21.64(b) (Fishing)
- 21.76(a) (Feeding of wildlife)

*F. Benefits, Costs and Compliance*

*Benefits*

The revisions to the State Forest regulations will provide for improved protection of the forest resource and to the public recreating on State Forest land. Therefore, all citizens will benefit from their adoption.

*Compliance Costs*

Visitors to State Forest land will be required to comply with the regulations governing conduct. However, there will be no cost to them arising from compliance. There will be a minimal cost to the Department in that it will be necessary to revise some existing signs and create a few new ones.

*Compliance Assistance Plan*

Not applicable.

*Paperwork Requirements*

There will be no increase in the amount of required paperwork.

*G. Sunset Review*

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

*H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 2, 1997, the Department submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 4744 (September 13, 1997) to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered all comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Environmental Resources and Energy Committee and by the Senate Environmental Resources and Energy Committee on October 26, 1998. IRRC approved the regulations at its public meeting on November 5, 1998, in accordance with section 5(c) of the Regulatory Review Act.

### I. Order of the Secretary

Acting under the authorizing statutes, the Secretary hereby orders that:

(a) The regulations of the Department, 17 Pa. Code Chapter 21, are amended by amending §§ 21.1—21.3, 21.11—21.13, 21.21—21.24, 21.31—21.34, 21.61—21.68 and 21.72; by adding §§ 21.4, 21.23a, 21.25, 21.70a and 21.73—21.80 and by deleting §§ 21.35 and 21.69—21.71 to read as set forth in Annex A.

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

(c) The Department 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 Department 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.

JOHN C. OLIVER,  
Secretary

*(Editor's Note: The proposal to add §§ 21.26 and 21.27, included in the proposal at 27 Pa.B. 4744, has been withdrawn by the Department.)*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 5818 (November 21, 1998).)*

**Fiscal Note:** Fiscal Note 7B-1 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 17. CONSERVATION AND NATURAL RESOURCES

#### PART I. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

##### Subpart C. STATE FORESTS

#### CHAPTER 21. GENERAL PROVISIONS

##### PRELIMINARY PROVISIONS

#### § 21.1. Definitions.

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

*Camping*—Overnight lodging using standard camping equipment.

*Commercial activity*—An activity in which a person, organization or association directly or indirectly accepts consideration of value as compensation for the provision of goods or services, including transportation.

*District Forester*—The Department's Bureau of Forestry employe so designated.

*Group activity*—An organized activity occurring as a scheduled event and requiring a large land area or unique land formation and which may conflict with normal or traditional uses or pose a potential environmental problem.

*State Forest land*—Land which is owned or leased by the Commonwealth and which is administered by the Bureau of Forestry.

#### § 21.2. Scope.

This chapter applies to State Forest land.

#### § 21.3. Violations.

(a) A person is guilty of a summary offense under 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) if that person commits an act which is prohibited by § 21.21 (relating to motor vehicles).

(b) A person is guilty of a summary offense under 18 Pa.C.S. § 7506 (relating to violation of rules regarding conduct on Commonwealth property) if that person commits an act which is prohibited by this chapter other than those in subsection (a).

#### § 21.4. Closure.

(a) Areas or portions of a State Forest or State Forest facilities may be closed or restricted to certain uses by the District Forester or a designee.

(b) The public will be informed of the closed or restricted areas or facilities by any form of communication, which may include posted signs, or by fencing or other enclosure manifestly designed to exclude intruders.

(c) Violation of the closure or restriction notices under subsection (b) is prohibited.

### BOATING

#### § 21.11. Use.

All waters on State Forest land are open for the operation of watercraft unless posted as closed.

#### § 21.12. Mooring and launching.

(a) Overnight mooring or storage of watercraft from November 15 through March 31 is prohibited except on lands leased from the Commonwealth. This prohibition does not apply to canoes, kayaks, rafts and other paddle-powered small boats stored overnight at the operator's campsite.

(b) The launching or mooring of watercraft on waters in State Forests requires the appropriate valid State Recreation Area Watercraft Permit affixed aft of amidship on the starboard-right-side.

(c) A current Fish and Boat Commission number and certificate of watercraft registration permits daily launching only.

(d) The Department will establish a schedule of fees for mooring and launching permits. This schedule and any subsequent revisions will be effective upon publication in the *Pennsylvania Bulletin*.

(e) Small, hand-carried boats, rafts and canoes may be launched from any point on the shoreline. Boats on trailers may be launched only at designated launch areas.

(f) Boat mooring is restricted to designated mooring areas.

#### § 21.13. Motorized boats.

Only electric motors may be used for propulsion of motorized watercraft.

### MOTORIZED VEHICLES

#### § 21.21. Motor vehicles.

(a) This section pertains to motor vehicles other than those addressed in §§ 21.22, 21.23 and 21.23a (relating to snowmobiles; trail bikes and other motorized off-road vehicles; and all-terrain vehicles).

(b) Operation of motor vehicles on State Forest land in the following manners is prohibited:

(1) Operation of a motor vehicle in careless disregard for the safety of persons or property, or in excess of posted speed limits or, where no speed limit is posted, in excess of 25 miles per hour.

(2) Driving on roads, trails or other areas not specifically designated and posted for motor vehicle traffic unless authorized in writing by the District Forester or a designee.

(3) The use of State Forest roads for commercial purposes without a road use agreement from the Department. An individual or corporation whose property adjoins State Forest land is not required to obtain a road use agreement to use State Forest roads for incidental commercial purposes to make deliveries to the property.

(4) Operating unlicensed, unregistered or uninspected motor vehicles on State Forest land.

**§ 21.22. Snowmobiles.**

(a) Snowmobiling is permitted in accordance with 75 Pa.C.S. Chapter 77 (relating to snowmobiles) and this section.

(b) Snowmobiles may be operated only on designated snowmobile roads, designated trails and designated and posted areas on State Forest land.

(c) Snowmobiles may be operated on State Forest land from the day following the last day of regular or extended antlerless deer season as established by the Game Commission through the following April 1, or earlier, as determined by the District Forester.

(d) Operation of snowmobiles on a road, trail or area not specifically designated and posted for snowmobile use or at any time of year other than that in subsection (c) is prohibited.

**§ 21.23. Trail bikes and other motorized off-road vehicles.**

This section pertains to motorized off-road vehicles other than those addressed in §§ 21.22 and 21.23a (relating to snowmobiles; and all-terrain vehicles).

(1) Trail bikes and other motorized off-road vehicles may be operated only on roads, trails or other areas that have been specifically designated and posted for their use.

(2) Trail bikes and other motorized off-road vehicles may be operated only during the times of year authorized by the Department's Bureau of Forestry by posted signs.

**§ 21.23a. All-terrain vehicles.**

(a) The operation of all-terrain vehicles is permitted in accordance with 75 Pa.C.S. Chapter 77 (relating to all-terrain vehicles) and this section.

(b) All-terrain vehicles may be operated only on designated and posted roads, trails and other areas.

(c) All-terrain vehicles may be operated on State Forest land from the Friday before Memorial Day through the last full weekend in September, and from the day following the last day of the regular or extended antlerless deer season as established by the Game Commission through the following April 1.

**§ 21.24. Spark arrestors.**

Operation of any motorized vehicle, all-terrain vehicle, trail bike or other motorized off-road vehicle in, on or through State Forest land without a fully functional spark arrestor is prohibited.

**§ 21.25. Parking**

(a) Parking a motor vehicle, all-terrain vehicle, snowmobile, trail bike, other motorized off-road vehicle, boat trailer, camp trailer or other equipment which obstructs a gate, road, trail, footpath, bicycle path, access way, drinking fountain, entrance, exit or road turnaround on State Forest land is prohibited.

(b) A person may not park a vehicle in a parking area on State Forest land designated for handicapped persons, unless the vehicle bears a handicapped or severely disabled veteran registration plate or displays a handicapped or severely disabled veteran parking placard, in accordance with 75 Pa.C.S. § 1338 (relating to handicapped plate and placard), and the vehicle is operated by or for the transportation of a handicapped person or a severely disabled veteran.

(c) Violations of this section will be handled as follows:

(1) Prior to the filing of a citation charging a summary offense under this section, the Department may issue a parking ticket, which will be handed to the violator or placed on the windshield of the violator's vehicle. The violator may avoid criminal proceedings by paying a fine to the Department, equivalent to the maximum fine as provided in 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic), within 5 days of the violation in the manner specified on the ticket.

(2) When a parking ticket has been issued, the Department may institute criminal proceedings only upon failure of the violator to pay the fine in accordance with the time limit specified in paragraph (1) and in the manner specified on the ticket.

(3) When a parking ticket has not been issued, the Department may institute criminal proceedings by issuing a citation.

**FOREST PRODUCTS**

**§ 21.31. Prohibitions.**

The following activities are prohibited:

(1) Cutting, picking, digging, damaging or removing, in whole or in part, a living or dead plant, vine, shrub, tree or flower on State Forest land without written authorization of the District Forester or a designee, except that edible wild plants or plant parts may be gathered without authorization if they are gathered for one's own personal or family consumption. Dead and down wood for small campfires may be gathered without prior authorization.

(2) Removing rocks, shale, sand, clay, soil or other mineral products from State Forest land without written authorization of the District Forester or a designee.

(3) Removing peat, sawdust, bark, mulch or other products from State Forest land without written authorization of the District Forester or a designee.

(4) Removing or disturbing historical or archeological resources from State Forest land without written authorization of the District Forester or a designee.

(5) Planting a tree, shrub or plant of any kind without the written authorization of the District Forester or a designee.

**§ 21.32. Designated trees.**

Only designated trees may be cut or removed.

**§ 21.33. Cutting practices.**

(a) The stump height of cut trees may not exceed the diameter of the stump or 12 inches whichever is smaller.



(b) All tops and slash shall be removed 25 feet from streams, roads, trails and State Forest boundaries.

(c) The blocking of drainage ditches, pipes and other structures with tops and slash is prohibited.

**§ 21.34. Removal.**

The removal of fuel wood and other forest products from the forest by the use of tractors, skidders or any method other than hand carrying is prohibited without written authorization of the District Forester or a designee.

**§ 21.35. (Reserved).**

**MISCELLANEOUS PROVISIONS**

**§ 21.61. Camping permit.**

Camping without a current camping permit issued by the District Forester or a designee is prohibited. Primitive backpack campers not using developed facilities do not need a permit if they stay no more than 1 night at any campsite.

**§ 21.62. Open fires.**

(a) Subject to the prohibition in subsection (b), small campfires are permitted only where adequate precautions are taken to prevent the spread of fire into the forest. All other fires are prohibited. Campfires shall be attended at all times.

(b) Open fires are prohibited when the forest-fire danger is determined by the District Forester to be High, Very High or Extreme and from March 1 through May 25 and from October 1 through December 1 without authorization from the District Forester or a designee. This prohibition does not apply to small self-contained camp stoves when used in a safe manner.

(c) A person causing a wildfire, in addition to possible criminal penalty, is liable for all damages, costs of extinction and fines.

**§ 21.63. Hunting and trapping.**

Hunting and trapping on State Forest land are permitted in accordance with 34 Pa.C.S. (relating to Game and Wildlife Code) and rules and regulations, unless otherwise posted.

**§ 21.64. Fishing.**

Fishing in waters on State Forest land is permitted in accordance with 30 Pa.C.S. (relating to Fish and Boat Code) and rules and regulations, unless otherwise posted.

**§ 21.65. Target shooting.**

Target shooting with firearms, bows and arrows or devices capable of launching projectiles and causing injury to persons or property is prohibited except where authorized by the District Forester or a designee.

**§ 21.66. Destruction of property.**

Damaging, defacing or removing any sign, structure, equipment or other material is prohibited.

**§ 21.67. Posting and soliciting.**

Posting of signs or soliciting without written authorization of the District Forester or a designee is prohibited.

**§ 21.68. Littering and disposal.**

Littering or disposal of garbage, paper, household refuse, waste or other material of any kind is prohibited.

**§ 21.69. (Reserved).**

**§ 21.70. (Reserved).**

**§ 21.70a. Snow plowing.**

The plowing or removal of snow from State Forest land without authorization of the District Forester or a designee is prohibited.

**§ 21.71. (Reserved).**

**§ 21.72. Closure because of fire danger.**

(a) If the forest-fire danger rating is Very High or Extreme, all or portions of the State Forest may be closed to certain specified uses.

(b) Violation of a closure notice under subsection (a) is prohibited.

**§ 21.73. Pets.**

Pets are permitted on State Forest land if they are kept under control and attended at all times.

**§ 21.74. Disorderly conduct.**

The following are prohibited:

(1) Fighting or other behavior that is threatening, violent or tumultuous.

(2) The possession or consumption of alcoholic beverages by persons under 21 years of age.

(3) Creating an unreasonable noise that may disturb other visitors to State Forest land.

**§ 21.75. Sanitation.**

(a) Washing in water outlets, springs, lakes or waterways is prohibited.

(b) Discharging of trailer, camper or motor home sewage, sink water or bath water on or into ground or surface waters is prohibited.

**§ 21.76. Feeding of wildlife.**

(a) Feeding of wildlife, except for elevated songbird feeders of less than one-half bushel capacity, is prohibited on State Forest land from 30 days prior to the beginning of spring gobbler season through the end of flintlock muzzleloader deer season.

(b) Placing of wildlife feeders of more than one-half bushel combined capacity on State Forest land without the authorization of the District Forester or a designee, is prohibited.

**§ 21.77. Commercial activity.**

Selling, distributing, delivering, servicing, guiding or renting any equipment, material or commodity or otherwise engaging in commercial activity on State Forest land without written authorization of the District Forester or a designee is prohibited.

**§ 21.78. Group activities.**

Group activities are prohibited without written authorization of the District Forester or a designee.

**§ 21.79. Structures.**

Building or erecting a structure or memorial, or engaging in construction or excavation activity, without written authorization of the Department is prohibited.

**§ 21.80. Trespass.**

(a) A person who violates this chapter or disregards instructions or warnings given by a State Forest officer or interferes with a State Forest officer in the performance of the duties of the officer may be ordered to leave State Forest land.

(b) A person who refuses to leave State Forest land, after receiving an order to leave from a State Forest officer, commits an act of criminal trespass under 18 Pa.C.S. § 3503(b) (relating to criminal trespass).

[Pa.B. Doc. No. 98-2012. Filed for public inspection December 4, 1998, 9:00 a.m.]

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