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PENNSYLVANIA BULLETIN

Volume 27
Saturday, January 11, 1997 • Harrisburg, Pa.
Number 2
Pages 179—280

See Part II page 237 for the
Environmental Quality Board
Amendments to Hazardous
Waste Management Regulations

Part I

In this issue:

The General Assembly
The Courts
Department of Agriculture
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Revenue
Department of Transportation
Developmental Disabilities Council
Environmental Hearing Board
Environmental Quality Board
Insurance Department
Medical Professional Liability Catastrophe Loss
Fund
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Nursing
State Employees' Retirement Board
Turnpike Commission

Detailed list of contents appears inside.

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

No. 266, January 1997

PENNSYLVANIA

BULLETIN

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Contents

THE GENERAL ASSEMBLY

Recent actions during the 1996 regular and special sessions of the General Assembly 185

THE COURTS

LOCAL COURT RULES

Bradford County

Rule of Civil Procedure No. 1301: cases for submission; no. 96IR000066..... 188

Delaware County

Judge Pro Tempore Program; doc. no. 82-7677 188

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of transfer of attorneys to inactive status 188

EXECUTIVE AGENCIES

DEPARTMENT OF AGRICULTURE

Notices

Declaration of public nuisance for spruce needle rust; notice to rescind 195

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices..... 195

Proposed revision to the State Implementation Plan for ozone commitment to additional control measures; public hearing..... 215

DEPARTMENT OF GENERAL SERVICES

Notices

State contracts information..... 228

DEPARTMENT OF HEALTH

Notices

Health Maintenance Organization Certificate of Authority 216

Modified participating provider agreement..... 216

DEPARTMENT OF PUBLIC WELFARE

Notices

Discussion paper on Statewide Managed Care 217

DEPARTMENT OF REVENUE

Notice

Pennsylvania Instant Daily Number '97 Instant Lottery Game 217

Pennsylvania Winning Pairs Instant Lottery Game .. 218

DEPARTMENT OF TRANSPORTATION

Notices

Contemplated sale of land no longer needed for transportation purposes 220

DEVELOPMENTAL DISABILITIES COUNCIL

Notices

Annual report for FFY 1996 220

ENVIRONMENTAL HEARING BOARD

Notices

Borough of Somerset v. DEP; EHB doc. no. 96-270-MR 220

ENVIRONMENTAL QUALITY BOARD

Rules and Regulations

Hazardous waste management (Part II) 237

INSURANCE DEPARTMENT

Notices

Blue Cross of Northeastern Pennsylvania; amendment to Hospital Services Agreement; filing no. 309-HOSP-ACII-AMEND-12-96; form no. HOSP-ACII-AMEND2-12-96 221

Midwest Mutual Insurance Company; motorcycle program..... 221

Review procedure hearings; cancellation or refusal of insurance 221

Review procedure hearings under The Unfair Insurance Practices Act 222

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

Notice

Notice of and amount of surcharge..... 222

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Bell Atlantic-Pennsylvania, Inc.; telephone service ... 224

Service of notice of motor carrier applications..... 224

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for proposals 224

STATE BOARD OF NURSING

Statements of Policy

IV conscious sedation 194

STATE EMPLOYEES' RETIREMENT BOARD

Notices

Hearings scheduled 225

TURNPIKE COMMISSION

Notices

Request for bids (3 documents) 225

Request for proposals (2 documents) 225

Retention of engineering firm..... 226

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*.

There are no restrictions on the republication of official documents appearing in 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.

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 1997.

<p>16 Pa. Code (Community Affairs)</p> <p>Adopted Rules</p> <p>15 18</p> <p>25 Pa. Code (Environmental Protection)</p> <p>Adopted Rules</p> <p>260 237</p> <p>261 237</p> <p>262 237</p> <p>263 237</p> <p>264 237</p> <p>265 237</p>	<p>266 237</p> <p>270 237</p> <p>31 Pa. Code (Insurance)</p> <p>Adopted Rules</p> <p>66 19</p> <p>49 Pa. Code (Professional and Vocational Standards)</p> <p>Proposed Statements of Policy</p> <p>21 194</p> <p>255 Pa. Code (Local Court Rules)</p> <p>Unclassified 8, 12, 16, 17, 188</p>
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PENNSYLVANIA BULLETIN

Volume 27
Saturday, January 11, 1997 • Harrisburg, Pa.

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Part II

This part contains the
Environmental Quality Board
Amendments to Hazardous Waste
Management Regulations

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THE GENERAL ASSEMBLY

Recent Actions During the 1996 Regular and Special Sessions of the General Assembly

The following is a summary of recent actions of the General Assembly during the 1996 Regular and Special Sessions.

1996 ACTS—Acts 149 through 202 (numerical)

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1996-149	Dec. 10	HB2091	PN4198	Immediately*	Vehicle Code (75 Pa.C.S.)—omnibus amendments
1996-150	Dec. 10	HB2579	PN3601	Immediately	Municipal Pension Plan Funding Standard and Recovery Act—municipal obligations
1996-151	Dec. 11	HB397	PN4292	Immediately*	Dog Law—omnibus amendments
1996-152	Dec. 18	SB388	PN2030	Immediately	Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act—postretirement adjustment amount modification
1996-153	Dec. 18	SB1320	PN2383	Immediately	Land Preservation for open space uses—omnibus amendments
1996-154	Dec. 18	SB31	PN2379	60 days*	Insurance Company Law of 1921, The—omnibus amendments
1996-155	Dec. 18	SB509	PN2452	60 days	Agriculture Code (3 Pa.C.S.)—omnibus amendments
1996-156	Dec. 18	SB537	PN2457	60 days	Public Utility Code (66 Pa.C.S.)—distribution system improvement projects cost recovery and State correctional institutions
1996-157	Dec. 18	SB686	PN720	60 days	Third Class City Code—fiscal matters notice publication
1996-158	Dec. 18	SB809	PN2417	60 days	Transportation (74 Pa.C.S.)—general authority of department
1996-159	Dec. 18	SB1110	PN2420	60 days	Accident and Health Filing Reform Act—enactment
1996-160	Dec. 18	SB1204	PN2462	60 days	Crimes Code (18 Pa.C.S.)—hindering apprehension or prosecution and bottle club definition
1996-161	Dec. 18	SB1322	PN2401	60 days	Judiciary and Judicial Procedure (42 Pa.C.S.)—child victims and witnesses
1996-162	Dec. 18	SB1590	PN2454	Immediately	Conveyances—Commonwealth property in Cambria, Westmoreland, Warren, Armstrong, Tioga, Lycoming and Bucks counties and City of Philadelphia
1996-163	Dec. 18	SB1662	PN2259	60 days	Controlled Substance, Drug, Device and Cosmetic Act—controlled substances schedules
1996-164	Dec. 18	SB1667	PN2385	Immediately	Pennsylvania Board of Probation and Parole Law—probation and parole
1996-165	Dec. 18	SB1197	PN2448	60 days	Pennsylvania Municipalities Planning Code—omnibus amendments
1996-166	Dec. 18	SB1397	PN2389	Immediately	Community Services Act—reenactment and amendment
1996-167	Dec. 18	HB168	PN3374	Immediately	Education (24 Pa.C.S.) and State Government (71 Pa.C.S.)—omnibus amendments
1996-168	Dec. 18	HB299	PN4305	Immediately*	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—death security registration transfer and reports for school district trustees

* with exceptions

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1996-169	Dec. 18	HB304	PN4297	Immediately*	Older Adults Protective Services Act—omnibus amendments
1996-170	Dec. 18	HB682	PN1647	60 days	Incorporated towns—regulation of contracts
1996-171	Dec. 18	HB683	PN755	60 days	Borough Code, The—contracts
1996-172	Dec. 18	HB685	PN4002	60 days	Second Class Township Code, The—omnibus amendments
1996-173	Dec. 18	HB686	PN758	60 days	First Class Township Code, The—contracts
1996-174	Dec. 18	HB873	PN4200	Immediately	Air Pollution Control Act—prohibition against adoption of agricultural rules and regulations for small business ombudsman
1996-175	Dec. 18	HB1116	PN4127	60 days	Second Class Township Code, The—fire personnel training, schools and centers, appropriations
1996-176	Dec. 18	HB1118	PN4129	60 days	Borough Code, The—fire personnel training, schools and centers, appropriations
1996-177	Dec. 19	SB689	PN2340	60 days	Municipalities Generally (53 Pa.C.S.)—omnibus amendments
1996-178	Dec. 19	SB1585	PN2451	Immediately	Chiropractic Practice Act—unlicensed support personnel
1996-179	Dec. 19	HB1468	PN4048	Jan. 1, '97	Medical Care Savings Account Act—enactment
1996-180	Dec. 19	HB1757	PN4123	45 days	Real and Personal Property (68 Pa.C.S.)—planned communities
1996-181	Dec. 19	HB2314	PN3002	60 days	Second Class Township Code, The—contracts
1996-182	Dec. 19	HB2828	PN4116	60 days	Pennsylvania Bituminous Coal Mine Act—omnibus amendments
1996-183	Dec. 19	HB2630	PN3576	Immediately	Enforcement Officer Disability Benefits Law—Office of Attorney General employe benefits
1996-184	Dec. 19	HB2463	PN4236	60 days*	Game and Wildlife Code (34 Pa.C.S.)—omnibus amendments
1996-185	Dec. 19	HB2585	PN4294	60 days	Fish and Boat Code (30 Pa.C.S.)—omnibus amendments
1996-186	Dec. 19	HB2592	PN3936	60 days	Crimes Code (18 Pa.C.S.)—interception and disclosure of communications by county correctional institution inmates, exceptions
1996-187	Dec. 19	HB2627	PN4249	Immediately	Underground Utility Line Protection Law—omnibus amendments
1996-188	Dec. 19	HB2657	PN4158	60 days	Local Tax Collection Law—notification of delinquent real estate taxpayers
1996-189	Dec. 19	HB2703	PN4285	Immediately	Unemployment Compensation Law—contribution rate determination and employer reserve accounts
1996-190	Dec. 19	HB1929	PN4201	Immediately	Waste Tire Recycling Act and Small Business and Household Pollution Prevention Program Act—enactment
1996-191	Dec. 20	HB1532	PN3585	6 months	Medical Foods Insurance Coverage Act—enactment

* with exceptions

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1996-192	Dec. 20	HB2312	PN3000	60 days	First Class Township Code, The—contracts
1996-193	Dec. 20	HB2313	PN3001	Immediately	Borough Code, The—contracts
1996-194	Dec. 20	HB2295	PN4205	60 days	Crimes Code (18 Pa.C.S.)—unlawful operation of recording device in motion picture theater
1996-195	Dec. 20	HB2572	PN4264	60 days	Taxpayers' Bill of Rights—enactment
1996-196	Dec. 20	HB2257	PN4273	60 days	Volunteer Health Services Act—enactment
1996-197	Dec. 20	HB2617	PN4214	Immediately	Goods and Services Installment Sales Act—service charges (installment contract, installment account and minimum)
1996-198	Dec. 20	HB2118	PN3053	60 days	Crimes Code (18 Pa.C.S.)—criminal mischief
1996-199	Dec. 20	HB2292	PN4283	60 days	Liquor Code—omnibus amendments
1996-200	Dec. 20	HB2348	PN3035	60 days	Crimes Code (18 Pa.C.S.)—retail theft
1996-201	Dec. 20	HB2401	PN3213	60 days	Crimes Code (18 Pa.C.S.)—bad checks
1996-202	Dec. 20	HB2685	PN4245	Immediately	Project 70 Land Acquisition and Borrowing Act—Allegheny County and City of Pittsburgh release and imposition of restrictions

1996 APPROPRIATION—Act 47A (numerical)

<i>Act No.</i>	<i>Enactment Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1996-47A	Dec. 18	SB863	PN2433	Immediately	Department of Labor and Industry—workers' compensation and occupational disease administrative expenses, etc.

* with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

Legislative Bills and Documents

Copies of Senate Bills and Documents may be obtained from: Document Room, Senate of Pennsylvania, Room 34A, Main Capitol Building, Harrisburg, PA 17120, telephone (717) 787-6732.

Copies of House Bills and Documents may be obtained from: Document Room, House of Representatives, 35 Main Capitol Building, Harrisburg, PA 17120, telephone (717) 787-5320.

CARL MEASE,
Acting Director

[Pa.B. Doc. No. 97-40. Filed for public inspection January 10, 1997, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Rule of Civil Procedure No. 1301: Cases for Submission; No. 96IR000066

Order

And Now, this 6th day of December 1996, the Court hereby adopts the following Bradford County Rule of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Rules Committee and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

JEFFREY A. SMITH,
President Judge

1301. Cases For Submission.

A. Compulsory arbitration of matters as authorized by Section 7361 of the Judicial Code, 42 Pa.C.S.A. Section 101, *et seq.*, shall apply to all civil cases wherein the amount in controversy, exclusive of interest and costs, shall be sixteen thousand dollars (\$16,000.00) or less, including appeals from a civil judgment of a district justice, except those involving title to real estate or actions in equity. Such actions shall be submitted to and heard by a board of arbitration consisting of three attorneys.

B. The amount in controversy generally will be determined by the pleadings or by an agreement of the attorneys, however, the court, on its own motion or on the motion of any party, may, based upon affidavits, depositions, stipulations of counsel or after hearing, determine that the amount actually in controversy does not exceed sixteen thousand dollars (\$16,000.00) and enter an order certifying the case to a board of arbitration. In the event that a case within the arbitration limits is consolidated with a case involving more than the arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators.

C. A civil action will be referred to arbitration by order of court when either party or its counsel files a praecipe with the prothonotary.

D. Cases subject to compulsory arbitration will not be scheduled for a pre-trial conference. Such cases will, however, come under the caseflow control of the court administrator.

1301.1. Agreement of Reference:

Cases, whether or not in litigation and regardless of the amount in controversy, may be heard by a board of

arbitration upon agreement of counsel for all parties in the case. Such agreement shall be evidenced by a writing signed by counsel for all sides and shall be filed with the prothonotary, who will forward a copy to the court administrator. Said agreement shall define the issues involved for determination by the board of arbitrators and may contain stipulations with respect to facts.

[Pa.B. Doc. No. 97-41. Filed for public inspection January 10, 1997, 9:00 a.m.]

DELAWARE COUNTY

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

Order

And Now, to wit, this 19th day of December, 1996, pursuant to the section of our September 17, 1996 Order regarding "Changes in Procedure," it is hereby *Ordered* and *Decreed* that

1. Cases will be assigned to Judges Pro Tem by the Office of the Court Administrator on or before December 20, 1996;

2. The Judges Pro Tem will schedule their cases for conference in the time period from January 1, 1997 through March 31, 1997.

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

By the Court

A. LEO SERENI,
President Judge

[Pa.B. Doc. No. 97-42. Filed for public inspection January 10, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 19, 1996, pursuant to Rule 219, Pa.R.D.E. The Order became effective December 19, 1996.

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

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of
the Supreme Court of Pennsylvania*

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England

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Pasadena, CA

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JAMES BARRETT EVANS, JR.
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ERIC MARK HANSEN
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Wheaton, MD

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Cranberry, NJ

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SHAWN D. HUTCHISON
Blackwood, NJ

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Edison, NJ

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Hong Kong

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Washington, DC

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JAMES A. LIGUORI
Toms River, NJ

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New York, NY

ROBERT CHARLES LOPARDO
Washington, DC

JOHN EDWARD LOPIS
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Brooklyn, NY

ALLEGRA SUSAN LOWELL
Newark, NJ

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Westfield, NJ

NANCY DIANE MAHLER
Boston, MA

JOHN W.C. MAHONEY
Brewster, NY

MICHAEL KELLY MALONE
Hong Kong

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Vienna, VA

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Jacksonville, FL

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Wilton, CT

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Frisco, CO

CHINYERE C.M. NWANI
Washington, DC

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Alexandria, VA

ARTHUR E. OAKS
Anaheim, CA

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Washington, DC

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Mitchellville, MD

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Hammonton, NJ

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Lakewood, CO

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Houston, TX

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New York, NY

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New York, NY

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Washington, DC

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Washington, DC

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Riverton, NJ

THERESA THOMAS VIVERO
Fairfax, VA

M.L. von STAUDACH
Naples, FL

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Elmsford, NY

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Middlesex, NJ

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Trenton, NJ

LAWRENCE TODD YANOWITCH
Washington, DC

MICHAEL GRANT YOUNG
Moravian Falls, NC

MARK ZUCKERMAN
Silver Spring, MD

[Pa.B. Doc. No. 97-43. Filed for public inspection January 10, 1997, 9:00 a.m.]

STATEMENTS OF POLICY

STATE BOARD OF NURSING

[49 PA. CODE CH. 21] IV Conscious Sedation

The State Board of Nursing (Board) is proposing to amend § 21.413 (relating to interpretations regarding the administration of drugs—statement of policy) by deleting the requirement in subsection (d)(5) that a registered nurse who wishes to administer IV conscious sedation be certified in advanced cardiac life support (ACLS). Instead, the policy statement would require that a nurse or other health care professional be immediately available on the premises and competent to provide advanced life support services.

Subsequent to the promulgation of § 21.413, the Board received requests from nurses, physicians and health care facilities for clarification of subsection (d)(5). In particular, the public questioned whether another health care professional trained in advanced life support and who was immediately available on the premises could provide life support services rather than the registered nurse involved in direct patient care. The Board has determined that so long as a health care professional competent to perform this procedure is immediately available, the public safety would be protected.

In addition, the Board received numerous inquiries concerning the requirement that the nurse be certified in ACLS. Since that particular certification is appropriate for adult life support, the public asked if it was also a requirement for pediatric facilities. In order to accommodate other recognized certifications, registrations and licenses that permit the holder to provide this service, the Board has determined that the requirement be more generic rather than specific.

Statutory Authority

This statement of policy is implemented under sections 2(l) and 2.1(k) of the Professional Nursing Law (63 P. S. §§ 212(l) and 212.1(k)) and 49 Pa. Code § 21.401 (relating to interpretations: scope of practice).

Comments

Under § 21.401, the Board will allow 60 days for public comment from the date of publication in the *Pennsylvania Bulletin* of the notice of intention to adopt this policy.

SISTER RITA MORIARTY, RN, MPA,
Chairperson

Fiscal Note: 16A-513. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

§ 21.413. Interpretations regarding the administration of drugs—statement of policy.

* * * * *

(d) As used in this subsection, “conscious sedation” is defined as a minimally depressed level of consciousness in which the patient retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands. The registered nurse who is not a certified registered nurse anesthetist may administer intravenous conscious sedation medications, under § 21.14, during minor therapeutic and diagnostic procedures, when the following conditions exist:

* * * * *

(5) [The registered nurse involved in direct patient care is certified in advanced cardiac life support (ACLS).] A registered nurse or other health care professional is immediately available on the premises to provide advanced life support services. For purposes of this section, “other health care professional” shall be defined as a health care provider who, through registration, certification or licensure, is authorized to provide advanced life support services. Provisions shall be in place for back-up personnel who are experts in airway management, emergency intubation and advanced life support if complications arise.

* * * * *

[Pa.B. Doc. No. 97-44. Filed for public inspection January 10, 1997, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Declaration of Public Nuisance for Spruce Needle Rust; Notice to Rescind

Under authority in section 20 of the Plant Pest Act (3 P. S. § 258.20), the Department of Agriculture hereby rescinds the Declaration of Public Nuisance (25 Pa.B. 246 (January 21, 1995)) for the plant pest *Chrysomyxa weirii*, known as spruce needle rust. Spruce needle rust is a significant threat to Colorado blue spruce grown in the nursery, landscape and Christmas tree trade. However,

this plant pest is now known to be present in Columbia, Lackawanna, Luzerne, Monroe, Susquehanna and Wayne counties. Its presence over this sizable area means eradication in the landscape is not feasible. Recommended management in the nursery and Christmas tree trade is through proper sanitation and implementation of a fungicide spray program. By virtue of the Plant Pest Act (3 P. S. § 258.20), it is unlawful to sell or offer for sale a plant that harbors this plant pest.

CHARLES C. BROSIUS,
Secretary

[Pa.B. Doc. No. 97-45. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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 standard and regulations the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

When 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 comment period, will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

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

PA 0025488. Sewage. **Avondale Borough Sewer Authority**, P. O. Box 247, Avondale, PA 19311.

This application is for renewal of an NPDES permit to discharge treated sewage from a wastewater treatment plant in Avondale Borough, **Chester County**. This is an existing discharge to an unnamed tributary to East Branch White Clay Creek.

The receiving stream is classified for cold water fish, warm water fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 0.3 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	60	75
Ammonia (as N)			
(5-1 to 10-31)	2.0	3.0	4.0
(11-1 to 4-30)	6.0	9.0	12.0
Total Residual Chlorine	0.5		1.3
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 2.0 mg/l at all times		
pH	6.0—9.0 standard units at all times		
Diazinon	monitor/report		0.00015
Lindane	0.00006		
4,4'-DDD	0.000001		
Malathion	monitor/report		
Copper (interim)	0.045		0.11
(final)	0.013		0.033
Zinc (interim)	0.40		1.0
(final)	0.081		0.20

The EPA waiver is in effect.

Other Conditions:

Requirement to submit a toxics reduction evaluation.

Special Test Methods for certain pollutants.

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

PA 0062910. Sewerage, **Borough of Bowmanstown**, Burdell Stiegerwalt, Bowmanstown Township, P. O. Box 127, Bowmanstown, PA 18030.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into the Lehigh River in Bowmanstown, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the Northampton Municipal Water Supply located on the Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.140 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
Fecal Coliforms			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	1.0		2.0

The EPA waiver is in effect.

PA 0023501. Sewerage, **Borough of Palmerton**, Rodger P. Danielson, Borough Manager, 443 Delaware Avenue, Palmerton, PA 18071.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Aquashicola Creek in the Borough of Palmerton, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the Northampton Borough Water Authority located on Lehigh River.

The proposed effluent limits Outfall 001 based on a design flow of 0.750 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
Dissolved Oxygen	a minimum of 5.0 mg/l at all times		
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	1.0		2.0

The EPA waiver is in effect.

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

PA 0026964. Sewage, **Montgomery County Sewer Authority**, 5 River Road, P. O. Box 613, Oaks, PA 19456.

This application is for amendment of an NPDES permit to discharge treated sewage from a wastewater treatment plant in Upper Providence Township, **Montgomery County**. This is an existing discharge to the Schuylkill River.

The receiving stream is classified for warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average annual flow of 9.057 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	15	25	30
(11-1 to 4-30)	25	40	50
Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	5.0		10
(11-1 to 4-30)	9.0		18
Total Residual Chlorine	0.5		1.6
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	monitor/report		
pH	within limits of 6.0—9.0 standard units at all times		
Total Lead	monitor/report		
Total Nickel	monitor/report		
Total Phenols	monitor/report		
Total Copper	monitor/report		
Total Zinc	monitor/report		
Mercury	monitor/report		
Free Cyanide	monitor/report		

The EPA waiver is not in effect.

PA 0026182. Amendment No. 3, Sewage, **Borough of Lansdale**, One Vine Street, Lansdale, PA 19446.

This application is for amendment of an NPDES permit to discharge treated sewage from the Borough of Lansdale Sewage Treatment Plant in Lansdale Borough, **Montgomery County**. This is an existing discharge to an unnamed tributary to west branch of Neshaminy Creek.

The receiving stream is classified for cold water fish, trout stocking, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed amendment for Outfall 001, based on an average flow of 2.5 mgd (4.0 mgd after rerating) are as follows:

Page 1 of 14—the facility address has been corrected, which was inadvertently specified mailing address.

Page 2b and 2d of 14—deleted parameter copper, lead and silver.

Page 14 of 14—deleted Other Requirement No. 6, which specifies approved test method for copper, lead and silver.

The EPA waiver is not in effect.

PA 0011851. Amendment No. 1, Industrial waste, **Superior Tube Company**, P. O. Box 159, Collegetown, PA 19426-0159.

This application is for amendment of an NPDES permit to discharge treated process wastewater, cooling water and stormwater from an industry in Lower Providence Township, **Montgomery County**. This is an existing discharge to and unnamed tributary to Perkiomen Creek (001, 003—007), Dry Swale to Perkiomen Creek (002).

The receiving stream is classified for warm water fish, trout stocking, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The permit is being amended to reflect the settlement reached in a consent adjudication.

The following changes are being made to the permit:

1. Fourth year effluent limits have been deleted for:

<i>Outfall 001</i>	<i>Outfall 002</i>	<i>Outfall 004</i>
Fluoride	Trichloroethylene	Trichloroethylene
Cadmium		
Copper		
Lead		
Nickel		
Silver		
Zinc		
Trichloroethylene		

2. The requirement to do a Toxics Reduction Evaluation has been deleted.

3. A schedule has been added to the permit for the submission of a Part I NPDES permit application for relocation of outfalls 001, 002 and 004 to Perkiomen Creek and for construction and completion of the construction of the relocated outfalls.

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

PA 0087661. Sewage, SIC: 4952, **Chestnut Ridge Area Joint Municipal Authority**, R. D. 1, Box A320, New Paris, PA 15554.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to Dunning Creek, in East Saint Clair Township, **Bedford County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Saxton Municipal Waterworks located in Saxton. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.47 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
Total Suspended Solids	30	45		60
Total Residual Chlorine	0.5			1.64
Dissolved Oxygen	minimum of 5.0 at all times			
pH (s.u.)	from 6.0 to 9.0 inclusive			
Fecal Coliforms				
(5-1 to 9-30)	200/100 ml as a geometric average			
(10-1 to 4-30)	33,000/100 ml as a geometric average			

The EPA waiver is in effect.

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

PA 0001759. Industrial waste, SIC: 3081, **GenCorp, Inc.**, 350 Springdale Drive, Fairlawn, OH 44333-2475.

This application is for renewal of an NPDES permit to discharge treated process water, cooling water, and stormwater from the Designed Products Manufacturing Division in Jeannette, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Brush Creek, classified as a trout stock fishery with existing and/or potential used for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is PA American Water Company, located at 410 Cooke Lane, Pittsburgh, PA 15234, 28.9 miles below the discharge point.

Outfall 101: new discharge, design flow of 0.037 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Suspended Solids	report	5.9	report	19	
Oil and Grease	report	9.0	15	29	
BOD ₅	report	8.0	report	26	
pH	not less than 6.0 nor greater than 9.0				

Interim Limits

Outfall 001: existing discharge, design for 0.115 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature (°F)				110	
Cadmium			monitor and report		
Antimony			0.018		0.045
Cyanide, free			0.009		0.023
Phenolics			0.036		0.09
Iron, dissolved			0.54		1.35
pH	6.0—9.0				

Final Limits

Outfall 001

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature (°F)				110	
Cadmium			0.0031		0.0078
Antimony			0.018		0.045
Cyanide, free			0.009		0.023
Phenolics			0.036		0.09
Iron, dissolved			0.54		1.35
Temperature (°F)					
January 1-31				54	
February 1-29				52	
March 1-31				85	
April 1-15				93	
April 16-30				99	
May 1-15				98	
May 16-31				102	
June 1-15				80	
June 16-30				75	
July 1-31				76	
August 1-15				89	
August 16-31				110	
September 1-15				101	
September 16-30				95	
October 1-15				89	
October 16-31				81	
November 1-15				74	
November 16-30				62	
December 1-31				53	
pH	6.0—9.0				

Interim Limits

Outfall 003: existing discharge, design flow of 0.035 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature (°F)				110	
Oil and Grease (influent)	monitor and report				
Oil and Grease (effluent)	monitor and report				
pH	6.0—9.0				

Final Limits

Outfall 003

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Oil and Grease (influent)	monitor and report				
Oil and Grease (effluent)	monitor and report				
Temperature (°F)					
January 1-31				53	
February 1-29				55	
March 1-31				78	
April 1-15				97	
April 16-30				103	
May 1-15				85	
May 16-31				89	
June 1-15				83	
June 16-30				87	
July 1-31				79	
August 1-15				81	
August 16-31				79	
September 1-15				76	
September 16-30				70	
October 1-15				65	
October 16-31				61	
November 1-15				57	
November 16-30				51	
December 1-31				51	
pH	6.0—9.0				

Outfalls 007, 008, 009, 010, 011, 012

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>

The permittee's contribution to these outfalls shall be uncontaminated stormwater runoff from area in and around the facility. There are, at this time, no specific effluent limitations on these outfalls.

Other Conditions:

1. Final water quality based effluent limitations for cadmium at outfall 001.
2. Required to submit a toxics reduction evaluation within 3 years after permit effective date.
3. Condition for future permit modification.
4. Procedures for granting time extensions to achieve final water quality based effluent limits.
5. Procedures for demonstrating alternative site-specific bioassay based effluent limits.

The EPA waiver is in effect.

PA 0217514. Sewage, **The ALTA Group, Inc.**, 195 Hartzell School Road, Fombell, PA 16123-9518.

This application is for issuance of an NPDES permit to discharge treated sewage from the ALTA Group Sewage Treatment Plant in Marion Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Connoquenessing Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Beaver Falls Municipal Authority located on the Beaver River.

Outfall 001: new discharge, design flow of 0.015 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Phosphorus	2			4
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			4.4
pH	6.0—9.0			

The EPA waiver is in effect.

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

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

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

Following the 30-day comment period, the Water Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be 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 1 (800) 654-5984.

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

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 825-2511.

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

Northcentral Regional Office: Regional Water Management Program Manager, 208 W. Third Street, Williamsport, PA 17701, telephone (717) 327-3669.

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

Berks County Conservation District, District Manager, P. O. Box 520 Ag Ctr, Lessport, PA 19533, telephone (610) 372-4657.

NPDES Permit PAS10C028. Stormwater. **Daniel Boone Area School District**, 1445 E. Main Street, Douglassville, PA 19518 has applied to discharge stormwater from a construction activity located in Union Township, **Berks County**, to UNT to the Schuylkill River.

Butler County Conservation District, District Manager, 122 McCune Drive, Butler, PA 16001-6501, telephone (412) 284-5270.

NPDES Permit PAS10E060. Stormwater. **Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105 has applied to discharge stormwater from a construction activity located in Fairview Township, **Butler County**, to UNT to Buffalo Creek.

Centre County Conservation District, District Manager; 414 Holmes Ave. Ste. 4, Bellefonte, PA 16823, telephone (814) 355-6817.

NPDES Permit PAS10F061. Stormwater. **DEP, Bureau of Abandoned Mine Reclamation**, P. O. Box 149, Ebensburg, PA 16931 has applied to discharge stormwater from a construction activity located in Rush Township, **Centre County**, to UNT to Moshannon Creek.

Chester County Conservation District, District Manager; Gov Serv Ctr; Ste 395, 601 Westtown Rd., West Chester, PA 19382, telephone (610) 696-5126.

NPDES Permit PAS10G237. Stormwater. **Tattersall Development Company**, P. O. Box 217, Chester Springs, PA 19425 has applied to discharge stormwater from a construction activity located in West Bradford Township, **Chester County**, to Broad Run.

NPDES Permit PAS10G238. Stormwater. **The Home Depot**, 3096 Hamilton Boulevard, South Plainfield, NJ 07080 has applied to discharge stormwater from a construction activity located in East Whiteland Township, **Chester County**, to Valley Creek.

Monroe County Conservation District, District Manager; 8050 Running Valley Road, Stroudsburg, PA 18360, telephone (717) 629-3060.

NPDES Permit PAS10S049. Stormwater. **Monroe County Transportation Authority**, 1856 B W Main Street, Stroudsburg, PA 18360 has applied to discharge stormwater from a construction activity located in Pocono Township, **Monroe County**, to UNT to Scot Run.

Schuylkill County Conservation District, District Manager; Schuylkill Mall, Frackville, PA 17931, telephone (717) 874-3130.

NPDES Permit PAS105711. Stormwater. **Leisure Equities Corporation**, R. R. 1 Box 3025, Zion Grove, PA 17985 has applied to discharge stormwater from a construction activity located in North Union Township, **Schuylkill County**, to Little Tomhicken Creek.

Notices of Intent for Coverage Under General Permits Received

The following parties have submitted Notices of Intent for coverage under General NPDES Permits to discharge treated wastewater into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review, or application of lawful standards and regulations, the Department of Environmental Protection proposes to issue coverage under the General Permit subject to effluent limitations, monitoring and reporting requirements and other conditions set forth in the General Permits.

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

The Notice of Intent, related documents, proposed effluent limitations, special conditions, comments received and other information are on file and may be inspected and copied at the Regional Office indicated as receiving the Notice of Intent.

List of NPDES General Permits Issued by DEP'S Water Management Deputate

<i>NPDES General Permit #</i>	<i>Short Title of General Permit</i>	<i>Responsible Bureau</i>
PAG-2	Stormwater—Construction Activities	BLWC
PAG-3	Stormwater—Industrial Activities	BWQM
PAG-4	Single Residence Sewage Treatment Plant	BWQM
PAG-6	Combined Sewer Overflows	BWQM

Southcentral Regional Office: Water Management Program Manager, One Ararat Blvd., Harrisburg, PA 17110-9333, telephone (717) 657-4590.

NOI Received and Final Actions Under NPDES General Permits

Coverage under the General Permits issued under the for National Pollutant Discharge Elimination System (NPDES) Permit Program to discharge wastewater to Waters of the Commonwealth.

<i>NPDES No.</i>	<i>Applicable GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PA R803611	3	Berks Fuel Storage Inc. R. D. 6 Box 35, Bowman Road York, PA 17404	York County, Jackson Twp.	Little Honey Run	4231
PA R803612	3	Roadway Express Inc. (T147) 2661 Leiszs Road Leesport, PA 19533	Berks County, Bern Township	Unt To	4231

<i>NPDES No.</i>	<i>Applicable GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PA R803611	3	Berks Fuel Storage, Inc. 124 Witman Road Reading, PA 19605	Berks County, Muhlenberg Twp.	Laurel Run	5171
PA R603533	3	Berks-Mont Towing 651 Englesville Rd. Boyertown, PA 19512	Berks County, Colebrookdale Twp.	Swamp Creek	5015
PA G053501	5	Lancaster Cty Comm. Conestoga View Ret. 50 N. Duke St., P. O. Box 3480 Lancaster, PA 17608-3480	Lancaster County, Lancaster City	Conestoga River	

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (DEP) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management and total residual chlorine control (TRC). Major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

The EPA, Region III, Regional Administrator has waived the right to review or object to these proposed permit actions under the waiver provision 40 CFR 123.6E.

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

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

The permit renewal application and related documents, proposed effluent limitations and special conditions, comments received and other information are on DEP's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0083062	Williams Valley Sch. Dist. Route 209 Box 189A Tower City, PA 17980	Dauphin County, Williams Twp.	Wiconisco Creek	TRC
PA0029335	PA Lions Beacon Lodge 114 SR103 South Mount Union, PA 17066-9601	Mifflin County, Wayne Twp.	Sugar Valley Run	TRC
PA0052485	Mt. Springs Camping Res. P. O. Box 365 Shartlesville, PA 19554	Berks County, Upper Bern Twp.	UNT to Mill Creek	TRC
PA0084492	Strohecker 615 A. Dunkle School Rd. Halifax, PA 17032	Dauphin County, Halifax Twp.	UNT to Susquehanna River	TRC

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

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 of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and tele-

phone 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 protests. 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 Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

2396408. Sewerage. **Helen Pepe**, 5 Dudi Drive, Newtown Square, PA 19073. Construction of a sewage treatment plant to serve Helen Pepe residence located in Newtown Township, **Delaware County**.

0996425. Sewerage. **The McKee Group**, 100 S. Shadeland Avenue, Drexel Hill, PA 19026. Construction of a sewage treatment plant to serve the Village of Buckingham Springs located in Buckingham Township, **Bucks County**.

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

Permit No. 4596405. Sewerage. **Penn Security Bank & Trust Company**, Routes 611 and 940, Mount Pocono, PA 18344. Application to construct and operate a Small Flow Treatment Facility to serve a malfunctioning sewage disposal system located at the Stroud Purchasing Property, Pocono Township, **Monroe County**. Application received in the Regional Office November 21, 1996.

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

Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

A. 0288508-A2. Pennsylvania-American Water Company, 410 Cooke Lane, Pittsburgh, PA 15234. Replace existing 317,000 gallon wash water tank with new 350,000 gallon wash water tank at the Hays Mine Treatment Plant, Baldwin Borough, **Allegheny County**.

A. 6396502. Pennsylvania-American Water Company, 800 West Hershey Park Drive, P. O. Box 888, Hershey, PA 17033. Installation of an above ground booster station to provide domestic service and fire protection in Cross Creek Township, **Washington County**.

Southcentral Regional Office: Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.

A. 0196504. Public water supply. **RBL Development Corporation**, Berwick Township, **Adams County**, (Patrick J. Barry, President, RBL Development Corporation, R. D. 1, Box 1721, Stewartstown, PA 17363), proposed construction of a new community water system to serve a 250 unit mobile home park. Water system to consist of one well, disinfection and pH adjustment equipment, a 179,000 gallon standpipe and a distribution

system, (Charles A. Kehew, II, P. E., James R. Holley & Associates, Inc., 18 S. George St., York, PA 17401).

A. 6796504. Public water supply. **Red Lion Municipal Authority**, Windsor Township, **York County**, (Henry P. Herrman, Red Lion Municipal Authority Chairperson, P. O. Box 190, Red Lion, PA 17356), implementation of lead and copper corrosion control program by reducing finished water pH and adding zinc orthophosphate, (Jonathan D. Holmes, P. E., C. S. Davidson, Inc., 38 N. Duke Street, York, PA 17401).

A. 3696507. Public water supply. **Columbia Water Company**, Borough of Columbia, Manor Township, West Hempfield Township, **Lancaster County**, (Charles E. Gohn, General Manager, 220 Locust Street, Columbia, PA 17512), construction of a 1.9 mg finished water distribution tank and related booster pumping station, chlorine facility and 12-inch connecting water main, (Gerald R. McClune, P. E., ACER Engineers & Consultants, Inc., 270 Granite Run Drive, Lancaster, PA 17601).

Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.

A. 1596508. Public water supply. **Coventry Terrace Mobile Home Park**, Robert H. Turner, 391 Harley Road, Parker Ford, PA 19457. This proposal involves the permitting of an existing unpermitted water supply system which consists of two wells, chlorine disinfection and storage in East Coventry Township, **Chester County**.

Acknowledgment of Notices of Intent to Remediate

Acknowledgment of Notices of Intent to Remediate submitted to the Department of Environmental Protection 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 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. 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 1 (800) 654-5984.

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

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.

Westinghouse Air Brake Company, Locomotive Products Division, Borough of Wilmerding, **Allegheny County**. Westinghouse Air Brake Company, Locomotive Products Division, 1001 Air Brake Avenue, Wilmerding, PA 15148 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with solvents and PHCs. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Progress* on November 20, 1996.

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

Rockwell International Corporation, New Castle, City of, **Lawrence County**, has submitted a Notice of Intent to Remediate groundwater. The site has been found to be contaminated with solvents and PAHs. 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 *New Castle News*.

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection 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 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.

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 1 (800) 654-5984.

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

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.

Powerex, Inc., Hempfield Township, **Westmoreland County**. Powerex, Inc., 200 Hillis Street, Youngwood, PA 15697 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the Statewide health standard.

Trumbull Corporation, West Mifflin Borough, **Allegheny County**. Triline Associates, Inc., 506 Valleybrook Road, McMurray, PA 15317 and Trumbull Corporation, P. O. Box 98100, Pittsburgh, PA 15227 has submitted a Notice of Intent to Remediate soil contaminated with BTEX, PHCs, and PAHs. The applicant proposes to remediate the site to meet the Statewide health standard.

Southcentral Regional Office: Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Former Emeco Settling Pond, Hanover Borough, **York County**, and Conewago Township, **Adams County**. Phillip Schuchart, Schuchart Oil & Propane, 900 East Elm, Hanover, PA 17331, has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals, solvents, PHCs 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 *Hanover Evening Sun* on December 11, 1996.

Submission of Final Reports on Attainment of Background and Statewide Health Standards

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection 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 selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community

relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final reports:

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

Pennsylvania Power & Light Company (PP&L)—distribution pole #64174S46692, City of Allentown, **Lehigh County**. PP&L, 2 North Ninth Street, Allentown, PA has submitted a Final Report concerning the remediation of site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant remediated the site to meet the Statewide health standard.

Pennsylvania Power & Light Company (PP&L)—distribution pole #62171S44721, Borough of Emmaus, **Lehigh County**. PP&L, 2 North Ninth Street, Allentown, PA has submitted a Final Report concerning the remediation of site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant remediated the site to meet the Statewide health standard.

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Residual Waste Regulations for a General Permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA 17101-2301.

General Permit WMGR047. Recmix of PA, Inc., 586 Plum Run Road, Canonsburg, PA 15317. An application for the beneficial use of stainless steel slag as an agricultural liming material.

Comments on the general permit application may be submitted to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in examining the application may make arrangements by calling the Division of Municipal and Residual Waste at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Arrangements can also be made for persons with disabilities who wish to inspect the application. Public comments must be submitted to the Department within 60 days of the date of this notice and may recommend revisions to, and approval or denial of the application.

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a solid waste processing or disposal area or site.

Southwest Regional Office: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

A. 300936. Alex E. Paris Contracting Co., Inc., Route 18, Atlasburg, PA 15004. Paris Flyash Site, Frankfort Springs Road, Hanover, PA 15050. Application for a Major Permit Modification to expand a residual waste

disposal site by 32 acres in Hanover Township, **Beaver County** was received in the Regional Office on December 13, 1996.

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

Regional Office: Regional Solid Waste Manager, Suite 6010, 555 North Lane, Lee Park, Conshohocken, PA 19428.

A. 100549. Pottstown Landfill & Recycling Center, 1425 Sell Road, Pottstown, PA 19464. Copies of the entire application package for the Pottstown Landfill Eastern Expansion were submitted to the Southeast Regional Office on December 17, 1996 in response to a recent decision by the Environmental Hearing Board. A permit for the Eastern Expansion was issued on October 2, 1995, however, the Board determined that the host municipality and host county notifications originally performed by the permittee and the Department were incomplete because of the omission of Douglass Township and **Berks County** from the formal notification process. Copies of the application are being forwarded to Douglass Township and Berks County for the commencement of their formal 60 day comment period as provided for in the regulations and as required by the Environmental Hearing Board Decision.

Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.

Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

There is a 30-day comment period from this date of publication.

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described below for the specified companies.

Permit: **46-313-142**
Source: 2 PVC Resin Packaging Systems
Company: **Occidental Chemical Corporation**
Location: Lower Pottsgrove
County: **Montgomery**

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. 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.

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

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.

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

E61-204. Encroachment. **Department of Transportation**, 1140 Liberty Street, Franklin, PA 16323, to remove the three existing bridges and concurrently construct then maintain three new bridges. Each of these new prestressed concrete spread box beam bridges has a clear span of 36.6 feet and carries S. R. 0227 over Cherry Run. Cherry Run is a perennial high quality stocked trout and wild trout cold water fishery. During this construction temporary stream diversion structures for abutment construction and temporary traffic runarounds will be constructed and maintained at each bridge site. Additionally, the middle bridge construction will result in the relocation and maintenance of approximately 240 feet of Cherry Run an average of one channel width to the south. Cumulative wetland impacts total at 0.414 acre for temporary impacts and 0.044 acre for permanent impacts. All of the wetlands are palustrine emergent and/or shrubbed wetlands and are not exceptional value wetlands. The most downstream bridge, Structure B00, has an underclearance of 5.0 feet and is located approximately 2,800 feet northeast of the S. R. 0008 and S. R. 0227 intersection (Oil City Quadrangle N: 17.80 inches; W: 8.00 inches) in Rouseville Borough, Venango County. The middle bridge, Structure 03M, has an underclearance of 5.3 feet and is located approximately 5,100 feet northeast of the S. R. 0008 and S. R. 0227 intersection (Oil City Quadrangle N: 18.70 inches; W: 7.30 inches) in Cornplanter Township, Venango County. The most upstream bridge, Structure 02M, has an underclearance of 5.8 feet and is located approximately 6,300 feet northeast of the S. R. 0008 and S. R. 0227 intersection (Oil City Quadrangle N: 19.20 inches; W: 07.00 inches) located in Cornplanter Township, **Venango County**.

E62-328. Encroachment. **R. William Holder**, P. O. Box 34, Warren, PA 16365, to remove existing three-span bridge, rehabilitate existing piers and abutments, and to construct and maintain a three-span steel beam bridge with a center clear span of 48 feet and end clear spans of 39 feet and 60 feet across Brokenstraw Creek (CWF, TSF) for private access. The project is located across Brokenstraw Creek just south of T-433 approximately 5,000 feet west of the intersection of T-433 and S. R. 3016 (Youngsville, PA Quadrangle N: 15.7 inches; W: 15.8 inches) located in Brokenstraw Township, **Warren County**.

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

E15-530. Encroachment. **PECO Energy Company**, 175 N. Caln Road, P. O. Box 3011, Coatesville, PA 19320. To install and maintain an 8-inch diameter high pressure steel gas main inside an abandoned 14-inch cast iron

water main across Valley Creek located approximately 1,000 feet north of the intersection of North Valley Road and Swedesford Road (Valley Forge, PA Quadrangle N: 11.95 inches; W: 16.2 inches) in Tredyffrin Township, **Chester County**.

E46-759. Encroachment. **New Hanover Township**, 2943 North Charlotte Street, Gilbertsville, PA 19525-9718. To reconstruct and maintain an existing deteriorated township bridge spanning Middle Creek Road over Swamp Creek (TSF). The proposed project consists of replacement of the existing two-span, concrete and steel superstructure with a single span, precast concrete, adjacent box-beam structure. The reconstructed bridge of a 24 feet in roadway width, 52.6 feet of a clear span and a minimum underclearance of 6.5 feet will be supported by existing concrete abutments. The work consists of removal of a middle-span abutment, construction of a new concrete wing wall, resurfacing of existing abutments and removal of sediment deposits. The bridge is located on Meddle Creek Road, approximately 1 mile north of the intersection with S. R. 73 (Sassamansville, PA Quadrangle N: 12.1 inches; W: 12.2 inches) in New Hanover Township, **Montgomery County**.

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

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 6, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

D33-003A. Dam. **Brookville Municipal Authority**, 3 Jefferson Court, Brookville, PA 15825. To modify, operate and maintain the Brookville Water Works Dam located across North Fork Redbank Creek in the Borough of Brookville, **Jefferson County**.

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

EA20-006C0. Environmental assessment. **Universal Development**, 1607 Motor Inn Drive, Girard, OH 44420. To construct and maintain a nonjurisdictional dam across a tributary to Van Horne Creek (WWF) for the purpose of stormwater management at the proposed Woodland Chase subdivision located approximately 4,000 feet east of the intersection of S. R. 19 and S. R. 6/322 (Geneva, PA Quadrangle N: 22.3 inches; W: 8.7 inches) in Vernon Township, **Crawford County**.

EA23-008C0. Environmental assessment. **Concord Crossing Partners**, P.O. Box 100, Chadds Ford, PA 19317. To construct and maintain two non-jurisdictional dams in the watershed of a tributary to west branch Chester Creek (TSF) impacting approximately 0.1 acre of wetland (PEM) for the purpose of stormwater management at the proposed Concord Crossing subdivision located approximately 350 feet southwest of the intersection of Naamans Creek Road and Shavertown Road (Wilmington North, Del-PA Quadrangle N: 17.50 inches; W: 4.55 inches) in Concord Township, **Delaware County**.

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

E21-257. Encroachment. **South Newton Township**, Gary Johnson, Box 22 Highmountain Road, Walnut Bottom, PA 17266. To remove the existing damaged structure and to construct and maintain a 15 feet by 5 feet concrete box culvert across Hairy Spring Hollow on T-317 (Gutshall Road) located just upstream of Big Pond (Walnut Bottom, PA Quadrangle N: 10.75 inches; W: 4.75 inches) in South Newton Township, **Cumberland County**.

E31-134. Encroachment. **Jackson Township Supervisors**, Ralph Weiler, R. D. 1, Box 389A, Petersburg, PA 16669. To construct and maintain a single span bridge having a span of 43.53 feet and a minimum underclearance of about 5.64 feet across Standing Stone Creek to replace a structure destroyed during the January 19, 1996 flood event located on Township Road T-525 about 0.5 mile east of its intersection with Township Road T-543 (McAlevy's Fort, Quadrangle N: 7.3 inches; W: 8.4 inches) in Jackson Township, **Huntingdon County**.

Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

E30-175. Encroachment. **Dept. of Transportation**, P. O. Box 439, Uniontown, PA 15401. To remove existing bridge and to construct and maintain a precast concrete bridge with normal span of 34.94 feet and an underclearance of 8.92 feet to carry SR 0019 Section 08R over Ruff Creek (WWF) at a point on SR 0019 just southwest of the intersection of SR 0019 and Washington Street (Waynesburg, PA Quadrangle N: 15.2 inches; W: 7.2 inches) in Washington Township, **Greene County**.

E63-423. Encroachment. **Dept. of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing bridge and to construct and maintain a dual 3-span steel bridge with a clear span of 421.5' and 50.0' underclearance over McPherson Creek (WWF) to carry SR 0079 Section A04. The project is located approximately 1.4 miles south of the Allegheny Washington County Line (Canonsburg, PA Quadrangle N: 9.9 inches; W: 5.1 inches) in Cecil Township, **Washington County**.

E65-660. Encroachment. **Municipality of Murrysville**, 4100 Sardis Road, Murrysville, PA 15668-1120. To construct and maintain a 515-foot long enclosure consisting of a 78-foot long, 60-inch diameter culvert and a 437-foot long, 48-inch diameter culvert in an unnamed tributary to Haymaker Run (HQ-CWF) for the purpose of constructing a public service/public works facility located approximately 200 feet west of intersection of Sardis Road and Crowfoot Road (Murrysville, PA Quadrangle N: 15.0 inches; W: 5.7 inches) in Municipality of Murrysville, **Westmoreland County**.

E65-661. Encroachment. **Dept. of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing bridge and to construct and maintain a 100-foot single span prestressed concrete bridge with an underclearance of 5.6 feet and a normal span 28.0 feet over an unnamed tributary to Sewickley Creek (HQ-CWF) to carry SR 0130, Section N01, located approximately 1.0 mile west of intersection of SR 0130 and SR 0981 (Mammoth, PA Quadrangle N: 22.1 inches; W: 13.1 inches) in Unity Township, **Westmoreland County**.

E65-662. Encroachment. **Dept. of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing bridge and to construct and maintain a 31.5-foot concrete box culvert with a clear span of 19.0 feet and an underclearance of 7.0 feet with the invert depressed 1.0

foot in an unnamed tributary to Sewickley Creek (WWF) to carry SR 3071 Section A01, located approximately 0.7 mile east of the intersection of SR 3071 and SR 3093 (Mt. Pleasant, PA Quadrangle N: 18.7 inches; W: 14.0 inches) in New Stanton Borough, **Westmoreland County**.

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. 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.

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

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.

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

E39-323. Encroachment. **T.C.A.S., Inc.**, 1209 Hausman Road, Allentown, PA 18104. To place fill in a de minimus area of wetlands less than or equal to 0.05 acre for the construction of a 50,000 square foot, three-story office building and associated parking lot. The project is located west of the intersection of T959 (Hausman Road) and SR 0309 (Allentown West, PA Quadrangle N: 18.7 inches; W: 9.2 inches) in South Whitehall Township, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

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

E46-758. Encroachment. **R & R Properties, Inc.**, 1100 East Hector Street, Conshohocken, PA 19428. To relocate approximately 135 linear feet of an unnamed tributary to the Schuylkill River (WWF) and to construct and maintain a stormwater management facility across the relocated channel at the proposed Forge Spring Village Subdivision. The site is located approximately 1,000 feet west of the intersection of Valley Forge Road and Ross Road (Norristown, PA Quadrangle N: 19.1 inches; W: 14.75 inches) in Upper Merion Township, **Montgomery County**.

Applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

Southcentral Regional Office: Field Operations, Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.

WA 36-799B. Water allocation. **Borough of Akron, Lancaster County.** The applicant is requesting a modification to its existing allocation to increase its withdrawal from Akron Spring to the entire available flow.

ACTIONS

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, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Permits Issued

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

NPDES Permit No. PA0027383. Sewerage. **Southwest Delaware County Municipal Authority**, P. O. Box 2081, Park and Gamble Lanes, Aston, PA 19014 is authorized to discharge from a facility located in Aston Township, **Delaware County** into Chester Creek.

NPDES Permit No. PA0053538. Industrial waste. **Merck and Company, Inc.**, P. O. Box 4, West Point, PA 19486-0004 is authorized to discharge from a facility located in Upper Gwynedd Township, **Montgomery County**.

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

NPDES Permit No. PA0217492. Sewage, **Mon View Mining Corporation**, P. O. Box 1203, Uniontown, PA 15401 is authorized to discharge from a facility located at Mathies Mine—Mingo Portal STP, Nottingham Township, **Washington County** to Mingo Creek.

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

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O.

Box 8457, Harrisburg, PA 17105-8457, telephone (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

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

PAS-10-0411. Individual NPDES. **PA Bureau of Abandoned Mine Reclamation**, 122 S. Center Street, Ebensburg, PA 15931. To implement an erosion and sedimentation control plan for an abandoned mine reclamation project on 47.8 acres in Broad Top Township, **Bedford County**. The project is located 4,500 feet west of Kearney Village (Saxton, PA Quadrangle N: 3.2 inches; W: 15.7 inches). Drainage will be to Longs Run.

PAS-10-5103. Individual NPDES. **William Cramer**, R. D. 3, Box 191, Newport, PA 17074. To implement an erosion and sedimentation control plan for the development of housing sites and stormwater control facilities in a residential subdivision known as Thornwood Ridge Estates on 47 acres in Juniata Township, **Perry County**. The project is located on the north side of SR 4008 at its intersection with Top Road T 424 (Newport, PA Quadrangle N: 16.5 inches; W: 8.2 inches). Drainage will be to Buffalo Creek.

PAS-10-5104. Individual NPDES. **William Cramer**, R. D. 3, Box 191, Newport, PA 17074. To implement an erosion and sedimentation control plan for the construction of housing sites in a 22 lot residential subdivision known as Pine Valley Acres on 77 acres in Juniata Township, **Perry County**. The project is located along the south side of T. R. 4833 about 2.0 miles east of its intersection with SR 4005 below Markelsville (Newport, PA Quadrangle N: 17.1 inches; W: 8.6 inches). Drainage will be to Buffalo Creek.

PAS-10-Y017-1. Individual NPDES. **Royal Building, Inc.**, 160 Ram Drive, Hanover, PA 17331. To implement an erosion and sedimentation control plan for a residential subdivision to be known as Poplar Springs Manor—Phase 3 on 76.43 acres in Stewartstown Borough, **York County**. The project is located along S. R. 0851 approximately 0.25 mile east of its intersection with S. R. 0024 (Stewartstown, PA Quadrangle N: 0.4 inch; W: 11.5 inches). Drainage will be to Leibs Creek.

PAS-10-Y036. Individual NPDES. **Stewart & March Partnership**, 1020 N. Hartley St., P. O. Box 2587, York, PA 17405. To implement an erosion and sedimentation control plan for the construction of a Weis Market on 27.41 acres in West Manchester Township, **York County**. The project is located northwest of the intersection of SR0030 and Roosevelt Avenue (West York, PA Quadrangle N: 19.1 inches; W: 1.5 inches). Drainage will be to Willis Run.

PAS-10-Y048. Individual NPDES. **Monarch Ridge Assoc. & York Condominium Constructors, Inc.**, 1 Waterford Professional Center, York, PA 17402. To implement an erosion and sedimentation control plan for a single family housing development called Monarch Ridge

and a townhouse development called Longstown on 111.6 acres in Windsor Township, **York County**. The projects are located 3,000 feet southwest of Locust Grove Village (York, PA Quadrangle N: 14.6 inches; W: 2.5 inches). Drainage will be to an unnamed tributary to Kreutz Creek.

PAS-10-Y053. Individual NPDES. **Dale A. Torbert**, 405 Throne Road, Fawn Grove, PA 17321. To implement an erosion and sedimentation control plan for a residential subdivision to be known as Plantation Estates Section 5 on 109.82 acres in Fawn Township, **York County**. The

project is located adjacent to Throne Road just north of Bruce Road (Airville, PA Quadrangle N: 7.3 inches; W: 12.2 inches). Drainage will be to Muddy Creek.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10K018	Maleno Developers, Inc. 2236 West 38th Street Erie, PA 16506	Millcreek Township Erie County	Cascade Creek

Permit (For Discharge of Stormwater from Construction Activities) No. PAS10K018. In compliance with the provisions of the Clean Water Act (33 U.S.C.A. § 1251 et seq.) (act), and Pennsylvania's Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Maleno Developers, 2236 W. 38th Street, Erie, PA 16506, is authorized to discharge stormwater from construction activities from a facility/site located at the proposed site of Lake View Apartments, a multi- and single-family residential development located in Millcreek Township, **Erie County** (Erie South Quadrangle Lat: 42°, 04', 45"; Long: 80°, 07', 55" to receiving waters named Cascade Creek, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B, and C hereof.

This permit and the authorization to discharge shall commence on December 11, 1996 and expire at midnight, December 11, 2001.

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.

2. Failure to comply with the terms or conditions of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. Application for renewal of this permit, or notification of intent to cease discharging by the expiration date,

must be submitted to the Department at least 180 days prior to the above expiration date (unless permission has been granted by the Department for submission at a later date), using the appropriate NPDES permit application or Notice of Termination (NOT) form. In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit will be automatically continued and will remain fully effective and enforceable pending permit reissuance or denial of the application for permit renewal.

4. This permit will be terminated if construction activities have been completed prior to the expiration date of this permit. For purposes of this permit, construction activities are completed when permanent stabilization of the site is attained; as defined in Part B.3 of this permit and Chapter 102 of the Department's Rules and Regulations.

5. No condition of this permit shall release the permittee from any responsibility or requirement under Pennsylvania, or Federal environmental statutes or regulations, or local ordinances.

The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-T073	The Cutler Group, Inc. 5 Sentry Parkway West Suite 100 Blue Bell, PA 19422	Lower Providence Twp. Montgomery County	Tributary to Stony Creek

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, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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 Richard Shudak at (717) 826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

Permits Issued

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

Permit No. 0996419. Sewerage. **Lower Bucks County Joint Municipal Authority** (7811 New Falls Road, Levittown, PA 19055). Construction of two mechanically cleaned bar racks located in Bristol Township, **Bucks County** to serve Bristol Township.

Permit No. 0996406. Sewerage. **Warrington Township** (852 Easton Road, Warrington, PA 18976). Construction of a sewage treatment plant located in Warrington Township, **Bucks County** to serve Tradesville.

Permit No. 4696413. Sewerage. **Borough of Lansdale** (One Vine Street, Lansdale, PA 19446). Rerating of a sewage treatment plant located in Lansdale Borough, **Montgomery County** to serve the Borough of Lansdale.

Permit No. 2396201. Industrial waste. **Degussa Corporation** (1200 West Front Street, Chester, PA 19013). Construction of their expanded industrial wastewater treatment plant located in the City of Chester, **Delaware County** to serve Degussa Corporation.

Permit No. 0996414. Sewerage. **Milford-Trumbauersville Area Sewer Authority** (P. O. Box 126, Spinnertown, PA 18968). Modifications of the wastewater sewage treatment plant located in Milford Township, **Bucks County** to serve Tertiary Filter Facility Improvements.

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

Permit No. 5696409. Sewerage, **Shade-Central City Joint Authority**, 429 Sunshine Avenue, Central City, PA 15926. Construction of sewer extension, pump station and force main located in the Township of Shade, **Somerset County** to serve the Bunker Hill Area.

Permit No. 6596408. Sewerage, **Unity Township Municipal Authority**, R. D. 3, Box 526K, Latrobe, PA 15650. Construction of pump station and force main located in the Township of Unity, **Westmoreland County** to serve the Carney Road Area.

Plan revision approval granted December 16, 1996 under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

Regional Office: Water Management Program Manager, Southcentral Region, One Ararat Boulevard, Harrisburg, PA 17110.

Location: Penn Township, Perry County, 100 Municipal Building Road, Duncannon, PA 17020.

The approved plan revision provides for a 13 lot residential subdivision and a constructed wetland wastewater treatment facility to serve the subdivision. The treatment facility will be owned and operated by the Penn Township Municipal Authority. The proposed subdivision is located on the east side of Shermanata Drive about 2.4 miles west of the SR 0011—SR 0274 interchange.

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

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

Regional Office: Water Management Program Manager, Southcentral Region, One Ararat Boulevard, Harrisburg, PA 17110.

Location: Mulvenna Residence, east side of Mill Road, 250 feet south of its intersection with Route 82 in the village of Geigertown, Robeson Township, Berks County.

The proposed project consists of an individual residential sewage treatment plant with stream discharge to a tributary of Hay Creek, Robeson Township, Berks County. The proposal will serve to rectify an ongoing malfunction of the onlot septic system at the Mulvenna residence. The DEP Code number for the proposal is **M3-06954-085-2,3s**.

Location: South side of River Road in Hellam Township, York County.

Project Description: Approval of a revision to the Official Sewage Plan of Hellam Township, York County, 44 Walnut Springs Road, York, PA 17406.

Plan approval is given for the construction of a privately-owned sewage treatment facility with stream discharge to serve a proposed gymnasium with estimated sewage flows of 50 GPD. This proposed treatment facility will discharge into the Susquehanna River.

The project name is Susquehanna Resources and its DEP code number is **A3-67929-143-3**. Approval granted December 19, 1996.

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, telephone (717) 826-2553.

Bella Mundana Estates, Exeter and Franklin Townships, Luzerne County.

Project Description: This residential project will entail the development of a 38.874 acre parcel of land into 25 building lots. Total sewage flows will be 7,500 gpd with treatment to be provided by a proposed onsite sewage collection and disposal facility. The onsite facility will be a batch-type wastewater treatment system. The batch-type

system will utilize an aerobic treatment/settling clarifier process. The effluent will be discharged into Sutton Creek.

This project is located 1,000 feet from the intersection of Sutton Creek Road and S. R. 1033 in a northwesterly direction in Exeter and Franklin Township, Luzerne County, PA.

This treatment plant will discharge to Sutton Creek. Acceptance of this revision is conceptual. It leaves to be addressed at a later date both (1) the effluent limitations necessary to protect public health, and (2) specific treatment technology.

The developer agrees that the onsite sewage treatment plant shall be considered an interim facility for sewage disposal. If a public sewage system becomes available to the property, the developer agrees to abandon the treatment facility and connect to the public sewer system.

Regional Office: Water Management Program Manager, Southcentral Region, One Ararat Blvd., Harrisburg, PA 17110.

Location: Hamilton Township, Franklin County, 1270 Crottestown Road, Chambersburg, PA 17201.

The approved plan provided for participation in the scheduled upgrade and enlargement of the Chambersburg wastewater treatment plant, providing sewer line extensions within 5 years to Edenville Road and Fisher Road and within 10 years to Guitner and Gottlestown Roads. Areas served by onlot sewage disposal systems will be placed in a management district. A new onlot management ordinance will require routine inspections and maintenance for all systems in the district. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority.

Location: Tyrone Borough, Blair County, 1100 Logan Ave., Tyrone, PA 16686.

The approved plan provided for upgrade and expansion of an existing wastewater treatment plant to a new capacity of 10.05 mgd. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Location: West Providence Township, Bedford County, 81 East Fifth Avenue, Everett, PA 15537.

The approved plan provided for construction of public sewer service to a small area located south of Everett Borough and creation of an onlot disposal system management program to serve the non-sewered portions of the municipality. Additionally, a camp ground regulatory ordinance is proposed. Areas identified as 1 and 2 will be reevaluated in 5 years to determine the success of the management program or their feasibility for community sewer systems. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Location: East St. Clair Township, Bedford County, R. D. 1, Box 334, New Paris, PA 15554.

The approved plan provided for changing the location of a previously approved wastewater treatment plant to lower in the drainage basin and for construction of additional interceptor and collection lines to serve the area between Reynoldsdale and Cessna. Additionally, the Spring Hope area is identified for connection and service in 10 years. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Location: Rye Township, Perry County, 1775 New Valley Road, Marysville, PA 17053.

The approved plan provided for establishing an onlot sewage disposal system public education and education program. A well water survey will be conducted in 5 years to determine the success of this program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

Location: Latimore Township, Adams County, P. O. Box 218, York Springs, PA 17372.

The approved plan provided for extensions of the York Springs sewer system to serve Township areas adjacent to the Borough including Harrisburg Street, State Street and Ridge Road. An onlot disposal system maintenance district is created for the Villages of Latimore and Bermudian with mandatory maintenance and repairs and an Onlot Disposal System Management Ordinance will be adopted. The Villages are not feasible for construction of community sewer systems at this time, however, these areas will be re-evaluated in 5 years to determine the success of the management district. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Northwest Regional Office: Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.

Permit No. 6296504. Public water supply. **Sheffield Municipal Authority**, P. O. Box 821, Sheffield, PA 16347-0821. This permit approves the construction of a corrosion control facility under the Lead & Copper rules. The corrosion control equipment will be installed in the Tan Street well building and be utilized for all Sheffield well water (Tan and Horton Street wells) in Sheffield, **Warren County**.

Type of Facility: Community Water Supply

Consulting Engineer: Al Vanderpoel, E & M Engineers and Surveyors, P. C., 24 Derrick Road, Bradford, PA 16701-3350.

Permit to Construct Issued: December 11, 1996.

Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.

Permit No. 0996516. Public water supply, **Bucks County Water and Sewer Authority**, Benjamin Jones, 1275 Almshouse Road, Warrington, PA 18976. A permit has been issued granting Bucks County Water and Sewer

Authority permission to construct a 2.0 MG storage tank to be known as Feasterville Water Storage Tank No. 2 in Lower Southampton Township, **Bucks County**.

Type of Facility: Water Supply.

Consulting Engineer: Carroll Engineering Corporation, 949 Easton Road, Suite 100, Warrington, PA 18976.

Permit to Construct Issued: December 17, 1996.

Acknowledgment of the Submission of Final Reports on Attainment of Background and State-wide Health Standards.

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection 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 selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final reports:

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.

Trumbull Corporation, West Mifflin Borough, **Allegheny County**. Triline Associates, Inc., 506 Valleybrook Road, McMurray, PA 15317 and Trumbull Corporation, P. O. Box 98100, Pittsburgh, PA 15227 has submitted a Final Report addressing soil contaminated with BTEX, PHCs, and PAHs. The report is intended to document remediation of the site to meet the Statewide health standard.

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

SGS—Thomson Microelectronics, Montgomery Township, **Montgomery County**. Randy L. Shuler, Ph.D., Environmental Resources Management, Inc., Princeton Crossroads Corp. Center, 300 Phillips Blvd., Suite 200, Ewing, NJ 08618, has submitted a Final Report concerning remediation of site soils and groundwater contaminated with solvents and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard for soil and the site-specific standard for groundwater.

Permits revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA 19428.

Permit No. 300275. Merck & Company, Inc., P. O. Box 4, West Point, PA 19486-0004. This permit for Merck & Company, Inc. has been revoked, because the facility has indicated that they are no longer operating their Merck & Company Landfill, West Point facility located in Upper Gwynedd Township, **Montgomery County**. Permit revoked in the Southeast Regional Office December 13, 1996.

Permit No. 300556. Strescon Industries, Inc., South Pennsylvania Avenue, P. O. Box 67, Morrisville, PA 19067-0067 has been revoked because the facility indicated that they are no longer operating their Quarry Disposal Site located in Falls Township, **Bucks County**. Permit revoked in the Southeast Regional Office December 13, 1996.

Permit No. 101463. TRC, Inc., Transfer Station, 2904 South Delaware Avenue, Philadelphia, PA 19148. This amended waste management permit is for an expansion of the permitted area to construct a C&D (construction/demolition) waste recycling facility at the TRC, Inc., Transfer Station located in the **City and County of Philadelphia**. Permit issued in the Southeast Regional Office on December 12, 1996.

Permit No. 101477. BFI—Philadelphia Trans-cyclerly, 2209 South 58th Street, Philadelphia, PA 19143. This permit is for the re-issuance of a waste management permit to Browning-Ferris, Inc., from Philadelphia Recycling & Transfer Station, Inc., for the continuing operation of the municipal waste transfer station located in the **City and County of Philadelphia**. Permit issued in the Southeast Regional Office on December 12, 1996.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Southcentral Regional Office: Regional Solid Waste Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4588.

Permit No. 602631. Roy Byers Farm, Borough of Millerstown, (P. O. Box 200, Millerstown, PA 17062). Application for agricultural utilization of sewage sludge and the addition of acres to a site in Tuscarora Township, **Perry County**. Permit issued in the Regional Office December 20, 1996.

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

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, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact

the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute proves 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.

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 act of June 22, 1937 (P. L. 1987, No. 394) (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.)

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

E22-354. Encroachment. **Wayne Township Supervisors**, Gary Miller, P. O. Box E, Halifax, PA 17032. To remove an existing structure and to construct and maintain twin reinforced concrete box culverts having spans of 18-feet and rises of 8 feet in Powell Creek for public highway maintenance purposes located on Union Church Road about 0.4 mile south of its intersection with SR 4013 (Enders, PA Quadrangle N: 16.25 inches; W: 8.70 inches) in Wayne Township, **Dauphin County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

EA36-001. Environmental assessment. **RT Environmental Services, Inc.**, 215 W. Church Road, King of Prussia, PA 19406. To dredge contaminated soil from 0.33 acre of wetland at Raymark Industries Landfill in order to meet landfill closure procedures. Soil which is removed to depths greater than original wetland elevations will be replaced. The wetland will be restored by planting with appropriate wetland vegetation. This Environmental Assessment was issued under section 105.15(3b). 401 Water Quality Certification is issued for this Environmental Assessment.

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

E02-478. Encroachment. **Peggy's Harbor & Boat Club, Inc.**, 1 Liverpool Street, Pittsburgh, PA 15233. To operate and maintain an existing boat docking facility originally permitted under Permit E0277702 to construct and maintain an expansion to boat marina and to operate and maintain a walkway. The marina is located along the right bank of the Ohio River near Mile Point 1.6 (Pittsburgh West, PA Quadrangle N: 14.6 inches; W: 4.8 inches) in the City of Pittsburgh, **Allegheny County**.

E02-1158. Encroachment. **Leonard R. Bailey Sr.**, 221 Water Street, Elizabeth, PA 15037. To construct and maintain a recreational boat dock in the channel of and on the right bank of the Monongahela River (WWF) for recreational and business purposes. The project is located

just downstream from the Elizabeth (SR 51) Bridge (Glassport, PA Quadrangle N: 4.6 inches; W: 1.7 inches) in Elizabeth Borough, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E02-1162. Encroachment. **William E. Griffith Sr.**, 5636 Brownsville Rd., Pittsburgh, PA 15236. To operate and maintain 220-foot long retaining wall, to construct and maintain three outfall structures along the left bank of Lick Run, and to remove construction debris from Lick Run. The wall is located along Griffith Mortuary on Curry Hollow Road. Approximately 500 feet southwest of the intersection of Curry Hollow Road and Brownsville Road (Glassport, PA Quadrangle N: 14.7 inches; W: 15.6 inches) in South Park Township, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E03-359. Encroachment. **Gilpin Township**, R. R. 5, Leechburg, PA 15656. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 19.0 feet and a minimum underclearance of 4.5 feet across Brady Run for the purpose of improving transportation safety. The project is located on T-562 approximately 0.2 mile east of the Armstrong/Westmoreland County line (Leechburg, PA Quadrangle N: 2.1 inches; W: 14.6 inches) in Gilpin Township, **Armstrong County**.

E26-227. Encroachment. **Doug Cortea**, 101 Frankie Lane, Leisenring, PA 15455. To construct and maintain a 40-foot long, 24-foot x 10-foot box culvert in Opossum Run (WWF) located at a point approximately 400 feet south of intersection of SR 1051 with SR 1039 for the purpose of accessing permittee's property in Divito Park. The project includes construction and maintenance of two 24-inch pipes for a temporary crossing (Uniontown, PA Quadrangle N: 22.0 inches; W: 2.25 inches) in Dunbar Township, **Fayette County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E32-378. Encroachment. **Canoe Township**, P. O. Box 355, Rossiter, PA 15772-0355. To remove the existing structure and to construct and maintain two 30-foot long 8.2 foot x 5.8 foot (invert depressed 0.5 foot) C. M pipe arch culverts in Canoe Creek (CWF) located on T-800 (Stiver Road) at a point approximately 450 feet south of the intersection of SR 1044 with T-800 (Punxsutawney, PA Quadrangle N: 2.15 inches; W: 13.80 inches) in Canoe Township, **Indiana County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E56-268. Encroachment. **Allegheny Township**, R. R. 1, Box 401, Manns Choice, PA 15550. To remove the existing structure and to construct and maintain a 40-foot long 11.4 foot x 7.2 foot steel arch pipe culvert (invert depressed 0.5 feet) in Panther Run (HQ, CWF) located on T-421 approximately 6,600 feet upstream of the confluence of Panther Run with Brush Creek. The project includes approximately 100 LF gravel bar removal and 50 LF bank stabilization (New Baltimore, PA Quadrangle N: 3.4 inches; W: 16.3 inches). The work was authorized under Emergency Permit No. EP5696212 on March 7, 1996 and is located in Allegheny Township, **Somerset County**.

E63-416. Encroachment. **Union Township Board of Parks & Recreation**, Box 43, Gastonville, PA 15336. To construct and maintain two pedestrian bridges, each

bridge having a span of 15.58 feet with an underclearance of 6.0 feet across an unnamed tributary to Peters Creek (TSF) to provide access to a proposed recreational park and to stabilize and maintain approximately 100 feet of the banks of said stream. The project is located at the intersection of Finleyville Road and Jason Road on the east side of Finleyville Road (Bridgeville, PA Quadrangle N: 2.4 inches; W: 0.5 inch) in Union Township, **Washington County**.

E65-639. Encroachment. **Dept. of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain a 1.0-foot depressed dual cell box culvert, each cell having a normal span of 12.0 feet and a rise of 8.5 feet in Brush Creek for the purpose of improving transportation safety. The project is located on S. R. 4003, Section F01, Segment 0020, Offset 000 (Greensburg, PA Quadrangle N: 15.25 inches; W: 12.9 inches) in Hempfield and Penn Townships, **Westmoreland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E45-300. Encroachment. **Walter Bukowski**, 607 East 80th Street, Brooklyn, NY 11236. To construct and maintain a private light-duty bridge having a single span of approximately 18.0 feet and underclearance of approximately 4.0 feet across Middle Branch Brodhead Creek. The project is located 300 feet north of the intersection of S. R. 0447 and Township Road T585 (Buck Hill Falls, PA Quadrangle N: 17.0 inches; W: 2.3 inches) in Barrett Township, **Monroe County**.

E54-222. Encroachment. **Borough of Shenandoah**, 15 West Washington Street, Shenandoah, PA 17976. To modify and maintain the existing stream enclosure in Kehly Run, having a total length of approximately 440 feet, a varying width from 9 feet to 12 feet, 5 inches and a height of approximately 4 feet to 5 feet, with work consisting of the following: (1) to construct and maintain approximately 135 linear feet of 9 foot x 4 foot concrete box culvert sleeved within the existing structure from Station 1+10 to Station 2+45; (2) to remove the existing deteriorated roof slab and channel walls having an approximate rectangular dimension of 10 feet, 6 inches x 5 feet from Station 0+00 to Station 0+40; (3) to remove the existing deteriorated roof slab and to construct and maintain approximately 40 linear feet of concrete cap and chain link fence on top of the existing stone masonry walls, on either side of the stream, from Station 2+45 to Station 2+85; and (4) to remove the existing sewer line and to construct and maintain approximately 150 linear feet of concrete encased, 8-inch PVC sewer line under the box culvert and stream bed from Station 1+45 to Station 2+95. The project is located approximately 0.04 mile southeast of the intersection of Center Street and Bridge Street (Shenandoah, PA Quadrangle N: 13.0 inches; W: 9.5 inches) in Shenandoah Borough, **Schuylkill County**.

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

E15-515. Encroachment. **Borough of Phoenixville**, 140 Church Street, Phoenixville, PA 19460. To modify an existing stormwater outfall by removing 24 linear feet of 72-inch RCP, and to construct in its place, a concrete flared end outfall structure with 16 linear feet of R-8 riprap lined channel which outfalls to French Creek

(TSF), and to install and maintain a 66-inch storm sewer across the 100-year floodplain of French Creek, and install a flared end outfall with 16 linear feet of R-8 riprap lined channel along the French Creek streambank, adjacent to the existing modified stormwater system. The site is located approximately 500 feet from French Creek's confluence with the Schuylkill River, (Phoenixville, PA Quadrangle N: 1.75 inches; W: 1.75 inches) in the Borough of Phoenixville, **Chester County**.

Central Office: Bureau of Waterways Engineering, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

D67-529. Dam. **York Condominium Constructors, Inc.**, 1003 Village Way, York, PA 17404. To construct, operate and maintain a stormwater detention pond located at the Monarch Ridge and Longstown Village residential developments in Windsor Township, **York County**.

Environmental Assessment Approvals and Actions on 401 Certification

EA56-002C0. Environmental Assessment. **Huston Farms**, R. R. 1, Box 214, Rockwood, PA 15557. To construct and maintain a non-jurisdictional dam across a Tributary to South Glade Creek (WWF) impacting approximately 0.15 acre of wetlands (PEM) for the purpose of recreation and is located approximately 1,100 feet northwest of the intersection of S. R. 281 and T 497 (Rockwood, PA Quadrangle N: 15.85 inches; W: 8.45 inches) in Milford Township, **Somerset County**. The Environment Assessment approved by this letter requires construction of 0.2 acre of wetlands as detailed in the wetland replacement plan, revision of December 11, 1996.

Actions taken on applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631-641) relating to the acquisition of rights to divert waters of this Commonwealth.

Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

WA 2-1003. Water allocation. **The City of Duquesne, Allegheny County**, PA. The right to purchase up to 1.0 million gallons per day of water (3.785 million liters per day of water), as a 30 day average, from Municipal Authority of Westmoreland County, **Westmoreland County**, PA. Permits issued on December 12, 1996.

WA 4-724B. Water allocation. **Municipal Authority of the Township of North Sewickley**, Beaver County, PA. The right to withdraw a maximum of 700,000 gallons per day of water (2.65 million liters per day of water), as a daily peak, from the Beaver River, at an intake located in North Sewickley Township, **Beaver County**. Permits issued on December 12, 1996.

[Pa.B. Doc. No. 97-46. Filed for public inspection January 10, 1997, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Ozone Commitment to Additional Control Measures; Public Hearing

In March 1996, the Governor of Pennsylvania created the Southwestern Pennsylvania Ozone Stakeholder Working Group to recommend strategies for ozone attainment and maintenance based on the current health-based

standards. With the successful completion of that process, the Department of Environmental Protection proposes to submit to the Environmental Protection Agency an amendment to the Pennsylvania State Implementation Plan (SIP) for ozone for the Pittsburgh-Beaver Valley Ozone Nonattainment area. The amendment would commit the Department to adopt regulations or modify existing policies for additional control measures. These control measures are intended to achieve emission reductions as part of the demonstration of attainment of the ozone ambient air quality standard. The control measures include: (a) nitrogen oxides control on large fossil-fuel fired combustion sources, (b) controls on gasoline pumps to reduce gasoline vapors (Stage II), (c) clean gasoline requirements; and (d) adding a gas cap pressure test, additional anti-tampering provisions and increased emphasis on repair technician training to the low enhanced vehicle emission test and repair program.

The Pittsburgh-Beaver Valley ozone nonattainment area includes Allegheny, Armstrong, Butler, Beaver, Fayette, Washington and Westmoreland Counties.

The Department will hold one public hearing to receive comments on the proposed SIP amendment. The public hearing will be held at 1 p.m. on February 13, 1997, at the Department of Environmental Protection's office at 400 Waterfront Drive, Pittsburgh, PA.

Persons wishing to present testimony at the hearing should contact Karen Matter at (717) 787-9495 or at P. O. Box 8468, Harrisburg, PA 17105 to reserve a time to present testimony. Persons who do not reserve a time to testify will be able to testify after preregistered witnesses. Each witness must keep oral testimony to 10 minutes, and submit three written copies of the oral testimony at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management, P. O. Box 8468, Harrisburg, PA 17105-8468. Written comments must be received by the close of business, March 13, 1997. Copies of the proposed revision may be obtained from J. Wick Havens at the above address or by telephone at (717) 787-4310 (e-mail: Havens.Wick@A1.dep.state.pa.us). This proposal is also available on the DEP Web site at <http://www.dep.state.pa.us> (choose Public Participation Center/Proposals Open for Comment).

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 J. Wick Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-47. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEPARTMENT OF HEALTH

Health Maintenance Organization Certificate of Authority

On November 27, 1996, Pennsylvania Physician Healthcare Plan filed with the Departments of Health

and Insurance, an application for a Certificate of Authority to establish, operate and maintain a health maintenance organization in accordance with the provisions of the Health Maintenance Organization Act (40 P. S. §§ 1551—1567), Department of Health Regulations (28 Pa. Code §§ 9.1—9.97) and the Insurance Department HMO Regulations (31 Pa. Code § 301.204).

The proposed service area of the applicant is Adams, Berks, Carbon, Cumberland, Dauphin, Franklin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Northampton, Schuylkill, Wyoming and York counties.

A copy of the application is available for public inspection by appointment only at the following locations:

Health Department, Bureau of Health Care Financing, Room 1030 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5193; or

Department of Insurance, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

Interested parties are invited to submit written comments, suggestions or objections within 30 days of the publication of this notice, to Kenneth Harris, Department of Health, or Carolyn Smith, Insurance Department at the above listed addresses. Persons with a disability may submit comments, suggestions and objections in alternative formats, such as by audio tape, braille or using the Department of Health's TDD: (717) 783-6514. Persons with a disability who require alternative arrangements to inspect the application should contact either Kenneth Harris or Carolyn Smith.

DANIEL F. HOFFMANN, FACHE,
Acting Secretary

[Pa.B. Doc. No. 97-48. Filed for public inspection January 10, 1997, 9:00 a.m.]

Modified Participating Provider Agreement

In a letter dated November 18, 1996, received November 22, 1996, Delta Dental of Pennsylvania requested Department of Health review and approval under the provisions of 40 Pa.C.S. § 6324(a) of a modified participating provider agreement. The agreement substitutes the term participating provider for participating dentist. The applicant indicates that the change is in accordance with Pennsylvania insurance law, and will permit other providers of dental services, particularly nurse anesthetists, to participate and receive the same advantages of claim review and direct payment as licensed dentists.

A copy of the filing is available for public inspection within 30 days of publication of this notice, by appointment only, at the Department of Health, Bureau of Health Care Financing, Room 1030 Health and Welfare Building, Harrisburg, PA 17120, telephone (717) 787-5193.

Interested parties are invited to submit written comments, suggestions or objections to Frank Clark, Acting Director, Bureau of Health Care Financing at the address listed above. Persons with a disability may submit comments, suggestions and objections in alternative formats, such as audio tape, braille or using the Department of Health's TDD (717) 783-6414. Persons with a disability

who require alternative arrangements to inspect the application should contact Frank Clark at (717) 787-5193.

DANIEL F. HOFFMANN, FACHE,
Acting Secretary

[Pa.B. Doc. No. 97-49. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Discussion Paper on Statewide Managed Care

The Department of Public Welfare is releasing a Discussion Paper soliciting comments on the most effective plan for the implementation of Statewide mandatory Medicaid managed care expansion. Copies of the Discussion Paper will be available as of Monday, January 6, 1997, in the County Assistance Offices (CAOs) in all 67 counties. Please consult your county CAO for the distribution location in counties with more than one CAO location. Public meetings will be held January through March to receive public comment on this document. The location, date and times for these public meetings will be announced in a later edition of the *Pennsylvania Bulletin* and in local newspapers.

The Discussion Paper is also available by written or telephone request to the Department of Public Welfare, Office of Medical Assistance Programs, P. O. Box 8043, Harrisburg State Hospital, Harrisburg, PA 17105, Attn: Kacy Stouffer, (717) 772-6782. Persons with a disability may obtain an audio taped copy of the Discussion Paper by contacting Kacy Stouffer at (717) 772-6782. A copy of the Discussion Paper may be located on the Internet, Commonwealth of Pennsylvania's Home Page at <http://www.state.pa.us>

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 97-50. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Instant Daily Number '97 Instant Lottery Game

Under the provisions of the State Lottery Law (72 P. S. §§ 3761.1—3761.15) and the provisions of 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Instant Daily Number '97.

2. *Price:* The price of a Pennsylvania Instant Daily Number '97 instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Instant Daily Number '97 instant lottery game ticket will contain two play areas designated as Game 1 and Game 2. Each game is played separately. The play symbols and their captions located in Game 1—"Your 1st Number" and Game

2—"Your 2nd Number" are: 0 (ZERO), 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

4. *Bonus Play Symbols:* The bonus play symbols and their captions located in the "Bonus Play" area are: \$1⁰⁰ (ONE) and PLAY AGAIN.

5. *Prizes:* The prizes that can be won in this game are \$1, \$25, \$40 and \$250.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,224,800 tickets will be printed for the Pennsylvania Instant Daily Number '97 instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets where the "Your 1st Number" or "Your 2nd Number" matches the "Lottery Number"—straight, all three digits in exact order, on a single ticket, shall be entitled to a prize of \$250.

(b) Holders of tickets where the "Your 1st Number" or "Your 2nd Number" matches the "Lottery Number"—boxed, all three digits in any order, on a single ticket, shall be entitled to a prize of \$40.

(c) Holders of tickets where the "Your 1st Number" or "Your 2nd Number" matches the "Lottery Number's"—front pair, first two digits in exact order, on a single ticket, shall be entitled to a prize of \$25.

(d) Holders of tickets where the "Your 1st Number" or "Your 2nd Number" matches the "Lottery Number's"—back pair, last two digits in exact order, on a single ticket, shall be entitled to a prize of \$25.

(e) Holders of tickets where the "Bonus Play" area reveals \$1⁰⁰ (ONE) shall be entitled to a prize of \$1.

(f) A prize will be paid only for the highest Pennsylvania Daily Number '97 instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Win	Approximate Odds	Approximate No. of Winners Per 5,224,800 Tickets
\$1	1:3.36	1,555,500
\$25	1:201.60	25,917
\$25	1:201.60	25,917
\$40	1:322.56	16,198
\$250	1:2,016	2,592

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Instant Daily Number '97 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Instant Daily Number '97, prize money on winning Pennsylvania Instant Daily Number '97 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Instant Daily Number '97 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will

expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-1—3761-15), the regulations contained in Part V of Title 61 of the Pennsylvania Code (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. Such announcement will be disseminated through media used to advertise or promote Pennsylvania Instant Daily Number '97 or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-51. Filed for public inspection January 10, 1997, 9:00 a.m.]

Pennsylvania Winning Pairs Instant Lottery Game

Under the provisions of the State Lottery Law (72 P. S. §§ 3761-1—3761-15) and the provisions of 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Winning Pairs.

2. *Price:* The price of a Pennsylvania Winning Pairs instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Winning Pairs instant lottery game ticket will contain two play areas designated as "1st Hand" and "2nd Hand." Each "Hand" is played separately. The play symbols and their captions located in the "1st Hand" and "2nd Hand" are: 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), J (JACK), Q (QUEEN), K (KING) and A (ACE).

4. *Prizes:* The prizes that can be won in this game are one free ticket, \$1, \$2, \$4, \$8, \$25, \$50, \$500 and \$10,000. The player can win up to two times on each ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 8,210,400 tickets will be printed for the Pennsylvania Winning Pairs instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with two matching A (ACE) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$10,000.

(b) Holders of tickets with two matching K (KING) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets with two matching Q (QUEEN) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$50.

(d) Holders of tickets with two matching J (JACK) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$25.

(e) Holders of tickets with two matching 10 (TEN) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$8.

(f) Holders of tickets with two matching 9 (NINE) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$4.

(g) Holders of tickets with two matching 8 (EIGHT) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$2.

(h) Holders of tickets with two matching 7 (SEVEN) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of \$1.

(i) Holders of tickets with two matching 6 (SIX) play symbols in the same "Hand," on a single ticket, shall be entitled to a prize of one Pennsylvania instant lottery game ticket of equivalent sale price which is currently on sale, plus an entry into a Semifinal Grand Prize Drawing to qualify for a Grand Prize Drawing with prizes of \$5,000, \$50,000, \$75,000, \$100,000, or an annuity worth \$1 million (\$50,000 a year for 20 years).

7. *Grand Prize Drawing Procedure:*

(a) *Frequency.*

(1) Grand Prize Drawings will be held on dates to be determined by the Secretary. The dates and locations will be announced by the Director.

(2) From the commencement of Pennsylvania Winning Pairs until the deadline announced by the Director, there will be ten Grand Prize finalists selected for each Grand Prize Drawing. Grand Prize finalists will be selected in Semifinal Grand Prize Drawings on dates to be determined by the Secretary and announced by the Director.

(b) *Eligibility for Semifinal Grand Prize Drawings.* To be eligible for a Semifinal Grand Prize Drawing, a winner having a free winning ticket shall timely claim it at a participating Lottery sales retailer and properly complete the back of the ticket. The ticket claimed shall meet the ticket criteria under 61 Pa. Code § 819.213 (relating to ticket validation and requirements) to be eligible for a Semifinal Grand Prize Drawing.

(1) The Lottery will make a reasonable effort to ensure that a redeemed free winning ticket is entered into one of the Semifinal Grand Prize Drawings. The Lottery assumes no responsibility for a lost or misplaced redeemed ticket not entered into a Semifinal Grand Prize Drawing.

(2) A redeemed free winning ticket is eligible for only one Semifinal Grand Prize Drawing. A ticket that is not in one eligible group of redeemed free winning tickets may, at the discretion of the Director, remain eligible for a subsequent Semifinal Grand Prize Drawing.

(3) If a ticket is rejected during or following a Semifinal Grand Prize Drawing, the sole remedy is to select another ticket to replace the rejected ticket in accordance with Lottery procedure.

(4) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(c) *Manner of conducting Semifinal Grand Prize Drawings.*

(1) Periodically, as determined by the Secretary and announced by the Director, a Semifinal Grand Prize Drawing will be held using eligible redeemed free winning tickets. Ten finalists will be selected from an eligible group of tickets entered in the drawing. For the purpose of the drawing, each of the eligible groups of redeemed free winning tickets will be further divided into subgroups and placed in containers, with each container assigned a code depending on the number of containers used.

(2) With the aid of mechanical or automatic drawing equipment, ten container codes will be selected. The codes will determine the containers from which the ten finalists' tickets will be ultimately selected. One winning finalist ticket will be drawn from the first container selected. One winning ticket will then be selected from the second selected container and this procedure will be repeated until ten finalists have been selected for each Grand Prize Drawing.

(d) *Manner of conducting Grand Prize Drawings.*

(1) Following the selection of the ten finalists as described in subsection (c), there will be Grand Prize Drawings held at the discretion of the Director.

(2) The Lottery will award the following prizes to the eligible finalists in each of the Grand Prize Drawings:

<i>Grand Drawing Prizes</i>	<i>No. of Winners</i>	<i>Amount</i>
Grand Prize	1	\$1 million-annuity, or \$100,000, or \$75,000, or \$50,000
Consolation Prize	9	\$5,000

(e) *Procedure for conducting Grand Prize Drawings.*

(1) At a Grand Prize Drawing, a mechanical device in the shape of two concentric wheels will be used, a smaller wheel directly in front of a larger wheel. The larger wheel will have ten spaces each marked with a letter, "a" through "j," inclusive, inscribed clockwise in alphabetical order. The names of the selected ten finalists will be placed on the larger wheel in the order that they were selected beginning with the space marked letter "a" and continuing alphabetically through the letter "j," inclusive.

(2) The smaller wheel will contain designated amounts of \$1 million-annuity, \$100,000, \$75,000 and \$50,000.

(3) The wheels will be spun and when the wheels stop, the name of the finalist on the larger wheel will be identified as the Grand Prize Drawing winner and will be entitled to the prize indicated on the smaller wheel.

(4) The nine finalists whose names remain will receive a consolation prize of \$5,000 each.

(5) The Grand Prize Drawing winner shall receive the amount indicated, and if that amount is the top grand prize of an annuity worth \$1 million, that prize will be payable in 20 equal annual installments of \$50,000. The payment of a top grand prize to a person who dies before receiving a prize or to a person 17 years of age or younger shall be paid according to 61 Pa. Code §§ 811.16 and 811.27 (relating to prizes payable after death of a prize winner; and payment of prizes to persons under 18 years of age).

(6) Prizes chosen in the Grand Prize Drawing shall be claimed within 1 year of the date of the Grand Prize Drawing.

(7) The determination of a winner will be made by the Secretary, whose judgment will be final, conclusive and binding on the finalists.

(8) Prizes are subject to Federal withholding tax provisions.

(9) Number and Description of Prizes and Approximate Odds: The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*Match 2 of a Kind
In Any "Hand" And
Win Prize Shown
For That Pair*

	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 8,210,400 Tickets</i>
Free	One Free Ticket Plus Entry	1:15	547,360
\$1	\$1	1:20	410,520
\$1 + \$1	\$2	1:60	136,840
\$2	\$2	1:120	68,420
\$2 + \$2	\$4	1:100	82,104
\$4	\$4	1:200	41,052
\$4 + \$4	\$8	1:300	27,368
\$8	\$8	1:600	13,684
\$8 + \$8	\$16	1:200	41,052
\$25	\$25	1:400	20,526
\$25 + \$25	\$50	1:1,000	8,210
\$50	\$50	1:2,000	4,105
\$50 + \$50	\$100	1:2,000	4,105
\$500	\$500	1:205,260	40
\$10,000	\$10,000	1:1,026,300	8

8. *Retailer Incentive Awards:*

(a) *Grand Prize Bonus.* The Lottery will pay a bonus to a retailer selling a redeemed and validated winning Pennsylvania Winning Pairs instant lottery game ticket selected for a Grand Prize Drawing as follows:

(1) A winner of an annuity worth \$1 million (\$50,000 a year for 20 years) top grand prize entitles the selling retailer to a bonus of \$10,000.

(2) A winner of a \$100,000 grand prize entitles the selling retailer to a bonus of \$1,000.

(3) A winner of a \$75,000 grand prize entitles the selling retailer to a bonus of \$750.

(4) A winner of a \$50,000 grand prize entitles the selling retailer to a bonus of \$500.

(5) A winner of a \$5,000 consolation prize entitles the selling retailer to a bonus of \$50.

(b) *Retailer incentive.* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Winning Pairs instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money.* For a period of 1 year from the announced close of Pennsylvania Winning Pairs, prize money on winning Pennsylvania Winning Pairs instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of Pennsylvania Winning Pairs, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law.* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-1—3761-15), the regulations contained in Part V of Title 61 of the Pennsylvania Code (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game.* The Secretary may announce a termination date, after which no further tickets from this game may be sold. Such announcement will be disseminated through media used to advertise or promote Pennsylvania Winning Pairs or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-52. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation, under 71 P.S. § 513(e)(7), intends to sell certain land owned by it.

The following property is available for sale by the Department.

1. Parcel 295—The parcel contains 113,763 square feet or 2.61 acres of land located in the 21st Ward of the City of Pittsburgh, County of Allegheny, at 1130 Ridge Avenue (formerly the William G. Johnson Company property).

It has been determined that the land is no longer needed for present or future Transportation purposes.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to Henry M. Nutbrown, P.E., District Engineer, Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-53. Filed for public inspection January 10, 1997, 9:00 a.m.]

DEVELOPMENTAL DISABILITIES COUNCIL

Annual Report for FFY 1996

Under the provisions of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 1996, P. L. 104—183 (The 1996 DD Act), this announcement serves to notify the public of the availability of Pennsylvania's "1996 Annual Report to the Federal Administration on Developmental Disabilities." The 1996 Annual Report describes the activities of the Pennsylvania Council over Federal fiscal year 1996 which is the period of October 1, 1995 to September 30, 1996. During this period, the Council concluded most of its funded projects under its last Federally approved Three-Year Plan for 1993-1995 and began work to fund new projects in the 1996-1998 Plan. The Goals and Objectives of both Three-Year Plan cycles were developed with public input as per the requirements of The DD Act. The 1996 Annual Report is available upon mailed written request to the Developmental Disabilities Council, Attention: Mary Kent, Room 569 Forum Building, Harrisburg, PA 17120.

Alternative formats of the 1996 Annual Report are available upon specified request. The DD Act is available through county public library systems and county court house law libraries.

DONALD HAHN,
Acting Executive Director

[Pa.B. Doc. No. 97-54. Filed for public inspection January 10, 1997, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Borough of Somerset v. DEP; EHB Doc. No. 96- 270-MR

Borough of Somerset has appealed the issuance by the Department of Environmental Protection of an NPDES permit for a facility in Somerset Township, Somerset County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at 1 (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 97-55. Filed for public inspection January 10, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT

Blue Cross of Northeastern Pennsylvania; Amendment to Hospital Services Agreement; Filing No. 309-HOSP-ACII-AMEND2-12-96; Form No. HOSP-ACII-AMEND2-12-96

Blue Cross of Northeastern Pennsylvania requests the Insurance Department's approval to utilize an amendment to its standard Hospital Services Agreement. The agreement creates certain quality assurance standards for member hospitals utilizing a per case reimbursement methodology and permits the selection of designated member hospitals as preferred providers. This filing consists of nine pages.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg. Please refer to Insurance Department File No. 9612240039001 when referencing this filing.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Policy Examiner, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 97-56. Filed for public inspection January 10, 1997, 9:00 a.m.]

Midwest Mutual Insurance Company; Motorcycle Program

On December 26, 1996, the Insurance Department received from Midwest Mutual Insurance Company a filing for a rate level and rules change for motorcycle insurance.

The company requests an overall 3.4% decrease, amounting to \$190,496 annually, to be effective March 20, 1997.

Unless formal administrative action is taken prior to February 24, 1997, the subject filing may be deemed approved by operation of law.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Jin Liu, Insurance Department, Office of Rate and Policy Regulation, Bureau of Property and Casualty Insurance, Actuarial Review Division, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 97-57. Filed for public inspection January 10, 1997, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Pytlowany, Bohdan and Sophie; file no. 96-223-37560 Pennsylvania National Mutual Casualty Insurance Company; doc. no. PH96-12-029; February 11, 1997, at 2 p.m.;

Appeal of Boothe, Sharon and Noel; file no. 96-264-37637; Allstate, Attn. Jeanine Raquet; doc. no. PH96-12-030; February 12, 1997, at 9 a.m.

Appeal of George, Theresa A.; file no. 96-303-73089; State Farm Fire & Casualty; doc. no. PI96-12-031; February 12, 1997, at 10 a.m.;

Appeal of Suhocki, Irene G.; file no. 96-265-37533; Nationwide Insurance Company; doc. no. PH96-12-017; February 25, 1997, at 11 a.m.;

Appeal of Robbins, Joanna G. and Paul L.; file no. 96-223-32111; First General Insurance Company; doc. no. PH96-12-015; February 25, 1997, at 1 p.m.;

Appeal of Clawson, John and Linda; file no. 96-121-07416; Allstate Insurance Company; doc. no. P96-12-012; February 25, 1997, at 2 p.m.;

Appeal of Johnson, Ali D.; file no. 96-121-077033; Donegal Mutual Insurance Company; doc. no. P96-12-011; February 26, 1997, at 11 a.m.;

Appeal of Hess, Philip K.; file no. 96-121-07228; Erie Insurance Exchange; doc. no. P96-12-010; February 26, 1997, at 2 p.m.;

Appeal of Watrous, Joseph and Katherine; file no. 96-121-07166; Royal Indemnity; doc. no. P96-12-009; February 26, 1997, at 2 p.m.;

Appeal of Thal, James; file no. 96-121-07494; Nationwide; doc. no. P96-12-007; February 27, 1997, at 11 a.m.;

Appeal of Cavanaugh, Raymond c/o T. Macaniff; file no. 96-265-37239; Erie Insurance Exchange; doc. no. PH96-12-001; March 5, 1997, at 1 p.m.;

Appeal of Campano, Susan E.; file no. 96-303-72988; Erie Insurance Company; doc. no. PI96-12-028; March 5, 1997, at 2 p.m.;

Appeal of Martin, Dean; file no. 96-188-06618; Pennsylvania National Mutual Casualty Insurance Company; doc. no. P96-12-006; March 6, 1997, at 2 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representatives of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues pre-

sented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4289.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 97-58. Filed for public inspection January 10, 1997, 9:00 a.m.]

Review Procedure Hearings under The Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insured's policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Cusamano, Joseph and Patricia; file no. 96-223-36649; State Auto Insurance Companies; doc. no. PH96-12-014; February 20, 1997, at 10 a.m.;

Appeal of Fulmer, Geraldine; file no. 96-280-37292; Foremost Property & Casualty Insurance Company; doc. no. PH96-12-016; February 20, 1997, at 1 p.m.;

Appeal of Austin, Dennis and Linda; file no. 96-497-91433; State Farm Insurance Company; doc. no. E96-12-024; February 27, 1997, at 1 p.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General

Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4289.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 97-59. Filed for public inspection January 10, 1997, 9:00 a.m.]

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

Notice of and Amount of Surcharge

The Medical Professional Liability Catastrophe Loss Fund, under the authority granted by section 701(e) of the Health Care Services Malpractice Act, 40 P. S. § 1301.701(e), as amended by Act 135 of 1996, has determined that the annual surcharge to be assessed for calendar year 1997 shall be 75% applied to the prevailing primary premium for each health care provider.

Act 135 of 1996 defines "prevailing primary premium" as the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association (JUA). For purposes of the 1997 annual surcharge, the JUA rates to be used are \$200,000/\$600,000 for health care providers other than hospitals, and \$200,000/\$1,000,000 for hospitals, as set forth in Exhibits "1" and "2" within this notice.

Health care providers having approved self-insurance plans shall be surcharged an amount equal to the surcharge imposed on a health care provider of like class, size, risk and kind as determined by the Fund's Director.

JOHN H. REED,
Director

Exhibit 1

Medical Professional Liability Catastrophe Loss fund
Prevailing Primary Premium*
for Physicians, Surgeons and other Health Care Professionals

Class**	Territory***				
	1	2	3	4	5
006	3,582	1,752	1,870	3,228	2,326
007	4,358	2,130	2,274	3,926	2,828
010	6,352	3,106	3,316	5,724	4,122
015	7,864	3,846	4,104	7,086	5,104
020	12,164	5,948	6,350	10,960	7,894
030	16,224	7,934	8,468	14,616	10,528

Class**	Territory***				
	1	2	3	4	5
035	17,640	8,626	9,208	15,894	11,448
050	23,452	11,468	12,242	21,130	15,220
060	27,904	13,646	14,566	25,142	18,110
070	35,844	17,528	18,710	32,296	23,262
080	39,960	19,540	20,860	36,004	25,934
100	55,104	26,946	28,764	49,648	35,762
120	2,788	1,364	1,456	2,512	1,810
130	12,510	6,118	6,530	11,272	8,118
900	3,176	1,554	1,658	2,862	2,062

* Fund surcharges will be assessed on annualized JUA rates

** As defined by J.U.A. (see Fund Exhibit 3)

*** As defined by J.U.A.:

Territory 1: Delaware, Montgomery, Philadelphia

Territory 2: Remainder of State

Territory 3: Allegheny

Territory 4: Bucks, Schuylkill

Territory 5: Chester, Mercer, Monroe, Lackawanna, Westmoreland

Exhibit 2

Medical Professional Liability Catastrophe Loss Fund

Prevailing Primary Premium*
for Hospitals, Nursing Homes and Primary Health Centers

Territory**	Exposure Base	Specialty Code	Exposure Type***	Prevailing Primary Premium
Hospitals (\$200,000/\$1,000,000 Limits)				
1, 4	Per Occupied Bed	80611/80612	Hospital (acute care)	3,026.00
1, 4	Per Occupied Bed	80611/80612	Mental Health/Mental Rehabilitation	1,514.00
1, 4	Per Occupied Bed	80611/80612	Extended Care	136.00
1, 4	Per Occupied Bed	80611/80612	Out Patient Surgical	3,026.00
1, 4	Per Occupied Bed	80611/80612	Health Institution	606.00
1, 4	Per 100 Visits	80611/80612	Emergency	302.62
1, 4	Per 100 Visits	80611/80612	Other	121.05
1, 4	Per 100 Visits	80611/80612	Mental Health/Mental Rehabilitation	75.66
1, 4	Per 100 Visits	80611/80612	Extended Care	6.72
1, 4	Per 100 Visits	80611/80612	Out Patient Surgical	302.62
1, 4	Per 100 Visits	80611/80612	Health Institution	45.39
1, 4	Per 100 Visits	80611/80612	Home Health Care	75.66
2, 3	Per Occupied Bed	80611/80612	Hospital (acute care)	1,514.00
2, 3	Per Occupied Bed	80611/80612	Mental Health/Mental Rehabilitation	756.00
2, 3	Per Occupied Bed	80611/80612	Extended Care	68.00
2, 3	Per Occupied Bed	80611/80612	Out Patient Surgical	1,514.00
2, 3	Per Occupied Bed	80611/80612	Health Institution	304.00
2, 3	Per 100 Visits	80611/80612	Emergency	151.32
2, 3	Per 100 Visits	80611/80612	Other	60.52
2, 3	Per 100 Visits	80611/80612	Mental Health/Mental Rehabilitation	37.82
2, 3	Per 100 Visits	80611/80612	Extended Care	3.36
2, 3	Per 100 Visits	80611/80612	Out Patient Surgical	151.32
2, 3	Per 100 Visits	80611/80612	Health Institution	22.70
2, 3	Per 100 Visits	80611/80612	Home Health Care	37.82
Nursing Homes (\$200,000/\$600,000 Limits)				
All	Per Occupied Bed	80923/80924	Convalescent	44.00
All	Per Occupied Bed	80923/80924	Skilled Nursing	38.00
All	Per Occupied Bed	80923/80924	Personal Care	14.00
Primary Health Centers (\$200,000/\$600,000 Limits)				
1, 4	Per 100 Visits	80614	Emergency	297.78
1, 4	Per 100 Visits	80614	Other	119.12

Territory**	Exposure Base	Specialty Code	Exposure Type***	Prevailing Primary Premium
1, 4	Per 100 Visits	80614	Mental Health/Mental Rehabilitation	74.45
1, 4	Per 100 Visits	80614	Out Patient Surgical	297.78
1, 4	Per 100 Visits	80614	Home Health Care	74.45
2, 3	Per 100 Visits	80614	Emergency	148.88
2, 3	Per 100 Visits	80614	Other	59.55
2, 3	Per 100 Visits	80614	Mental Health/Mental Rehabilitation	37.22
2, 3	Per 100 Visits	80614	Out Patient Surgical	148.88
2, 3	Per 100 Visits	80614	Home Health Care	37.22

* Fund surcharges will be assessed on annualized JUA rates

** As defined by PHICO Insurance Company, and adopted by J.U.A.:

Territory 1: Delaware, Montgomery, Philadelphia

Territory 2: Remainder of State

Territory 3: Allegheny

Territory 4: Bucks, Chester

*** As defined by PHICO Insurance Company, and adopted by J.U.A.

**** Based on PHICO Insurance Company rates as of 9/1/94, as adopted and modified by J.U.A.

[Pa.B. Doc. No. 97-60. Filed for public inspection January 10, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

Property, Excluding Household Goods in Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before January 27, 1997.

A-00113626	Glenn R. Martin R. D. 1, Box 311, Annville, PA 17003
A-00113629	Donald L. Shirey R. D. 3, Box 38, New Bethlehem, PA 16242; Kent S. Pope, Esquire, Ten Grant Street, Clarion, PA 16214
A-00113628	Roy M. Hoover 250 F Hillside Road, Stevens, PA 17578
A-00113631	Enterprise Products Company, t/d/b/a Enterprise Transportation Company P. O. Box 4324, Houston, TX 77210-4324

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 97-61. Filed for public inspection January 10, 1997, 9:00 a.m.]

Telephone Service Without Hearing

A-330025F2000. Bell Atlantic-Pennsylvania, Inc.
Application of Bell Atlantic-Pennsylvania, Inc., for certifi-

cate of public convenience to discontinue improved mobile telephone service.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before January 27, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Julia A. Conover, Daniel E. Monagle, Bell Atlantic-Pennsylvania, Inc., 1717 Arch St., 32nd Floor, Philadelphia, PA 19103.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 97-62. Filed for public inspection January 10, 1997, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Project # 9526.7r, Rehabilitation of Rail Track, Pier 82 South—Southside until 2 p.m., Thursday, February 6, 1997. The bid documents can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Sq., 13th Floor, Philadelphia, PA 19106, (215) 928-9100, and will be available January 21, 1997. The cost of the bid document is \$35 (includes 7% PA Sales Tax) which is nonrefundable. The PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal employment opportunity laws and regulations. A mandatory prebid job site meeting will be held on January 30, 1997.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 97-63. Filed for public inspection January 10, 1997, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17108:

February 5, 1997	Gerald J. Naticchi	1 p.m.
	(Service Purchase)	
February 12, 1997	Donna K. McCalicher	1 p.m.
	(Death Benefit)	

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.01 (relating to applicability of general rules), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code Part II unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 97-64. Filed for public inspection January 10, 1997, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Bids

The Turnpike Commission is requesting sealed bids for:

- 1) One Ton Extended Cargo Vans. Open Date: January 23, 1997 at 11 a.m.
- 2) Crew Cab Stakebody Trucks. Open Date: January 23, 1997 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. 97-65. Filed for public inspection January 10, 1997, 9:00 a.m.]

Request for Bids

The Turnpike Commission is requesting a sealed bid for:

Portable Asphalt Storage Units. Open Date: January 27, 1997 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. 97-66. Filed for public inspection January 10, 1997, 9:00 a.m.]

Request for Bids

The Turnpike Commission is requesting a sealed bid for:

Boiler Replacement at Devault Maintenance Building.
Mandatory Pre-Bid Meeting: January 21, 1997 at 10 a.m. at Devault Maintenance Building, Milepost 316.27 WB in Chester County, PA. Open Date: February 4, 1997 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. 97-67. Filed for public inspection January 10, 1997, 9:00 a.m.]

Request for Proposals

The Turnpike Commission will accept technical and price proposals for furnishing cultural diversity training.

The project is to provide Cultural Diversity Training for approximately 400 employees at eastern, western and central locations across the Turnpike Commission system.

Major services include course development, which requires the preparation of a detailed work plan, to be submitted for the Commission's approval; and course presentation to be done in 15 separate sessions at three different locations.

A mandatory preproposal conference will be held at the Administration Building, Eisenhower Boulevard and Route 283, Highspire, PA on January 23, 1997, at 10 a.m. Failure to be represented and registered with Commission's representative at the preproposal conference may be cause for rejection of bids.

Sealed proposals will be received by the Manager of Purchases for the Turnpike Commission at the Administration Building (mailing address: P. O. Box 67676, Harrisburg, PA 17106-7676) not later than 12 noon on February 6, 1997. Bid proposal forms and conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department, (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-68. Filed for public inspection January 10, 1997, 9:00 a.m.]

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building,

Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following contract:

Contract No. 97-003-RJ69. Bituminous Overlay, ID-2, SRL-E from M. P. 226.66 to M. P. 235.60 on the PA Turnpike System in Cumberland Co., PA.

Bid Opening Date: February 18, 1997, 11 a.m.

Bid Surety: 5%.

Plans, specifications and Contract Documents will be available and open to the public inspection at the Administration Building. Copies may be purchased upon payment of \$30 per paper copy set (do not add State tax) by check or U.S.P.S. Money Order (no cash) to the Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676: Attn: Secretary/Treasurer's Office. No refund will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Director of Purchases for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-69. Filed for public inspection January 10, 1997, 9:00 a.m.]

Retention of Engineering Firm

**Somerset, Bedford, Fulton, Huntingdon,
Franklin, Cumberland, York, Dauphin, Berks,
Lancaster and Lebanon Counties**
Reference No. 2-051

The Turnpike Commission will retain an engineering firm or construction management firm for an open-end contract for construction inspection services on various projects in the Western-Central Region (Milepost 100.0 to Milepost 300.0) of the Pennsylvania Turnpike. The types of projects to be inspected under the contract may include, but are not limited to, bituminous overlays, bridge rehabilitations, and service plaza parking lot expansions, fuel tank replacements and building modifications.

The contract will have a completion date of December 31, 1998, with projects assigned on an as-needed basis. The contract will be for a maximum cost of \$500,000.

The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend the prebid meetings and the preconstruction conferences for each project with the Commission.

The selected firm may be required to provide onsite construction inspections, write all project correspondence, review and approve construction computations such as temporary shoring, support forms, and the like, approve materials, and inspect the manufacture of selected construction materials. In addition, the selected firm may be required to keep records, document the construction work, review current estimates, prepare final estimates for payment to the construction contractor, prepare change orders, conduct monthly job conferences, monitor the

monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine from project records the final quantities of each contract item, and perform other duties as may be required.

Sixty percent of the inspection staff assigned to this Commission construction project must meet any of the following requirements:

(1) Be certified by the National Institute for Certification in Engineering Technologies (NICET) as a Transportation Engineering Technician—Construction, Level 2 or higher.

(2) Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with 1 year of highway experience acceptable to the Commission.

(3) Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway experience acceptable to the Commission.

(4) Hold a Bachelor of Science Degree in Civil Engineering with 2 years of highway experience acceptable to the Department or a Bachelor of Science Degree in Civil Engineering Technology with 2 years of highway experience acceptable to the Commission.

(5) Hold an Associate Degree in Civil Engineering Technology with 3 years of highway experience acceptable to the Commission.

The remaining 40% assigned to each Commission construction project shall meet the following minimum education and experience requirements:

Education—Graduation from high school or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for high school graduation.

Experience—One year of experience in construction inspection or workmanship which required reading and interpreting construction plans and specifications or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

In addition, the Consultant shall employ one NICET Level 1, Student Enrollment Employee for this assignment.

Based on an evaluation of acceptable letters of interest received in response to this solicitation, the order of selection will be established for the purpose of entering into an open end agreement with the highest selected firm. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

Direct inquiries to Matthew J. Wagner at (717) 939-9551, extension 5210.

General Requirements and Information

Firms interested in performing the above services are invited to submit letters of interest to Paul A. Edmunds, P.E., Acting Deputy Executive Director—Engineering/Chief Engineer, Administration Building located on Eisenhower Boulevard at the Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The letters of interest must include in the heading the firm's Federal Identification Number and the project reference number indicated in the advertisement. A Standard Form 254, "Architect-Engineer and Related Services

Questionnaire," not more than 1 year old as of the date of this advertisement must be submitted for the firm, each party in a joint venture and for each subconsultant the firm or joint venture is proposing to use for the performance of professional services. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project," must accompany each letter of interest. DOT Form D-427 (as revised 6/89) must be completed to show an indication of both the prime consultant's and subconsultant's current workload by listing all Department of Transportation and Turnpike Commission projects.

Standard Form 255 must be filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on this project.

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.

The Turnpike Commission currently limits its participation in the remuneration of principals or consultant employees performing work on projects to \$72,800 per annum or \$35 per hour or their actual audited remuneration, whichever is less. The Commission currently limits its participation in the consultant's indirect payroll costs (overhead) to 130% and the consultant's field indirect payroll costs (overhead) to 100% of the consultant's actual audited overhead rate, whichever is less.

The following factors will be considered by the Committee during their evaluation of the firms submitting letters of interest:

(A) Specialized experience and technical competence of firm.

(B) Past record of performance with respect to cost control, work quality and ability to meet schedules. The specific experience of individuals who constitute the firms shall be considered.

(C) The prime consultant's and subconsultant's current workload as indicated on DOT Form D-427 (as revised 6/89). Letters of interest not including Form D-427 are subject to nonconsideration by the Selection Committee.

(D) Location of consultant's and subconsultant's office where the work will be performed.

(E) Listing of subconsultants intended. Any deviation from the subconsultants listed in the letter of interest will require written approval from the Commission.

(F) Previous experience in construction inspection of large highway or public works projects.

(G) Other factors, if any, specific to the project.

The letters of interest and required forms must be received by 4 p.m., Friday, February 7, 1997. Any letters of interest received after this date and time will be time-stamped and returned.

The assignment of the above services will be made to one of the firms responding to this notice, but the Commission reserves the right to reject all letters of interest, to cancel solicitation requested under this notice, and/or to readvertise solicitation for these services.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-70. Filed for public inspection January 10, 1997, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.
- ③ Contract Information
- ④ Department
- ⑤ Location
- ⑥ Duration
- ⑦ (For Commodities: Contact: Vendor Services Section 717-787-2199 or 717-787-4705)

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET THAT COMPETITIVE EDGE—FOR FREE!

Do you want to do business with your state government? The Treasury Department's office of Contract Information Services can assist you by providing you with information that may be helpful to you in successfully bidding on State contracts.

Act 244 of 1980 requires Commonwealth departments and agencies to file with the Treasury Department a copy of all contracts involving an expenditure of \$5,000 or more.

These fully executed contracts usually contain the vendor's name, dollar value, effective and termination dates and contract specifications. Some contracts also include the names of other bidding vendors and the bid proposal compiled by the awarded vendor. There is a minimal cost for photocopying contracts.

Allow the Treasury Department to "make a difference for you." For contract information call the office of Contract Information Services TOLL-FREE (in Pennsylvania) at 1-800-252-4700 or (717) 787-4586. Or you may write or visit the office at Room G13, Finance Building, Harrisburg, Pa. 17120.

CATHERINE BAKER KNOLL,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

1578116 Chemicals and chemical products—350 cu. ft. purolite CF100E resin or equal.

Department: Corrections
Location: Graterford, Montgomery County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

8169120 Concrete—2,560 bags, Portland Cement based fast-setting concrete mix, item 110 or approved equal.

Department: Transportation
Location: Various locations—Lackawanna, Luzerne, Pike, Susquehanna, Wayne and Wyoming Counties
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

8503550 Containers—800 ea. 5 gal. can, utility, diesel fuel, kerosene (blue).

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1455216 Motor vehicles, trailers and cycles—1 ea. '97 model 15 passenger van wagon.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1519206 Motor vehicles, trailers and cycles—15 ea. '97 Chevrolet Astro or GMC Safari (no substitute) All Wheel Drive Cargo Van.

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1518206 Motor vehicles, trailers and cycles—2 ea. '97 Model Ford E-150, no substitute, compact van.

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1608206 Paper and printing—envelopes; 10M, evidence, golden brown Kraft, 40 lb. substance, size 10" x 13", printed black ink, packed 250/case.

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

SERVICES**Computer Related Services—08**

C106597 Provide ERDAS IMAGINE 8.2 Software License, installation, telephone support and training.

Department: Conservation and Natural Resources
Location: Bureau of Forestry—Division of Forest Pest Mgmt., Middletown, PA 17057
Duration: One year from acquisition of software
Contact: Cory Gaiski, (717) 783-0760

Construction and Construction Maintenance—09

AE-2761 Replacement of existing overhead and pass doors. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Maintenance Building, District 2-8, St. Mary's, Elk County, PA
Duration: 120 calendar days—proposed bid Feb. 1997
Contact: Tina Chubb, (717) 787-7001

AE-5040 ADA restroom renovations. Fax (717) 783-7971.

Department: Transportation
Location: PennDOT Maintenance Building, Ebensburg, Cambria County, PA
Duration: 120 calendar days—proposed bid Feb. 1997
Contact: Tina Chubb, (717) 787-7001

106958 Provide site preparation work for installation of an air monitoring station at property owned by Freemansburg Borough on Cambria and Washington Streets near Borough recreational area in Freemansburg, Pennsylvania.

Department: Environmental Protection
Location: Freemansburg, PA
Duration: Through June 30, 1997
Contact: Ally Castancira, (717) 787-2471

080939 Mercer County, SR 518 (B00); Cameron County, Group 2-97-ST3; Juniata County, Group 2-97-ST1; Bradford County, SR 1003 (006); Luzerne County, Group 4-97-MC2; Cambria County, Gallitzin Run Overlook; Somerset County, SR 160 (13M); Butler County, SR 422 (203); Washington County, I-70 (R11) RESURF; Montgomery County, Group 6-97-BR4; Hbg. Int'l. Airport, HIA Water Tank.

Department: Transportation
Location: District 1-0, 2-0, 3-0, 4-0, 6-0, 9-0, 10-0, 12-0 and Bureau of Aviation
Duration: FY 1996-97
Contact: V. C. Shah, (717) 787-5914

Contract No. FDC-303-196 Widen and pave the parking lot and road at the golf course, utilizing 2A aggregate, BCBC, ID-2 binder and wearing course materials; reshape ditches parallel to the parking lot and road. All work is located at Caledonia State Park.

Department: Conservation and Natural Resources
Location: Green Township, Franklin County
Duration: Complete all work by May 16, 1997
Contact: Construction Management Section, (717) 787-5055

D.G.S. 948-35, PH. 1, PT. H PROJECT TITLE: Fire Safety Code Improvements. **BRIEF DESCRIPTION:** Work includes complete renovation in the East Center Wing Third Floor including power panels, conduit, wiring, lights and fire alarm systems. Also includes installation of sprinklers, alarms and general construction to accommodate new services for data and communications wiring. **GENERAL AND ELECTRICAL CONSTRUCTION, PLANS DEPOSIT:** \$250.00 for three sets (948-12R PH. 5 PT. K, 948-35 PH. 1 PT. H and 948-37 PH. 2 PT. A) All bidders will receive all 3 sets of documents noted for coordination of work of all projects in the same area. Payable to: Brinjac Kambic & Associates. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Brinjac, Kambic & Associates, 114 N. Second Street, Harrisburg, PA 17101-1401, (717) 233-4502. Bid date: Wednesday, February 12, 1997 at 2 p.m. Pre-bid Conference scheduled for Wednesday, January 22, 1997 at 10 a.m. Meeting to be held on the Third Floor, East Center Wing, Inside Lobby Area, Capitol Building. All Contractors who have secured contract documents are invited and urged to attend.

Department: General Services
Location: Third Floor East Wing, Capitol Complex, Harrisburg, Dauphin County, PA
Duration: 165 Calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

D.G.S. 948-12R, PH. 5, PT. K PROJECT TITLE: Third Floor Renovation and Windows. **BRIEF DESCRIPTION:** Work includes architectural restoration of historic interior finishes and adaptive re-use of and renovation of large windows on third floor. **GENERAL AND PLUMBING CONSTRUCTION, PLANS DEPOSIT:** \$250.00 for three sets (948-12R PH. 5, PT. K, 948-35, PH. 1, PT. H and 948-37, PH. 2, PT. A). All bidders will receive all 3 sets of documents noted for coordination of work of all projects in the same area. **PAYABLE TO:** Brinjac, Kambic & Associates. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date, the bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Brinjac, Kambic & Associates, 114 N. Second Street, Harrisburg, PA 17101-1401, (717) 233-4502. **BID DATE:** Wednesday, February 12, 1997 at 2 p.m. Pre-Bid Conference scheduled for Wednesday, January 22, 1997 at 10 a.m. Meeting to be held on the Third Floor, East Center Wing, Inside Lobby Area, Capitol Building. All Contractors who have secured contract documents are invited and urged to attend.

Department: General Services
Location: Third Floor East Wing, Capitol Complex, Harrisburg, Dauphin County, PA
Duration: 165 Calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

D.G.S. 948-37, PH. 2, PT. A PROJECT TITLE: Expansion of Central Air Conditioning System to Main Capitol Complex. **BRIEF DESCRIPTION:** Work includes conversion of two pipe to four pipe HVAC System, new ductwork, new exhaust and O.A. System, new fan coil units and revised ATC and control valves, HVAC construction. **PLANS DEPOSIT:** \$250.00 for three sets (948-12R, PH.1 5, PT. K, 948-35, PH. 1, PT. H and 948-37, PH. 2, PT. A). All bidders will receive all 3 sets of documents noted for coordination of work of all projects in the same area. **PAYABLE TO:** Brinjac, Kambic & Associates. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Brinjac, Kambic & Associates, 114 N. Second Street, Harrisburg, PA 17101-1401, (717) 233-4502. **BID DATE:** Wednesday, February 12, 1997 at 2 p.m. Pre-Bid Conference scheduled for Wednesday, January 22, 1997 at 10 a.m. Meeting to be held on the Third Floor, East Center Wing, Inside Lobby Area, Capitol Building. All Contractors who have secured contract documents are invited and urged to attend.

Department: General Services
Location: Third Floor East Wing, Capitol Complex, Harrisburg, Dauphin County, PA
Duration: 165 Calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Elevator Maintenance—13

SPC 158907 Lanhardt Hall elevators. Provide all labor, tools, material, equipment and manpower necessary to modify and repair two existing passenger elevators in Lanhardt Hall.

Department: SSHE
Location: Lenhardt Hall, Millersville University, Millersville, Lancaster County, PA 17551-0302
Duration: 8 months from notice to proceed
Contact: J. Nevin Huber, (717) 872-3015

Engineering Services and Consultation—14

1-96-0600 The purpose of the RFP is to satisfy a need for cultural resource management services. These services include the identification, evaluation and mitigation of archaeological sites throughout the Commonwealth. They will include all levels of field work, laboratory analysis and report writing. Archaeological investigations will be conducted in response to State permitted projects (as per Act 70). Assignments under this open-end contract will be completed under separate work orders which will be individually agreed upon subparts of the overall contract. Investigations will follow the Bureau for Historic Preservation guidelines and will be used on an as needed basis only.

Department: Historical & Museum Commission
Location: (Bureau for Historic Preservation). Work products will be delivered to Harrisburg. Service will be performed Statewide.
Duration: 3 years with 2 one year extension
Contact: Tobi Gilson, (717) 783-9927

RFP 96-21 "Contract Management System 2000". The objective of this project is to implement process changes, both automated and manual, to reduce the processing time and cost associated with the steps needed to bring contract management of transportation construction projects from preparation of bid proposal to final completion of the construction project processes. Detailed requirements and a RFP are available upon request. Fax requests to Tina Chubb at (717) 783-7971.

Department: Transportation
Location: Bureau of Office Service, 8th Floor Forum Place, 555 Walnut St., Harrisburg, PA 17101
Duration: 24 months
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

08430AG2040 An Open-End Contract to perform Statewide periodic NBIS bridge and various structural safety inspections for designated bridges and structures on The State System throughout The Commonwealth of Pennsylvania.

Department: Transportation
Location: Statewide
Duration: Six (6) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2041 To provide supplementary construction inspection staff for electrical construction inspection and documentation services in various S. R.'s and Department property (highway, sign lighting and maintenance stockpile) in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties.

Department: Transportation
Location: Engineering District 6-0
Duration: Twenty-four (24) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2042 Open-end contract for construction inspection services on various projects in Cameron, Centre, Clearfield, Clinton, Elk, Juniata, McKean, Mifflin and Potter Counties all in Engineering District 2-0.

Department: Transportation
Location: Engineering District 2-0
Duration: Thirty (30) months
Contact: Consultant Agreement Division, (717) 783-9309

Food—19

Q-4-97 Meat and meat products. Call Purchasing for details.

Department: Public Welfare
Location: Institution Warehouse, White Haven Center, White Haven, PA 18661-9602
Duration: April, May, June 1997
Contact: Sandra A. Repak, Purchasing Agent, (717) 443-4232

Q-5-97 Miscellaneous frozen food. Call Purchasing for details.

Department: Public Welfare
Location: Institution Warehouse, White Haven Center, White Haven, Luzerne County, PA 18661-9602
Duration: April, May, June 1997
Contact: Sandra A. Repak, Purchasing Agent, (717) 443-4232

Q-9-97 Preportioned juice. Call Purchasing for details.

Department: Public Welfare
Location: Institution Warehouse, White Haven Center, White Haven, Luzerne County, PA 18661-9602
Duration: April, May, June 1997
Contact: Sandra A. Repak, Purchasing Agent, (717) 443-4232

090 Miscellaneous meats—For a 3 month period beginning April 1, 1997 through June 30, 1997. Delivery schedule, dates, quantities and complete specifications can be obtained from the Hospital. Award will be made on an item for item basis.

Department: Public Welfare
Location: Wernersville State Hospital, Wernersville, Berks County, PA 19565-0300
Duration: April, May, June 1997
Contact: Karl Koenig, Purchasing Agent, (610) 670-4127

091 Poultry—For a 3 month period beginning April 1, 1997 through June 30, 1997. Delivery schedule, dates, quantities and complete specifications can be obtained from the Hospital. Award will be made on an item for item basis.

Department: Public Welfare
Location: Wernersville State Hospital, Wernersville, Berks County, PA 19565-0300
Duration: April, May, June 1997
Contact: Karl Koenig, Purchasing Agent, (610) 670-4127

257 Carrots (for processing). U. S. # 1 or equal. All carrots to be topped, washed and delivered in self-unloading trucks. Size: 1-1/2" to 2-1/2" diameter—approximately 112 tons. Size: 2-1/2" to 4" diameter—approximately 120 tons.

Department: Corrections
Location: Correctional Industries—S.C.I. Rockview, Rt. 26, Box A, Bellefonte, Centre County, PA 16823
Duration: August 25, 1997 through December 31, 1997
Contact: Cheryl Snook, Purchasing Agent II, (814) 355-4874, ext. 251

Hazardous Material Services—21

350030 Construction-related environmental remediation. The successful contractor must provide labor, materials, tools, equipment and incidentals for remedial services including excavation and off-site disposal of contaminated waste, extraction and treatment of contaminated ground water, asbestos abatement and inspection, etc. There will be a pre-bid conference. For a bid package, fax requests to Tina Chubb at (717) 783-7971.

Department: Transportation
Location: Bureau of Office Services, Forum Place, 8th Floor, 555 Walnut Street, Harrisburg, PA 17101-1900
Duration: 18 months with option to renew for 12 months
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

Heating, Ventilation, Air Conditioning—22

97-01 The contractor shall provide authorized service personnel, testing equipment, tools, parts and materials necessary to repair, inspect, test or calibrate the ASCO/DELTA automatic transfer switches and power control systems for the emergency generators at the State Correctional Institution in Waymart, Pennsylvania. (Catalog # (2)-4260V ASCO/Delta ATS. (1)—2 engine ASCO/Delta Syncro Gear).

Department: Corrections
Location: SCI Waymart, P. O. Box 256, Waymart, Canaan Township, Wayne County, PA 18472-0256
Duration: July 1, 1997 to June 30, 2000
Contact: Jerome M. Lewis, Business Manager, (717) 488-2504

Laboratory Services—24

IFB 96-07-07 Laboratories approved to perform chlamydia, gonorrhea and syphilis diagnostic testing, plus testing for HIV infection (ELISA and Western blot) and CD4+ T-Cell tests, shall provide laboratory services to approximately 300 provider sites in Pennsylvania. The anticipated number of tests per month is: chlamydia—7,500; gonorrhea—7,500; syphilis—6,000; HIV-ELISA—4,000 and HIV CD4+ T-Cell—50. The laboratory shall provide all materials for the service including post-paid mailers. Courier service is desirable, but not necessary. Turn-around time is critical. This IFB cancels IFB 96-07-02 which was published on December 14, 1996. Certain assurances, including previous testing experience, are required by the Department. Bidders should read the IFB carefully to determine eligibility and successfully compete.

Department: Health
Location: Pennsylvania, primarily outside of Philadelphia
Duration: July 1, 1997 through June 30, 2000
Contact: Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 363-8500

97-02 The contractor shall provide testing and analysis of the water discharge from the Sewage Treatment plant at the State Correctional Institution at Waymart. Tests to be conducted weekly. Test results to be returned to the Institution one week after sample pick-up.

Department: Corrections
Location: SCI Waymart, P. O. Box 256, Waymart, Canaan Township, Wayne County, PA 18472-0256
Duration: July 1, 1997 to June 30, 2000
Contact: Jerome M. Lewis, Business Manager, (717) 488-5811

Medical Services—29

LH-SER012 This is an RFP for providing psychiatry services to incarcerated male inmates at the new State Correctional Institution at Laurel Highlands for no less than fifteen hours per week. This is a re-bid.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631
Duration: 3/1/97 to 9/30/97
Contact: Richard C. Claycomb, Purchasing Agent II, (814) 443-0347

Inquiry No. 8880 Eyeglass services: Vendor to supply lenses, frames, frame repairs, etc. for individuals at Selinsgrove Center.

Department: Public Welfare
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA 17870
Duration: July 1, 1997 to June 30, 2002
Contact: Arletta K. Ney, Purchasing Agent, (717) 372-5070

Personnel—31

SP-567 Temporary Clinical Dietician Services—hourly contract basis—estimated 20 hours/week. Clinical nutrition care for residents and other related clinical/dietetic duties.

Department: Hollidaysburg Veterans Home
Location: Route 220 at Meadows Intersection, P. O. Box 319, Hollidaysburg, PA 16648
Duration: February 15, 1997 through June 30, 1997
Contact: James E. Trimer, Purchasing Agent, (814) 696-5211

Miscellaneous—39

96-006 The Department of Corrections is soliciting proposals to provide drug and alcohol treatment and continuing care planning services in a correctional therapeutic community setting. The services will be for male clients with substance abuse problems who are returned to the Department of Corrections as technical parole violators as well as providing continuing care while clients reside in a community corrections setting.

Department: Corrections
Location: 2520 Lisburn Road, Camp Hill, PA 17011
Duration: 1 to 3 years
Contact: Suzanne Malhenzie, Bureau of Administration, (717) 975-4973

97-1 The Department of Corrections is soliciting proposals to provide contract facility services for mentally ill residents. Approximately 20 beds are needed within the Eastern Region of Pennsylvania for mentally impaired residents under the jurisdiction of the Department of Corrections.

Department: Corrections
Location: 2520 Lisburn Road, Camp Hill, PA 17011
Duration: One to four years
Contact: Suzanne Malhenzie, Admin. Assistant, (717) 975-4973

97-03 The contractor shall provide Chaplaincy Services to inmates of the Jewish faith at the State Correctional Institution at Waymart. The institution estimates chaplaincy services at seven (7) hours per month to meet requirements.

Department: Corrections
Location: SCI Waymart, P. O. Box 256, Waymart, Canaan Township, Wayne County, PA 18472-0256
Duration: July 1, 1997 to June 30, 2000
Contact: Jerome M. Lewis, Business Manager, (717) 488-5811

[Pa.B. Doc. No. 97-71. Filed for public inspection January 10, 1997, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 260—266 AND 270]

Hazardous Waste Management

The Environmental Quality Board (Board) amends Chapters 260—266 and 270, pertaining to hazardous waste, to read as set forth in Annex A.

These amendments incorporate provisions established by the Environmental Protection Agency (EPA) in the Federal hazardous waste program under the Federal Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C.A. §§ 6901—6986) and clarify or amend other hazardous waste requirements.

These amendments were adopted by order of the Board at its meeting of October 15, 1996.

A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin*.

B. *Contact Persons and Information*

For further information, contact Rick Shipman, Division of Hazardous Waste Management, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, 14th floor, 400 Market Street, P.O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-6239, or Gail B. Phelps, Assistant Director, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9th floor, 400 Market Street, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These amendments are available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The final rulemaking is being made under the authority of sections 105, 401—403 and 501 of the Solid Waste Management Act (35 P.S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P.S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20). Under sections 105, 401—403 and 501 of the Solid Waste Management Act, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety and welfare, and the environment of this Commonwealth. Sections 105, 402 and 501 of The Clean Streams Law grant the Board the authority to adopt regulations that are necessary to protect the waters of this Commonwealth from pollution. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

D. *Background and Summary*

These regulatory amendments include a number of diverse changes that will facilitate hazardous waste management for industries of all sizes, licensed hazardous waste transporters, and owners and operators of hazard-

ous waste facilities in this Commonwealth. Generators, transporters and treatment, storage and disposal (TSD) facilities are relieved of a number of unnecessary regulatory burdens. This regulatory package also aligns the Department's hazardous waste program more closely to the Federal program by adopting several Federal subchapters, sections and definitions.

As examples, the Federal section listing exclusions from hazardous waste management has been fully adopted in text and will be updated automatically by reference. The Federal rebuttable presumption concerning mixtures of hazardous waste with waste oil has been added. Many more industries will be able to treat their hazardous waste onsite for reclamation, reuse or recycling, or to reduce the toxicity or volume prior to disposal without cumbersome permitting requirements. Industries are authorized to use the Federal "satellite accumulation" areas for management of hazardous wastes within the facility.

Generator and facility reporting requirements have been reduced dramatically—from quarterly to biennially—and most records need only be retained for 3 years instead of 20 years. Licensed transporters have been authorized to combine similar wastes during transportation, and in-transit storage times have been increased to the Federal limit of 10 days instead of 5 days. Small businesses that generate very small amounts of hazardous waste will be able to manage these wastes at lower cost and with fewer regulatory burdens, while still protecting the environment. Proposed amendments to Chapters 273 and 283 that would have authorized small amounts of hazardous waste to be disposed of at municipal waste facilities have been deleted in this final rulemaking.

The hazardous waste regulations of the Commonwealth were most recently amended with substantive changes at 23 Pa.B. 363 (January 16, 1993), referred to as PK-4. The basic framework for the Department's hazardous waste program was amended in that rulemaking through the definition of "waste" and related terms such as "coproduct." Several provisions in the PK-4 package relating to recycling facilities are more stringent than the corresponding Federal requirements. These provisions also differ in concept from the corresponding Federal hazardous waste regulations.

The Board specifically requested comments from the public on whether the Department's definition of "waste" and the regulations on recycling have helped or hindered recycling. Many comments were received and were reviewed carefully.

The Department is reviewing all of the environmental regulations under the Secretary's Regulatory Basics Initiative and Executive Order 1996-1.

The Department intends to address major revisions to the hazardous waste program through future rulemakings after consideration of public input and the recommendations of the Solid Waste Advisory Committee (Committee). The Department is also actively participating with other states in the development of several new EPA RCRA regulations that will address the definition of "waste," exclusions, exemptions and the regulation of recycling.

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

The proposed amendments were published at 25 Pa.B. 4917 (November 11, 1995). The 60-day comment period

was extended until January 17, 1996, due to inclement weather. The Department received comments from 185 interested citizens and regulated persons, which included many hundreds of separate comments. The Board appreciates the time and careful thought that the public and the regulated community put into participating in the comment process, and believes that the regulations have been improved as a result of their efforts. A copy of the Comment and Response Document prepared for this regulations may be obtained by contacting Rick Shipman, Division of Hazardous Waste, at the address given in Section B of this Preamble.

The changes contained within these final amendments were reviewed and approved by the Department's Advisory Committee on May 9 and again on September 13, 1996. This Preamble addresses the Committee's concerns with regard to waste oil under that heading.

Substantive changes to the proposed amendments which were made on final adoption are discussed in this section by general topic. Several stylistic or typographical corrections are not discussed. Amendments to the regulations which have not been changed from the proposed rulemaking are discussed in the Preamble published with the proposed regulations at 25 Pa.B. 4917.

Biennial Report

The Board proposed to amend existing §§ 262.41, 264.75 and 265.75 (relating to biennial report) to delete quarterly reporting requirements for generators and facilities and to substitute instead a biennial reporting requirement that is substantially the same as the EPA biennial report. The final-form regulations have been amended for clarification and are consistent with the intent of the proposed amendments.

Under the final amendments, generators and owners/operators of TSDs facilities will be required to submit reports concerning hazardous waste management at the facility biennially, rather than quarterly. The final amendments have been clarified to show that the report need only cover hazardous waste activities during the prior calendar year, not the prior two years. The content of the biennial report has been modified to match applicable Federal biennial reporting requirements, including Federal requirements for waste minimization and pollution prevention.

Small quantity generators, which generate between 100 and 1,000 kilograms of hazardous waste per month, and conditionally exempt small quantity generators, which generate less than 100 kilograms of hazardous waste per month, are not required to submit biennial reports under § 262.41(a).

Section § 266.91 (relating to reporting) has been deleted entirely in the final rulemaking. This section formerly required owners and operators of facilities that reclaim their wastes onsite to submit a quarterly report.

Combining of Similar Wastes by a Licensed Transporter

The proposed amendment to § 263.27 (relating to blending, mixing, treating or storing of hazardous waste by transporters) authorized combining or bulking of similar hazardous wastes by a licensed transporter. The definition of "in-transit storage" in § 260.2 (relating to definitions) is amended to conform with this change by deleting the requirement that the waste remain in its original container. Hazardous wastes that are bulked by a licensed transporter must be packaged, labeled, marked and placarded according to §§ 262.30 and 262.33 (relating to packing, labeling and marking; and accumulation).

Conditionally Exempt Small Quantity Generators (CESQGs)

The proposed amendments changed §§ 261.5 and 262.10(a) (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators; and scope) to conform with the corresponding Federal sections which cover generators of less than 100 kg of hazardous waste per month. These CESQGs typically are small businesses such as automotive repair shops, printers, dry cleaners, retail paint stores, funeral homes or laboratories. Small businesses that generate less than 100 kilograms of hazardous waste per month have been subject to reduced storage, treatment, transportation requirements under the Federal RCRA program since 1986. This category of very small, partially exempt generators has never been recognized in Pennsylvania's regulations until this rulemaking.

Under the Federal program, these very small generators are authorized to store up to 1000 kilograms in excess of 90 days without a storage permit, treat their own waste without a permit and ship waste by common carrier without the use of a manifest. The CESQG hazardous waste remains categorically a hazardous waste, consistent with the generally applicable rules for waste determination. The generator and subsequent handlers are conditionally exempted from certain specified management rules, but the waste itself is still classified as hazardous waste if it meets the normal criteria. These portions of the Federal program have been retained in the final-form regulations.

The Federal program also allows disposal of CESQG hazardous wastes at facilities regulated by a state under the RCRA Subtitle D program, which, in this Commonwealth, includes municipal waste and residual waste facilities. The Board originally proposed to conform with the Federal program and authorize disposal at municipal waste facilities. The proposed amendments also included amendments to §§ 273.201 and 283.201 (relating to municipal waste landfills; and municipal waste processing facilities) to allow municipal waste facilities to accept CESQG hazardous waste. The Department's current municipal waste regulations prohibit acceptance of hazardous waste at municipal waste facilities.

Several commentators objected to allowing CESQG hazardous waste to be disposed of at municipal waste landfills. The General Assembly has recently enacted Legislation which prohibits disposal of hazardous waste at a municipal or residual waste landfill (act of September 12, 1996, P. L. _____, No. 190). This rulemaking conforms to the new Legislation by deleting the proposed authorization for disposal of CESQG hazardous waste at municipal or residual waste landfill facilities in this Commonwealth. Disposal of CESQG hazardous waste at landfills in other states is authorized if it is consistent with the laws of the receiving state. No municipal or residual waste facilities in this Commonwealth are authorized to accept hazardous waste.

Other changes to § 261.5(c) reflect more recent Federal amendments to 40 CFR 261.5(c), concerning the types of waste which CESQGs must count in determining the amount generated in a month.

Definitions

Two new definitions have been added to the final-form regulations. Both are copied from the Federal text in 40 CFR 260.10. An existing definition has also been clarified. The existing definition of "in-transit storage" was clarified to conform with the new amendment to § 263.27 (relating

to blending, mixing, treating or storing of hazardous waste by transporters) which allows licensed transporters to combine similar hazardous wastes during transportation.

The definition of "miscellaneous unit" has been added to clarify the new subchapter regulating miscellaneous units at §§ 264.600—264.603. The Federal definition of "Small Quantity Generator" has also been added to the final amendments. Under both the Federal and State programs, this category of generators includes those that generate no more than 1,000 kilograms of hazardous waste per month.

Empty Containers and Tanks

The proposed amendments to the existing provisions at § 261.33 (relating to waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof) transferred the requirements for identifying and managing RCRA-empty containers to a new section at § 261.7 (relating to empty containers). Amended § 261.33 now identifies requirements for listed hazardous wastes that are EPA P and U listed wastes. These changes are consistent with the Federal program.

Three types of changes have been made on final to these sections. In the proposed § 261.7, the Board proposed to require that the small amounts of hazardous waste residues remaining in a RCRA-empty container be managed as hazardous waste if they meet the normal criteria. This provision has been retained, even though it is more stringent than the Federal program, for the reasons explained in the Preamble to the proposed amendments.

The proposed amendments also declared the person in control of the RCRA-empty tank or container to be the generator of the last residues removed when the tank is cleaned or completely emptied. On final, however, the Board has clarified that the person in control of the tank or container when the last residues are removed has the responsibility to ensure that these are managed in compliance with the solid waste management regulations, as applicable. The person in control of the tank or container is not declared to be the generator.

The owner or operator of the tank or container that is being emptied and removed is the generator of the wastes contained therein. The owner or operator is responsible to perform a waste determination under existing § 262.11 (relating to scope) when the waste is emptied from the tank or container so that it can be removed. Generator knowledge of the contents of the tank or container and of waste determinations for similar wastes can be used.

The person in control of the tank or container is responsible under the final-form regulations for ensuring that the remaining residues are managed in accordance with the solid waste management regulations. If the waste is a hazardous waste, the residue must be managed as a hazardous waste, including storage, treatment, packaging, shipment and disposal requirements. If the waste residue is not hazardous, it must be managed in accordance with the residual waste regulations.

The final changes made to these two sections are primarily editorial, and modify the proposed amendments to conform more closely to the Federal text.

Exclusions From Hazardous Waste

The Board has conformed Pennsylvania's exclusions from hazardous waste in § 261.4 with the Federal exclusions from hazardous waste in 40 CFR 261.4. The final-form regulations, like the proposed, will incorporate

newer Federal exclusions from hazardous waste by reference, effective on the date the Federal exclusion becomes effective.

On final, the text of several newer Federal exclusions has been added to the text of this section for clarity and inconsistent existing exclusions have been modified. An existing limited exclusion relating to scrap leather containing chromium in § 261.4(a)(16) has been replaced with the broader corresponding Federal exclusion in 40 CFR 261.4(b)(6). The household waste exclusion in § 261.4(a)(6) has been corrected to more closely match the Federal program.

New Storage Units

The proposed amendments included the Federal standards for drip pads, which are structures designed to convey drippage, precipitation and surface water run-on to collection systems. Commentators correctly pointed out that the proposed §§ 264.503(a)(1)(iii) and 265.503(a)(1)(iii) (relating to design and operating requirements) should have used the term "hydraulic conductivity" rather than the term "permeability." This correction has been made to the final amendments.

P and U Listed Wastes

The proposed amendments would have amended § 261.33 (relating to waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof) to delete the EPA specification that a P or U listed waste be the sole active ingredient in a chemical formulation for the waste to be considered hazardous. The proposed amendments to § 261.33 would have been more stringent than the Federal text in 40 CFR 261.33. Commentators pointed out that the proposed deletion of the EPA limitation to sole active ingredients would be confusing, very burdensome and would cover a wide variety of unintended wastes that actually do not pose a significant risk.

The Board has decided to conform § 261.33 to the Federal program and add the requirement that P or U listed wastes is the sole active ingredients for a chemical waste formulation to be determined to be hazardous on this basis.

Permit-by-Rule (PBR)

Three PBR provisions for simplified management of hazardous wastes were proposed to be added or amended. Two have been retained on final. These two allow onsite storage prior to reclamation by PBR, in § 266.90 (relating to applicability and requirements), and allow generators to treat their own waste onsite in containers or tanks during the accumulation period, in § 265.435 (relating to generator treatment). The PBR relating to carbon regeneration facilities has been deleted from the final-form regulations.

The Board had proposed amendments to §§ 261.6 and 266.70 (relating to requirements for hazardous wastes that are recycled; and permit-by-rule) to allow facilities that regenerate carbon that has been used to filter out or treat hazardous waste to do so without a full TSD permit. Numerous commentators objected to this proposed relaxation of the permitting process standards. The Board has therefore deleted this proposal from the final version.

Commentators expressed a concern that a wide range of hazardous constituents may be adsorbed by spent activated carbon, and that a full thermal treatment facility permit was necessary to ensure adequate protection of human health and the environment. Commentators pointed out that not requiring full thermal treatment

permits for carbon regeneration units would be less stringent than the EPA's requirements under RCRA. These facilities are subject to requirements for thermal treatment units under the Federal program, 56 FR 7200—7240.

The EPA has defined carbon regeneration units as thermal treatment devices subject to the permit standards of 40 CFR Part 264, Subpart X (56 FR 7200—7201 and 7206). Providing the opportunity for carbon regeneration units to operate under permit-by-rule provisions in this Commonwealth would, therefore, be less stringent than requirements under Federal RCRA regulations. Since, with this rulemaking, the Board is also promulgating a Pennsylvania counterpart to the Federal Subpart X regulations in Chapter 264, Subchapter U (relating to miscellaneous units), carbon regeneration units in this Commonwealth will now be required to obtain a hazardous waste treatment permit under that subchapter.

Retention of Records

The proposed amendments reduced the record retention requirements from 20 years to 3 years. This reduction in required retention times has been retained on final, consistent with the Federal standards. Sections 264.71(d) and 265.71(d) (relating to use of manifest system) have also been modified on final for consistency with the Federal program. The 20-year record retention requirement for copies of manifests by facility owners and operators has been reduced to 3 years.

Source Reduction Strategy

Generators located in this Commonwealth are required to develop and submit a Source Reduction Strategy under existing regulations at § 262.80 (relating to source reduction strategy). A TSD facility shall submit a copy of this Source Reduction Strategy to the Department as part of an application to receive the generator's waste for storage, treatment or disposal. This requirement in § 264.12 (relating to general requirements for hazardous waste management approvals and analysis of a specific waste from a specific waste generator) has been modified to allow a TSD facility to submit other documentation that a generator customer located outside this Commonwealth has complied with Federal waste minimization requirements in lieu of compliance with § 262.80.

Transporter Licenses

Section 401(a) of the Solid Waste Management Act requires that hazardous waste transporters picking up hazardous waste generated in this Commonwealth or received by any TSD in this Commonwealth be licensed by the Department. Section 505(e) of the Solid Waste Management Act mandates that each hazardous waste transporter shall file a penal bond with the Department as a condition of obtaining a license. The bond shall be in an amount determined by the Department, but not less than \$10,000. The bond is conditioned upon compliance by the licensee with every requirement of the act, order of the Department or term or condition of the license. Forfeited collateral is used by the Department for payment of fines or civil penalties assessed by the Department for violations of law, or deposited into the Solid Waste Abatement Fund. Insurance to pay liability for spill cleanups is also required by State and Federal law.

In the rulemaking that became effective on January 16, 1993, (PK-4), parts of the then-existing transporter licensing regulations in § 263.13 (relating to licensing) were deleted inadvertently when the license application fees were amended. The Department is now reinserting most of the original text of § 263.13 to clarify the license

requirements. An unnecessary recitation of statutory authority was deleted, and the need for additional information was clarified as suggested by the Independent Regulatory Review Commission (IRRC). Hazardous waste bonding requirements continue to be found at § 263.32.

Coincidentally, the United States Department of Transportation (US DOT) issued a preemption determination at approximately that time, which held that state penal bond requirements for transporters are an obstacle to interstate commerce because the bond requirement conflicts with the goal of state uniformity in the Hazardous Materials Transportation Act (HMTA) (49 U.S.C.A. §§ 5101—5127), 58 FR 58848 (December 11, 1992). The Commonwealth has not enforced the transporter bond requirement since that time. Transporter licenses have still been required under the statutory provisions, in a manner consistent with the inadvertently deleted regulations.

The Commonwealth and the Commonwealth of Massachusetts filed an appeal of the US DOT administrative preemption of state bond requirements in Federal court. On August 27, 1996, the United States Court of Appeals for the District of Columbia Circuit issued an opinion overruling US DOT's preemption of the state bonding requirements as an impermissible reading of Federal statutory authority under HMTA. *Massachusetts v. United States Department of Transportation*, 93 F.3d 890 (D.C. Cir. 1996).

The Department intends to implement the mandatory bond requirement of the Solid Waste Management Act as soon as the US DOT releases its final policy on state bond requirements. This is expected in the near future. Until then, the Department does not intend to enforce the bond requirement. At the time the bond requirement is reimplemented, the Department will notify existing licensees and applicants of the bond requirement and provide a reasonable time period for coming into compliance.

Waste Oil

The Board proposed to amend §§ 261.3 and 266.40 (relating to definition of hazardous waste; and applicability) to provide for a rebuttable presumption that waste oil which exhibits halogenated compounds has been mixed with hazardous waste solvents and therefore should be managed as hazardous waste. The existing regulations required that any waste oil that contains more than 1,000 ppm of halogenated compounds was regulated as a hazardous waste. As discussed in the Preamble to the proposed amendments, some machine oil coolants or other lubricants are manufactured with this level of halogens. It was not the intent of the amendments to include these.

The Board proposed to conform these regulations to the Federal program by allowing this presumption to be rebutted where the halogenated compounds are demonstrated to be from sources that are not wastes, such as original ingredients in the product from which the waste oil was generated. The final-form regulations are consistent with the proposed amendments, except that the nature of the demonstration required is clarified.

The Federal waste oil (used oil) rebuttable presumption is discussed in the Federal preamble for the corresponding Federal section in 40 CFR 261.3, which was published at 50 FR 49178 (November 29, 1985). One approach to demonstrating that waste oil is not mixed with hazardous waste is to show that the waste oil does not contain significant levels of halogenated hazardous constituents. The EPA believes that oil containing less than on the

order of 100 ppm of any individual hazardous halogenated compound listed as a hazardous spent solvent (that is, EPA Hazardous Waste Numbers F001 and F002) should not be presumed to be mixed with spent solvent." See 50 FR 49178. Small quantities of halogenated compounds, such as no more than 100 ppm of any individual hazardous halogenated compound, are not considered significant levels.

The term "significant concentrations" of halogenated compounds has been added to the final amendments in § 261.3(a)(2)(iv). The Board has determined that it is not practicable to define this term numerically for all types of halogenated compounds that may be detected in waste oil. The rebuttable presumption under § 261.3 will be administered by the Department consistent with the discussion in the Federal preamble and EPA policy.

A final comment on waste oil management was received informally from IRRRC as this rulemaking was prepared for final-form. IRRRC suggested that § 261.5 (relating to conditionally exempt small quantity generators) be amended to allow recycling of waste oil mixed with CESQG waste at facilities that do not have hazardous waste management permits. The final-form regulations allow nonhazardous waste permitted facilities to store, process or treat CESQG hazardous waste with nonhazardous waste when that is authorized by the facility permit.

F. *Benefits and Costs*

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

Benefits

Generators of hazardous waste and owners/operators of TSDs are required to submit biennial reports rather than quarterly reports concerning their hazardous waste management activities. The biennial report required by the amendments is identical to the one already required by the EPA. As a result, there will be a significant reduction in paperwork requirements and costs imposed on generators and owner/operators of TSDs.

Costs imposed on generators for the retention of records are reduced. The time generators and facilities must retain manifests, biennial reports and exception reports is reduced to 3 years instead of 20 years.

Costs associated with complying with the Module I requirements are reduced for TSDs receiving essentially the same hazardous waste from multiple generators. Owners/operators of TSDs are able to use a generic Module I report for multiple generators using essentially the same process to generate essentially the same hazardous waste. Thus, if the owner/operator submits a generic Module I application covering at least 6 generators, there will be a reduction in the application fee associated with submitting a Module I. No additional application fee applies to amending the generic Module I to include additional generators with a consistent hazardous waste.

Costs associated with the transportation of hazardous waste are reduced due to increased efficiencies in operation. First, transporters are able to use larger, more efficient containers because the proposal will allow transporters to combine containers of hazardous wastes with similar US DOT shipping codes into larger, more efficient containers at qualified in-transit storage facilities. Second, transporters will have greater flexibility in maximizing their loads because the in-transit storage period will be increased from 5 to 10 days.

There will be a reduction in the costs imposed on generators relating to the disposal of hazardous waste. The amendments allow generators of hazardous waste to treat their hazardous waste onsite pursuant to a PBR rather than a traditional permit. For generators able to take advantage of the PBR for treatment in tanks, containers or containment buildings, the costs associated with this treatment and possible disposal as a residual waste should be less than the costs associated with arranging for the offsite treatment or disposal of a hazardous waste.

Permitting costs imposed on generators of hazardous waste who reclaim their hazardous waste would be reduced. The amendments allow a generator to store waste for more than 90 days prior to onsite reclamation under a PBR rather than a traditional permit to authorize that storage.

The costs associated with the disposal of containers and tanks used for holding a hazardous waste will be reduced. The amendments allow any tank or container that was used to hold a hazardous waste being transported to a disposal or treatment site to be transported as a residual waste. The tank or container must be emptied and the residual managed in accordance with the Department's regulations.

Compliance Costs

In addition to the reduced costs discussed in this Preamble, there may be increased costs imposed on many small quantity generators of hazardous waste. The special exemptions in § 261.5 (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators) will be limited to individuals who generate no more than 100 kilograms of hazardous waste in a calendar month (CESQG). As a result, individuals who generate more than 100 but less than 1,000 kgs of hazardous waste in a calendar month (small quantity generators) will now be subject to all the applicable requirements of Chapters 262—265 and 270. This amendment to § 261.5 is necessary to conform with the Federal program at 40 CFR 261.5.

The Department has no data on which to base possible cost increases to these individuals. Many of the small quantity generators may be able to treat their waste on site under the final-form regulations, resulting in a net decrease in their operating costs. The regulations previously required that all hazardous waste be treated or disposed of at a permitted hazardous waste facility; therefore, costs for treatment or disposal will not increase as a result.

Compliance Assistance Plan

The Pennsylvania Chamber of Business and Industry and the Department will sponsor several public meetings in different areas of this Commonwealth to present and explain these new regulations. The Department will develop and provide written information as needed to facilitate the Chamber's efforts.

The Department will also provide individual assistance for regulated facilities through the regular visits of regional inspectors.

A special new program to assist small businesses in management of conditionally exempt small quantities of hazardous waste is designed to promote pollution prevention and proper waste management.

Paperwork Requirements

These final-form regulations require generators and owner and operators of TSDs to submit biennial reports

concerning their hazardous waste management activities. Biennial reporting is needed for two reasons. First, having a reporting requirement is necessary for the Department's regulations to match the corresponding Federal requirements. Second, the information contained in the biennial report enables the Department to assess the Commonwealth's need for hazardous waste management facilities. The same biennial reports are currently required by the EPA.

Generators conducting onsite accumulation in tanks or containment buildings are required to have procedures and records for ensuring that the waste is emptied from the tank or containment building at least every 90 days. This enables both the generator and the Department to ensure that the onsite accumulation time limits are being observed. The recordkeeping and certification requirements for containment buildings are mandated by the EPA.

Owners and operators of drip pads in interim status are subject to several paperwork requirements. These requirements include a report (certified by a professional engineer) as to the measures necessary to bring the drip pad up to standards, a plan for bringing the drip pad up to standards and the submission of the final drawings of the drip pad. These requirements are mandated by the Federal program.

There are two new paperwork requirements that will be applicable to owners and operators of TSDs. First, the owner or operator is required to certify annually in the operating record that it has taken all necessary steps to reduce the toxicity and volume of any hazardous waste generated during treatment, storage or disposal. Second, if a TSD receives an unmanifested shipment of hazardous waste, the owner or operator of that facility would be required to submit to the Department an unmanifested waste report (EPA form 8700-13B). Adoption of both of these paperwork requirements conforms with Federal requirements.

Pollution Prevention

Two Federal waste minimization requirements have been added to the Department's regulations in these amendments. Changes to the information required for biennial reports in §§ 262.41, 264.75 and 265.75 (relating to biennial reports) require the same information on waste minimization required for EPA biennial reports. The owner or operator of a permitted TSD is required under § 264.73 (relating to operating record) to certify annually in its operating record that to the extent economically practicable, it has a program in place for reducing the toxicity and volume of wastes generated and that treatment, storage and disposal methods selected minimize threats to human health and the environment.

In addition, amended § 265.435 (relating to generator treatment) will allow generators to treat their wastes by permit-by-rule to reduce the toxicity or volume immediately after generation during the 90-day accumulation period.

G. Sunset Review

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. §§ 745.5(a)), on October 24, 1995, the Department

submitted a copy of the proposed amendments to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. IRRC informally expressed several objections or concerns with the final-form regulations. The Department voluntarily withdrew the rulemaking from consideration by IRRC on August 21, 1996, in order to address these concerns. No comments were received by either of the Standing Committees.

Typographical corrections have been made at §§ 264.193 and 265.193 (relating to secondary containment) as suggested by IRRC. These changes returned the regulations to the existing text. A clarifying change has been made to §§ 264.13 and 265.13 (relating to generic module 1 applications) allowing chemically and physically similar wastes from similar processes to qualify for the generic approval, as suggested by IRRC.

The amendments to the transporter license requirements in § 263.13 suggested by the Commission were made, as explained in Section E of this Preamble (under transporter licenses). A final amendment to § 261.5 suggested by IRRC was included to allow recycling of CESQG wastes within this Commonwealth at municipal and residual waste facilities. This suggested change to § 261.5 is discussed in Section E of this Preamble (under waste oil).

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on November 4, 1996. IRRC met on November 7, 1996, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

I. Findings of the Board

The Board finds that:

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

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

(3) The modifications to the amendments do not enlarge the purpose of the proposed amendments published at 25 Pa.B. 4917.

(4) These regulations are necessary and appropriate for the administration and enforcement of the authorizing acts identified in Section C of this Preamble and in the public interest.

J. Order of the Board

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

(a) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapters 260—266 and 270, are amended by:

(1) Amending §§ 260.2, 261.3—261.6, 261.33, 261.34, 262.10, 262.12, 262.34, 262.40, 262.41, 263.10, 263.11, 263.20, 263.27, 263.30, 263.32, 264.11, 264.13, 264.71, 264.73, 264.75, 264.190, 264.250, 264.341, 264.343, 265.1, 265.11, 265.13, 265.71, 265.75, 265.190, 265.197, 265.310, 265.433, 265.447, 266.24, 266.30, 266.35, 266.40, 266.41, 266.43, 266.90, 266.91, 266.104, 270.11, 270.13, 270.31, 270.33 and 270.41;

(2) By deleting § 266.91; and by

(3) Adding §§ 260.11, 261.7, 263.13, 264.12, 264.76, 264.82, 264.500—264.505, 264.520—264.522, 264.600—264.603, 265.12, 265.76, 265.82, 265.200, 265.201, 265.435, 265.500—265.505, 265.520—265.522 and 270.60 to read as set forth in Annex A with ellipses referring to the existing text of the regulations.

(Editor's Note: The proposal to amend §§ 264.193, 265.193, 266.70, 270.44, 273.201 and 283.201 included at 25 Pa.B. 4917, has been withdrawn by the Board. The amendment of §§ 264.71, 265.71, 266.104, 270.60 and the deletion of § 266.91 was not included in the proposal at 25 Pa.B. 4917.)

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

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

(d) This order shall take effect immediately upon publication.

JAMES M. SEIF,
Chairperson

(Editor's Note: A proposal to amend §§ 261.5, 262.10 and 265.1, amended in this document, remains outstanding at 26 Pa.B. 3801 (August 3, 1996).

(For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5766 (November 23, 1996).)

Fiscal Note: Fiscal Note 7-287 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 260. DEFINITIONS AND REQUESTS FOR DETERMINATIONS

§ 260.2. Definitions.

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

* * * * *

Accumulated speculatively—A material is accumulated speculatively if it is accumulated before being recycled. A material is not accumulated speculatively if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75% by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type (for example, slags from a single smelting process) that is, recycled in the same way (that is, from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under § 261.3(e) (relating to definition of hazardous

waste) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling.

* * * * *

Containment building—A hazardous waste management unit used to store or treat hazardous waste under Chapter 264, Subchapter T and Chapter 265, Subchapter T (relating to containment buildings).

* * * * *

Coproduct—

(i) Material generated by a manufacturing or production process, or an expended material, of a physical character and chemical composition that is consistently equivalent to the physical character and chemical composition of an intentionally manufactured product or produced raw material, provided that the use of the material presents no greater threat of harm to human health or the environment than the use of the product.

(ii) The term only applies to one of the following:

(A) The material is to be transferred in good faith as a commodity in trade, for use in lieu of an intentionally manufactured product or produced raw material, without treatment that would not be required of the product or raw material. Sizing, shaping or sorting of the material will not be considered treatment for the purpose of this definition. The material shall actually be used on a regular basis.

(B) The material is to be used by the manufacturer or producer of the material in lieu of an intentionally manufactured product or produced raw material, without treatment that would not be required of the product or raw material. Sizing, shaping or sorting of the material will not be considered treatment for the purpose of this definition. The material shall actually be used on a regular basis.

* * * * *

Drip pad—An engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water run-on to an associated collection system at wood preserving plants.

* * * * *

EPA manifest document number—The EPA 12 digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

Elementary neutralization unit—A device which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in Chapter 261 (relating to criteria, identification and listing of hazardous waste) or are listed in Chapter 261 only for this reason; and which meets the definition of tank, container, transport vehicle or vessel.

* * * * *

Facility—Contiguous land, and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operation units; for example, one or more landfills, surface impoundments or combinations of them.

Fact sheet—A document that sets forth the principal facts, and the significant factual, legal, methodological and policy questions considered in preparing a draft permit that the Department finds is subject of widespread public interest or raises major issues, or a draft permit that incorporates a variance or requires an explanation.

* * * * *

HWM unit—A contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is a significant likelihood of mixing hazardous waste constituents in the same area. The term includes a containment building, surface impoundment, waste pile, land treatment area, landfill cell, incinerator, tank and associated piping and underlying containment system, and container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

* * * * *

Hazardous waste constituent—A chemical component of a waste or chemical compound which qualifies a waste as hazardous under Chapter 261, or which is listed as a hazardous waste or hazardous compound in Chapter 261.

Hazardous waste fuel—Hazardous wastes burned for energy recovery. The term includes fuel produced from hazardous waste by processing, blending or other treatment. A hazardous waste having less than 8,000 Btu/lb is not a fuel and may be burned only in a permitted hazardous waste incinerator.

* * * * *

Hazardous waste number—The number assigned by the Department to each hazardous waste listed and to each hazardous waste characteristic identified in Chapter 261.

Host municipality—A municipality, other than a county, where a qualifying facility is located, either in whole or in part, within its established corporate boundaries.

* * * * *

Identification number—The number either assigned by the EPA to each generator, transporter and treatment, storage or disposal facility or provisionally assigned by the Department.

* * * * *

In-transit storage—The storage of hazardous waste by the transporter at a transfer facility for no more than 10 days if the hazardous waste is manifested and remains in containers that conform to the requirements of §§ 262.30 and 262.33 (relating to packing, labeling and marking; and placarding).

* * * * *

Miscellaneous unit—A hazardous waste management unit where hazardous waste is treated, stored or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146 (relating to underground injection control program: criteria and standards), containment building, corrective action management unit or unit eligible for research, development and demonstration permit under § 270.4 (relating to research, development and demonstration permits).

* * * * *

Permit-by-rule—A provision of this article whereby a facility or activity is deemed to have a hazardous waste

management permit if it meets the applicable requirements of § 265.432, § 265.433, § 265.435 or Chapter 266, Subchapters F, G, H or I.

* * * * *

Product—A commodity that is the sole or primary intended result of a manufacturing or production process. The term includes a commodity which is the sole or primary intended result of an intentional change in, or additional steps in, the manufacturing process. A manufacturer may operate more than one manufacturing process at a location. The term does not include materials that do not meet industry or manufacturing quality specifications or are otherwise off-specification, unless those materials are being returned to the producer, manufacturer or distributor for correction or replacement. Off-specification materials that are not products may be coproducts. Materials generated by a manufacturing process that do not meet the intended product specifications may be products if they meet the specifications for another product produced by the same industry.

* * * * *

Sludge—Solid, semisolid or liquid waste generated from a municipal, commercial or industrial waste treatment facility or wastewater treatment plant, water supply treatment plant or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

* * * * *

Small quantity generator—A generator who generates less than 1,000 kg of hazardous waste in a calendar month.

* * * * *

Treatability study—

(i) A study in which a hazardous waste is subjected to a treatment process to determine one or more of the following:

* * * * *

(D) The efficiency of a treatment process for a specific waste.

* * * * *

Waste oil—Oil refined from crude oil or synthetically produced, used, and as a result of the use, contaminated by physical or chemical impurities.

* * * * *

§ 260.11. References.

The list of publications promulgated under RCRA at 40 CFR 260.11(a) (relating to references) is incorporated by reference. Additions, revisions or deletions to this list adopted by the EPA are incorporated into this article and are effective on the date established by the Federal regulations, unless otherwise established by this article.

CHAPTER 261. CRITERIA, IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 261.3. Definition of hazardous waste.

(a) Except as provided in subsection (h), a solid waste is a hazardous waste if:

(1) It is not excluded from regulation as a hazardous waste under § 261.4 (relating to exclusions).

(2) It meets one or more of the following criteria:

(i) It exhibits one or more of the characteristics of hazardous waste identified in Subchapter C (relating to characteristics of hazardous waste).

(ii) It is listed in Subchapter D (relating to lists of hazardous wastes) and has not been excluded from regulation as a listed hazardous waste under § 260.22 (relating to delisting procedures).

(iii) It is a mixture of a solid waste and a hazardous waste listed in Subchapter D and has not been excluded from regulation as a listed hazardous waste under § 260.22.

(iv) Waste oil which contains, in aggregate, greater than 1,000 ppm total halogens is presumed to be a hazardous waste with waste code PA01 because it has been mixed with halogenated hazardous waste listed under Subchapter D. Persons may rebut the presumption that the waste oil has been mixed with hazardous waste by demonstrating that the waste oil does not contain significant concentrations of halogenated hazardous constituents. The demonstration may be based upon an analytical method from the current edition of SW-846 to show that the waste oil does not contain halogenated hazardous constituents identified in § 261.34(e) (relating to appendices). This rebuttable presumption does not apply to:

(A) Metalworking oils/fluids containing chlorinated paraffins, if the waste oil is reclaimed onsite by the generator, or under a contractual agreement under which the recycler/rerefiner returns to the generator reclaimed metal working oil. The contract shall indicate:

(I) The type of waste oil and the frequency of shipments.

(II) That the vehicle used to transport the waste oil to the recycling/rerefining facility and to deliver recycled waste oil back to the generator is owned and operated by the waste oil recycler/rerefiner.

(III) That reclaimed metal working oil will be returned to the generator.

(B) Waste oils from refrigeration units contaminated with chlorofluorocarbons (CFCS) if the CFCS are destined for reclamation. The rebuttable presumption does apply to waste oils contaminated with CFCS that have been mixed with waste oil from sources other than refrigeration units.

(b) A solid waste which is not excluded from regulation under § 261.4 becomes a hazardous waste when one or more of the following events occur:

(1) In the case of a solid waste listed in Subchapter D, when the waste first meets the listing description in Subchapter D.

(2) In the case of a mixture of a solid waste and one or more listed hazardous wastes, when a hazardous waste listed in Subchapter D is first added to the solid waste.

(3) In the case of any other solid waste, including a waste mixture, when the solid waste first exhibits one or more of the characteristics identified in Subchapter C.

(c) Except as otherwise provided in this subsection, any waste generated from the treatment, storage, disposal or reclamation of a hazardous waste, including sludge, spill residue, ash, emission control dust or leachate, but not including precipitation runoff, is a hazardous waste. The following solid wastes are not hazardous wastes even though they are generated from the treatment, storage, disposal or reclamation of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous

waste: waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry with SIC Codes 331 and 332. If the sludge exhibits a hazardous characteristic, it remains a listed waste, with code K062.

(d) A hazardous waste remains a hazardous waste until:

(1) In the case of a waste, other than a listed hazardous waste or waste derived from a listed hazardous waste, it does not exhibit one or more of the characteristics of hazardous waste identified in Subchapter C, except that loss of the characteristic cannot be as a result of intentional dilution, except as permitted under a treatment permit issued by the Department.

(2) In the case of a waste which is a listed waste under Subchapter D, contains a waste listed under Subchapter D or is derived from a waste listed in Subchapter D, it has been excluded under § 260.22 and does not exhibit one or more of the characteristics of hazardous waste identified in Subchapter C.

(e) A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste treatment manufacturing unit, is not subject to regulation under § 261.41, Chapters 262—265 or 270 until it exits the unit in which it was generated. This subsection does not apply if the unit is a surface impoundment or if the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, storage or transportation of product or raw materials.

(f) Materials within a totally enclosed treatment facility are not considered hazardous waste until they exit the enclosed units.

(g) When it is not immediately possible to determine if a material will be a hazardous waste, the material shall be managed as a hazardous waste until the determination is made and indicates it is not.

(h) Waste oil that is hazardous only because it exhibits any characteristic of hazardous waste under Subchapter C, which has not been mixed with a hazardous waste and which is destined to be recycled or reused in some other manner than burning for energy recovery is not subject to Chapters 260—266. This waste oil is regulated under residual waste regulations in Article IX (relating to residual waste management). Burning waste oil that exhibits any characteristic of hazardous waste is not subject to Chapters 260—265, unless otherwise specified in Chapter 266, Subchapters D and E.

§ 261.4 Exclusions.

(a) The following solid wastes are specifically excluded as hazardous wastes.

* * * * *

(6) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered—such as refuse-derived fuel—or reused.

(7) Solid wastes generated by any of the following and which are returned to the soils as fertilizer:

* * * * *

(16) Waste that meets the following conditions:

(i) Wastes which fail the test for the toxicity characteristic because chromium is present or are listed in 40 CFR Chapter 261, Subpart D (relating to lists of hazardous

wastes) due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium.

(B) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium.

(C) The waste is typically and frequently managed in nonoxidizing environments.

(ii) Specific wastes which meet the standard in subparagraph (i) (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

(A) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; no beamhouse; through-the-blue and shearling.

(B) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process.

* * * * *

(22) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, if the refrigerant is reclaimed for further use.

(23) Used, nonterne plated oil filters that are not mixed with wastes listed in Subchapter D (relating to

lists of hazardous wastes) if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter antidrain back valve or the filter dome end and hot-draining.

(ii) Hot-draining and crushing.

(iii) Dismantling and hot-draining.

(iv) Other equivalent hot-draining methods that will remove used oil.

(24) EPA hazardous wastes nos. K060, K087, K141, K142, K143, K144, K145, K147 and K148, and wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic (TC) specified in § 261.24 (relating to characteristics of toxicity) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar refining processes, or mixed with coal tar.

(25) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose.

(26) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(27) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, if it is shipped in drums, if shipped, and not land disposed before recovery.

(28) Used oil rerefining distillation bottoms that are used as feedstock to manufacture asphalt products.

(29) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil may not be stored in a manner involving placement on the land, and may not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous waste listed in 40 CFR Part 261, Subpart D (for example, K048—K052, F037, F038). Oil recovered from these wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in 40 CFR 279.1 (relating to definitions).

(30) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance.

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces or incinerators).

(iii) The secondary materials are never accumulated in the tanks for more than 12 months without being reclaimed.

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

* * * * *

(c) The requirements for treatability study samples are as follows:

* * * * *

(2) The exemption in paragraph (1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies if the following exist:

(i) The generator or sample collector uses (in treatability studies) no more than 1,000 kilograms of any nonacute hazardous waste or 1 kilogram of acute hazardous waste, 2,500 kilograms of soils, water or debris contaminated with acute hazardous waste for each process being evaluated for each generated waste stream.

(ii) The mass of each sample shipment does not exceed 10,000 kilograms of nonacute hazardous waste, 1 kilogram of acute hazardous waste, or 2,500 kilograms of soils, water or debris contaminated with acute hazardous waste.

* * * * *

(3) The Department may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in paragraph (2)(i), for up to an additional 500 kilograms of nonacute hazardous waste, 1 kilogram of acute hazardous waste, and 2,500 kilograms of soils, water or debris contaminated with acute hazardous waste, to conduct further treatability study evaluation when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment. The additional quantities allowed are subject to paragraphs (1) and (2)(ii)—(iv). The generator or sample collector shall apply to the regional office where the sample is collected and provide in writing the following information:

* * * * *

(d) Samples undergoing treatability studies and the laboratory or testing facility conducting the treatability studies (to the extent the facilities are not otherwise subject to RCRA) are not subject to this chapter, Chapters 262—266 and 270, if the conditions of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to this subsection. Where a group of MTUs are located at the same site, the limitations specified in this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

* * * * *

(3) No more than a total of 250 kilograms of “as received” hazardous waste is subject to initiation of treatment in all treatability studies in a single day. “As

received” waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of “as received” hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kilograms, the total of which can include 2,500 kilograms of soils, water or debris contaminated with acute hazardous waste or 1 kilograms of acute hazardous waste.

* * * * *

(e) A modification, addition or deletion of an exclusion from being a hazardous waste under 40 CFR 261.4(b) (relating to exclusions) after January 11, 1997, is incorporated by reference and effective on the date established by the Federal regulations unless otherwise established in this title.

§ 261.5. Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

(a) A generator is a conditionally exempt small quantity generator in a calendar month if the generator generates no more than 100 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in subsections (f), (g) and (j), a conditionally exempt small quantity generator is not subject to regulation under Chapters 262—266 and Chapter 270, and the notification requirements of § 261.41 (relating to notification of hazardous waste activities), if the generator complies with the requirements of subsections (f), (g) and (j).

(c) When making the quantity determinations of this chapter and Chapter 262 (relating to generators of hazardous waste), the generator shall include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under § 261.4 (relating to exclusions) or 40 CFR 261.6(a)(3), 261.7(a)(1) or 261.8 (relating to requirements for recyclable materials; residues in hazardous waste in empty containers; and PCB wastes regulated under Toxic Substance Control Act).

(2) Is managed immediately upon generation only in onsite elementary neutralization units, wastewater treatment units or totally enclosed treatment facilities as defined in § 260.2 (relating to definitions).

(3) Is recycled, without prior storage or accumulation, only in an onsite process subject to regulation under Chapter 266 (relating to special standards for the management of certain hazardous waste activities).

(4) Is used oil managed under the requirements of § 261.6 (relating to requirements for hazardous wastes that are recycled) and Chapter 266.

(5) Is spent lead-acid batteries managed under the requirements of Chapter 266, Subchapter G (relating to reclaimed spent lead-acid batteries).

(d) In determining the quantity of hazardous waste generated, a generator need not include one or more of the following:

(1) Hazardous waste when it is removed from onsite storage.

(2) Hazardous waste produced by onsite treatment, including reclamation, of hazardous waste generated onsite, if the hazardous waste that is treated was counted once.

(3) Spent materials that are generated, reclaimed and subsequently reused onsite, if spent materials have been counted once.

(e) All quantities of acute hazardous waste are subject to Chapters 262—266 and 270 if a generator generates acute hazardous waste in a calendar month in quantities greater than the following:

(1) A total of 1 kilogram of acute hazardous wastes listed in § 261.31, § 261.32 or § 261.33(4) (relating to list of hazardous waste from nonspecific sources; list of hazardous waste from specific sources; and waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof).

(2) A total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water, of acute hazardous wastes listed in § 261.31, § 261.32 or § 261.33(4).

(f) For acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those in subsection (e) to be excluded from this section, the generator shall comply with the following requirements:

(1) Section 262.11 (relating to hazardous wastes determination).

(2) The generator may accumulate acute hazardous waste onsite. If the generator accumulates at any time acute hazardous wastes in quantities greater than those in subsection (e), all of those accumulated wastes are subject to Chapters 262—266 and 270. The time period established in § 262.34(a) (relating to accumulation) for accumulation of wastes onsite begins when the accumulated wastes exceed the applicable exclusion limit.

(3) The conditionally exempt small quantity generator may either treat or dispose of acute hazardous waste generated onsite at an onsite facility or ensure delivery to an offsite treatment, storage or disposal facility, either of which, if located in the United States, is:

(i) Permitted under Chapter 270 (relating to permit program) if the facility is located within this Commonwealth.

(ii) In interim status under Chapter 265 (relating to interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and Chapter 270 if the facility is located within this Commonwealth.

(iii) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR Part 271 (relating to requirements for authorization of state hazardous waste programs).

(iv) Permitted, licensed or registered by another state to manage municipal or industrial solid waste, or, if a conditionally exempt small quantity generator's wastes are mixed with waste oil and the mixture is to be recycled or reused, it may be transported, stored or processed under Article VIII or Article IX (relating to municipal waste; and residual waste).

(v) A facility which meets one or more of the following conditions:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste.

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(g) For hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar

month to be excluded from full regulation under this section, the generator shall comply with the following requirements:

(1) Section 262.11

(2) The conditionally exempt small quantity generator may accumulate hazardous waste onsite. If the conditionally exempt small quantity generator accumulates at any time more than a total of 1,000 kilograms of hazardous wastes which were generated onsite, all of those accumulated wastes are subject to regulation under the special provisions of Chapter 262 (relating to generators of hazardous waste) applicable to generators of between 100 kilograms and 1,000 kilograms of hazardous waste in a calendar month as well as the requirements of Chapters 263—266 and 270. The time period established in § 262.34(e) (relating to accumulation) for accumulation of wastes onsite begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1,000 kilograms.

(3) The conditionally exempt small quantity generator may either treat or dispose of hazardous waste generated onsite at an onsite facility or ensure delivery to an offsite treatment, storage or disposal facility, either of which, if located in the United States, is one or more of the following:

(i) Permitted under Chapter 270.

(ii) In interim status under Chapters 265 and 270.

(iii) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR Part 271.

(iv) Permitted, licensed or registered by another state to manage municipal or industrial solid waste, or, if a conditionally exempt small quantity generator's wastes are mixed with waste oil and the mixture is to be recycled or reused, it may be transported, stored or processed under Article VIII or Article IX.

(v) A facility which meets one or more of the following conditions:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste.

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(h) Hazardous waste subject to the reduced requirements of this section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous waste identified in Subchapter C (relating to characteristics of hazardous waste).

(i) If a person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

(j) If a conditionally exempt small quantity generator's wastes are mixed with waste oil, the mixture is subject to Chapter 266, Subchapter E (relating to waste oil burned for energy recovery), if it is destined to be burned for energy recovery. A material produced from such a mixture by processing, blending or other treatment is also so regulated if it is destined to be burned for energy recovery.

§ 261.6. Requirements for hazardous wastes that are recycled.

(a) *General.*

(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, storage, reclamation and treatment facilities of subsections (b) and (c), except for the hazardous wastes listed in paragraph (2).

(2) The following hazardous wastes are subject to Chapter 266 (relating to special standards for the management of certain hazardous waste activities).

(i) Hazardous waste recycled by being used in a manner constituting disposal as described in Chapter 266.

(ii) Hazardous waste burned for energy recovery that is not regulated under Chapter 264, Subchapter O or Chapter 265, Subchapter O (relating to incinerators).

(iii) Spent lead-acid batteries that are being reclaimed.

(iv) Waste oil that exhibits one or more of the characteristics of hazardous waste and is burned for energy recovery in boilers and industrial furnaces that are not regulated under Chapter 264, Subchapter O or Chapter 265, Subchapter O.

(v) Hazardous wastes reclaimed on the site at which they were generated.

(3) The following hazardous waste recycling facilities are subject to Chapter 266, Subchapter F (relating to permit-by-rule):

(i) Battery manufacturing facilities reclaiming spent, lead-acid batteries.

(ii) Petroleum refining facilities refining hazardous waste along with normal process streams to produce petroleum products.

(4) Except as provided in paragraph (5), facilities that manage hazardous wastes are eligible to apply for a determination of applicability for a permit-by-rule under Chapter 266, Subchapter I (relating to other hazardous waste recycling activities), if all of the hazardous waste consists of one or more of the following:

(i) Hazardous wastes listed at § 261.33 (relating to waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof), characteristic sludges or characteristic by-products, that are being reclaimed at the facility.

(ii) Hazardous wastes that are speculatively accumulated at the facility.

(iii) Hazardous wastes used or reused at the facility as ingredients in an industrial process to make a product or coproduct, if the wastes are not being reclaimed.

(iv) Hazardous wastes used or reused at the facility as effective substitutes for commercial products or coproducts.

(5) Facilities managing the following materials are not eligible for a permit-by-rule under Chapter 266, Subchapter I:

(i) Hazardous wastes recycled by being used in a manner constituting disposal, or used to produce products or coproducts that are applied to the land.

(ii) Hazardous wastes burned for energy recovery, used to produce a fuel or contained in fuels.

(iii) Hazardous wastes identified by the EPA as inherently wastelike under 40 CFR 261.2(d)(1) (relating to definition of solid waste), including listed hazardous wastes F022, F023, F026 and F028.

(b) *Generators and transporters.* Generators and transporters of hazardous wastes that are recycled shall

comply with Chapters 262 and 263 (relating to generators of hazardous waste; and transporters of hazardous waste) and the notification requirements under § 261.41 (relating to notification of hazardous waste activities) except as provided in subsection (a).

(c) *Storage and treatment.*

(1) Owners or operators of facilities that store hazardous wastes before they are recycled are regulated under, required to obtain a permit and shall comply with Chapters 264, 265, 267, 269 and 270 and the notification requirement under § 261.41, except as provided in subsection (a).

(2) Owners or operators of facilities that reclaim or otherwise treat hazardous waste are regulated under, required to obtain a permit under and shall comply with Chapters 264, 265, 267, 269 and 270 and the notification requirements under § 261.41, except as provided in subsection (a).

§ 261.7. Empty containers.

(a) A container or an inner liner removed from a container, previously used to hold a hazardous waste, which has been emptied in accordance with the standards of this section, and which is being transported to a facility for processing (as defined in § 260.2 (relating to definitions)) or disposal shall be managed as a residual waste. For purposes of this section, a tank which is transported for processing or disposal, shall be considered a container.

(b) The person in control of the container or inner liner removed from a container, when any remaining residue which was present prior to processing or other cleaning is, either accidentally or intentionally, removed therefrom shall have the responsibility to ensure that the waste is managed in compliance with the act and the regulations thereunder.

(c) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in § 261.31, § 261.32 or § 261.33(4) (relating to list of hazardous waste from nonspecific sources; list of hazardous waste from specific sources; and waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof) is empty if the following apply:

(1) The wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container—for example, pouring, pumping and aspirating.

(2) No more than one of the following applies:

(i) Less than 2.5 centimeters (1 inch) of residue remain on the bottom of the container or inner liner.

(ii) 3% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size.

(iii) 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

(d) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(e) A container or an inner liner removed from a container that has held an acute hazardous waste listed in § 261.31, § 261.32 or 261.33(4) is empty if one of the following apply:

(1) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate.

(2) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal.

(3) The inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed, in the case of a container.

Subchapter D. LISTS OF HAZARDOUS WASTES

§ 261.33. Waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof.

(a) The following materials or items are hazardous wastes if they become wastes, including, when they are mixed with waste oil or other material or applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when in lieu of their original intended use, they are used as, or as a component of, fuel, distributed for use as a fuel or burned as a fuel.

(1) A commercial chemical product, or manufacturing chemical intermediate having a generic name incorporated by reference in paragraph (4) or (5).

(2) An off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have a generic name incorporated by reference in paragraph (4) or (5).

(3) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name incorporated by reference in paragraph (4) or (5), unless the container is empty as defined in § 261.7 (relating to empty containers).

(4) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (4) or (5) or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have a generic name incorporated by reference in paragraph (4) or (5).

(5) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products, or manufacturing chemical intermediates, referred to in paragraphs (1)—(4), are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in § 261.5(e) (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators). The list of these wastes and their corresponding EPA Hazardous Waste Numbers in 40 CFR 261.33(e) (relating to discarded commercial chemical products, off-specification species, container residues, and spill residues thereof) is incorporated by reference. Additions, revisions to or deletions from the list in 40 CFR 261.33(e) are incorporated

into this article and are effective on the date established by Federal regulations, unless otherwise established in this title.

(6) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in paragraphs (1)—(4) are identified as toxic wastes (T), unless otherwise designated and are subject to the small quantity generator exclusion defined in § 261.5(a) and (g). The list of these wastes and their corresponding EPA Hazardous Waste Numbers in 40 CFR 261.33(f) is incorporated by reference. Additions, revisions to or deletions from the list in 40 CFR 261.33(f) are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this title.

(b) The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed and the formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraph (5) or (6). This waste will be listed in either § 261.31 or § 261.32 (relating to list of hazardous waste from nonspecific sources) or will be identified as a hazardous waste by the characteristics in Subchapter C (relating to characteristics of hazardous waste).

§ 261.34. Appendices.

(a) *Appendix I—Representative Sampling Methods.* The text of Appendix I promulgated under RCRA at 40 CFR Part 261 (relating to identification and listing of hazardous wastes) entitled *Representative Sampling Methods* is incorporated by reference. Revisions to the appendix adopted by the EPA are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this article.

(b) *Appendix II—Toxicity Characteristic Leaching Procedure.* The test in Appendix II promulgated under RCRA at 40 CFR Part 261 entitled *Toxicity Characteristic Leaching Procedure* is incorporated by reference. Revisions to the appendix adopted by the EPA are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this article.

(c) *Appendix III—Chemical Analysis Test Methods.* The text of Appendix III promulgated under RCRA at 40 CFR Part 261 entitled *Chemical Analysis Test Methods* is incorporated by reference. Revisions to the appendix adopted by the EPA are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this article.

(d) *Appendix VII—Basis for Listing Hazardous Waste.* The text of Appendix VII promulgated under RCRA at 40 CFR Part 261 entitled *Basis for Listing Hazardous Waste* is incorporated by reference. Revisions to the appendix adopted by the EPA are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this article.

(e) *Appendix VIII—Hazardous Constituents.* The text of Appendix VIII promulgated under RCRA at 40 CFR Part 261 entitled *Hazardous Constituents* is incorporated by reference. Revisions to the appendix adopted by the EPA

are incorporated into this article and are effective on the date established by Federal regulations, unless otherwise established in this article.

CHAPTER 262. GENERATORS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 262.10. Scope.

(a) This chapter establishes standards for a generator of hazardous waste identified in Chapter 261 (relating to criteria, identification and listing of hazardous waste) who is located in this Commonwealth.

(b) A generator who treats, stores or disposes of hazardous waste at a permitted onsite facility or an onsite facility being treated as having been issued a permit shall comply with applicable requirements of Chapters 264 and 265 (relating to new and existing hazardous waste management facilities applying for a permit; and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and with the following in this chapter:

- (1) Section 262.11 (relating to hazardous waste determination).
- (2) Section 262.12 (relating to identification numbers).
- (3) Section 262.34 (relating to accumulation).
- (4) Section 262.40 (relating to recordkeeping).
- (5) Section 262.41(b) (relating to biennial report).
- (6) Section 262.43 (relating to additional reporting).
- (7) Section 262.45 (relating to hazardous waste disposal plan).
- (8) Section 262.46 (relating to hazardous waste discharges or spills).

(c) A farmer who generates waste pesticides which are hazardous wastes and who complies with the requirements of § 262.70 (relating to farmers), is not required to comply with Chapters 264 and 265 with respect to the pesticides.

(d) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage or disposal facility shall comply with the generator standards established in this chapter.

(e) A household hazardous waste collection contractor under section 1512 of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 400.1512) is a generator of the hazardous wastes collected and shall comply with the requirements of this chapter.

(f) Used oil collection site operators who are not transporters, marketers or burners are not generators. Used oil collection contractors under section 1512 of the Municipal Waste Planning, Recycling and Waste Reduction Act who manage hazardous waste oils are generators.

§ 262.12. Identification numbers.

(a) A generator may not treat, store, dispose of, transport or offer for transport a shipment of hazardous waste without having received an identification number.

(b) A generator shall offer a shipment of hazardous waste only to a licensed transporter or hazardous waste management facility that has received an identification number.

Subchapter C. PRETRANSPORT REQUIREMENTS

§ 262.34. Accumulation.

(a) Except as provided in subsections (d)—(f), a generator may accumulate hazardous waste onsite for 90 days or less without a permit or without having interim status, if the following apply:

(1) The waste is placed as follows:

(i) In containers and the generator complies with Chapter 265, Subchapter I (relating to use and management of containers).

(ii) In tanks and the generator complies with Chapter 265, Subchapter J (relating to tanks) except for §§ 265.197(c) and 265.200 (relating to closure and postclosure care; and waste analysis and trial tests) and provides the following:

(A) A description of the procedures that will be followed to ensure that hazardous waste is stored in the tank for 90 days or less.

(B) Documentation of each waste removal including the quantity of waste removed from the tank and the date and time of removal is maintained at the facility.

(iii) On drip pads and the generator complies with Chapter 265, Subchapter S (relating to drip pads) and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that the wastes are removed from the drip pad and associated collection system at least once every 90 days.

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(iv) In containment buildings and the generator complies with Chapter 265, Subchapter T (relating to containment buildings), and has obtained and placed in the facility's operating record certification by a qualified registered professional engineer that the building complies with the design standards specified in § 265.521 (relating to design and operating standards), prior to operation of the unit. The generator is exempt from the requirements in Chapter 265, Subchapters G and H (relating to closure and postclosure; and financial requirements), except for §§ 265.111 and 265.114 (relating to closure performance standard; and disposal or decontamination of equipment, structures and soils). The owner or operator shall maintain one of the following at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90-day limit and documentation that the procedures are complied with.

(B) Documentation that the unit is emptied at least once every 90 days.

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

(3) The waste is placed in containers which meet United States Department of Transportation packaging, marking and labeling requirements in § 262.30 (relating to packing, labeling and marking) when waste is accumulated in containers onsite.

(4) Each tank is labeled or marked clearly with the words, "Hazardous Waste" when waste is accumulated in tanks onsite.

(5) The generator complies with the requirements for owners or operators in Chapter 265, Subchapters C and D (relating to preparedness and prevention; and preparedness, prevention and contingency (PPC) plan and emergency procedures) and with § 265.16 (relating to personnel training).

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to Chapters 264 and 265 (relating to new and existing hazardous waste management facilities applying for a permit; and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and the permit requirements of Chapter 270 (relating to permit program) unless the generator has been granted an extension to the 90-day period. The extension may be granted by the Department if hazardous waste has to remain onsite for longer than 90 days due to unforeseen, temporary and uncontrollable circumstances. An extension of up to 30 days may be granted at the Department's discretion on a case-by-case basis.

(c) A generator may accumulate as much as 55 gallons of hazardous waste or 1 quart of acutely hazardous waste listed in § 261.33(4) (relating to waste commercial chemical products, off-specification species, containers, container residues and spill residues thereof) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with subsection (a) if the generator meets the following conditions:

(1) Complies with §§ 265.171—265.173 (relating to condition of containers; compatibility of waste with containers; and management of containers).

(2) Marks the containers either with the words "hazardous waste" or with other words that identify the contents of the containers.

(d) A generator who accumulates either hazardous waste or acutely hazardous waste listed in § 261.33(4) in excess of the amounts listed in subsection (c) at or near any point of generation shall, with respect to that amount of excess waste, comply within 3 days with subsection (a) or other applicable provisions of this chapter. During the 3-day period, the generator shall continue to comply with subsection (c). The generator shall mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(e) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste onsite for 180 days or less without a permit or without having interim status if the following conditions are met:

(1) The quantity of waste accumulated onsite never exceeds 6,000 kilograms.

(2) The generator complies with Chapter 265, Subchapter I, except § 265.176 (relating to special requirements for ignitable or reactive wastes).

(3) The generator complies with § 265.201 (relating to special requirements for generators of between 100 and 1,000 kg/mo that accumulate hazardous waste in tanks).

(4) The generator complies with subsection (a)(2) and (3).

(5) The generator complies with § 265.16 (relating to personnel training) and Chapter 265, Subchapters C and D

(f) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and who transports that waste, or offers that waste for transportation, over a distance of 200 miles or more for offsite treatment, storage or disposal may accumulate hazardous waste onsite for 270 days or less without a permit or without having interim status provided that the generator complies with subsection (e).

(g) A generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6,000 kilograms or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator has to transport that waste, or offer that waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to Chapters 264 and 265 and the permit requirements of Chapter 270 unless an extension to the 180-day (or 270-day if applicable) period has been granted. The extension may be granted by the Department if hazardous waste has to remain onsite for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary and uncontrollable circumstances. An extension of up to 30 days may be granted at the Department's discretion, on a case-by-case basis.

Subchapter D. RECORDKEEPING AND REPORTING

§ 262.40. Recordkeeping.

(a) A generator shall retain a copy of each manifest signed in accordance with § 262.20 (relating to manifest), for 3 years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy shall be retained at the building, property premises or place where hazardous waste is generated or at a location approved by the Department as a record for at least 3 years from the date on which the waste was accepted by the initial transporter.

(b) A generator shall retain a copy of each biennial report and exception report for at least 3 years from the due date of the report.

(c) A generator shall retain records of any test results, waste analyses or other determinations made in accordance with § 262.11 (relating to hazardous waste determination), for at least 20 years from the date the waste was last sent for onsite or offsite treatment, storage or disposal. The generator shall furnish these records to the Department upon request.

(d) The periods of retention referred to in this section shall be extended automatically during the course of any enforcement action regarding the regulated activity or as requested by the Department.

(e) A generator shall retain records of inspections conducted in accordance with § 262.34 and Chapter 265, Subchapters I and J (relating to accumulation; use and management of containers; and tanks) for at least 20 years from the date the inspections were conducted.

§ 262.41. Biennial report.

A generator other than a small quantity generator or a conditionally exempt small quantity generator shall submit biennial reports:

(1) To the Department on a form designated by the Department. The form shall contain as a minimum the following information:

- (i) The name, identification number, mailing address and the location of the generator.
- (ii) The name and telephone number of the generator's contact person.
- (iii) The calendar year covered by the report.
- (iv) For each hazardous waste generated, the description, hazardous waste number and quantity.
- (v) For each hazardous waste managed onsite, except for wastes temporarily accumulated under § 262.34 (relating to accumulation), the method of management.
- (vi) For each waste shipped offsite, the identification number of the designated facility and the method of management at the facility.
- (vii) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.
- (viii) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.
- (ix) Signature and dated certification of the generator's authorized representative.

(2) To the Department on or before the first day of March of each even numbered year and shall cover the previous calendar year.

CHAPTER 263. TRANSPORTERS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 263.10. Scope.

(a) This chapter applies to a person or municipality who transports hazardous wastes which are generated, stored, treated or disposed of in this Commonwealth, except that transporters transporting hazardous waste through this Commonwealth, neither picking up or delivering hazardous waste in this Commonwealth, need only comply with the EPA transporter requirements in 40 CFR Part 263 (relating to transporters of hazardous waste).

(b) This chapter does not apply to onsite transportation of hazardous wastes by generators or onsite transportation by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous wastes shall comply with the requirements of Chapter 262 (relating to generators of hazardous waste) if he transports hazardous wastes into this Commonwealth from a foreign country.

(d) A transporter of hazardous waste shall comply with the applicable Department of Transportation requirements for hazardous materials transporters.

§ 263.11. Identification number.

Except as otherwise provided in § 263.30 (relating to hazardous waste discharge or spills), a transporter may not transport hazardous waste without having received an identification number.

§ 263.13. Licensing.

(a) Except as otherwise provided in subsection (b) or § 263.30 (relating to hazardous waste discharge or spills), a person or municipality may not transport hazardous

waste within this Commonwealth without first obtaining a license from the Department.

(b) A person or municipality that has been transporting hazardous waste within this Commonwealth on the effective date of the amendments to Chapter 261 (relating to criteria, identification and listing of hazardous waste), made after January 11, 1997, who files a notification form as required by § 261.41 (relating to notification of hazardous waste activities), and submits a license application as required by this section within 90 days of an amendment to Chapter 261, made after January 11, 1997, shall be treated as having been issued a license until a final Department action on the application is made. The person or municipality may not continue to transport hazardous waste without obtaining a license from the Department.

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

- (1) Comply with § 261.41.
- (2) File a hazardous waste transporter license application with the Department. The application shall be on a form provided by the Department and shall be completed as required by the instructions supplied with the form.
- (3) Deposit with the Department a collateral bond which is conditional upon compliance by the licensee with the act, the regulations promulgated thereunder, the terms and conditions of the license and a Department order issued to the licensee. The amount, duration, form, conditions and terms of the bond shall conform to § 263.32 (relating to bonding).
- (4) Supply the Department with the relevant additional information it may require.
- (d) Upon receiving the application and the information required in subsection (c), the Department will evaluate the application for a license and other relevant information and issue or deny the license. If a license is denied, the Department will advise the applicant of the reasons for denial in writing.

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

(f) A license to transport hazardous wastes is nontransferable and nonassignable and shall be used only by the licensee and employees of the licensee.

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

- (1) Violation of an applicable requirement of the act or a regulation promulgated under the act.
- (2) Aiding or abetting the violation of the act or a regulation promulgated under the act.
- (3) Misrepresentation of a fact either in the application for the license or renewal or in information required or requested by the Department.
- (4) Failure to comply with the terms or conditions placed upon the license or renewal.
- (5) Failure to comply with an order issued by the Department.
- (6) Failure to maintain the required bond amount.

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

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

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

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

Subchapter B. MANIFEST

§ 263.20. Manifest.

* * * * *

(b) Before transporting the hazardous waste, the initial and any subsequent transporter shall print or type his name, sign and date the manifest and, by his signature, acknowledge his acceptance of the hazardous waste from the generator or previous transporter. Before leaving the generator's property, the initial transporter shall return to the generator the appropriate number of signed copies of the manifest according to the instructions supplied with the manifest.

* * * * *

§ 263.27. Blending, mixing, treating or storing of hazardous waste by transporters.

(a) If a transporter blends or mixes hazardous waste of different United States Department of Transportation shipping descriptions, the transporter shall comply with Chapter 262 (relating to generators of hazardous waste).

(b) A transporter that stores hazardous waste in a manner other than in-transit storage or alters the composition of hazardous waste, shall comply with the applicable requirements of Chapters 264 and 265 (relating to new and existing hazardous waste management facilities applying for a permit; and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities).

(c) A transporter may mix hazardous wastes of similar United States Department of Transportation shipping descriptions solely for the purpose of bulking the waste without complying with Chapters 264 and 265 if the following conditions are met:

(1) The mixing occurs at an in-transit storage facility that complies with § 263.30(g) (relating to hazardous waste discharge or spills).

(2) The wastes being mixed or bulked are compatible which shall be verified through chemical analysis of the wastes involved.

Subchapter C. OPERATING REQUIREMENTS

§ 263.30. Hazardous waste discharge or spills.

(a) In the event of a discharge or spill of hazardous waste during transportation, the transporter shall take appropriate immediate action to protect the health and safety of the public and the environment and shall immediately notify the Department by telephone at (717) 787-4343 and the National Response Center at (800) 424-8802 with the following information:

- (1) Name of the person reporting the spill.
- (2) Name, address and identification number of the transporter.
- (3) Phone number where the person reporting the spill can be reached.
- (4) Date, time and location of the spill.

(5) Mode of transportation and type of transport vehicle.

(6) Brief description of the incident.

(7) For each waste involved in the spill:

(i) The name and identification number of the generator of the waste.

(ii) Shipping name, hazard class and U. N. Number of the waste.

(iii) Estimated quantity of the waste spilled.

(8) Shipping name, hazard class and U. N. Number of any other material carried.

(b) In the event of a discharge or spill of hazardous waste during transportation, the transporter shall immediately notify the affected municipality of the occurrence and nature of the discharge or spill.

(c) If a discharge or spill of hazardous waste occurs during transportation, and a Departmental official acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect the health and safety of the public or the environment, that official may authorize in writing the removal of the waste by transporters who do not have identification numbers or licenses and without the preparation of a manifest.

(d) A transporter shall clean up any hazardous waste discharge or spill that occurs during transportation or take action that may be required or approved by the Department so that the discharge or spill no longer presents a hazard to the health and safety of the public or to the environment.

(e) Report in writing as required by 49 CFR 171.16 (relating to detailed hazardous materials incident reports), to the Chief, Information System Division, Transportation Programs Bureau, United States Department of Transportation, Washington, D.C., 20590, sending a copy of the report to the Department and a copy to the generator. A water—bulk shipment—transporter who has discharged hazardous waste shall give the same notice as required by 33 CFR 153.203 (relating to notice of discharge), for oil and hazardous substances, sending a copy of the report to the Department and a copy to the generator.

(f) A transporter of hazardous waste shall develop and implement a transporter contingency plan for effective action to minimize and abate discharges or spills of hazardous waste from an incident while transporting hazardous waste. The transporter shall develop the plan in accordance with the Department's guidelines for contingency plans and shall submit the plan to the Department as the Department prescribes for its written approval.

(g) A transporter utilizing in-transit storage of hazardous waste for not more than 10 days but greater than 3 days shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan and shall submit the plan to the Department for written approval.

(h) A transporter transferring hazardous waste from one vehicle to another at a transfer facility shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan and will be approved by the Department in writing.

Subchapter E. BONDING

§ 263.32. Bonding.

(a) A collateral bond means an indemnity agreement in a certain sum payable to the Department executed by the licensee and which is supported by the deposit with the Department of cash, negotiable bonds of the United States of America, the Commonwealth of Pennsylvania, the Pennsylvania Turnpike Commission, the General State Authority, the State Public School Building Authority or any Commonwealth municipality, or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States.

(b) A new, revised or renewed license to transport hazardous waste may not be issued by the Department before the applicant for a license has filed a collateral bond payable to the Department on a form provided by the Department, and the bond has been approved by the Department.

(c) The amount of the bond shall be \$10,000 at a minimum and be in an amount sufficient to assure that the licensee faithfully performs the requirements of the act, the rules and regulations promulgated thereunder, the terms and conditions of the license and any Department order issued to the licensee.

(d) Liability under the bond shall continue at a minimum for the duration of the license, any renewal thereof and for a period of 1 year after expiration, termination, revocation or surrender of the license. The 1-year extended period of liability shall include, and shall be automatically extended for, additional time during which administrative or legal proceedings are pending involving a violation by the transporter of the act, rules and regulations promulgated thereunder, the terms or conditions of a license or a Department order.

(e) The Department may require additional bond amounts at any time if the methods of transporting wastes change, the kind of wastes transported change or the Department determines the additional bond amounts are necessary to guarantee compliance with the act, the rules and regulations, the terms and conditions of the license or any Department order.

(f) Collateral bonds shall be subject to the following conditions:

(1) The Department will obtain possession of and keep in custody all collateral deposited by the licensee until authorized for release as provided in this section.

(2) The Department will value collateral at their current market value.

(3) Collateral shall be in the name of the licensee, not in the name of third parties and shall be pledged and assigned to the Department free and clear of claims.

(g) Letters of credit shall be subject to the following conditions:

(1) The letter may only be issued by a bank organized or authorized to do business in the United States.

(2) Letters of credit shall be irrevocable. The Department may accept a letter of credit which is irrevocable for a term of 3 years if:

(i) The letter of credit is automatically renewable for additional terms, unless the bank gives at least 90 days prior written notice to the Department of its intent to terminate the credit at the end of the current term.

(ii) The Department has the right to draw upon the credit before the end of its term and convert it into a cash

collateral bond, if the licensee fails to replace the letter of credit with other acceptable collateral within 30 days of the bank's notice to terminate the credit.

(3) The letter of credit shall be payable to the Department in part or in full upon demand of the Department in the case of a forfeiture or the failure of the operator to replace the letter of credit as provided in this section.

(4) The Department will not accept letters of credit from a bank for a licensee in excess of 10% of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(5) All letters of credit shall be subject to the *Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 290*, including amendments and successor publications.

(6) Letters of credit will provide that the bank will give prompt notice to the licensee and the Department of a notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging violations of regulatory requirements which could result in suspension or revocation of the bank's charter or license to do business.

(7) Upon the incapacity of a bank by reason of bankruptcy, insolvency or suspension or revocation of its charter or license, the licensee shall be deemed to be without collateral bond coverage in violation of § 263.13 (relating to licensing). The Department will issue a notice of violation against a licensee who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days.

(h) Bonds which are not declared forfeit in accordance with subsection (i) shall be released to the licensee 1 year after expiration, termination, revocation or surrender of the license.

(i) The Department will declare forfeit all the bonds if the Department finds that the licensee has violated any of the requirements of the act, the rules and regulations promulgated thereunder, terms and conditions of a license or a Department order issued to the licensee, and if the Department also finds that the licensee has failed to remedy promptly the violation.

(j) Remedies provided in law for violation of the act, the rules and regulations adopted thereunder or the conditions of the license, are expressly preserved. Nothing in this section may be construed as an exclusive penalty or remedy for the violations of law. An action taken under this chapter does not waive or impair another remedy or penalty provided in law.

CHAPTER 264. NEW AND EXISTING HAZARDOUS WASTE MANAGEMENT FACILITIES APPLYING FOR A PERMIT

Subchapter B. GENERAL FACILITY STANDARDS

§ 264.11. Identification numbers.

(a) A person or municipality who owns or operates a hazardous waste management facility may not accept hazardous waste for treatment, storage or disposal without having received an identification number from the EPA and may not accept hazardous waste from a transporter who has not received an identification number from the EPA and a license from the Department, except as otherwise provided. This provision does not apply to acceptance of waste generated by a small quantity generator or by a conditionally exempt small quantity generator.

(b) An owner or operator of a hazardous waste management facility who has not received an identification number may obtain one by applying to the EPA.

§ 264.12. General requirements for hazardous waste management approvals and analysis of a specific waste from a specific waste generator.

(a) Except as provided in subsections (e) and (f), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the operator shall submit to the Department for approval, on a form provided by the Department, a report which the owner or operator shall retain for 20 years. The report shall include the following information:

- (1) A detailed chemical and physical analysis of the waste.
- (2) A description of the waste and the process generating the waste.
- (3) The name and address of the HWM facility.
- (4) A description of the HWM facility's treatment, storage and disposal methods.
- (5) Results of liner compatibility testing.
- (6) An assessment of the impact of the waste on the HWM facility.
- (7) A copy of the generator's source reduction strategy unless exempted under § 262.80(e) (relating to source reduction strategy). For generators located outside of this Commonwealth, a copy of documentation that the generator has complied with section 3005(h) of the Solid Waste Disposal Act (42 U.S.C.A. § 6925(h)).

(8) Other information which the Department may prescribe for the Department to determine whether the waste will be treated, stored or disposed of in accordance with this chapter. The chemical and physical analysis of the waste shall be repeated under one or more of the following circumstances:

- (i) When necessary to ensure that it is accurate and up-to-date.
- (ii) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed.
- (iii) For offsite facilities or onsite facilities receiving waste from offsite sources, when the results of the inspection or analysis, or both, of each hazardous waste indicates that the waste received at the facility does not match the description of the waste on the accompanying manifest or shipping paper.

(b) The owner or operator of an offsite facility or an onsite facility receiving hazardous waste from offsite sources shall inspect and, if necessary, analyze each hazardous waste received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

(c) The owner or operator shall develop and follow a written waste analysis plan which shall be submitted to the Department for approval at a time in the application process as the Department may prescribe. The plan shall be retained at the facility. At a minimum, the plan shall specify all of the following:

- (1) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters.
- (2) The test methods which will be used to test for these parameters.

(3) The sampling methods which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

- (i) One of the sampling methods described in § 261.34(a) (relating to appendices).
- (ii) An equivalent sampling method approved by the Department.

(4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.

(5) For offsite facilities or onsite facilities receiving wastes from offsite sources, the waste analyses that the hazardous waste generators supply in accordance with the requirements of this section.

(6) When applicable, the testing procedures which will be used to meet the additional waste analysis requirements for the following HWM methods: tanks, surface impoundments, waste piles, land treatment, landfills, incineration, thermal treatment, and chemical, physical and biological treatment.

(7) For offsite facilities or onsite facilities receiving hazardous waste from offsite sources, the procedures which will be used to determine the identity of each hazardous waste managed at the facility and the sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

(8) If applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in § 264.17 (relating to general requirements for ignitable, reactive or incompatible wastes).

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

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

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

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

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

(f) Prior Department approval of the report specified in subsection (a) is not required for offsite reclamation facilities that, under a contractual agreement, supply raw material to a generator and accept the expended material from the generator for storage prior to reclamation. In addition to the remaining requirements in subsection (a), the owner or operator shall retain at the facility the generator's certification that, at a minimum, states that a contractual agreement exists between the reclaimer and the generator in which the reclaimer supplies raw material to the generator who returns the expended material to the reclaimer after its intended use and that the material has been or will be used by the generator only in the manner specified in the contractual agreement. The reclaimer shall indicate the proposed location for storage of the waste in the certification. The reclaimer shall maintain one copy of the certification in the operating record onsite for 20 years. The certification shall be included in the waste analysis plan of the reclamation facility's storage permit.

(g) Permit modifications request under subsections (a), (c) and (d) shall be accompanied by a fee, as specified in § 265.447(b) and (c) (relating to payment of fees).

§ 264.13. Generic Module I applications.

(a) In lieu of the waste and generator specific report required by § 264.12 (relating to general requirements for hazardous waste management approvals and analysis of a specific waste from a specific waste generator), the Department may accept from the operator of a treatment, storage or disposal facility a Generic Module I application for similar wastes containing similar hazardous constituents from multiple generators. The Department will approve in writing any Generic Module I application before the operator of a treatment, storage or disposal facility may accept a waste identified in the application from a generator identified in the application. A Generic Module I application may be used only if:

- (1) The wastes have similar chemical and physical characteristics.
- (2) The processes which generate the wastes are similar.
- (3) The wastes have identical hazardous waste numbers, United States Department of Transportation shipping name, hazard class and UN/NA number.
- (4) All wastes included in a Module I application will be managed in the same manner at the facility.
- (5) The management of the wastes is allowed in the permit for the facility and is properly addressed in the approved waste analysis plan.

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

- (1) The information required by § 264.12(a). Generator specific information required by § 264.12(a) shall be included for each generator identified in the application.
- (2) Criteria for determining whether the wastes have similar physical and chemical characteristics and contain similar hazardous constituents.

(c) Additional generators may be added to an approved Generic Module I if the operator of the treatment, storage or disposal facility demonstrates that the waste from the new generator is consistent with the waste already approved in the Generic Module I. At least 15 days prior to accepting a waste from a new generator, the operator of the treatment, storage or disposal facility shall submit to the Department, in writing, the generator specific information required by § 264.12(a). The Department will

not add an additional generator to the Generic Module I if the Department finds that the operator of the treatment, storage or disposal facility has not demonstrated that the waste from the new generator is consistent with that approved under the Generic Module I.

(d) Generic Module I applications submitted under subsection (a) shall be accompanied by a fee as specified in § 265.447(c) (relating to payment of fees).

Subchapter E. MANIFEST SYSTEM AND DISCREPANCY REPORTING

§ 264.71. Use of manifest system.

* * * * *

(d) The owner or operator of the facility shall retain the required copies of the manifest at the time of delivery, for at least 3 years from the date of delivery.

* * * * *

§ 264.73. Operating record.

(a) The owner or operator of an onsite or offsite facility shall keep a written operating record at his facility.

(b) The following information shall be recorded, as it becomes available, and be maintained in the operating record until closure of the facility:

(1) A description and the quantity of each hazardous waste received, and the methods and dates of its treatment, storage or disposal at the facility as required by Appendix A (relating to recordkeeping instructions). The quarterly report form may be used to record this information.

(2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste shall be recorded on a map or diagram of each cell or disposal area. The maps or diagrams shall be drawn to scale and tied to permanently surveyed bench marks. For all facilities, this information shall include cross references to specific state manifest document numbers and EPA manifest document numbers, if the waste was accompanied by a manifest.

(3) Records and results of waste analyses and trial tests performed as specified in §§ 264.13, 264.17 and Subchapter O (relating to general requirements for hazardous waste management approvals and analysis; general requirements for ignitable, reactive or incompatible wastes; and incinerators).

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in § 264.56(j) (relating to emergency procedures).

(5) Records and results of inspections as required by § 264.15 (relating to general inspection and construction inspection requirements).

(6) Monitoring, testing or analytical data if required by Subchapters F and I—T.

(7) For offsite facilities or onsite facilities receiving wastes from offsite sources, notices to generators as specified in § 262.13 (relating to authorization).

(8) Closure cost estimates under § 267.19 (relating to cost estimate for closure and postclosure care) and for disposal facilities, all postclosure estimates under § 267.19.

(9) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste gener-

ated to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable methods currently available to the permittee which minimizes the present and future threat to human health and the environment.

§ 264.75. Biennial report.

(a) Facility owners or operators shall submit biennial reports to the Department on a form designated by the Department. The form shall contain as a minimum the following information:

(1) The name, identification number, mailing address and location of the facility.

(2) The name and telephone number of the facility's contact person.

(3) For each hazardous waste managed at the facility, the identification number of the producing generator, the description, hazardous waste number, quantity and method of treatment, storage or disposal. For imported shipments, in lieu of the identification number, the report shall give the name and address of the foreign generator.

(4) Signature and certification of the facility's owner or operator or authorized representative.

(5) The most recent closure cost estimate under § 267.19 (relating to cost estimate for closure and postclosure care), and for disposal facilities, the most recent postclosure cost estimate under § 267.19.

(6) The calendar years covered by the report.

(7) Additional information set forth by the Department on the form.

(b) Reports required by this section shall be submitted to the Department on or before the first day of March for each even numbered year and shall cover the previous calendar year.

(c) Reports required by this section shall be maintained for the life of the facility as a part of the operating record. The records shall be made available to the Department upon request.

§ 264.76. Unmanifested waste report.

If a facility accepts for treatment, storage or disposal hazardous waste from an offsite source without an accompanying manifest, or without an accompanying shipping paper as described in § 263.20(e)(2) (relating to manifest), and if the waste is not excluded from the manifest requirement by § 261.5 (relating to special requirements for hazardous waste generated by small quantity generators), the owner or operator shall prepare and submit a single copy of a report to the Department within 15 days after receiving the waste. The unmanifested waste report shall be submitted on EPA Form 8700-13B. The report shall be designed "unmanifested waste report" and include the following information:

(1) The identification number, name and address of the facility.

(2) The date the facility received the waste.

(3) The identification number, name and address of the generator and the transporter, if available.

(4) A description and the quantity of each unmanifested hazardous waste received by the facility.

(5) The method of treatment, storage or disposal for each hazardous waste.

(6) The certification signed by the owner or operator of the facility or an authorized representative.

(7) A brief explanation of why the waste was unmanifested, if known.

§ 264.82. Administration fees.

(a) The owner or operator of a hazardous waste management facility shall annually pay an administration fee to the Department according to the following schedule:

(1) Land disposal facilities—\$2,500.

(2) Surface impoundments—\$2,500.

(3) Commercial treatment—\$2,000.

(4) Captive treatment—\$700.

(5) Storage—\$550.

(6) Incinerators—\$1,300.

(b) The administration fee shall be in the form of a check made payable to the "Commonwealth of Pennsylvania" and be paid on or before the first of March to cover the preceding year.

(c) If more than one permitted activity is located at a site, or more than one activity occurs, the fee shall be cumulative.

Subchapter J. TANKS

§ 264.190. Applicability.

(a) *Tank systems.* This subchapter applies to owners and operators of facilities that use tank systems to treat or store hazardous wastes, except as otherwise provided in § 264.1 (relating to scope).

(b) *General.* Tank systems that are used to store or treat hazardous waste which contain no free liquids and are situated inside a building with an impermeable floor—permeability may not exceed 1×10^{-7} cm/sec.—are exempted from § 264.193 (relating to secondary containment). To demonstrate the absence or presence of free liquids in the stored or treated waste, the waste shall pass the following tests:

(1) Method 9095 (Paint Filter Liquids Test) as described in the latest "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846 as amended).

(2) It shall have greater than 20% solids content by dry weight.

(3) It may not be flowable. Flowable refers to flow in the sense of pourable as a liquid.

(c) *Exemptions.* Tank systems, including sumps, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in § 264.193.

Subchapter L. WASTE PILES

§ 264.250. Applicability.

(a) This subchapter applies to an owner or operator of a facility that stores or treats hazardous waste in piles except under § 264.1 (relating to scope). A waste pile used as a disposal facility is a landfill and shall meet the requirements of Subchapter N (relating to landfills).

(b) A waste pile shall be designed to prevent discharge into the land, surface water or groundwater during the life of the pile.

(c) An owner or operator of a waste pile complying with paragraph (1) is not subject to the requirements of Subchapter F (relating to groundwater monitoring), the

requirements of §§ 264.251 and 264.252 (relating to design and operating requirements—general; and design and operating requirements—liner system). An owner or operator of a waste pile complying with paragraph (2) or (3) is not subject to the groundwater requirements of Subchapter F.

(1) The waste pile is inside or under a completely enclosed structure that provides protection from precipitation so that neither runoff nor leachate is generated.

(i) A liquid or material containing free liquids is not placed in the pile.

(ii) The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting.

(iii) The pile will not generate leachate through decomposition or other reactions.

(iv) The waste is underlain by an impermeable membrane of sufficient strength and thickness to prevent failure due to the stress of installation, puncture, cracking, tearing or other physical damage from equipment used to place the waste in or on the pile, or to remove the waste from the pile, or to clean the membrane. The membrane shall be compatible and nonreactive with the waste to be placed on it.

(v) The pile is protected from surface water run-on by the structure or in another manner.

(2) The waste pile is underlain by a liner system composed of two liners and conditions of § 264.252(a) are complied with.

(3) The waste in the pile is removed periodically and the liner is inspected for deterioration, cracks or other conditions that may result in leaks. The frequency of inspection shall be specified in the inspection schedule under § 264.15 (relating to general inspection and construction inspection requirements), and shall be based on the potential for the liner base to crack or otherwise deteriorate under the conditions of operation such as waste type, rainfall, loading rates, subsurface stability and conditions of § 264.252(a) are complied with.

Subchapter O. INCINERATORS

§ 264.341. Waste analysis.

(a) Before an owner or operator incinerates his own specific hazardous waste or a specific hazardous waste from a specific generator for the first time he shall submit to the Department an analysis of the waste including the following information either with the permit application or on a form specified by the Department. The following parameters of the waste feed shall be analyzed and quantified along with additional parameters as may be required by the Department in order to provide data as required by § 264.347 (relating to monitoring and inspection). Each analysis shall include sample data, sample methods, sample description and collection conditions, analysis data and laboratory name, address, contact and telephone number. All analyses submitted shall specify the analytical techniques utilized along with special preparation or deviation from accepted techniques:

- (1) General properties.
 - (i) Moisture (percent by weight).
 - (ii) Ash (percent by weight).
 - (iii) Heating value (Btu/lb.).
 - (iv) Density (lb./cubic foot at 70°F).
 - (v) Viscosity (Centipoise at 70°F).

(vi) PCB (ppm by weight).

(vii) Identification of hazardous organic constituents listed in § 261.34(e) (relating to appendices), which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in § 261.34(e) which would reasonably not be expected to be found in the waste. The constituents excluded from analysis shall be identified and the basis for the exclusion stated. The waste analysis shall rely on analytical techniques specified in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods* (SW-846) or other equivalent method, under § 260.21 (relating to requests for determination of equivalent testing or analytical methods).

(viii) Flash point (°F).

(ix) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods* (SW-846) or other equivalent method under § 260.21.

(2) Ultimate analysis.

(i) Carbon (percent by weight).

(ii) Hydrogen as H₂ (percent by weight).

(iii) Oxygen as O₂ (percent by weight).

(iv) Nitrogen as N₂ (percent by weight).

(v) Water (percent by weight).

(vi) Phosphorus (percent by weight).

(vii) Bromine as Br₂ (percent by weight).

(viii) Chlorine as Cl₂ (percent by weight).

(ix) Fluorine as F₂ (percent by weight).

(x) Arsenic (percent by weight).

(xi) Beryllium (percent by weight).

(xii) Lead (percent by weight).

(xiii) Mercury (percent by weight).

(xiv) Cadmium (percent by weight).

(xv) Chromium as hexavalent chrome (percent by weight).

(xvi) Sulfur (percent by weight).

(xvii) Remainder as ash (percent by weight).

(b) Throughout normal operation, the owner or operator shall conduct sufficient waste analyses to verify that the waste feed to the incinerator is within the physical and chemical composition limits specified in the permit. The Department may require additional waste analyses if it determines that the analyses conducted by the owner or operator are insufficient to verify that the waste feed is within the limits specified in the permit.

§ 264.343. Performance standards.

An incinerator burning hazardous waste shall be designed, constructed and maintained so that, when operated under § 264.345(a) (relating to operating requirements), it will meet the following performance standards:

(1) An incinerator burning hazardous waste shall achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated in its permit or approval for each waste feed. DRE is determined for each POHC from the following equation:

$$\text{DRE} = \frac{(W_{\text{in}} - W_{\text{out}}) \times 100\%}{W_{\text{in}}}$$

Where

W_{in} = Mass feed rate of one POHC in the waste stream feeding the incinerator.

W_{out} = Mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour—4 pounds per hour—of hydrogen halide shall control hydrogen halide emissions so that the rate of emission is not greater than the larger of either 1.8 kilograms per hour or 1.0% of the hydrogen halide in the stack gas prior to entering any pollution control equipment.

(3) An incinerator burning hazardous waste may not emit particulate matter in excess of the most stringent of the following requirements:

(i) One hundred eighty milligrams per dry standard cubic meter—0.08 grains per dry standard cubic foot—corrected to 12% CO_2 when stack tested in accordance with Chapter 139 (relating to sampling and testing).

(ii) One hundred eighty milligrams per dry standard cubic meter—0.08 grains per dry standard cubic foot—when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \frac{14}{21 - Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, 40 CFR Part 60, Appendix A (Method 3) (relating to reference methods). This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment.

(iii) An alternate emission standards which the Department may require under § 141.1 (relating to imposing alternate standards) should particulate emissions of metals be inadequate to protect public health or ambient air quality standards as specified in Chapter 131 (relating to ambient air quality standards).

Subchapter S. DRIP PADS

Sec.

- 264.500. Applicability.
- 264.501. Assessment of existing drip pad integrity.
- 264.502. Design and installation of new drip pads.
- 264.503. Design and operating requirements.
- 264.504. Inspections.
- 264.505. Closure.

§ 264.500. Applicability.

(a) This subchapter applies to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation or surface water run-on to an associated collection system. Existing drip pads are those constructed before January 11, 1997.

(b) The owner or operator of a drip pad that is inside or under a structure that provides protection from precipitation so that neither runoff nor run-on is generated is not subject to § 264.503(e) or (f) (relating to design and operating requirements), as appropriate.

(c) This subchapter is not applicable to the management of infrequent and incidental drippage in storage yards if the owner or operator maintains and complies

with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of the infrequent and incidental drippage. At a minimum, the contingency plan shall describe how the owner or operator will do the following:

- (1) Clean up the drippage.
- (2) Document the cleanup of the drippage.
- (3) Retain documents regarding cleanup for 3 years.
- (4) Manage the contaminated media in a manner consistent with all applicable State and Federal law.

§ 264.501. Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 264.500 (relating to applicability), the owner or operator shall evaluate the drip pad and determine that it meets the requirements of this subchapter. By April 11, 1997, the owner or operator shall obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified registered professional engineer that attests to the results of the evaluation. The assessment shall be reviewed, updated and recertified annually until the upgrades, repairs or modifications necessary to achieve compliance with § 264.503 (relating to design and operating requirements) are complete. The evaluation shall document the extent to which the drip pad meets each of the design and operating standards of § 264.503.

(b) By April 11, 1997, owners or operators of existing drip pads shall submit to the Department a written plan describing changes that are needed to bring the drip pad into compliance with § 264.503. The plan shall include a schedule not to exceed 3 years, for completing the changes to the drip pad. A qualified registered professional engineer shall review and certify the plan. The plan shall be implemented as approved by the Department in writing.

(c) Upon completion of repairs and modifications, the owner or operator shall submit to the Department the drawings for the drip pad as it was built together with a certification by a qualified registered professional engineer attesting that the drip pad conforms to the drawings.

(d) If the drip pad is leaking or unfit for use, the owner or operator shall comply with § 264.503(m) or close the drip pad in accordance with § 264.505 (relating to closure).

§ 264.502. Design and installation of new drip pads.

Owners and operators of new drip pads shall ensure that the pads are designed, installed and operated in accordance with one of the following:

(1) The requirements of §§ 264.503 (except subsection (a)(4)), 264.504 and 264.505 (relating to design and operating requirements; inspections; and closure).

(2) The requirements of §§ 264.503 (except subsection (b)), 264.504 and 264.505.

§ 264.503. Design and operating requirements.

(a) Drip pads shall be one of the following:

(1) Constructed of nonearthern materials, excluding wood and nonstructurally supported asphalt, which shall:

(i) Be sloped to free-drain treated wood drippage, rain and other waters, or solutions of drippage and water or other wastes to the associated collection system.

(ii) Have a curb or berm around the perimeter.

(iii) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second. For example, existing concrete drip pads shall be sealed, coated or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second so that the entire surface where drippage occurs or may run across is capable of containing the drippage and mixtures of drippage and precipitation, materials or other wastes while being routed to an associated collection system. This surface material shall be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material shall be chemically compatible with the preservatives that contact the drip pad. This paragraph applies only to existing drip pads and those drip pads for which the owner or operator elects to comply with this paragraph.

(iv) Be evaluated to document the extent to which the drip pad meets the design and operating standards of this paragraph. The owner or operator shall obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified registered professional engineer that attest to the results of the evaluation. The assessment shall be reviewed, updated and recertified annually.

(v) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions and the stress of daily operations—for example, variable and moving loads such as vehicle traffic, movement of wood, and the like.

(2) Constructed using a synthetic liner, a leakage detection system and a leakage collection system which meets the following requirements:

(i) A synthetic liner shall be installed below the drip pad that is designed, constructed and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life—including the closure period—of the drip pad. The liner shall be:

(A) Constructed of materials that will prevent waste from being absorbed into the liner and to prevent releases into the adjacent subsurface soil or groundwater or surface water during the active life of the facility.

(B) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation and the stress of daily operation, including stresses from vehicular traffic on the drip pad.

(C) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression or uplift.

(D) Installed to cover all surrounding earth that could come in contact with the waste or leakage.

(ii) A leakage detection system shall be installed immediately above the liner that is designed, constructed, maintained and operated to detect leakage from the drip pad. The leakage detection system shall be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the drip pad and the leakage that might be generated.

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by equipment used at the drip pad.

(B) Designed and operated to function without clogging through the scheduled closure of the drip pad.

(C) Designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

(iii) A leakage collection system shall be installed immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad so that it can be removed from below the drip pad. The date, time and quantity of leakage collected in this system and removed shall be documented in the operating log.

(b) Drip pads and associated collection systems shall be maintained so that they remain free of cracks, gaps, corrosion or other deterioration that could cause hazardous waste to be released from the drip pad.

(c) The drip pad and associated collection system shall be designed and operated to convey, drain and collect liquid resulting from drippage or precipitation in order to prevent runoff.

(d) Unless the drip pad is protected by a structure, as described in § 264.500 (relating to applicability), the owner or operator shall design, construct, operate and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain run-on that might enter the system.

(e) Unless the drip pad is protected by a structure or cover as described in § 264.500(b), the owner or operator shall design, construct, operate and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(f) The drip pad shall be evaluated to determine that it meets the requirements of subsections (a)—(e) and the owner or operator shall obtain a statement from a qualified registered professional engineer certifying that the drip pad design meets the requirements of this section.

(g) Drippage and accumulated precipitation shall be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

(h) The drip pad surface shall be cleaned thoroughly in a manner and frequency so that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator shall document the date and time of each cleaning and the cleaning procedures used in the facility's operating log.

(i) Drip pads shall be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

(j) After being removed from the treatment vessel, treated wood from pressure and nonpressure processes shall be held on the drip pad until drippage has ceased. The owner or operator shall maintain records sufficient to document that all treated wood is held on the pad following treatment in accordance with this requirement.

(k) Collection and holding units associated with run-on and runoff control systems shall be emptied or otherwise

managed as soon as possible after storms to maintain design capacity of the system.

(l) Throughout the active life of the drip pad and as specified in the permit, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition shall be repaired within a reasonably prompt time following discovery, in accordance with the following procedures:

(1) Upon detection of a condition that may have caused or has caused a release of hazardous waste—for example, upon detection of leakage in the leak detection system—the owner or operator shall:

(i) Enter a record of the discovery in the facility operating log.

(ii) Immediately remove the portion of the drip pad affected by the condition from service.

(iii) Determine what steps shall be taken to repair the drip pad, clean up any leakage from below the drip pad and establish a schedule for accomplishing the repairs.

(iv) Within 24 hours after discovery of the condition, notify the Department of the condition and, within 10 working days, provide written notice to the Department with a description of the steps that will be taken to repair the drip pad and clean up leakage, and the schedule for accomplishing this work.

(2) The Department will review the information submitted, make a determination regarding whether the pad has to be removed from service completely or partially until repairs and clean up are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing all repairs and clean up, the owner or operator shall notify the Department in writing and provide a certification signed by a qualified registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with paragraph (1)(iv).

(m) If a permit is necessary, the Department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(n) The owner or operator shall maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This shall include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

§ 264.504. Inspections.

(a) During construction or installation, liners and cover systems—for example, membranes, sheets or coatings—shall be inspected for uniformity, damage and imperfections—for example, holes, cracks, thin spots or foreign materials. Immediately after construction or installation, liners shall be inspected and certified as meeting the requirements of § 264.503 (relating to design and operating requirements) by a qualified, registered professional engineer. This certification shall be maintained at the facility as part of the facility operating record. After installation, liners and covers shall be inspected to ensure tight seams and joints and the absence of tears, punctures or blisters.

(b) While a drip pad is in operation, it shall be inspected weekly and after storms to detect evidence of one or more of the following:

(1) Deterioration, malfunctions or improper operation of run-on and runoff control systems.

(2) The presence of leakage in and proper functioning of the leak detection system.

(3) Deterioration or cracking of the drip pad surface.

§ 264.505. Closure.

(a) At closure, the owner or operator shall remove or decontaminate waste residues, contaminated containment system components—pad, liners, and the like—contaminated subsoils, and structures and equipment contaminated with waste and leakage, and manage them as hazardous waste.

(b) If, after removing or decontaminating residues and making reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures and equipment as required in subsection (a), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator shall close the facility and perform postclosure care in accordance with closure and postclosure care requirements in § 264.310 (relating to closure and postclosure care). For permitted units, the requirement to have a permit continues throughout the postclosure period. For the purpose of closure, postclosure and financial responsibility, the drip pad is then considered to be landfill, and the owner or operator shall meet the requirements for landfills specified in Subchapters G and H (relating to closure and postclosure; and financial requirements).

(c) The owner or operator of an existing drip pad, as defined in § 264.500 (relating to applicability) that does not comply with the liner requirements of § 264.503(a)(2)(i) (relating to design and operating requirements) shall:

(1) Include in the closure plan for the drip pad under § 264.112 (relating to closure plan; amendment of plan) both a plan for complying with subsection (a) and a contingent plan for complying with subsection (b) in case not all contaminated subsoils can be practicably removed at closure.

(2) Prepare a contingent postclosure plan under § 264.118 (relating to postclosure plan; amendment of plan) for complying with subsection (b) in case not all contaminated subsoils can be practicably removed at closure.

(d) The cost estimates calculated under § 264.112 and § 264.114 (relating to disposal or decontamination of equipment, structures and soils) for closure and postclosure care of a drip pad shall include the cost of complying with the contingent closure plan and the contingent postclosure plan, but are not required to include the cost of expected closure under subsection (a).

Subchapter T. CONTAINMENT BUILDINGS

Sec.

264.520. Applicability.

264.521. Design and operating standards.

264.522. Closure and postclosure care.

§ 264.520. Applicability.

This subchapter applies to owners or operators who store or treat hazardous waste in units designed and operated under § 264.521 (relating to design and operating standards). The owner or operator is not subject to the definition of "land disposal" in section 3004(k) of RCRA (42 U.S.C.A. § 6924(k)) if the unit:

(1) Is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of the equipment with containment walls.

(2) Has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel, wastes and handling equipment within the unit.

(3) Is used to manage liquids, and has:

(i) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier.

(ii) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier.

(iii) A secondary containment system designed and constructed of materials to prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting and removing leaks of hazardous constituents at the earliest practicable time, unless the unit has been granted a variance from the secondary containment system requirements.

(4) Has controls sufficient to prevent fugitive dust emissions to meet the no visible emission standard in § 264.521(d)(1)(iv).

(5) Is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.

§ 264.521. Design and operating standards.

(a) Containment buildings shall comply with the following design standards:

(1) The containment building shall be completely enclosed with a floor, walls and a roof to prevent exposure to the elements (such as precipitation, wind, run-on) and to assure containment of managed wastes.

(2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b), shall be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of the equipment with containment walls. The unit shall be designed so that it has sufficient structural strength to prevent collapse or other failure. Surfaces to be in contact with hazardous wastes shall be chemically compatible with those wastes. The Department will consider standards established by professional organizations generally recognized by the industry, such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM) in judging the structural integrity requirements of this paragraph. If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength

requirement may be made for light weight doors and windows that meet the following criteria:

(i) They provide an effective barrier against fugitive dust emissions under subsection (d)(1)(iv).

(ii) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings.

(3) Incompatible hazardous wastes or treatment reagents may not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode or otherwise fail.

(4) A containment building shall have a primary barrier designed to withstand the movement of personnel, waste and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

(b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids—the presence of which is determined by the paint filter test, a visual examination or other appropriate means—the owner or operator shall include:

(1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier; for example, a geomembrane covered by a concrete wear surface.

(2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building in which:

(i) The primary barrier shall be sloped to drain liquids to the associated collection system.

(ii) Liquids and waste shall be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.

(3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

(i) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of 1% or more.

(B) Constructed of a granular drainage material with a permeability of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 centimeters) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} M²/sec or more.

(ii) If treatment is to be conducted in the building, the area in which the treatment will be conducted shall be designed to prevent the release of liquids, wet materials or liquid aerosols to other portions of the building.

(iii) The secondary containment system shall be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by equipment used in the containment building. Containment buildings can serve as secondary containment systems for tanks placed within the building under the following conditions:

(A) A containment building can serve as an external liner system for a tank, if it meets the requirements of § 264.193(d)(1) (relating to secondary containment).

(B) The containment building shall meet the requirements of § 264.193(b) and (c) to be considered an acceptable secondary containment system for a tank.

(c) For existing units other than 90-day generator units, the Department may delay the secondary containment requirement for up to 2 years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this subchapter. In making this demonstration, the owner or operator shall:

(1) Provide written notice to the Department by July 11, 1997. This notification shall describe the unit and its operating practices with specific reference to the performance of existing containment systems, and specific plans for retrofitting the unit with secondary containment.

(2) Respond to comments from the Department on these plans within 30 days.

(3) Fulfill the terms of the revised plans, if the plans are approved by the Department.

(d) Owners or operators of containment buildings shall:

(1) Use controls and practices to ensure containment of the hazardous waste within the unit, and, at a minimum:

(i) Maintain the primary barrier to be free of significant cracks, gaps, corrosion or other deterioration that could cause hazardous waste to be released from the primary barrier.

(ii) Maintain the level of the stored/treated hazardous waste within the containment walls of the unit so that the height of a containment wall is not exceeded.

(iii) Take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area shall be designated to decontaminate equipment and rinsate shall be collected and properly managed.

(iv) Take measures to control fugitive dust emissions so that openings (doors, windows, vents, cracks and the like) exhibit no visible emissions—see §§ 123.1 and 123.2 (relating to prohibition of certain fugitive emissions; and fugitive particulate matter). In addition, associated particulate collection devices—for example, fabric filter, electrostatic precipitator—shall be operated and maintained with sound air pollution control practices. This state of no visible emissions shall be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

(2) Obtain certification by a qualified registered professional engineer that the containment building design meets the requirements of subsections (a)—(c). For units placed into operation prior to January 11, 1997, this certification shall be placed in the facility's operating record—onsite files for generators who are not formally required to have operating records—no later than 60 days after the date of initial operation of the unit. After January 11, 1997, professional engineer certification will be required prior to operation of the unit.

(3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, repair the condition promptly, in accordance with the following procedures:

(i) Upon detection of a condition that has led to a release of hazardous waste (for example, upon detection of leakage from the primary barrier) the owner or operator shall:

(A) Enter the discovery in the facility operating records.

(B) Immediately remove the portion of the containment building affected by the condition from service.

(C) Determine what steps have to be taken to repair the containment building, remove leakage from the secondary collection system and establish a schedule for accomplishing the cleanup and repairs.

(D) Within 7 days after the discovery of the condition, notify the Department of the condition, and within 14 working days, provide a written notice to the Department with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.

(ii) The Department will review the information submitted, make a determination regarding whether the containment building shall be removed from service completely or partially until repairs and cleanup are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(iii) Upon completing repairs and cleanup the owner or operator shall notify the Department in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with paragraph (3)(i)(D).

(4) Inspect and record in the facility's operating record, at least once every 7 days, data gathered from monitoring equipment and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

(e) For containment buildings that contain areas both with and without secondary containment, the owner or operator shall:

(1) Design and operate each area in accordance with the requirements in subsections (a)—(d).

(2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment.

(3) Maintain in the facility's operating record a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

(f) Notwithstanding any other provision of this subchapter, the Department may waive requirements for secondary containment for a permitted containment building when the owner or operator demonstrates that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and when containment of managed wastes and liquids can be assured without a secondary containment system.

§ 264.522. Closure and postclosure care.

(a) At closure of a containment building, the owner or operator shall remove or decontaminate waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) (relating to definition of hazardous waste) applies. The closure plan, closure activities, cost estimate for closure and financial

responsibility for containment buildings shall meet the requirements specified in Subchapters G and H (relating to closure and postclosure; and financial requirements).

(b) If, after removing or decontaminating residues and making reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures and equipment as required in subsection (a), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator shall close the facility and perform postclosure care in accordance with the closure and postclosure requirements that apply to landfills under § 264.310 (relating to closure and postclosure care). In addition, for the purposes of closure, postclosure and financial responsibility, such a containment building is then considered to be a landfill, and the owner or operator shall meet the requirements for landfills specified in Subchapters G and H.

Subchapter U. MISCELLANEOUS UNITS

- Sec.
- 264.600. Applicability.
- 264.601. Environmental performance standards.
- 264.602. Monitoring, analysis, inspection, response, reporting and corrective action.

§ 264.600. Applicability.

This subchapter applies to owners and operators of facilities that treat, store or dispose of hazardous waste in miscellaneous units, except as provided in § 264.1 (relating to scope).

§ 264.601. Environmental performance standards.

A miscellaneous unit shall be located, designed, constructed, operated, maintained and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units shall contain terms and provisions as necessary to protect human health and the environment, including, but not limited to, design and operating requirements, detection and monitoring requirements and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include the requirements of Subpart C, Article III; Subchapters I—O; and Chapter 270, that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

(1) Prevention of releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering:

- (i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners or other containing structures.
- (ii) The hydrologic and geologic characteristics of the unit and the surrounding area.
- (iii) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater.
- (iv) The quantity and direction of groundwater flow.
- (v) The proximity to and withdrawal rates of current and potential groundwater users.
- (vi) The patterns of land use in the region.

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures and into the root zone of food chain crops and other vegetation.

(viii) The potential for health risks caused by human exposure to waste constituents.

(ix) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents.

(2) Prevention of releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering the following:

- (i) The volume and physical and chemical characteristics of the waste in the unit.
- (ii) The effectiveness and reliability of containing, confining and collecting systems and structures in preventing migration.
- (iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit.

(iv) The patterns of precipitation in the region.

(v) The quantity, quality and direction of groundwater flow.

(vi) The proximity of the unit to surface waters.

(vii) The current and potential uses of nearby surface waters and water quality standards established for those surface waters.

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils.

(ix) The patterns of land use in the region.

(x) The potential for health risks caused by human exposure to waste constituents.

(xi) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents.

(3) Prevention of a release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering the following:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates.

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air.

(iii) The operating characteristics of the unit.

(iv) The atmospheric, meteorologic and topographic characteristics of the unit and the surrounding area.

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air.

(vi) The potential for health risks caused by human exposure to waste constituents.

(vii) The potential for damage to domestic animals, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents.

§ 264.602. Monitoring, analysis, inspection, response, reporting and corrective action.

Monitoring, testing, analytical data, inspections, response and reporting procedures and frequencies shall ensure compliance with §§ 264.15, 264.33, 264.75, 264.77

and 264.601 as well as meet additional requirements needed to protect human health and the environment as specified in the permit.

§ 264.603. Postclosure care.

A miscellaneous unit that is a disposal unit shall be maintained in a manner that complies with § 264.601 (relating to environmental performance standards) during the postclosure care period. If a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, that unit shall also meet the requirements of § 264.601 during postclosure care. The postclosure plan under § 264.118 (relating to postclosure plan; amendment of plan) shall specify the procedures that will be used to satisfy this requirement.

CHAPTER 265. INTERIM STATUS STANDARDS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES AND PERMIT PROGRAM FOR NEW AND EXISTING HAZARDOUS WASTE MANAGEMENT FACILITIES

Subchapter A. GENERAL

§ 265.1. Scope.

(a) This chapter establishes minimum acceptable standards for management of hazardous waste as defined in Chapter 261 (relating to criteria, identification and listing of hazardous waste) during the period of interim status and until certification of final closure or, if the facility is subject to postclosure requirements, until postclosure responsibilities are fulfilled.

(b) This chapter applies to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status until either a permit is issued under this article or until applicable closure and postclosure responsibilities are fulfilled, unless otherwise specified in this chapter or in Chapter 261. This chapter also applies to an owner or operator of a facility in existence on November 19, 1980, who failed to provide timely notification as required by § 261.41 (relating to notification of hazardous waste activities) or failed to file a timely Part A of the permit application as required by this article.

* * * * *

Subchapter B. GENERAL FACILITY STANDARDS

§ 265.11. Identification numbers.

(a) A person or municipality who owns or operates a hazardous waste management facility may not accept hazardous waste for treatment, storage or disposal without having received an identification number from the EPA and may not accept hazardous waste from a transporter who has not received an identification number from the EPA and a license from the Department, except as otherwise provided. This subsection does not apply to acceptance of waste generated by a small quantity generator or by a conditionally exempt small quantity generator transporting its own waste.

(b) An owner or operator of a hazardous waste management facility who has not received an identification number may obtain one by applying to the EPA using the notification form.

(c) An identification number received as a result of notification to the the EPA under section 3010 of RCRA will be deemed to satisfy the requirements of this section when furnished to the Department upon request.

§ 265.12. General requirements for hazardous waste management approvals and analyses of specific waste from a specific generator.

(a) Except as provided in subsections (e) and (f), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the operator shall submit to the Department for approval, on a form provided by the Department, a Module I report which the owner or operator shall retain for 20 years. The Module I report shall include the following:

- (1) A detailed chemical and physical analysis of the waste.
- (2) A description of the waste and the process generating the waste.
- (3) The name and address of the HWM facility.
- (4) A description of the HWM facility's treatment, storage and disposal methods.
- (5) Results of liner compatibility testing.
- (6) An assessment of the impact of the waste on the HWM facility.
- (7) A copy of the generator's source reduction strategy unless exempted under § 262.80(e) (relating to source reduction strategy).

(8) Other information which the Department may prescribe for the Department to determine whether the waste will be treated, stored or disposed of in accordance with this chapter. The chemical and physical analysis of the waste shall be repeated under one or more of the following circumstances:

- (i) When necessary to ensure that it is accurate and up-to-date.
- (ii) When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed.
- (iii) When the results of the inspection or analysis, or both, of each hazardous waste for offsite facilities or onsite facilities receiving hazardous waste from offsite sources indicates that the waste received at the facility does not match the description of waste on the accompanying manifest or shipping paper.

(b) The owner or operator of an offsite facility or an onsite facility receiving hazardous waste from offsite sources shall inspect and, if necessary, analyze each hazardous waste at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

(c) The owner or operator shall develop and follow a written waste analysis plan which shall be submitted to the Department for approval at the time in the application process the Department prescribes. The plan shall be retained at the facility. At a minimum, the plan shall specify:

- (1) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters.
- (2) The test methods which will be used to test for these parameters.
- (3) The sampling methods which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using one of the following:

(i) One of the sampling methods described in § 261.34(e) (relating to appendices).

(ii) An equivalent sampling method approved by the Department.

(4) The frequency with which the initial analysis of the waste will be received or repeated to ensure that the analysis is accurate and up-to-date.

(5) For offsite facilities or onsite facilities receiving hazardous waste from offsite sources, the waste analyses that the hazardous waste generators supply in accordance with the requirements of this section.

(6) When applicable, the testing procedures which will be used to meet the additional waste analysis requirements for the following HWM methods: tanks, surface impoundments, waste piles, land treatment, landfills, incineration, thermal treatment, and chemical, physical and biological treatment.

(7) For offsite facilities or onsite facilities receiving hazardous waste from offsite sources, the procedures which will be used to determine the identity of each hazardous waste managed at the facility and the sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

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

(e) The Department may waive prior approval of the Module I report specified in subsection (a) for wastes that are in containers that are only to be stored at the facility. The Department may waive prior approval of the Module I report only if:

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

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

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

(f) Prior Department approval of the report specified in subsection (a) is not required for offsite reclamation facilities that, under a contractual agreement, supply raw material to a generator and accept the expended material from the generator for storage prior to reclamation. In addition to the remaining requirements in subsection (a), the owner or operator shall retain at the facility the generator's certification that, at a minimum, states that a contractual agreement exists between the reclaimer and

the generator in which the reclaimer supplies raw material to the generator who returns the expended material to the reclaimer after its intended use and that the material has been or will be used by the generator only in the manner specified in the contractual agreement. The reclaimer shall indicate the proposed location for storage of the waste in the certification. The reclaimer shall maintain one copy of the certifications in the operating record onsite for 20 years. The certification shall be included in the waste analysis plan of the reclamation facility's storage permit.

§ 265.13. Generic Module I applications.

(a) In lieu of the waste and generator specific report required by § 265.12 (relating to general requirements for hazardous waste management approvals and analyses of specific waste from a specific generator), the Department may accept from the operator of a treatment, storage or disposal facility a Generic Module I application for similar wastes containing similar hazardous constituents from multiple generators. The Department will approve in writing a Generic Module I application before the operator of a treatment, storage or disposal facility can accept a waste identified in the application from a generator identified in the application. A Generic Module I application may only be used if:

(1) The wastes have similar chemical and physical characteristics.

(2) The processes which generate the wastes are similar.

(3) The wastes have identical hazardous waste numbers, United States Department of Transportation shipping name, hazard class and UN/NA number.

(4) Wastes included in a Module I application will be managed in the same manner at the facility.

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

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

(1) The information required by § 265.12(a). Generator specific information required by § 265.12(a) shall be included for each generator identified in the application.

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

(c) Additional generators may be added to an approved Generic Module I where the operator of the treatment, storage or disposal facility demonstrates that the waste from the new generator is consistent with the waste already approved in the Generic Module I. At least 15 days prior to accepting a waste from a new generator, the operator of the treatment, storage or disposal facility shall submit to the Department, in writing, the generator specific information required by § 265.12(a). The Department will deny adding an additional generator to the Generic Module I if the Department finds that the operator of the treatment, storage or disposal facility has not demonstrated that the waste from the new generator is consistent with that approved under the Generic Module I.

(d) Generic Module I applications submitted under subsection (a) shall be accompanied by a fee as specified in § 265.447(c) (relating to payment of fees).

**Subchapter E. MANIFEST SYSTEM AND
DISCREPANCY REPORT**

§ 265.71. Use of the manifest system.

(a) A hazardous waste shipment received from an offsite source shall be accompanied by the Department's manifest, except as under subsection (c) or § 262.23(1) (relating to the use of the manifest).

(b) The owner or operator of the facility, or an authorized representative, shall do the following:

(1) Print or type his name, sign and date each copy of the manifest at the time the shipment is received to certify that the hazardous waste covered by the manifest was received.

(2) Note significant discrepancies in the manifest, as defined in § 265.72 (relating to manifest discrepancies), on each copy of the manifest.

(3) Immediately give the transporter copy 7 of the signed manifest.

(4) Detach copies 1, 2, 5 and 6 of the manifest.

(5) Within 7 days after the date of delivery, send copy 5 of the manifest to the generator.

(6) If the generator is located in this Commonwealth, retain copy 2 at the facility for the owner or operator's records under paragraph (5), and within 7 days after the date of delivery, send copy 1 of the manifest to the Department.

(7) If the generator is located outside of this Commonwealth, within 7 days after the date of delivery, send copy 1 of the manifest to the Department and copy 2 to the generator state.

(8) Retain at the facility copy 6 of the manifest for the owner or operator's records under subsection (d).

(c) If a facility receives, from a rail or water—bulk shipment—transporter, hazardous waste which is accompanied by a shipping paper containing the information required on the manifest, excluding EPA identification numbers, generator's certification and signatures, and optional State information, the owner or operator, or an authorized representative of the owner or operator, shall do the following:

(1) Sign and date each copy of the manifest or shipping paper at the time the shipment is received to certify that the hazardous waste covered by the manifest or shipping paper was received.

(2) Note significant discrepancies in the manifest or shipping paper—defined in § 265.72—on each copy of the manifest or shipping paper.

(3) Immediately give the rail or water—bulk shipment—transporter at least one copy of the manifest or shipping paper.

(4) Detach copies 1, 2, 5 and 6 of the manifest or shipping paper.

(5) Within 7 days after the date of delivery, send copy 5 of the manifest or shipping paper to the generator.

(6) If the generator is located within this Commonwealth, retain copy 2 for the owner or operator's records under subsection (d) and, within 7 days after the date of delivery, send copy 1 of the manifest or shipping paper to the Department.

(7) If the generator is located in this Commonwealth, retain copies 1 and 2 for the owner or operator's records under subsection (d).

(8) Retain at the facility a copy of each shipping paper or copy 6 of the manifest for the owner or operator's records under subsection (d).

(d) The owner or operator of the facility shall retain the required copies of the manifest and shipping paper—if signed in lieu of the manifest at the time of delivery—for at least 3 years from the date of the delivery.

(e) Copies of the manifest and shipping paper retained by the owner or operator under this section shall be furnished to the Department upon request.

(f) The owner or operator of a facility, or an authorized representative, who transports, or offers for transportation, hazardous waste for offsite treatment, storage or disposal shall comply with Chapter 262 (relating to generators of hazardous waste), and prepare a manifest in accordance with the instructions supplied with the manifest.

(g) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Department in writing at least 4 weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

§ 265.75. Biennial report.

(a) Facility owners or operators shall submit biennial reports to the Department on a form designated by the Department. The form shall contain as a minimum the following information:

(1) The name, identification number, mailing address and the location of the facility.

(2) The name and telephone number of the facility's contact person.

(3) For each hazardous waste managed at the facility, the identification number of the producing generator, description, hazardous waste number, quantity and method of treatment, storage or disposal. For imported shipments, in lieu of the identification number, the report shall give the name and address of the foreign generator.

(4) The signature and certification of the facility's owner or operator or its authorized representative.

(5) Except for permit-by-rule facilities, the most recent closure cost estimate under Subchapter H and § 267.19 (relating to financial requirements; and cost estimate for closure and postclosure care) and for disposal facilities, the most recent postclosure cost estimate under Subchapter H and § 267.19.

(6) Monitoring data is required under §§ 265.93(c) and 265.94 (relating to preparation, evaluation and responses; and recordkeeping and reporting).

(7) The calendar year covered by the report.

(8) Additional information set forth by the Department on the form.

(b) Reports required by this section shall be submitted to the Department on or before the first day of March for each even numbered year and shall cover the previous calendar year.

(c) Reports required by this section shall be maintained for the life of the facility as a part of the operating record. The records shall be made available to the Department upon request.

§ 265.76. Unmanifested waste report.

If a facility accepts for treatment, storage or disposal hazardous waste from an offsite source without an accompanying manifest, or without an accompanying shipping paper as described in § 263.20(e)(2) (relating to manifest), and if the waste is not excluded from the manifest requirement by § 261.5 (relating to special requirements for hazardous waste generated by small quantity generators), the owner or operator shall prepare and submit a single copy of a report to the Department within 15 days after receiving the waste. The unmanifested waste report shall be submitted on EPA Form 8700-13B. The report shall be designed "unmanifested waste report" and include the following information:

- (1) The identification number, name and address of the facility.
- (2) The date the facility received the waste.
- (3) The identification number, name and address of the generator and the transporter, if available.
- (4) A description and the quantity of each unmanifested hazardous waste received by the facility.
- (5) The method of treatment, storage or disposal for each hazardous waste.
- (6) The certification signed by the owner or operator of the facility or an authorized representative.
- (7) A brief explanation of why the waste was unmanifested, if known.

§ 265.78. Administration fees.

(a) The owner or operator of a hazardous waste management facility shall annually pay an administration fee to the Department according to the following schedule:

- (1) Land disposal facilities—\$2,500.
- (2) Surface impoundments—\$2,500.
- (3) Commercial treatment—\$2,000.
- (4) Captive treatment—\$700.
- (5) Storage—\$550.
- (6) Incinerators—\$1,300.

(b) The administration fee shall be in the form of a check made payable to the "Commonwealth of Pennsylvania" and be paid on or before the first of March to cover the preceding year.

(c) If more than one permitted activity is located at a site, or more than one activity occurs, the fee shall be cumulative.

Subchapter J. TANKS

§ 265.190. Applicability.

(a) *Tank systems.* This subchapter applies to owners and operators of facilities that use tank systems to treat or store hazardous waste, except as otherwise provided in § 265.1 (relating to scope).

(b) *General.* Tank systems that are used to store or treat hazardous waste containing no free liquids and that are situated inside a building with an impermeable floor—permeability may not exceed 1×10^{-7} cm/sec—are exempted from § 265.193 (relating to containment and detection of releases). To demonstrate the absence or presence of free liquids in the stored or treated waste, the waste shall pass the following tests:

(1) Method 9095 (Paint Filter Liquids Test) as described in the latest "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods." (EPA Publication No. SW-846, as amended).

(2) It shall have greater than 20% solids content by dry weight.

(3) It may not be flowable. Flowable refers to flow in the sense of pourable as a liquid.

(c) *Exemptions.* Tank systems, including sumps, that serve as part of a secondary containment system to collect or contain releases of hazardous waste are exempted from § 265.193.

§ 265.197. Closure and postclosure care.

(a) At closure of a tank system, the owner or operator shall remove or decontaminate waste residues, contaminated containment system components, liners, and the like, contaminated soils and structures and equipment contaminated with waste, and manage them as hazardous waste, unless § 261.3(d) (relating to definition of hazardous waste) is complied with. The closure plan, closure activities, cost estimates for closure and financial responsibility for tank systems shall meet the requirements specified in Subchapters G and H (relating to closure and postclosure; and financial requirements).

(b) If the owner or operator demonstrates and the Department concludes that not all contaminated soils can be practicably removed or decontaminated as required in subsection (a), the owner or operator shall close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills. In addition, for the purposes of closure, postclosure and financial responsibility, such a tank system is then considered to be landfill, and the owner or operator shall meet the requirements for a landfill specified in Subchapters G and H and Chapter 264, Subchapter N (relating to landfills).

(c) If an owner or operator has a tank system which does not have secondary containment that meets § 265.193(b)—(f) (relating to containment and detection of releases) and which has not been granted a variance from the secondary containment requirements under § 265.193(g), the following apply:

(1) The closure plan for the tank system shall include both a plan for complying with subsection (a) and a contingent plan for complying with subsection (b).

(2) A contingent postclosure plan for complying with subsection (b) shall be prepared and submitted as part of the permit application.

(3) The cost estimates calculated for closure and postclosure care shall reflect the costs of complying with the contingent closure plan and the contingent postclosure plan, if these costs are greater than the costs of complying with the closure plan prepared for the expected closure under subsection (a).

(4) Financial assurance shall be based on the cost estimates in paragraph (3).

(5) For the purposes of the contingent closure and postclosure plans, this type of tank system is considered to be a landfill, and the contingent plans shall meet the closure, postclosure and financial responsibility requirements for landfills under Subchapters G and H and Chapter 264, Subchapter N.

§ 265.200. Waste analysis and trial tests.

In addition to performing the waste analysis required by § 265.13 (relating to general requirements for hazardous waste management approvals and analyses), the owner or operator shall, whenever a tank system is to be used to treat chemically or to store a hazardous waste that is substantially different from waste previously treated or stored in that tank system; or treat chemically a hazardous waste with a substantially different process than any previously used in that tank system, do one of the following:

(1) Conduct waste analyses and trial treatment or storage tests—for example, bench-scale or pilot-plant scale tests.

(2) Obtain written, documented information on similar waste under similar operating conditions to show that the proposed treatment or storage will meet the requirements of § 265.194(a) (relating to general operating requirements).

§ 265.201. Special requirements for generators of between 100 and 1,000 kg/mo that accumulate hazardous waste in tanks.

(a) The requirements of this section apply to small quantity generators of more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days—or 270 days if the generator has to ship the waste greater than 200 miles—and do not accumulate over 6,000 kilograms onsite at any time.

(b) Generators of between 100 and 1,000 kg/mo hazardous waste shall comply with the following general operating requirements:

(1) Treatment or storage of hazardous waste in tanks shall comply with § 265.17(b) (relating to general requirements for ignitable, reactive or incompatible wastes).

(2) Hazardous wastes or treatment reagents may not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode or otherwise fail before the end of its intended life.

(3) Uncovered tanks shall be operated to ensure 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (for example, dike or trench), a drainage control system or a diversion structure (for example, a standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

(4) Where hazardous waste is continuously fed into a tank, the tank shall be equipped with a means to stop this inflow—for example, waste feed cutoff system or bypass system to a stand-by tank.

(c) Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks shall inspect, where present:

(1) Discharge control equipment—for example, waste feed cutoff systems, bypass systems and drainage systems—at least once each operating day, to ensure that it is in good working order.

(2) Data gathered from monitoring equipment—for example, pressure and temperature gauges—at least once each operating day to ensure that the tank is being operated according to its design.

(3) The level of waste in the tank at least once each operating day to ensure compliance with subsection (b)(3).

(4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams.

(5) The construction materials of, and the area immediately surrounding, discharge confinement structures (for example, dikes) at least weekly to detect erosion or obvious signs of leakage (for example, wet spots or dead vegetation).

(d) Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks shall, upon closure of the facility, remove the hazardous waste from tanks, discharge control equipment and discharge confinement structures.

(e) Generators of between 100 and 1,000 kg/mo shall comply with the following special requirements for ignitable or reactive waste:

(1) Ignitable or reactive waste may not be placed in a tank, unless one of the following occurs:

(i) The waste is treated, rendered or mixed before or immediately after placement in a tank so that:

(A) The resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under § 261.21 or § 261.23 (relating to characteristic of ignitability; and characteristic of reactivity).

(B) Section 265.17(b) is complied with.

(ii) The waste is stored or treated in such a way that it is protected from material or conditions that may cause the waste to ignite or react.

(iii) The tank is used solely for emergencies.

(2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks shall comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981).

(f) Generators of between 100 and 1,000 kg/mo shall comply with the following special requirements for incompatible wastes:

(1) Incompatible wastes, or incompatible wastes and materials, may not be placed in the same tank, unless § 265.17(b) is complied with.

(2) Hazardous waste may not be placed in an unwashed tank which previously held an incompatible waste or material unless § 265.17(b) is complied with.

Subchapter N. LANDFILLS**§ 265.310. Closure and postclosure care.**

(a) The owner or operator shall consider at least the following factors in addressing the closure and postclosure care requirements of subsections (b) and (c).

(b) At final closure of the landfill or upon closure of a cell, the owner or operator shall cover the landfill or cell with a final cover designed and constructed to:

(1) Provide long-term minimization of migration of liquids through the closed landfill.

(2) Function with minimum maintenance.

(3) Promote drainage and minimize erosion or abrasion of the cover.

(4) Accommodate settling and subsidence so that the cover's integrity is maintained.

(5) Have a permeability less than or equal to the permeability of any bottom liner system or natural soils present.

(c) After final closure, the owner or operator shall comply with postclosure requirements in Subchapter G (relating to closure and postclosure), including maintenance and monitoring, throughout the postclosure care period. The owner or operator shall also:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion or other events.

(2) Maintain and monitor the groundwater monitoring system and comply with other applicable requirements of Subchapter F (relating to groundwater monitoring).

(3) Maintain and monitor the leachate collection, removal and treatment system, if there is one present in the landfill, to prevent excess accumulation of leachate in the system. The collected leachate is a hazardous waste, unless it is determined to be nonhazardous under § 261.3(d) (relating to definition of hazardous waste), and shall be managed as a hazardous waste in accordance with applicable requirements.

(4) Maintain and monitor the gas collection and control system, if there is one present in the landfill, to control the vertical and horizontal escape of gases.

(5) Prevent run-on and runoff from eroding or otherwise damaging the final cover.

(6) Protect and maintain surveyed benchmarks used in complying with § 265.309 (relating to surveying and recordkeeping).

(7) Restrict access to the landfill as appropriate for its postclosure use.

Subchapter R. HAZARDOUS WASTE MANAGEMENT PERMIT PROGRAM

§ 265.433. Neutralization treatment units.

The owner or operator of an elementary neutralization unit or a wastewater treatment unit shall be deemed to have an HWM permit if the following requirements are complied with:

(1) The facility is a captive facility and the only waste treated is generated onsite, or was a captive facility prior to September 4, 1982, and the only waste treated is generated onsite or on an interconnected adjacent site which was previously part of an integrated facility.

(2) The facility has an NPDES permit, if required, and complies with the conditions of that permit.

(3) Sections 264.11, 264.14, 264.15, 264.73, 264.75, 264.77, Chapter 264, Subchapters C and D; and Chapter 265, Subchapter Q, except for § 265.400 (relating to applicability), have been complied with.

§ 265.435. Generator treatment.

A generator that treats its own waste in containers, tanks or containment buildings shall be deemed to have an HWM permit if the following requirements are complied with:

(1) The facility is a captive facility and the only waste treated is generated on the site.

(2) The generator complies with notification requirements of § 261.41 (relating to notification of hazardous waste activities) and the applicable requirements of Chapter 264, Subchapters A—D, I, J and T.

(3) The generator complies with the applicable requirements of § 262.34 (relating to accumulation).

(4) The Department may require an owner or operator with a permit-by-rule to apply for and obtain an individual permit when the facility is not in compliance with paragraphs (1)—(3) or is engaged in an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

PERMIT APPLICATION REQUIREMENTS

§ 265.447. Payment of fees.

(a) Applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the "Commonwealth of Pennsylvania" according to the following schedule:

(1) Land disposal facilities—Commercial—\$125,000.

(2) Land disposal facility—Captive—\$71,400.

(3) Surface impoundments:

(i) Commercial—\$36,000.

(ii) Captive—\$14,000.

(4) Postclosure permits—\$25,000.

(5) Treatment facilities:

(i) Commercial—\$36,000.

(ii) Captive—\$14,000.

(6) Storage facilities:

(i) Commercial—\$36,000.

(ii) Captive—\$14,000.

(7) Incinerators:

(i) Commercial—\$93,000.

(ii) Captive—\$54,000.

(8) For applications for determination of applicability under § 266.100 (relating to applicability and requirements)—\$1,125.

(b) Where more than one permitted activity is located at a site, or more than one activity occurs, the fees shall be cumulative.

(c) Module I applications and permit modification applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the "Commonwealth of Pennsylvania" according to the following schedule:

(1) Module I and Generic Module I applications:

(i) Module I—\$300.

(ii) Generic Module I—\$1,500.

(2) Major permit modifications—50% of fees listed in subsection (a).

(3) Minor permit modifications—\$700.

(d) An application for a permit modification shall be considered a major modification if the application involves one or more of the following:

(1) A change in the site volume-waste capacity.

(2) A change in excavation contours, including final elevations and slopes.

(3) A change in permitted acreage.

(4) A change in the approved groundwater monitoring plan, except for the addition of wells or parameters.

(5) A change in approved leachate collection and treatment plan.

(6) A change in gas monitoring or management plan, or both.

(7) A change in the approved type, amount, origin or application of daily, intermediate or final cover materials.

(8) A change in the approved closure plan.

(9) A change in approved design.

Subchapter S. DRIP PADS

Sec.

265.500. Applicability.

265.501. Assessment of existing drip pad integrity.

265.502. Design and installation of new drip pads.

265.503. Design and operating requirements.

265.504. Inspections.

265.505. Closure.

§ 265.500. Applicability.

(a) This subchapter applies to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation or surface water run-on to an associated collection system. Existing drip pads are those constructed before January 11, 1997. All other drip pads are new drip pads.

(b) The owner or operator of a drip pad that is inside or under a structure that provides protection from precipitation so that neither runoff nor run-on is generated is not subject to regulation under § 265.503(e) or (f) (relating to design and operating requirements), as appropriate.

(c) This subchapter is not applicable to the management of infrequent and incidental drippage in storage yards if the owner or operator maintains and complies with a written contingency plan which has been approved in writing by the Department. This contingency plan will describe how the owner or operator will respond immediately to the discharge of infrequent and incidental drippage. At a minimum, the contingency plan shall describe how the facility will do the following:

(1) Clean up the drippage.

(2) Document the cleanup of the drippage.

(3) Retain documents regarding cleanup for 3 years.

(4) Manage the contaminated media in a manner consistent with applicable State and Federal law.

§ 265.501. Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 265.500 (relating to applicability), the owner or operator shall evaluate the drip pad and determine that it meets the requirements of this subchapter. By April 11, 1997, the owner or operator shall obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified registered professional engineer that attests to the results of the evaluation. The assessment shall be reviewed, updated and recertified annually until the upgrades, repairs or modifications necessary to achieve compliance with § 265.503 (relating to design and operating requirements) are complete. The evaluation shall document the extent to which the drip pad meets each of the design and operating standards of § 265.503.

(b) By April 11, 1997, all owners or operators of existing drip pads shall submit to the Department a written plan describing changes that are needed to bring the pad into compliance with the standards of § 265.503. The plan shall include a schedule not to exceed 3 years

for completing the changes to the drip pad. A qualified professional engineer shall review and certify the plan. The plan shall be implemented as approved by the Department in writing.

(c) Upon completion of all repairs and modifications, the owner or operator shall submit to the Department the drawings for the drip pad as it was built together with a certification by a qualified registered professional engineer attesting that the drip pad conforms to the drawings.

(d) If the drip pad is leaking or unfit for use, the owner or operator shall comply with § 265.503(m) or close the drip pad in accordance with § 265.505 (relating to closure).

§ 265.502. Design and installation of new drip pads.

Owners and operators of new drip pads shall ensure that the pads are designed, installed and operated in accordance with one of the following:

(1) The requirements of §§ 265.503 (except §§ 265.503(a)(4)), 265.504 and 265.505.

(2) The requirements of §§ 265.503 (except §§ 265.503(b)), 265.504 and 265.505.

§ 265.503. Design and operating standards.

(a) Drip pads shall:

(1) Be constructed of nonearthen materials, excluding wood and nonstructurally supported asphalt.

(2) Be sloped to free-drain treated wood drippage, rain and other waters, or solutions of drippage and water or other wastes to the associated collection system.

(3) Have a curb or berm around the perimeter.

(4) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, (for example, existing concrete drip pads shall be sealed, coated or covered) with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second so that the entire surface where drippage occurs or may run across is capable of containing the drippage and mixtures of drippage and precipitation, materials or other wastes while being routed to an associated collection system. This surface material shall be maintained free of cracks and gaps that could adversely affect its permeability and the material shall be chemically compatible with the preservatives that contact the drip pad. The requirements of this paragraph apply only to existing drip pads and those drip pads for which the owner or operator elects to comply with this subsection instead of subsection (b).

(5) Be evaluated to document the extent to which the drip pad meets the design and operating standards of this paragraph. The owner or operator shall obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified registered professional engineer that attests to the results of the evaluation. The assessment shall be reviewed, updated and recertified annually. The evaluation shall document the extent to which the drip pad meets the design and operating standards of this section, except for subsection (b).

(6) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations—for example—variable and moving loads such as vehicle traffic, movement of wood, and the like.

(b) If an owner/operator elects to comply with this subsection instead of subsection (a), the drip pad shall have:

(1) A synthetic liner installed below the drip pad that is designed, constructed and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life—including the closure period—of the drip pad. The liner shall be constructed of materials that will prevent waste from being absorbed into the liner and prevent releases into the adjacent subsurface soil or groundwater or surface water during the active life of the facility. The liner shall be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation and the stress of daily operation (including stresses from vehicular traffic on the drip pad).

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression or uplift.

(iii) Installed to cover surrounding earth that could come in contact with the waste or leakage.

(2) A leakage detection system installed immediately above the liner that is designed, constructed, maintained and operated to detect leakage from the drip pad. The leakage detection system shall be:

(i) Constructed of materials that are:

(A) Chemically resistant to the waste managed in the drip pad and the leakage that might be generated.

(B) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by equipment used at the drip pad.

(ii) Designed and operated to function without clogging through the scheduled closure of the drip pad.

(iii) Designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

(3) A leakage collection system immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad so that it can be removed from below the drip pad. The date, time and quantity of leakage collected in this system and removed shall be documented in the operating log.

(c) Drip pads and associated collection system systems shall be maintained so that they remain free of cracks, gaps, corrosion or other deterioration that could cause hazardous waste to be released from the drip pad.

(d) The drip pad and associated collection system shall be designed and operated to convey, drain and collect liquid resulting from drippage or precipitation in order to prevent runoff.

(e) Unless the drip pad is protected by a structure, as described in § 265.500(b) (relating to applicability), the owner or operator shall design, construct, operate and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm unless the system has sufficient excess capacity to contain run-on that might

enter the system, or the drip pad is protected by a structure or cover, as described in § 265.500(b).

(f) Unless the drip pad is protected by a structure or cover, as described in § 265.500, the owner or operator shall design, construct, operate and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(g) The drip pad shall be evaluated to determine that it meets the requirements of subsections (a)—(f) and the owner or operator shall obtain a statement from a qualified registered professional engineer certifying that the drip pad design meets the requirements of this section.

(h) Drippage and accumulated precipitation shall be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

(i) The drip pad surface shall be cleaned thoroughly in a manner and frequency so that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator shall document the date and time of each cleaning and the cleaning procedure used in the facility's operating record.

(j) Drip pads shall be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

(k) After being removed from the treatment vessel, treated wood from pressure and nonpressure processes shall be held on the drip pad until drippage has ceased. The owner or operator shall maintain records sufficient to document that all treated wood is held on the pad following treatment in accordance with this requirement.

(l) Collection and holding units associated with run-on and runoff control systems shall be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

(m) Throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition shall be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures:

(1) Upon detection of a condition that may have caused or has caused a release of hazardous waste (for example, upon detection of leakage by the leak detection system), the owner or operator shall:

(i) Enter the discovery in the facility operating record.

(ii) Immediately remove the portion of the drip pad affected by the condition from service.

(iii) Determine what steps shall be taken to repair the drip pad, remove any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs.

(iv) Within 24 hours after discovery of the condition, notify the Department of the condition and, within 10 working days, provide a written notice to the Department with a description of the steps that will be taken to repair the drip pad, and clean up any leakage, and the schedule for accomplishing this work.

(2) The Department will review the information submitted, make a determination regarding whether the pad has to be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing repairs and clean up, the owner or operator shall notify the Department in writing and provide a certification, signed by a qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with paragraph (1)(iv).

(n) The owner or operator shall maintain, as part of the facility operating record, documentation of past operating and waste handling practices. This shall include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

§ 265.504. Inspections.

(a) During construction or installation, liners and cover systems (for example, membranes, sheets or coatings) shall be inspected for uniformity, damage and imperfections (for example, holes, cracks, thin spots or foreign materials). Immediately after construction or installation, liners have to be inspected and certified as meeting the requirements of § 265.503 (relating to design and operating standards) by a qualified, registered professional engineer. The certification shall be maintained at the facility as part of the facility operating record. After installation, liners and covers shall be inspected to ensure tight seams and joints and the absence of tears, punctures or blisters.

(b) While a drip pad is in operation, it shall be inspected weekly and after storms to detect evidence of one or more of the following:

(1) Deterioration, malfunctions or improper operation of run-on and runoff control systems.

(2) The presence of leakage in and proper functioning of leakage detection systems.

(3) Deterioration or cracking of the drip pad surface.

§ 265.505. Closure.

(a) At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components—pad, liners and the like—contaminated subsoils, and structures and equipment contaminated with waste and leakage, and manage them as hazardous waste.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures and equipment as required in subsection (a), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator shall close the facility and perform postclosure care in accordance with closure and postclosure care requirements that apply to landfills under § 265.310 (relating to closure and postclosure care). For permitted units, the requirement to have a permit continues throughout the postclosure period.

(c) The owner or operator of an existing drip pad, as defined in § 265.500 (relating to applicability), that does not comply with the liner requirements of § 265.503(b)(1) (relating to design and operating requirements) shall:

(1) Include in the closure plan for the drip pad under § 265.112 (relating to closure plan; amendment to plan) both a plan for complying with subsection (a) and a contingent plan for complying with subsection (b) in case not all contaminated subsoils can be practicably removed at closure.

(2) Prepare a contingent postclosure plan under § 265.118 (relating to postclosure plan; amendment of plan) for complying with subsection (b) in case not all contaminated subsoils can be practicably removed at closure.

(d) The cost estimates calculated under §§ 265.142 and 265.144 (relating to cost estimate for closure; and cost estimate for postclosure care) for closure and postclosure care of a drip pad subject to this subsection shall include the cost of complying with the contingent closure plan and the contingent postclosure plan, but are not required to include the cost of expected closure under subsection (a).

Subchapter T. CONTAINMENT BUILDINGS

Sec.

265.520. Applicability.

265.521. Design and operating standards.

265.522. Closure and postclosure care.

§ 265.520. Applicability.

This subchapter applies to owners or operators who store or treat hazardous waste in units designed and operated under § 265.521 (relating to design and operating standards). The owner or operator is not subject to the definition of land disposal in section 3004(k) of RCRA (42 U.S.C.A. § 6924(k)) if the unit:

(1) Is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and personnel and heavy equipment that operate within the units, and to prevent failure due to pressure gradients, settlement, compression or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of the equipment with containment walls.

(2) Has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel and handling equipment within the unit.

(3) Has, if the unit is used to manage liquids:

(i) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier.

(ii) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier.

(iii) A secondary containment system designed and constructed of materials to prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting and removing leaks of hazardous constituents at the earliest possible time, unless the unit has been granted a variance from the secondary containment system requirements.

(4) Has controls as needed to prevent fugitive dust emissions.

(5) Is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.

§ 265.521. Design and operating standards.

(a) Containment buildings shall comply with the following design standards:

(1) The containment building shall be completely enclosed with a floor, walls and a roof to prevent exposure to the elements—for example, precipitation, wind and run-on—and to assure containment of managed wastes.

(2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b), shall be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of the equipment with containment walls. The unit shall be designed so that it has sufficient structural strength to prevent collapse or other failure. Surfaces to be in contact with hazardous wastes shall be chemically compatible with those wastes. The Department will consider standards established by professional organizations generally recognized by the industry, such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM), in judging the structural integrity requirements of this subsection. If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet the following criteria:

(i) They provide an effective barrier against fugitive dust emissions under subsection (d)(1)(iv).

(ii) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings.

(3) Incompatible hazardous wastes or treatment reagents may not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode or otherwise fail.

(4) A containment building shall have a primary barrier designed to withstand the movement of personnel, waste and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

(b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination or other appropriate means), the owner or operator shall include:

(1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier—for example, a geomembrane covered by a concrete wear surface.

(2) A liquid collection and removal system to prevent the accumulation of liquid on the primary barrier of the containment building.

(i) The primary barrier shall be sloped to drain liquids to the associated collection system.

(ii) Liquids and waste shall be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.

(3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

(i) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of 1% or more.

(B) Constructed of a granular drainage material with a permeability of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 centimeters) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m²/sec or more.

(ii) If treatment is to be conducted in the building, an area in which the treatment will be conducted shall be designed to prevent the release of liquids, wet materials or liquid aerosols to other portions of the building.

(iii) The secondary containment system shall be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by equipment used in the containment building. Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, if it meets the requirements of § 265.193(d)(1) (relating to containment and detection of releases). In addition, the containment building shall meet the requirements of § 265.193(b) and (c) to be considered an acceptable secondary containment system for a tank.

(c) For existing units other than 90-day generator units, the Department may delay the secondary containment requirement for up to 2 years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this subchapter. In making this demonstration, the owner or operator shall:

(1) Provide written notice to the Department by July 11, 1997. This notification shall describe the unit and its operating practices with specific reference to the performance of existing containment systems, and specific plans for retrofitting the unit with secondary containment.

(2) Respond to comments from the Department on these plans within 30 days.

(3) Fulfill the terms of the revised plans, if the plans are approved by the Department.

(d) Owners or operators of containment buildings shall:

(1) Use controls and practices to ensure containment of the hazardous waste within the unit, and, at a minimum:

(i) Maintain the primary barrier to be free of significant cracks, gaps, corrosion or other deterioration that could cause hazardous waste to be released from the primary barrier.

(ii) Maintain the level of the stored/treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded.

(iii) Take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area shall be designated to decontaminate equipment and any rinsate shall be collected and properly managed.

(iv) Take measures to control fugitive dust emissions so that any openings (doors, windows, vents, cracks and the like) exhibit no visible emissions. Associated particulate collection devices (for example, fabric filter, electrostatic precipitator) shall be operated and maintained with sound air pollution control practices. This state of no visible emissions shall be maintained effectively at all times during normal operating conditions, including when vehicles and personnel are entering and exiting the unit.

(2) Obtain certification by a qualified registered professional engineer that the containment building design meets the requirements of subsections (a)—(c). For units placed into operation prior to February 18, 1993, this certification shall be placed in the facility's operating record (onsite files for generators who are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, certification will be required prior to operation of the unit.

(3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, shall repair the condition promptly, in accordance with the following procedures:

(i) Upon detection of a condition that has led to a release of hazardous waste—for example, upon detection of leakage from the primary barrier—the owner or operator shall:

(A) Enter a record of the discovery in the facility operating record.

(B) Immediately remove the portion of the containment building affected by the condition from service.

(C) Determine what steps have to be taken to repair the containment building, remove any leakage from the secondary collection system and establish a schedule for accomplishing the cleanup and repairs.

(D) Within 7 days after the discovery of the condition, notify the Department of the condition, and within 14 working days, provide a written notice to the Department with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.

(ii) The Department will review the information submitted, make a determination regarding whether the containment building has to be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing.

(iii) Upon completing repairs and cleanup, the owner or operator shall notify the Department in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with subparagraph (i)(D).

(4) Inspect and record in the facility's operating record, at least once every 7 days, data gathered from monitoring equipment and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

(e) For a containment building that contains areas both with and without secondary containment, the owner or operator shall:

(1) Design and operate each area in accordance with the requirements in subsections (a)—(d).

(2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment.

(3) Maintain in the facility's operating record a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

(f) Notwithstanding any other provision of this subchapter, the Department may waive requirements for secondary containment for a permitted containment building where the owner or operator demonstrates that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

§ 265.522. Closure and postclosure care.

(a) At closure of a containment building, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components including liners, contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) (relating to definition of hazardous waste) applies. The closure plan, closure activities, cost estimates for closure and financial responsibility for containment buildings shall meet the requirements specified in Subchapters G and H (relating to closure and postclosure; and financial requirements).

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures and equipment as required in subsection (a), the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator shall close the facility and perform postclosure care in accordance with the closure and postclosure requirements that apply to landfills under § 265.310 (relating to closure and postclosure care). In addition, for the purposes of closure, postclosure and financial responsibility, such a containment building is then considered to be a landfill, and the owner or operator shall meet the requirements for landfills specified in Subchapters G and H.

CHAPTER 266. SPECIAL STANDARDS FOR THE MANAGEMENT OF CERTAIN HAZARDOUS WASTE ACTIVITIES

Subchapter C. HAZARDOUS WASTE RECYCLED BY BEING USED IN A MANNER CONSTITUTING DISPOSAL

§ 266.24. Use constituting disposal; standards applicable to users.

(a) Owners or operators of facilities that use materials in a manner that constitutes disposal are regulated under Chapter 264, Subchapters A—N; Chapter 265, Subchapters A—N and R and Chapter 270; the notification requirements under § 261.41 (relating to notification of hazardous waste activities); the financial responsibility requirements of Chapter 267 (relating to financial responsibility requirements for hazardous waste storage, treatment and disposal facilities); and the siting criteria of Chapter 269 (relating to siting). These requirements do not apply to products which contain these recyclable materials that have received the Department's written approval under § 266.20(b) (relating to applicability).

(b) The use of waste, waste oil or other material, which is contaminated with dioxin or another hazardous waste or hazardous constituent for dust suppression or road treatment is prohibited.

Subchapter D. HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

§ 266.30. Applicability.

(a) This subchapter applies to hazardous wastes that are burned for energy recovery. Hazardous wastes burned for energy recovery are termed "hazardous waste fuel." Fuel produced from hazardous waste by processing, blending or other treatment is also hazardous waste fuel.

(b) Hazardous waste having less than 8,000 Btus per pound is not a fuel and may be burned only in a permitted hazardous waste incinerator, except as provided in subsections (c), (e) and (f).

(c) Hazardous waste having more than 5,000 Btus per pound may be burned by the generator as fuel if the moisture content of the waste is the sole reason that the Btu value is below 8,000 Btus per pound.

(d) Blending or mixing is not allowed to meet the halogen content, or the Btu value in subsection (b), though hazardous wastes that exceed the values may be blended or mixed under a treatment permit issued by the Department.

(e) Hazardous wastes burned in boilers or industrial furnaces are currently regulated by the EPA, under the Hazardous and Solid Waste Amendments of 1984, at 40 CFR 266 Subpart H (relating to hazardous waste burned in boilers and industrial furnaces effective August 21, 1991). Persons or municipalities managing hazardous wastes burned for energy recovery are advised to comply with 40 CFR 266 Subpart H and related regulations in addition to the regulations in this article. Until the facility has an EPA permit under 40 CFR 266 Subpart H, it shall comply with this subchapter as well. After the EPA permit is obtained, the burning of hazardous waste fuel at the facility is no longer required to comply with this subchapter, except for the requirements of § 266.35(3) (relating to standards applicable to burners of hazardous waste fuel).

(f) The Department will lower the 8,000 Btu per pound requirement of subsection (b) to 5,000 Btu per pound if the facility demonstrates complete compliance with 40 CFR 266.104—266.112, prior to the issuance of the EPA boiler and industrial furnace permit.

§ 266.35. Standards applicable to burners of hazardous waste fuel.

Owners and operators of industrial furnaces and boilers identified in § 266.31(b) (relating to prohibitions) that burn hazardous waste fuel are "burners" and are subject to the following requirements:

(1) *Prohibitions.* The prohibitions under § 266.31 apply.

(2) *Notification.* Notification requirements under § 261.41 (relating to notification of hazardous waste activities) for hazardous waste fuel activities apply. Even if a burner has previously notified the Department or the EPA of his HWM activities and obtained an identification number, the burner shall renotify to identify his hazardous waste fuel activities.

(3) *Storage.*

(i) For short-term accumulation by generators who burn hazardous waste fuel onsite, § 262.34 (relating to accumulation) applies.

(ii) For existing storage facilities, Chapter 265, Subchapters A—L and Chapters 267, 269 and 270 apply.

(iii) For new storage facilities, the applicable provisions of Chapter 264, Subchapters A—L and Chapters 267, 269 and 270 apply.

(4) *Required notices.* Before a burner accepts the first shipment of hazardous waste fuel from a marketer, the burner shall provide the marketer with a one-time written and signed notice certifying that the burner:

(i) Has notified the EPA and the Department under § 261.41 and identified his waste-as-fuel activities.

(ii) Will burn the fuel only in a boiler or furnace identified in § 266.31(b).

(5) *Recordkeeping.* In addition to the applicable recordkeeping requirements of Chapters 264 and 265 (relating to new and existing hazardous waste management facilities applying for a permit; and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities), a burner shall keep a copy of each certification notice that he sends to a marketer for 3 years from the date he last receives hazardous waste fuel from the marketer.

(6) *Permits.* A burner operating or proposing to operate an industrial or utility boiler or industrial furnace which burns hazardous waste fuels is not required to obtain an HWM permit for the construction or operation of the air contamination sources. The facility is required to obtain approval and a permit from the Department's Bureau of Air Quality. A facility within Allegheny or Philadelphia Counties may substitute the approval of the Allegheny County Health Department's Bureau of Air Pollution Control or Philadelphia's Department of Public Health Air Management Service for Department Bureau of Air Quality approval. Written approval or a plan approval and operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources) by the Bureau of Air Quality shall be deemed to constitute an HWM permit for the construction or operation of the air contamination source under this subsection. In addition, burners are subject to the following:

(i) Submission of a hazardous waste derived fuels analysis containing, at minimum, the information required under § 264.12 or § 264.13 (relating to general requirements for hazardous waste management approvals and analyses for specific waste from a specific waste generator; and Generic Module I applications) or as otherwise specified by the Department is required.

(ii) Submission of forms specified by the Bureau of Waste Management and Water Quality Management for approval to dispose of bottom ashes, fly ashes, scrubber waste residues, scrubber residues or other residues is required.

Subchapter E. WASTE OIL BURNED FOR ENERGY RECOVERY

§ 266.40. Applicability.

(a) *General.* This subchapter applies to waste oil that is burned for energy recovery in a boiler or industrial furnace that is not regulated under Chapter 264, Subchapter O or Chapter 265, Subchapter O (relating to incinerators) except as provided by subsections (c) and (e). The waste oil is termed "waste oil fuel." Waste oil fuel includes fuel produced from waste oil by processing, blending or other treatment.

(b) *Heating value and permit requirements.*

(1) Waste oil having less than 8,000 Btus per pound is not a fuel, and if hazardous, may be burned only in a hazardous waste incinerator, or an EPA permitted boiler or industrial furnace.

(2) Except as provided in subsection (d), the blending or mixing of waste oils that are hazardous under Chapter 261 (relating to criteria, identification and listing of hazardous waste) is allowed only under a hazardous waste treatment permit. This does not preclude a generator from storing compatible waste oils in a single tank prior to disposal or recycling. Waste oil that is either nonhazardous or that is identified in subsection (d) may be blended or mixed with other nonhazardous waste oil under a residual waste processing permit.

(c) *Waste oil mixed with hazardous waste.* Except as provided by subsection (d)(2), waste oil that is mixed with hazardous waste and burned for energy recovery is subject to regulation as hazardous waste fuel under Subchapter D (relating to hazardous waste burned for energy recovery).

(d) *Waste oil burned for energy recovery.* Waste oil burned for energy recovery is subject to regulation under this subchapter rather than as hazardous waste fuel under Subchapter D if it is a hazardous waste solely because it does one of the following:

(1) Exhibits a characteristic of hazardous waste identified in Chapter 261, Subchapter C (relating to characteristics of hazardous waste), if it is not mixed with a hazardous waste.

(2) Contains hazardous waste generated only by a person subject to the special requirements for conditionally exempt small quantity generators under § 261.5 (relating to special requirements for hazardous waste generated by conditionally exempt small quantity generators).

(e) Waste oil burned for energy recovery, and fuel produced from waste oil by processing, blending or other treatment, is subject to this subchapter unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in the following table. Waste oil fuel that does not exceed the specifications in the following table is termed "on-specification waste oil fuel" and is subject only to the requirements of this section and the analysis and recordkeeping requirements under § 266.43(b)(1) and (6) (relating to standards applicable to marketers of waste oil burned for energy recovery). Waste oil fuel that exceeds any specification level is termed "off-specification waste oil fuel" and subject to the requirements of this subchapter. Applicable standards for burning used oil containing PCBs are imposed by 40 CFR 761.20(e) (relating to prohibitions for PCBs)

<i>Constituent/Property</i>	<i>Allowable Level</i>
Arsenic.....	Maximum 5 ppm
Cadmium.....	Maximum 2 ppm
Chromium.....	Maximum 10 ppm
Lead.....	Maximum 100 ppm
Total halogens.....	Maximum 1,000 ppm
Flash point.....	Minimum 100°F (38°C)

(f) Storage and transportation of waste oil fuel shall comply with Chapter 299 (relating to the storage and transportation of residual waste).

(g) Burners of waste oil fuel shall comply with the applicable residual waste permitting requirements for the burning of waste oil (Chapter 287 (relating to residual waste management—general provisions)).

§ 266.41. Prohibitions.

(a) A person may market off-specification waste oil for energy recovery only to burners:

(1) Or other marketers who have notified the EPA and the Department of their waste oil management activities stating the location and general description of the activities, and who have an EPA identification number.

(2) Who burn the waste oil in an industrial furnace or boiler identified in subsection (b) and have a plan approval and operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources) from the Bureau of Air Quality Control, or written approval from the Bureau of Air Quality Control if the fuel is burned in Allegheny or Philadelphia Counties if Allegheny or Philadelphia County is issued first.

(b) Off-specification waste oil may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in § 260.2 (relating to definitions).

(2) Boilers, as defined in § 260.2, that are identified as one of the following:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

(ii) Utility boilers used to produce electric power, steam or heated or cooled air or other gases or fluids for sale.

(iii) Waste oil-fired space heaters if:

(A) The heater burns only waste oil that the owner or operator generates or waste oil received from do-it-yourself oil changers who generate waste oil as household waste.

(B) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour.

(C) The combustion gases from the heater are vented to the ambient air.

§ 266.43. Standards applicable to marketers of waste oil burned for energy recovery.

* * * * *

(b) Marketers are subject to the following requirements:

* * * * *

(4) *Invoice system.*

* * * * *

(ii) Waste oil that meets the definition of "hazardous material" in 49 CFR 171.8 (relating to definitions and abbreviations) shall be shipped in accordance with the applicable United States Department of Transportation Hazardous Materials Regulations at 49 CFR Parts 171—180 (relating to research and special programs administration, Department of Transportation).

* * * * *

(6) *Recordkeeping.*

(i) *Waste oil fuel that meets the specification.* A marketer who first claims under subsection (b)(1) that waste oil fuel meets the specification shall keep copies of analyses, or other information relied upon to make the determination, of waste oil for 3 years. The waste oil fuel is not subject to further regulation, unless it is subsequently mixed with hazardous waste or unless it is mixed

with waste oil so that it no longer meets the specification. The marketers shall also record in an operating log and keep for 3 years the following information on each shipment of waste oil fuel that meets the specification:

* * * * *

(D) A cross reference to the record of waste oil analysis, or other information relied upon to make the determination that the oil meets specification, required under this subparagraph.

* * * * *

Subchapter H. ONSITE RECLAMATION

§ 266.90. Applicability and requirements.

(a) Owners or operators of facilities that reclaim hazardous waste onsite, at the site where it is generated are deemed to have a recycling permit for the reclamation and are subject to the notification requirements of § 261.41 (relating to notification of hazardous waste activities) and the requirements of Chapter 262 and Chapter 264, Subchapters A—E and I—L except as provided in § 264.1 (relating to scope).

(b) Owners or operators of facilities storing hazardous waste onsite in tanks, containers or containment buildings under this subchapter are deemed to have a hazardous waste storage permit for the storage of hazardous waste prior to reclamation and are subject to the notification requirements of § 261.41 and Chapter 264, Subchapters A—D, I, J and T, except as provided in § 264.1.

(c) For the purposes of this section, onsite reclamation includes reclamation of materials generated at other facilities operated or owned by the same generator, if the generator provides prior written notice to the Department and the wastes are shipped under a manifest in compliance with § 262.20 (relating to manifest).

(d) The Department may, under special circumstances, approve on a case-by-case basis the receipt and reclamation of wastes generated offsite by a different generator for reclamation at a facility regulated under this subchapter without the reclamation of the wastes resulting in the loss of onsite reclamation status under this subchapter.

(e) The Department may require an owner or operator with a permit-by-rule under this section to apply for, and obtain an individual permit when the facility is not in compliance with the requirements of subsection (a) or is engaged in an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

§ 266.91. (Reserved).

§ 266.104. Reporting.

In addition to the information required by § 264.75(e) (relating to biennial report), owners or operators shall submit the following information to the Department:

(1) A description of each waste, including the EPA hazardous waste number and the process generating the waste.

(2) The volume of waste generated and reclaimed during the reporting period.

(3) A description of the equipment and process used to reclaim the waste.

(4) A description of the ultimate use of the reclaimed material.

(5) A description of how long the waste is accumulated prior to reclamation and the method of accumulation.

(6) The portion of the Pollution Prevention and Control (PPC) plan which describes how the reclamation equipment, accumulation area and related waste conveyance systems will be managed to prevent spills or releases, how spills will be contained and how cleanup will be effectuated.

CHAPTER 270. PERMIT PROGRAM

PERMIT APPLICATION REQUIREMENTS

§ 270.11. General application requirements.

(a) A person or municipality required to have a permit—including a new applicant and permittee with an expiring permit—shall complete, sign and submit an application to the Department as described in Chapter 265, Subchapter R (relating to hazardous waste management permit program) and in this chapter. A person or municipality owning or operating a facility currently having interim status shall apply for permits when required by the Department. A person or municipality covered by hazardous waste management permits-by-rule need not apply for individual permits so long as they comply with applicable requirements for a permit-by-rule. Procedures for application, issuance and administration of research, development and demonstration permits are found exclusively in § 270.4 (relating to research, development and demonstration permits).

(b) The permit applicant shall comply with the signature and certification requirements of § 265.443 (relating to certification by responsible official).

(c) When a facility or activity is owned by one person or municipality but is operated by another person or municipality, the operator shall obtain a permit. The owner shall also sign the permit application submitted by the operator.

(d) An applicant for hazardous waste management permits shall provide applicable information required in Chapter 265, Subchapter R and § 270.12 (relating to contents of Part A permit applications) and shall supply the information on application forms specified by the Department.

(e) The Department will not process a permit unless it has received a complete application for a permit. An application for a permit is complete when the Department receives the information required by § 265.441 (relating to general permit application requirements).

(f) The owner or operator of a hazardous waste management facility with an effective permit shall submit a new complete application to the Department at least 180 days before the expiration date of the effective permit, unless permission for a later date is obtained in writing by the Department. An application may not be submitted later than the expiration date of the existing permit.

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§ 270.13. Standard conditions for permits.

* * * * *

(b) The following conditions apply to hazardous waste management permits, and shall be incorporated into permits either expressly or by reference. If incorporated by reference, a specific citation to this article will be given in the permit.

* * * * *

(11) The permittee shall retain all records of monitoring information, including calibration and maintenance records and original strip chart recordings for continuous monitoring instrumentation, copies of reports required by the act, this article or the permit, and records of data used to complete the application for this permit, for at least 3 years from the date of the sample, measurement, report or application. The permittee shall retain the records for a longer period of time if requested by the Department. The permittee shall maintain records of groundwater quality and groundwater surface elevations for the active life of the facility and during the postclosure care period as well, and shall make these records available to the Department upon request.

* * * * *

PERMIT MODIFICATION, REVOCATION AND REISSUANCE

§ 270.31. Causes for permit modification or revocation and reissuance.

* * * * *

(c) The Department may also modify a permit without following the procedures under § 270.33 (relating to procedures for permit issuance, modification, revocation and reissuance or revocation) when:

(1) The modification is considered a minor modification. Minor modifications are changes to the design or operation of a facility for which the Department determines that no actual change to the permit is needed. The changes shall only include the following:

* * * * *

(vi) Changes that the Department determines are minor, are consistent with and no less stringent than modifications listed in 40 CFR 270.42 Appendix I (relating to minor modifications of permits) and will enhance or improve the treatment, storage or disposal operation at the facility.

* * * * *

§ 270.33. Procedures for permit issuance, modification, revocation and reissuance or revocation.

* * * * *

(o) The Department will follow the following procedures if it modifies, revokes and reissues, or revokes a permit:

* * * * *

(3) If the Department tentatively decides to modify or revoke and reissue a permit under § 270.31(a) and (b), it will prepare a draft permit under subsections (g)—(i) incorporating the proposed changes. The Department may request additional information from the permittee and may require the permittee to submit an updated permit

application. In the case of revoked and reissued permits, the Department will require the submission of a new application. The permittee shall submit additional information or an updated or new application under a request by the Department within the time specified by the Department.

* * * * *

(6) Minor modifications under § 270.31(c)(1) are not subject to the requirements of this section.

PUBLIC NOTICE AND HEARINGS

§ 270.41. Public notice and comment requirements.

* * * * *

(d) The Department will give public notice of activities described in subsection (a) by the following methods:

(1) By mailing a copy of a notice to the following (persons otherwise entitled to receive notice under this paragraph may waive the right to receive notice for classes and categories of permits):

* * * * *

(iii) An appropriate Federal or State agency with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, State Historic Preservation Officers, Advisory Council on Historic Preservation, other appropriate government authorities including affected states, and Indian tribes.

* * * * *

§ 270.60. Permits by rule.

Notwithstanding other provisions of this chapter, the following shall be deemed to have a hazardous waste management permit if the conditions listed are met:

- (1) Ocean disposal barge or vessels in compliance with § 270.1(d) (relating to the hazardous waste permit program).
- (2) Injection wells in compliance with § 270.1(e).
- (3) Publicly owned treatment works in compliance with § 265.432 (relating to POTWS).
- (4) Elementary neutralization units in compliance with § 265.433 (relating to neutralization treatment units).
- (5) Wastewater treatment units in compliance with § 265.433.
- (6) Generator treatment in compliance with § 265.435 (relating to generator treatment).
- (7) Hazardous waste recycling activities in compliance with §§ 266.70, 266.80, 266.90 and 266.100.

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