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PENNSYLVANIA BULLETIN

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

No. 281, April 1998

PENNSYLVANIA



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Pennsylvania Bulletin

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

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

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

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Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CHS. 20 AND 100]

Proposal to adopt new Rule 143; Amend Rule 23; and Revise the Comment to Rule 107

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt proposed new Rule 143 (Reinstating Charges following Withdrawal or Dismissal), amend Rule 23 (Continuous Availability and Temporary Assignment of Issuing Authorities), and revise the Comment to Rule 107 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option). This proposal sets forth the procedures for an attorney for the Commonwealth to refile a complaint when it has been withdrawn or dismissed at, or prior to, a preliminary hearing, and, in certain cases, to request that a different issuing authority be assigned to conduct the preliminary hearing. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901, no later than Wednesday, April 29, 1998.

By the Criminal Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

(Editor's Note: The following is a new rule. It is printed in regular type to enhance readability.)

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 100. PROCEDURE IN COURT CASES

Rule 143. Reinstating Charges Following Withdrawal or Dismissal.

(A) When charges are dismissed or withdrawn at, or prior to, a preliminary hearing, the attorney for the Commonwealth may reinstate the charges by refileing a complaint with the issuing authority who dismissed the charges.

(B) Following the refileing of a complaint pursuant to paragraph (A), if the attorney for the Commonwealth determines that the preliminary hearing should be conducted by a different issuing authority, the attorney shall

file a Rule 23 motion with the clerk of courts requesting that the president judge assign a different issuing authority to conduct the preliminary hearing. The motion shall set forth the reasons for requesting a different issuing authority.

Official Note: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142, 1998, effective, 1998. New Rule 143 adopted, 1998; effective, 1998.

Comment

This rule provides the procedures for reinstating criminal charges following their withdrawal or dismissal at, or prior to, the preliminary hearing.

The authority of the attorney for the Commonwealth to reinstate charges which have been dismissed at the preliminary hearing is well established by case law. See, e.g., *McNair's Petition*, 187 A. 498 (Pa. 1936); *Commonwealth v. Thorpe*, 701 A.2d 488 (Pa. 1997). This authority, however, is not unlimited. First, the charges must be reinstated prior to the expiration of the applicable statute(s) of limitations. See *Commonwealth v. Thorpe*, 701 A.2d 488 (Pa. 1997). In addition, the courts have held that the reinstatement may be barred in a case in which the Commonwealth has repeatedly rearrested the defendant in order to harass him or her, or if the rearrest results in prejudice. See *Commonwealth v. Thorpe*, 701 A.2d 488 (Pa. 1997); *Commonwealth v. Shoop*, 617 A.2d 351 (Pa.Super. 1992).

The decision to reinstate charges must be made by the attorney for the Commonwealth. Therefore, in cases in which no attorney for the Commonwealth was present at the preliminary hearing, the police officer may not refile the complaint without the written authorization of the attorney for the Commonwealth. See Rule 107 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option) for procedures for prior approval of complaints.

Pursuant to paragraph (A), in the usual case, charges will be reinstated by filing a complaint with the issuing authority who dismissed the charges. However, there may be cases in which the attorney for the Commonwealth determines that a different issuing authority should conduct the preliminary hearing, such as when an error of law is made by the issuing authority in finding that the Commonwealth did not sustain its burden to establish a prima facie case. Paragraph (B) requires that, in these cases, the attorney for the Commonwealth must file a petition with the court of common pleas requesting that the president judge assign a different issuing authority to conduct the preliminary hearing. For the procedure for requesting assignment of a different issuing authority, see Rule 23.

See Chapter 9000 for the procedures governing motions.

Committee Explanatory Reports:

Report explaining the , 1998 amendments concerning reinstatement of charges published with the Court's Order at 28 Pa.B. 1508 (March 28, 1998).

CHAPTER 20. ISSUING AUTHORITIES: VENUE, LOCATIONS, AND RECORDING OF PROCEEDINGS**Rule 23. Continuous Availability and Temporary Assignment of Issuing Authorities.****[(a)] (A) Continuous Availability**

(1) The **[President Judge] president judge** of each judicial district shall be responsible for insuring the availability at all times within the judicial district of at least one issuing authority.

(2) The district justice assigned to be on duty after business hours shall set bail as provided in Chapter 4000, and shall accept deposits of bail in any case pending in any magisterial district within the judicial district.

[(b)] (B) Temporary Assignment

(1) The **[President Judge] president judge** may assign temporarily the issuing authority of any magisterial district to serve another magisterial district whenever such assignment is needed:

(a) to satisfy the requirements of paragraph **[(a)] (A) (1) [,]**;

(b) to insure fair and impartial proceedings **[,]**;

(c) to conduct a preliminary hearing pursuant to **Rule 143(B)**; or

(d) otherwise for the efficient administration of justice.

One or more issuing authorities may be so assigned to serve one or more magisterial districts.

(2) Whenever a temporary assignment is made under this rule, notice of such assignment shall be filed with the clerk of courts where it shall be available for police agencies and other interested persons.

(3) A motion may be filed requesting a temporary assignment under paragraph **[(b)] (B)(1)** on the ground that the assignment is needed to insure fair and impartial proceedings. Reasonable notice and opportunity to respond shall be provided to the parties.

(4) A motion shall be filed requesting a temporary assignment under paragraph (B)(1)(c) whenever the attorney for the Commonwealth elects to proceed under Rule 143(B) following the refile of a complaint.

Official Note: Formerly Rule 152, adopted January 16, 1970, effective immediately; amended and renumbered Rule 23 September 18, 1973, effective January 1, 1974; amended October 21, 1983, effective January 1, 1984; amended February 27, 1995, effective July 1, 1995; amended , 1998, effective , 1998.

Comment

This rule is intended to impose the responsibility on the president judge to prevent the violation of the rights of defendants caused by the lack of availability of the district justice.

Paragraph **[(a)] (A)(2)** requires a district justice on duty after business hours to set bail, as provided by law, and to accept deposits of bail in any case pending in any

magisterial district within the judicial district, so that a "defendant may be admitted to bail on any date and at any time." Rule 4001(b).

Nothing in this rule is intended to preclude judicial districts from continuing established procedures or establishing new procedures for the after-hours acceptance of deposits of bail by a representative of the clerk of courts' office.

Paragraphs **[(b)] (B)(1)(b)** and (3) make explicit the authority of president judges to assign issuing authorities when necessary to insure fair and impartial proceedings, and to provide a procedure for a party to request such an assignment. Temporary assignment in this situation is intended to cover what might otherwise be referred to as "change of venue" at the district justice level. See, e.g., *Sufrich v. Commonwealth*, 447 A.2d 1124 (Pa.Cmwlt. 1982).

The motion procedure of paragraph **[(b)] (B)(3)** is intended **[only]** to apply when a party requests temporary assignment to insure fair and impartial proceedings. The president judge may, of course, order a response and schedule a hearing with regard to such a motion. **However, this paragraph is not intended to require "formal hearing . . . beyond the narrow context of a motion for temporary assignment of issuing authority to insure fair and impartial proceedings predicated upon allegations which impugn the character or competence of the assigned issuing authority and which seek the recusal of the assigned issuing authority." See Commonwealth v. Allem, 532 A.2d 845 (Pa.Super. 1987) (filing and service of the written motion and answer, and allowance of oral argument were more than adequate to meet the rule's requirements).**

Paragraphs (B)(1)(c) and (4) govern those situations in which the attorney for the Commonwealth, after refile of the complaint following the withdrawal or dismissal of any criminal charges at, or prior to, a preliminary hearing, determines that the preliminary hearing should be conducted by a different issuing authority. See also Rule 143 (Reinstituting Charges following Withdrawal or Dismissal).

The motion procedure is not intended to apply in any of the many other situations in which president judges make temporary assignments of issuing authorities; in all these other situations the president judges may make temporary assignments on their own without any motion, notice, response, or hearing.

Committee Explanatory Reports:

Final Report explaining the February 27, 1995 amendment published with the Court's Order at 25 Pa.B. 936 (March 18, 1995).

Report explaining the , 1998 amendments concerning assignment of an issuing authority to conduct a preliminary hearing published at 28 Pa.B. 1508 (March 28, 1998).

CHAPTER 100. PROCEDURE IN COURT CASES**PART II. COMPLAINT PROCEDURES****Rule 107. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option.**

* * * * *

Official Note: Adopted December 11, 1981, effective July 1, 1982; Comment revised July 12, 1985, effective

January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; renumbered Rule 107 and amended August 9, 1994, effective January 1, 1995; **Comment revised** , 1998, effective , 1998.

Comment

* * * * *

As used in this rule, "attorney for the Commonwealth" is intended to include not only the District Attorney and any deputy or assistant district attorney in the county, but also the Attorney General, and any deputy or assistant attorney general, in those cases which the Attorney General is authorized by law to prosecute in the county.

See Rule 2002A for a similar option as to search warrant applications.

See Rule 143 for the procedures for refiling of the complaint, which requires approval by the attorney for the Commonwealth.

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Report explaining the , 1998 revision concerning refiling of complaints published at 28 Pa.B. 1508 (March 28, 1998).

PART IV. PROCEEDINGS BEFORE ISSUING AUTHORITIES

Rule 141. Preliminary Hearing. [Rescinded].

Official Note: Formerly Rule 120, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; **rescinded** , effective , and replaced by new **Rule 141.**

[Comment

As the judicial officer presiding at the preliminary hearing, the issuing authority controls the conduct of the preliminary hearing generally. When an attorney appears on behalf of the Commonwealth, the prosecution of the case is under the control of that attorney. When no attorney appears at the preliminary hearing on behalf of the Commonwealth, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a prima facie case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v. Mullen*, 333 A.2d 755 (Pa. 1975). This amendment was made to preserve the limited function of a preliminary hearing.]

Committee Explanatory Reports:

Final Report explaining the February 13, 1998 amendments concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

Report explaining the , 1998 rescission and consolidation of Rules 141 and 142 published at 28 Pa.B. 1508 (March 28, 1998).

Rule 142. Continuance of a Preliminary Hearing. [Rescinded].

Official Note: Formerly Rule 124 adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present rule adopted January 31, 1970, effective May 1, 1970; renumbered September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; effective date extended to July 1, 1982; amended July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; **rescinded** , 1998, effective , 1998, and replaced by new **rule 141.**

[Comment: For the contents of the transcript, see Rule 26.]

Committee Explanatory Reports:

Report explaining the , 1998 rescission and consolidation of Rules 141 and 142 published at 28 Pa.B. 1508 (March 28, 1998).

(Editor's Note: The following is a new rule. It is printed in regular type to enhance readability.)

Rule 141. Preliminary Hearing; Continuances.

(A) The attorney for the Commonwealth may appear at a preliminary hearing and:

- (1) assume charge of the prosecution; and
- (2) recommend to the issuing authority that the defendant be discharged or bound over to court according to law.

(B) When no attorney appears on behalf of the Commonwealth at a preliminary hearing, the affiant may be permitted to ask questions of any witness who testifies.

(C) The defendant shall be present at any preliminary hearing except as provided in these rules, and may:

- (1) be represented by counsel;
- (2) cross-examine witnesses and inspect physical evidence offered against the defendant;
- (3) call witnesses on the defendant's behalf, other than witnesses to the defendant's good reputation only;
- (4) offer evidence on the defendant's own behalf, and testify; and
- (5) make written notes of the proceedings, or have counsel do so, or make a stenographic, mechanical, or electronic record of the proceedings.

(D) If a prima facie case of the defendant's guilt is not established at the preliminary hearing, and no application for a continuance, supported by reasonable grounds, is made by an interested person, and no reason for a continuance otherwise appears, the issuing authority shall discharge the defendant.

(E) Continuances

The issuing authority may, for cause shown, grant a continuance and shall note on the transcript every continuance together with:

- (1) the grounds for granting each continuance;

(2) the identity of the party requesting such continuance; and

(3) the new date and the reasons that the particular date was chosen.

Official Note: Formerly Rule 120, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; rescinded , 1998, effective , 1998. New Rule 141 adopted , 1998, effective , 1998.

Comment

As the judicial officer presiding at the preliminary hearing, the issuing authority controls the conduct of the preliminary hearing generally. When an attorney appears on behalf of the Commonwealth, the prosecution of the case is under the control of that attorney. When no attorney appears at the preliminary hearing on behalf of the Commonwealth, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a prima facie case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v. Mullen*, 333 A.2d 755 (Pa. 1975). This amendment was made to preserve the limited function of a preliminary hearing.

For the contents of the transcript, see Rule 26.

Committee Explanatory Reports:

Final Report explaining the February 13, 1998 amendments concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

Report explaining the , 1998 rescission and consolidation of Rules 141 and 142 published at 28 Pa.B. 1508 (March 28, 1998).

Rule [143] 142. Disposition of Case at Preliminary Hearing.

* * * * *

Official Note: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; **renumbered Rule 142** , **1998, effective** , **1998.**

Comment

Paragraph (b) was amended in 1983 to reflect the fact that a bail determination will already have been made at

the preliminary arraignment, except in those cases where, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. See Rules 109 and 110.

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the September 13, 1995 amendments published at 25 Pa.B. 4116 (September 30, 1995).

Report explaining the , 1998 renumbering of rule published with the Court's Order at 28 Pa.B. 1508 (March 28, 1998).

REPORT

*Proposed New Pa.R.Crim.P. 143;
Amendments to Rule 23, Revision of the Rule 107
Comment;
Joinder of Rules 141 and 142 as New Rule 141;
and Renumbering of Present Rule 143*

Reinstitution of Charges Following Withdrawal or Dismissal

A. Background

Several correspondents have requested that the Committee consider amending the Criminal Rules to provide the procedures for reinstating a criminal case following a dismissal at the preliminary hearing. They pointed out that there is no uniformity in the manner in which these cases are handled in Pennsylvania. Some of the correspondents also expressed concern that, without some controls in the Criminal Rules, some defendants will be unnecessarily subjected to multiple rearrests for the same offense. After discussing this correspondence, which confirmed their own experiences that there are no uniform procedures statewide for handling the reinstatement of charges, the members agreed to review the matter.

We first examined the case law. The research revealed that the Pennsylvania courts have consistently held that the attorney for the Commonwealth has unlimited discretion to reinstate a criminal case after it has been withdrawn or dismissed prior to the conclusion of the preliminary hearing, unless there is a showing of unreasonable intrusion, coercion, or harassment of the defendant by the government, or the process of reinstating criminal charges results in prejudice to the defendant. See *Commonwealth v. Thorpe*, 701 A.2d 488 (Pa. 1997); *Commonwealth v. Shoop*, 617 A.2d 351 (Pa.Super. 1992). The courts have also held that, if the attorney for the Commonwealth wants the case to proceed, then the attorney must reinstate the charges, rather than appeal the decision of the district justice or seek a writ of certiorari. See, e.g., *Liciaga v. Court of Common Pleas*, 566 A.2d 246 (Pa. 1989).

While agreeing on the foregoing, the courts have nevertheless declined to mandate one procedure for handling these cases, and have addressed the matter on a case-by-case basis. This fact, together with the varying postures in which these cases have reached the courts, has resulted in a confusing and perceptibly unmanageable body of law concerning the procedures to reinstate proceedings following a dismissal at the preliminary hearing. See, e.g., *McNair's Petition*, 187 A. 498 (Pa. 1936); *Commonwealth v. Thorpe*, 701 A.2d 488 (Pa. 1997); *Commonwealth v. Shoop*, 617 A.2d 351 (Pa.Super. 1992)).

In view of the revelations in the case law, and the suggestions from the correspondents that there is no uniformity, the Committee also conducted a survey of all the District Attorneys in Pennsylvania to determine how, in fact, these cases are being handled statewide. We received 43 responses, which were representative of the entire state. The responses revealed that although some District Attorneys refile the complaint with a different issuing authority, the majority of District Attorneys refile the complaint with the same issuing authority, and if they determine that the issuing authority should not conduct the preliminary hearing, then they request reassignment through the court of common pleas. Although in some counties, the District Attorney must seek permission from the president judge to refile a complaint, in most magisterial districts, the decision whether to refile is entirely within the discretion of the District Attorney. In one county, however, the president judge has limited the District Attorney to one refiling. A few District Attorneys reported that, in refiling situations, no notice is provided to the defendant when they request assignment of a different issuing authority to conduct the preliminary hearing. In some counties, the complaint is refiled, and the burden is upon the issuing authority to request that the case be transferred to another issuing authority. Several District Attorneys indicated that the procedures they use are "informal," and used only on a "case-by-case" basis. In addition, a number of District Attorneys commented that they rarely encounter the situation.

Based on the research, the findings of the survey, and the members' own experiences, and recognizing the Court's interest in fostering a uniform, statewide judicial system,¹ the Committee agreed that the Criminal Rules should be amended to provide a uniform procedure for the reinstatement of criminal proceedings following a withdrawal or dismissal at, or prior to, the conclusion of the preliminary hearing.

B. Discussion of Rule Changes

1. Introduction

Once the Committee agreed that the Criminal Rules governing the reinstatement of criminal charges when a case has been withdrawn or dismissed, at or prior to, the preliminary hearing, should be recommended to the Court, the members reexamined the procedures approved by the courts, as well as the procedures indicated in the survey, the federal courts, and other state courts. As a result, and so that the proposed changes may take effect without a significant disruption of procedures most often used in the several counties, the Committee is proposing rules which mirror the most common procedures reported by the District Attorneys in the survey, and account for the case law which has developed in this area.

2. New Rule 143 (Reinstating Charges following Withdrawal or Dismissal)

New Rule 143 establishes the specific procedures for reinstating criminal charges following the withdrawal or dismissal at, or prior to, the preliminary hearing. The Committee discussed at length how to handle the various situations in which these cases arise, recognizing, for example, that for any number of reasons, cases may be withdrawn before the preliminary hearing, cases may be dismissed at the beginning of the preliminary hearing because a witness has failed to appear, or cases may be dismissed at the conclusion of the preliminary hearing because the issuing authority makes a finding that the

prosecution failed to make out a prima facie case. The Committee also was aware that, although the attorney for the Commonwealth has discretion whether to reinstate criminal charges, there are some restrictions on that discretion, such as when the statute of limitations has run, or the attorney is rearresting the defendant for purposes of harassment, or the rearrest results in prejudice to the defendant, and that, in these cases, there should be a mechanism for the defendant to raise the issue and for the court to review the case.

Initially, the Committee considered providing that, in the usual case when it was determined that the same issuing authority should handle the case, the attorney for the Commonwealth would refile the complaint with the same issuing authority, but when a different issuing authority was wanted, before refiling the complaint, the attorney would have to file a motion with the court of common pleas requesting the assignment of a different issuing authority with whom the complaint was to be refiled. We were concerned, however, by the potential for the statute of limitations to run if the common pleas judge delayed in the disposition of the motion. In addition, at the time of the filing of a motion for reassignment of an issuing authority, there was the administrative problem of there being no case listing in the docketing system since the complaint was not refiled prior to the filing of the motion. In view of these concerns, the Committee reconsidered its approach to the new procedures.

Ultimately, the Committee agreed that the structure of the rule should provide a procedure which incorporated a simple, logical approach to reinstating criminal charges, while accounting for the limitations on the authority of the attorney for the Commonwealth to reinstate charges. Specifically, the Committee concluded, as explained in the Rule 143 Comment, that the attorneys for the Commonwealth should be permitted to reinstate criminal charges in all cases, as long as the statute of limitations has not expired, and as long as the action of the attorney for the Commonwealth does not harass or prejudice the defendant. Paragraph (A) states that when criminal charges are dismissed at, or prior to, a preliminary hearing, the attorney for the Commonwealth may reinstate the charges by refiling a complaint with the issuing authority who dismissed the charges. This paragraph recognizes the charging function of the attorneys for the Commonwealth by stating the basic "substantive" premise, consistent with the case law, that the attorney for the Commonwealth, in his or her discretion, may reinstate criminal charges by refiling a complaint with the issuing authority who dismissed the charges. This requirement applies to all cases in which the attorney for the Commonwealth decides to reinstate criminal charges, regardless of whether the attorney determines that the preliminary hearing should be conducted by another issuing authority.

Paragraph (B) sets forth the procedures for the temporary assignment of a different issuing authority to conduct a preliminary hearing. It requires that the attorney for the Commonwealth file a Rule 23 motion with the clerk of courts requesting the temporary assignment of a different issuing authority to conduct the preliminary hearing, rather than requesting permission to refile the criminal charges. This requirement also provides a mechanism for an "on the record" review of the original issuing authority's decision to dismiss the criminal charges.

¹ See, e.g., "Interim Report of the Master on the Transition to State Funding of the Unified Judicial System." The Honorable Frank J. Montemuro, Jr., Master.

Paragraph (B) also requires that the attorney for the Commonwealth include in the Rule 23 motion the reasons for requesting that a different issuing authority conduct the hearing, such as, the issuing authority's decision was contrary to the laws of the Commonwealth, or because a prima facie case was established at the preliminary hearing. The defendant must be served a copy of the motion, see Rule 9023, because if the procedure were permitted to continue ex parte, then the defendant could lose the opportunity to challenge the rearrest. The motion procedure affords the defendant an opportunity to raise harassment, prejudice, or statute of limitations at the time the common pleas court is determining whether to assign a different issuing authority to conduct the preliminary hearing.

The Committee determined that it was important to emphasize that the authority to reinstitute criminal charges rest with the attorney for the Commonwealth, and therefore, the explanatory Comment indicates that a police officer may not refile the complaint, unless the attorney for the Commonwealth has provided written authorization. The Comment refers to Rule 23 for the procedure for requesting assignment of a different issuing authority. A cross-reference to Chapter 9000, governing motions, has been included to emphasize that the defendant must be served a copy of the motion. Finally, the Comment includes a reference to Rule 107 to distinguish the procedures for prior approval of complaints.

3. Rule 23 (Continuous Availability and Temporary Assignment of Issuing Authorities)

Rule 23 provides the mechanism for the president judge to assign a different issuing authority to handle a case in the specific situations set forth in the rule. According to the District Attorneys who responded to the survey, Rule 23 frequently has been used as the vehicle for the assignment of a different issuing authority to conduct a preliminary hearing in cases in which criminal charges have been withdrawn or dismissed at, or prior to, the preliminary hearing. In view of this, the Committee agreed that the Rule 23 motion procedure was the most logical place to specifically address the reassignment of an issuing authority in the new Rule 143 context. Initially, the Committee considered merely adding a Comment provision which would cross-reference new Rule 143. However, after reviewing the history of Rule 23, we were concerned that the rule could be narrowly construed to exclude the situation in which criminal charges are refiled, and agreed that Rule 23 should be amended to specifically encompass reassignment of issuing authorities in Rule 143(B) cases. See Rule 23(B)(1)(c) and (4).

In addition, the Comment to Rule 23 has been revised to explain that: 1) the notice and opportunity requirements of paragraph (B)(3) are not intended to require a formal hearing except in the narrow context of a motion for temporary assignment of an issuing authority in a recusal-type situation consistent with case law (see, e.g., *Commonwealth v. Allem*, 532 A.2d 845 (Pa.Super. 1987)); and

2) paragraph (B)(4) includes those cases involving the reinstatement of criminal charges, as provided in new Rule 143.

4. Rule 107 (Approval of Police Complaints and Arrest Warrants by Attorney for the Commonwealth—Local Option)

Rule 107 provides that the district attorney of any county may require that criminal complaints and/or arrest warrant affidavits have the approval of an attorney

for the Commonwealth prior to filing. Because Rule 107 only requires approval by the district attorney prior to filing a criminal complaint in those cases in which the district attorney has filed a local option, the Committee agreed that a cross-reference to new Rule 143 should be added to the Rule 107 Comment to make it clear that, unlike Rule 107, approval by the attorney for the Commonwealth is required in all cases in which criminal charges are reinstated by refileing a complaint, whether or not there is a local option.

5. Rules 141, 142, and 143: Placement of New Procedures

The Committee discussed at length the most logical, and least confusing, placement of the new procedures for the reinstatement of criminal charges. Because the reinstatement will occur within the time frame of the preliminary hearing, the Committee decided that the new procedures belonged near the rules involving the disposition of cases at the preliminary hearing. We considered, but rejected as too confusing, both adding the procedures to either Rule 141 or Rule 143 and creating a new Rule 143.

Ultimately, the Committee concluded that present Rules 141 and 142 could be consolidated into one rule because their subject matter is closely related, and present Rule 143 could be renumbered Rule 142, thereby making room for a new Rule 143 to govern the reinstatement of proceedings. Thus, Rules 141 and 142 have been combined into new Rule 141 (Preliminary Hearing; Continuances), and Rule 143 has been renumbered Rule 142 (Disposition of Case at Preliminary Hearing).

[Pa.B. Doc. No. 98-474. Filed for public inspection March 27, 1998, 9:00 a.m.]

[234 PA. CODE CH. 50]

Proposed Amendments to Clarify Summary Procedures for Cases in which the Offense Charged Includes a Mandatory Sentence of Imprisonment

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 53 (Contents of Citation), and Rules 59, 64, and 69—guilty pleas in summary cases. The proposed amendments clarify summary procedures for the cases in which the offense(s) charged includes a mandatory sentence of imprisonment. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed amendments to Rules 53, 59, 64, and 69 precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Proce-

dural Rules Committee, P. O. Box 1325, Doylestown, PA 18901, no later than Wednesday, April 29, 1998.

By the Criminal Procedural Rules Committee

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 50. PROCEDURE IN SUMMARY CASES

PART II. CITATION PROCEDURES

Rule 53. Contents of Citation.

(A) Every citation shall contain:

* * * * *

(7) a notation that the charge on the citation includes a mandatory sentence of imprisonment;

[(7)] (8) * * *

[(8)] (9) * * *

[(9)] (10) * * *

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

* * * * *

(2) that the defendant shall, within 10 days after issuance of the citation:

* * * * *

(b) plead guilty by:

(i) appearing before the proper issuing authority for the entry of the plea and imposition of sentence in all cases in which the penalty for the offense charged includes a mandatory sentence of imprisonment; or

(ii) appearing before the proper issuing authority for the entry of the plea and imposition of sentence, when the fine and costs are not specified in the citation; or

[(i)] (iii) notifying the proper issuing authority in writing of the plea and forwarding an amount equal to the fine and costs when specified in the statute or ordinance, the amount of which shall be set forth in the citation; or

* * * * *

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered as Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present rule adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; amended _____, 1998, effective _____, 1998.

Comment

Paragraph (A)(3) requires the law enforcement officer who issues a citation to indicate on the citation if the

defendant is a juvenile and, if so, whether the juvenile's parents were notified. See the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

* * * * *

[If the law enforcement officer specifies the fine and costs in the citation, the defendant may plead guilty by mail. The officer may specify the fine and costs only when the penalty provided by law does not include imprisonment and the statute or ordinance fixes the specific amount for the fine. Consequently, if by statute a sentence of imprisonment is authorized for the offense(s) charged, such sentence may only be imposed if neither the fine nor costs is specified in the citation and the defendant therefore must personally appear before the issuing authority.]

The law enforcement officer may specify the fine and costs in the citation only when the penalty provided by law does not include a mandatory sentence of imprisonment and the statute or ordinance fixes a specific amount for the fine. Except in cases in which there is a mandatory sentence of imprisonment, when the law enforcement officer specifies the fine and costs in a citation, the defendant may plead guilty by mail. When the law enforcement officer specifies a fine on the citation, and a sentence of imprisonment is authorized by statute but is not mandatory, then imprisonment may not be imposed.

When the law enforcement officer does not specify the fine and costs, or there is a mandatory sentence of imprisonment, the defendant must appear before the issuing authority to plead guilty. See Rules 59, 64, and 69.

When there is a mandatory sentence of imprisonment for the offense charged, the issuing authority may not accept a guilty plea by mail. For the procedure for returning guilty pleas mailed to the issuing authority when there is a mandatory sentence of imprisonment, see Rules 59, 64, and 69.

Paragraph (B)(2)(b)(i) provides notice to the defendant that he or she must appear before the issuing authority when the penalty for the offense charged mandates incarceration.

* * * * *

Committee Explanatory Reports:

* * * * *

Report explaining the July 25, 1994 amendments published with Court's Order at 24 Pa.B. 4068 (August 13, 1994).

Report explaining the, 1998 amendments published at 28 Pa.B. 1514 (March 28, 1988).

PART IIA. PROCEDURES WHEN CITATION IS ISSUED TO DEFENDANT

Rule 59. Guilty Pleas.

[(a)] (A) A defendant may plead guilty by:

(1) appearing before the proper issuing authority for the entry of the plea and imposition of sentence when the penalty for the offense charged includes a mandatory sentence of imprisonment; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the citation; or

[(1)] (3) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the citation **[; or]**.

[(b)] (B) When the defendant pleads guilty pursuant to paragraph **[(a)(1)] (A)(3)**:

* * * * *

[(c)] (C) When the defendant **[is required to]** personally appears before the issuing authority to plead guilty pursuant to **[paragraph (a)] paragraphs (A)(1) or (2)**, the issuing authority shall:

(1) **[advise] inform** the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

* * * * *

(4) impose sentence; **[and]**

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs **[.]**;

(6) **inform the defendant of the right, pursuant to Rule 86, to appeal the sentence within 30 days for a trial de novo in the court of common pleas, and that if an appeal is filed, then;**

(a) execution of sentence will be stayed and the issuing authority may set bail or collateral; and

(b) the defendant must appear for the trial de novo or the appeal may be dismissed;

(7) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of the sentence on a date certain unless the defendant files a notice of appeal during the 30-day appeal period; and

(8) issue a written order imposing sentence, signed by the issuing authority, including the information specified in paragraphs (C)(1)—(C)(7), and give a copy of the order to the defendant.

(D) When the defendant is required to appear personally before the issuing authority to plead guilty pursuant to paragraph (A)(1) or (A)(2), but the defendant improperly mails the plea of guilty to the issuing authority, the issuing authority shall:

(1) accept as collateral any sums forwarded by the defendant as payment of the fine and costs;

(2) notify the defendant, in person or by first class mail, that the defendant cannot plead guilty by mail, and that he or she must appear in person before the issuing authority within 10 days of the date of the notice. Notice by first class mail shall be considered complete upon mailing to the defendant's last known address;

(3) notify the defendant of the right to counsel; and

(4) notify the defendant that failure to respond to the notice within the 10-day period may result in the issuance of an arrest warrant.

Official Note: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 75. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991 ; amended _____, 1998, effective _____, 1998.

Comment

[Paragraph (a) of this rule is derived from previous Rules 52A2.(b)(ii) and 54. Paragraph (b) of this rule is derived from previous Rule 65(e). Paragraph (c) of this rule is derived from previous Rule 56.]

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph **[(c)] (C)** when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs **[(a)(1)] (A)(3)** and **[(b)] (B)**. The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (A)(1) requires the defendant to appear before the issuing authority to plead guilty in those cases in which mandatory imprisonment is a penalty for the offense charged.

Paragraph (D) establishes procedures for those cases in which the defendant improperly mails a plea of guilty to the issuing authority. Because some offenses carry mandatory sentences, paragraph (D) requires that the issuing authority send this notice to the defendant who improperly mails a guilty plea to the issuing authority, even in cases in which the defendant does not forward any monies.

For procedure upon default in payment of fine or costs, see Rule 85.

For appeal procedures in summary cases, see Rule 86.

For procedures regarding arrest warrants, see Rules 75 and 76.

With regard to the defendant's right to counsel and waiver of counsel, see Rules 316 and 318.

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the _____, 1998 amendments published at 28 Pa.B. 1514 (March 28, 1998).

PART IIB. PROCEDURES WHEN CITATION FILED

Rule 64. Guilty Pleas.

[(a)] (A) A defendant may plead guilty by:

(1) appearing before the proper issuing authority for the entry of the plea and imposition of sentence when the penalty for the offense charged includes a mandatory sentence of imprisonment; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the summons **[.]**; or

[(1)] (3) notifying the issuing authority in writing of the plea and forwarding an amount equal to the fine and costs specified in the summons [; or] .

[(b)] (B) When the defendant pleads guilty pursuant to paragraph [(a)(1)] (A) (3):

* * * * *

[(c)] (C) When the defendant [is required to] personally [appear] appears before the issuing authority to plead guilty pursuant to [paragraph (a)] paragraphs (A)(1) or (2), the issuing authority shall:

(1) [advise] inform the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

* * * * *

(4) impose sentence; [and]

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs[.];

(6) inform the defendant of the right, pursuant to Rule 86, to appeal the sentence within 30 days for a trial de novo in the court of common pleas, and that if an appeal is filed, then;

(a) execution of sentence will be stayed and the issuing authority may set bail or collateral; and

(b) the defendant must appear for the trial de novo or the appeal may be dismissed;

(7) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of the sentence on a date certain unless the defendant files a notice of appeal during the 30-day appeal period; and

(8) issue a written order imposing sentence, signed by the issuing authority, including the information specified in paragraphs (C)(1)—(C)(7), and give a copy of the order to the defendant.

(D) When the defendant is required to appear personally before the issuing authority to plead guilty pursuant to paragraph (A)(1) or (A)(2), but the defendant improperly mails the plea of guilty to the issuing authority, the issuing authority shall:

(1) accept as collateral any sums forwarded by the defendant as payment of the fine and costs;

(2) notify the defendant, in person or by first class mail, that the defendant cannot plead guilty by mail, and that he or she must appear in person before the issuing authority within 10 days of the date of the notice. Notice by first class mail shall be considered complete upon mailing to the defendant's last known address;

(3) notify the defendant of the right to counsel; and

(4) notify the defendant that failure to respond to the notice within the 10-day period may result in the issuance of an arrest warrant.

Official Note: Previous rule, originally numbered Rule 136, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 64 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1,

1986, and replaced by present Rule 84. Present Rule 64 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991; amended _____, 1998, effective _____, 1998.

Comment

[Paragraph (a) of this rule, together with paragraph (a) of Rule 69 replaces previous Rule 57(b)(2). Paragraphs (b) and (c) of this rule are derived from previous Rule 65(e) and previous Rule 56, respectively.]

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph [(c)] (C) when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs [(a)(1)](A)(3) and [(b)] (B). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (A)(1) requires the defendant to appear before the issuing authority to plead guilty in those cases in which mandatory imprisonment is a penalty for the offense charged.

Paragraph (D) establishes procedures for those cases in which the defendant improperly mails a plea of guilty to the issuing authority. Because some offenses carry mandatory sentences, paragraph (D) requires that the issuing authority send this notice to the defendant who improperly mails a guilty plea to the issuing authority, even in cases in which the defendant does not forward any monies.

* * * * *

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the, 1998 amendments published at 28 Pa.B. 1514 (March 28, 1998).

PART III. PROCEDURES IN SUMMARY CASES WHEN COMPLAINT FILED

Rule 69. GUILTY PLEAS.

[(a)] (A) A defendant may plead guilty by:

(1) appearing before the proper issuing authority for the entry of the plea and imposition of sentence when the penalty for the offense charged includes a mandatory sentence of imprisonment; or

(2) appearing before the issuing authority for the entry of the plea and imposition of sentence, when the fine and costs are not specified in the summons; or

[(1)] (3) notifying the issuing authority in writing of the plea and forwarding an amount equal to the fine and costs specified in the summons[; or] .

[(b)] (B) When the defendant pleads guilty pursuant to paragraph [(a)(1)] (A) (3):

* * * * *

[(c)] (C) When the defendant **[is required to]** personally **[appear]** appears before the issuing authority to plead guilty pursuant to **[paragraph (a)]** paragraphs (A)(1) or (2), the issuing authority shall:

(1) **[advise]** inform the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;

* * * * *

(4) impose sentence; **[and]**

(5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs[.];

(6) inform the defendant of the right, pursuant to Rule 86, to appeal the sentence within 30 days for a trial de novo in the court of common pleas, and that if an appeal is filed, then;

(a) execution of sentence will be stayed and the issuing authority may set bail or collateral; and

(b) the defendant must appear for the trial de novo or the appeal may be dismissed;

(7) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of the sentence on a date certain unless the defendant files a notice of appeal during the 30-day appeal period; and

(8) issue a written order imposing sentence, signed by the issuing authority, including the information specified in paragraphs (C)(1)—(C)(7), and give a copy of the order to the defendant.

(D) When the defendant is required to appear personally before the issuing authority to plead guilty pursuant to paragraph (A)(1) or (A)(2), but the defendant improperly mails the plea of guilty to the issuing authority, the issuing authority shall:

(1) accept as collateral any sums forwarded by the defendant as payment of the fine and costs;

(2) notify the defendant, in person or by first class mail, that the defendant cannot plead guilty by mail, and that he or she must appear in person before the issuing authority within 10 days of the date of the notice. Notice by first class mail shall be considered complete upon mailing to the defendant's last known address;

(3) notify the defendant of the right to counsel; and

(4) notify the defendant that failure to respond to the notice within the 10-day period may result in the issuance of an arrest warrant.

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

1987; amended January 31, 1991, effective July 1, 1991; amended _____, 1998, effective _____, 1998.

Comment

[Paragraph (a) of this rule, together with paragraph (a) of Rule 64, replaces previous Rule 57(b)(2). Paragraphs (b) and (c) of this rule are derived from previous Rule 65(e) and previous Rule 56, respectively.]

Nothing is this rule is intended to require that an issuing authority should proceed as provided in paragraph **[(c)] (C)** when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs **[(a)(1)](A)(3)** and **[(b)] (B)**. The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

Paragraph (A)(1) requires the defendant to appear before the issuing authority to plead guilty in those cases in which mandatory imprisonment is a penalty for the offense charged.

Paragraph (D) establishes procedures for those cases in which the defendant improperly mails a plea of guilty to the issuing authority. Because some offenses carry mandatory sentences, paragraph (D) requires that the issuing authority send this notice to the defendant who improperly mails a guilty plea to the issuing authority, even in cases in which the defendant does not forward any monies.

* * * * *

Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the _____, 1998 amendments published at 28 Pa.B. 1514 (March 28, 1998).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 53, 59, 64, 69

GUILTY PLEAS IN SUMMARY CASES INVOLVING SENTENCES OF MANDATORY IMPRISONMENT

A. Background

The Committee has been reexamining the summary guilty plea procedures in general, and the procedures for pleas by mail in particular. Because of the relatively minor nature of most of the summary offenses, many of which only have a penalty of a fine and costs, the summary case rules permit a defendant to plead guilty by mail, but only when the fine and costs are listed on the citation. This procedure was included in the new rules adopted in 1985, and the following language : if by statute a sentence of imprisonment is authorized for the offense(s) charged, such sentence may only be imposed if neither the fine nor costs is specified in the citation and the defendant therefore must personally appear before the issuing authority, was added to the Rule 53 Comment to emphasize the intent of the rule that the law enforcement officer must not include fines and costs on the citation when the penalty authorizes a sentence of imprisonment or when the statute does not fix an amount of fine and costs. See 13 Pa.B. 2948, 2964 (10/1/83).

As part of our review, it has come to our attention that the addition of mandatory sentences, specifically manda-

tory sentences of imprisonment, see, e.g., 75 Pa.C.S. § 1543(b), in summary cases is causing confusion in cases in which the defendant pleads guilty by mail. According to recent correspondence, it is the preceding Rule 53 Comment language which is causing confusion in practice, particularly when the sentence includes mandatory imprisonment. According to the correspondents, notwithstanding the language in Rule 53, law enforcement officers continue to put the fines and costs on citations in these cases, and this practice is creating problems for the minor judiciary who do not know what to do, particularly when, in mandatory imprisonment cases, the defendants mail in the fine and costs with a guilty plea. In some cases, the issuing authorities continue to accept the plea and the fine and costs, and do not impose imprisonment. In other cases, the issuing authorities accept the fine and costs as collateral for the defendant's appearance for a sentencing hearing. Still other issuing authorities return the citation and direct the defendant to appear in person to plead guilty.

The Committee, agreeing that the procedures for handling mandatory sentences in summary cases should be clarified, looked at the issue both from the perspective of the problems generated by the Rule 53 Comment language, and whether there should be different summary guilty plea procedures from the procedures in Rules 59, 64, and 69 (the guilty plea rules) when the penalty includes mandatory imprisonment. The Committee concluded that the Rule 53 Comment should be revised to more clearly state the intent of the rules with regard to pleas by mail, and that Rules 53, 59, 64, and 69 should be amended to provide special procedures when the penalty includes a mandatory sentence of imprisonment. We agreed that the rules should require that a defendant appear before the issuing authority to enter a guilty plea in all cases which involve a mandatory sentence of imprisonment, whether or not the police include the fine and costs on the citation, should prohibit the issuing authority from accepting such pleas by mail, and should provide the procedures for handling cases in which a defendant mails in a plea.

B. Discussion of Rule Changes

1. Rule 53 (Contents of Citation)

Rule 53 sets forth the contents of the citation. The Committee agreed that paragraph (B), which sets forth the notice provisions required on the citation, including how to enter a plea, should be amended to include a notice to the defendant that in cases involving a mandatory sentence of imprisonment, the defendant must appear in person to enter a plea. To accomplish this, the Committee agreed to add a new paragraph (B)(2)(b)(i), which would require that the citation give notice to the defendant that, if the defendant wants to plead guilty when there is a mandatory sentence of imprisonment, he or she must appear before the issuing authority to enter the plea. The new provision would precede the present provisions for pleading guilty to emphasize its requirements and to highlight its differences from the other two provisions.

To insure that the defendant understands that there is a mandatory sentence of imprisonment for the offense charged, the Committee agreed that Rule 53(A) should be amended by the addition of new paragraph (7), which would require that the citation form include a notation when the penalty for the offense charged includes a mandatory sentence of imprisonment. We anticipate that this requirement will be fulfilled by the addition of a box on the face of the citation, which the police officer must

check when the offense charged includes a mandatory sentence of imprisonment, and that the notice to the defendant required by paragraph (B)(2)(b)(i) will include an instruction that if the box is checked, the defendant must appear before the issuing authority to enter a plea.

The Rule 53 Comment would be revised in several ways. The third paragraph, which has caused the confusion referred to in the Background section, would be rewritten to more clearly explain that a law enforcement officer may specify the fine and costs on the citation only when the penalty provided by law does not include a mandatory sentence of imprisonment and the statute fixes a specific amount for the fine. Recognizing that law enforcement officers may continue to enter a fine and costs on the citation, contrary to the requirements of the rules, the Comment further explains that, except in cases in which the penalty includes a mandatory sentence of imprisonment, the defendant may plead guilty by mail when a law enforcement officer specifies a fine on the citation, even if a sentence of imprisonment is authorized. In such cases, as long as the sentence of imprisonment is not mandatory, the issuing authority must accept the fine and costs and may not impose a sentence of imprisonment. Two additional provisions make it clear (1) that a defendant must appear before the issuing authority to plead guilty in any cases in which there is a mandatory sentence of imprisonment required for the offense charged, or in which the fine and costs are not specified, and (2) that an issuing authority cannot accept a guilty plea by mail in any case in which the offense charged requires mandatory imprisonment as a penalty. These provisions make it clear that, if a defendant is charged by citation with an offense which has mandatory imprisonment as part of its penalty, the defendant cannot circumvent the mandatory sentence by pleading guilty by mail. Finally, the Comment includes a cross-reference to the summary rules for guilty pleas (Rules 59, 64, and 69) for the procedures when there is a mandatory sentence of imprisonment.

2. Rules 59, 64, and 69: Guilty Pleas in Summary Cases

The summary guilty plea rules, Rules 59, 64, and 69, set forth the procedures for pleading guilty by mail or in person.¹ Paragraph (A) has been reorganized, and new paragraph (A)(1) would require that, in mandatory imprisonment cases, the defendant must appear in person to plead guilty and for imposition of sentence.

New paragraph (C) would establish the procedures for the issuing authority to follow in all cases when a defendant appears to plead guilty in person. It would provide that the issuing authority must:

- 1) inform the defendant of the right to appeal;
- 2) inform the defendant when the sentence commences; and
- 3) provide the defendant with a signed copy of the written order imposing sentence.

New paragraph (D) would establish the procedures for the issuing authority to follow when a defendant improperly mails in the plea of guilty in a mandatory imprisonment case. The issuing authority is required to accept, as collateral, any sums forwarded by the defendant as payment of fines and costs, and to notify the defendant that:

- 1) the guilty plea must be entered in person;

¹ The rules are identical in form and substance. For purposes of the discussion, we have only referred to the paragraph designations, which apply to all three rules.

- 2) the defendant has a right to counsel; and
- 3) the failure of the defendant to respond to the notice may result in the issuance of an arrest warrant.

[Pa.B. Doc. No. 98-475. Filed for public inspection March 27, 1998, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Protocol for Trial Pools in the Day Backward and Day Forward Programs; Administrative Doc. No. 1 of 1998

Order

And Now, this 10th day of March, 1998, to assure the expeditious scheduling of trials for Day Backward and Day Forward cases, the Court adopts the following protocol for the assignment of certain cases to trial pools.

1. Type of Case Appropriate for Placement in a Trial Pool—Cases that require relatively short trials and that involve straightforward issues are eligible for assignment to the trial pool. Cases involving Medical Malpractice, Products Liability, Out of State Experts or Pro Se Parties would not be appropriate for assignment to a trial pool.

2. Length of Trial and Placement in a Trial Pool—Trials with an expected duration of 1 to 4 days are eligible for assignment to a trial pool. Cases involving trials that would last more than 5 days are inappropriate for a trial pool.

3. Continuances—All continuances of trials for cases in the pool may be granted only by the assigning Team Leader. Requests for a continuance should be submitted in writing to the appropriate Team Leader prior to the start of the trial pool. A continuance request will be granted only for a sufficient reason such as a prepaid vacation or a prior scheduled date certain trial. Competing trial pool assignments will not be a sufficient reason for a continuance unless the attorney is actually on trial.

If a Team Leader sends a case to another team, the assigned Judge is expected to complete the trial within the week or five days assigned. If the assigned Judge concludes that the trial cannot be completed within a week or five days, the assigned Judge is expected to notify the assigning Judge.

4. Publication—The trial pool list will not be published.

5. Notice—Cases will be assigned on a "next day minimum" notice basis. Cases will not be assigned later than 3:00 p.m. on the day prior to Jury Selection. Cases in the monthly pool may be called in any order. Counsel are expected to be trial ready for the duration of the monthly pool.

This General Court Regulation is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration No. 1, Phila.Civ.R. *51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the Administrative Judge of the Trial Division; and copies shall be submitted to the

Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

JOHN W. HERRON,
*Administrative Judge
Trial Division*

[Pa.B. Doc. No. 98-476. Filed for public inspection March 27, 1998, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CLEARFIELD COUNTY

Amendment to Rules of Civil Procedure; No. Misc. 11 Page 463

Order

Now, this 13th day of March, 1998, upon Motion of the Clearfield County Civil Rules Committee, it is the *Order* of this Court that the following amendment be and is hereby adopted as an amendment to the Court of Common Pleas of Clearfield County, 46th Judicial District, Rules of Civil Procedure:

212.2A Status Conference Upon Praecept for Trial

1. Upon a praecipe for trial, where the trial is to be by jury, the Court will schedule a status conference within thirty (30) days of the filing of the praecipe in order to establish a schedule for the filing of pretrial memoranda, exchange of expert reports, and to establish the term in which the case will be tried.

2. This local rule is to establish the earliest trial date and the dates for filing of pretrial statements required by Pa.R.C.P. 212.1.

Said Rule shall become effective May 1, 1998.

It is the further *Order* of this Court that said Rule is hereby directed to be distributed in accordance with Pa.R.C.P. Rule 239.

By the Court

JOHN K. REILLY, Jr.,
President Judge

[Pa.B. Doc. No. 98-477. Filed for public inspection March 27, 1998, 9:00 a.m.]

WESTMORELAND COUNTY

Rule of Judicial Administration WJ1901; Civil Division

Order of Court

And Now, to-wit this 16th day of March, 1998, it is *Hereby Ordered, Adjudged and Decreed* that Westmoreland County Rule of Judicial Administration WJ1901 is

rescinded, and that new Rule of Judicial Administration WJ1901 is adopted.

By the Court

BERNARD F. SCHERER,
President Judge

Rule WJ1901. Prompt Disposition of Matters; Termination of Inactive Cases.

(a) Civil Cases

(1) The court administrator shall, in conjunction with the 18 month review provided by Rule W200.3, and from time to time as directed by the court, designate civil cases to be terminated for inactivity.

(2) Notice may be by person, by mail, or by publication.

A. Notice by mail shall be conducted by sending the notice to the last address of record of the parties or their legal counsel.

B. Notice by publication shall include an advertisement substantially in the following form:

Purge of Civil Cases

Unless otherwise directed by order of court, pursuant to Pa.R.J.A. 1901, the following civil cases will be dismissed on the first Monday of _____ for inactivity. To remove a case, a petition must be presented to the court

administrator at least 10 days prior to the first Monday of _____, and must state good cause for the unreasonable delay and a firm commitment for prompt disposition. All orders removing a case shall be filed in the prothonotary's office forthwith and a copy shall be presented to the court administrator.

(List of Cases)

(3) Even though a case appears on the "Purge List," the following are not terminated by the purging process:

- A. custody cases
- B. cases affecting title to real estate
- C. cases which have a final judicial disposition, and
- D. cases which have an injunctive order in effect

(4) The reinstatement of any case terminated for inactivity shall be assessed an administrative fee of \$25.

(b) Criminal Cases shall be purged as directed by the court.

(c) Divorce Cases shall be purged as directed by the court.

[Pa.B. Doc. No. 98-478. Filed for public inspection March 27, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CHS. 71 AND 73]

[Correction]

Credit Insurance

An error occurred in the effective date to an Insurance Department rule which appeared at 28 Pa.B. 1401 (March 21, 1998). The correct effective date for the rule is June 19, 1998.

[Pa.B. Doc. No. 98-447. Filed for public inspection March 20, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CH. 113]

Increase in Premium and Midterm Cancellation or Nonrenewal of Commercial Property and Casualty Policies

The Insurance Department (Department) hereby amends Chapter 113, Subchapter G (relating to increase in premium and midterm cancellation or nonrenewal of commercial property and casualty policies) to read as set forth in Annex A. This amendment under the authority of section 9 of the act of July 3, 1986 (P. L. 396, No. 86) (Act 86) (40 P. S. § 3409).

Purpose

Chapter 113 (relating to miscellaneous provisions) was initially promulgated to deal with problems posed by cancellations and nonrenewals of commercial property and casualty insurance policies. The authorizing statute, Act 86, was adopted in 1986 and was recently amended through the act of June 13, 1995 (P. L. 60, No. 10) (Act 10), which became effective August 12, 1995. Accordingly, the Department now seeks to modify Chapter 113 to be consistent with the revised statutory requirements. Specifically, Chapter 113 is being amended to reduce the 60-day notice of intent to increase premiums for commercial policies to a 30-day notice of premium increase, consistent with the statutory change. Further, Chapter 113 is being revised to eliminate the requirement that insurers provide written notice of estimated premiums to the insured at least 30 days prior to the renewal date, because the statute no longer mandates this requirement. Additional clarifying language has also been included consistent with the statutory changes.

Comments

Notice of proposed rulemaking was published at 26 Pa.B. 4434 (September 14, 1996) with a 30-day public comment period.

On October 14, 1996, the Pennsylvania Association of Mutual Insurance Companies (PAMIC) responded with comments. Additionally, comments were received from the Insurance Federation of Pennsylvania (IFP) on October 15, 1996, and from the Independent Regulatory Review Commission (IRRC) on November 13, 1996.

PAMIC noted that in addition to modifying Chapter 113 to be consistent with Act 10, additional clarifying language regarding the definition of "commercial property" or

casualty risks should be added. In that definition, PAMIC objected to the reference to Insurance Services Office (ISO) commercial lines manuals because other advisory organizations provide manuals and many insurers are not using ISO manuals. Any specific reference to one organization in a regulation would unfairly advantageously position that organization over others, and the reference would cause insurers to purchase manuals from multiple services and would serve to increase costs. The Department is currently revising each of its existing regulations, including Chapter 113, to ensure they are supported by statute, clearly written and necessary. It is the Department's intention to include any revision of the definition in a separate rulemaking. The Department intends to revise the definition through rulemaking as soon as possible.

PAMIC also noted concern regarding clarification of what constitutes "documentation" and "other documentation" in § 113.82(d)(1)—(4) (relating to notice of premium increases). Prior to the statutory change in Act 10, insurers mailed notices in advance of 60 days of renewal date. With the change, PAMIC felt it likely that insurers would satisfy the notice requirement by issuing actual renewals with premiums in advance of 30 days of renewal date. Some policies would be mailed to the policyholders while others may be mailed or hand delivered by agents. In response to that request for additional clarification, subsection (d)(4) was revised to provide specific documents such as renewal offers or other methods which are accepted and common within the industry that would reasonably demonstrate compliance.

The IFP's comments supported the Department's proposal as outlined at 26 Pa.B. 4434.

IRRC's comments restated PAMIC's concern with the definition of "commercial property" and "casualty risk," and the references to ISO manuals. IRRC suggested the Department follow-up with its separate rulemaking to eliminate specific references. The Department agrees that such a definition will be consistent with existing industry standards and will specifically include tenant-occupied dwellings and farm risks, the two categories questioned by PAMIC.

Regarding notice of premium increase, § 113.82(d)(4), IRRC restated that the Department left this provision purposely vague to accommodate new, innovative or different ways that insurers may use to notify insureds. IRRC appreciated the Department wanting to have the flexibility of a general "catch-all" clause which would accommodate any method of notice which would not fit into one of the three ways of giving and documenting notice of premium increases. However, IRRC recommended the Department further amend § 113.82(d)(4) to give one or more examples, preceded by the word "including." This approach would not compromise flexibility yet provide some further guidance to PAMIC's members and other companies. IRRC also suggested the Department incorporate a phrase such as "consistent with acceptable industry practices or standards," to ensure that whatever method used to give notice would still be within the general framework of acceptable insurance industry practice. The Department has incorporated language into this rulemaking to address this issue.

Affected Parties

Commercial property and casualty insurers transacting business in this Commonwealth and surplus lines insur-

ers who write insurance on commercial property and casualty risks in this Commonwealth are directly affected by the amendments. Policyholders, as recipients of cancellation and nonrenewal notices, are indirectly affected.

Fiscal Impact

State Government

The amendments will not have an impact on Department costs associated with monitoring industry compliance.

General Public

It is expected that savings to the insurance industry resulting from these amendments will be passed along to insurance consumers in the form of lower rates.

Political Subdivisions

The amendments have no impact on costs to political subdivisions.

Private Sector

It is estimated that the industry will realize a \$2.2 million savings per year resulting in the elimination of the estimated premium notice.

Paperwork

These amendments impose no additional paperwork requirements on the Department and reduce the paperwork requirements imposed on the insurance industry.

Effectiveness/Sunset Date

The amendments will become effective upon final publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date has been assigned.

Contact Person

The contact person is Helfried G. LeBlanc, Deputy Insurance Commissioner for Consumer Services and Enforcement, 1321 Strawberry Square, Harrisburg, PA 17120, (717) 787-6174.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 29, 1996, the Department submitted a copy of the proposed rulemaking, published at 26 Pa.B. 4434 to IRRC and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing these final-form regulations, the Department has considered all comments received from IRRC, PAMIC, IFP, the Committees and the public.

Under section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), these final-form regulations were approved by the House and Senate Committees' on January 25, 1998. IRRC met on January 29, 1998 and approved the regulations in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Insurance Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No.

240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

Order

The Insurance Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code Chapter 113, are amended by amending §§ 113.81, 113.82 and 113.85—113.87 and deleting § 113.83 to read as set forth in Annex A.

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

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

(d) The regulations adopted by this order shall take effect upon publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 859 (February 14, 1998).)

Fiscal Note: Fiscal Note 11-130 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

CHAPTER 113. MISCELLANEOUS PROVISIONS

Subchapter G. INCREASE IN PREMIUM AND MIDTERM CANCELLATION OR NONRENEWAL OF COMMERCIAL PROPERTY AND CASUALTY POLICIES

§ 113.81. Definitions.

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

Act—The act of July 3, 1986 (P. L. 396, No. 86) (40 P. S. §§ 3401—3409).

Affiliated insurer—An insurer who, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with another insurer.

Agent—An individual, partnership or corporation, licensed by the Department, who contracts with an insurer to sell insurance on behalf of the insurer. With respect to policies of insurance covering commercial property and casualty risks issued by eligible surplus lines insurers, the term means a surplus lines licensee as defined in section 1602 of The Insurance Company Law of 1921 (40 P. S. § 991.1602).

Commercial property and casualty risk insurance—Insurance within the scope of this chapter which is not personal risk insurance. The term includes insurance issued for commercial auto, farmowner's, business, profes-

sional or other commercial risks, such as businessowner's and commercial multiperil policies, aviation, credit, mortgage guaranty, and worker's compensation risks, except title insurance, fidelity and surety bonds, ocean marine risks, and workers compensation insurance covering employees subject to the Jones Act (40 U.S.C.A. §§ 731, 733a, 734, 737, 741a, 742, 745, 747—749, 751, 752, 863—865, 868, 870—872, 874 and 891—893), and Federal employees.

Insurer—An insurer authorized by the Department to transact business in this Commonwealth or designated as an eligible surplus lines insurer as defined in section 1602 of The Insurance Company Law of 1921.

Named insured—The insureds named on the declaration page of the insurance policy.

Nonrenewal—The failure by an insurer to issue and deliver a policy superseding at the end of the policy period one previously issued and delivered by the same insurer or affiliated insurer, where the renewal policy provides types and limits of coverage substantially equivalent to those contained in the policy being superseded. The term also includes the failure to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage substantially equivalent to those contained in the policy being extended. The term does not include coverage provided under a policy of insurance that is renewed by the insurer under a new policy form approved by the Department if an appropriate disclosure notice is forwarded to the first named insured.

Personal risk insurance—Property or casualty insurance issued for personal, family or household purposes. Examples of policies of insurance issued for personal, family or household purposes are:

(i) Policies used solely to provide homeowner's insurance, dwelling fire insurance on one to four family units if owner-occupied, or individual fire insurance on dwelling contents.

(ii) Policies principally used to provide primary insurance on private passenger automobiles which are individually owned and used for personal or family needs.

(iii) Policies of personal inland marine, personal theft, residence glass, personal liability insurance and personal excess.

(iv) Policies on pleasure watercraft which are used for personal, or family needs.

Policy of insurance—A policy, certificate or binder issued or delivered in this Commonwealth by an insurer or agent covering commercial property or casualty risks. A policy with a policy period or term of less than 12 months or a policy period with no fixed expiration date is considered as written for successive policy periods of 12 months.

§ 113.82. Notice of premium increase.

(a) Insurers shall provide the named insured advance notice of any increase in renewal premium at least 30 days before the upcoming policy renewal date.

(b) An insurer may authorize its agents to provide the notice of premium increase to the named insured. The insurer is responsible for the agent's failure to provide a notice of premium increase 30 days or more in advance of policy renewal.

(c) A notice of premium increase shall be provided to the named insured when a policy is issued by an insurer of a group of affiliated insurers that supersedes a policy issued by an insurer from the same group of affiliated insurers, and the premium will increase as a result of the superseding policy.

(d) Insurers are responsible for documenting that advance notice was provided to the named insured. Insurers may satisfy this requirement by doing one of the following:

(1) Maintaining a copy of the advance written notice provided to the named insured.

(2) Documenting its file to reflect the date and time advance notice was provided to the named insured.

(3) Providing documentation from its agent reflecting compliance with either paragraph (1) or (2).

(4) Providing other documentation such as renewal offers or other methods which are accepted and common within the industry as would reasonably demonstrate compliance. The documentation will be evaluated at the sole discretion of the Department.

§ 113.83. (Reserved).

§ 113.85. Midterm cancellation for material failure to comply with policy terms, conditions or contractual duties.

An insurer may cancel in midterm a policy of insurance covering commercial property and casualty risks for material failure to comply with policy terms, conditions or contractual duties which require the insured to comply with safety standards and loss control recommendations, if the following apply:

(1) The policy specifically provides that material failure to comply with safety standards and loss control recommendations may constitute a basis for cancellation.

(2) The insurer has provided the named insured with written notice of the failure to comply with safety standards and loss control recommendations.

(3) The insurer has provided the named insured with a reasonable opportunity to cure deficiencies with respect to safety standards and loss control recommendations.

(4) The deficiencies with respect to safety standards and loss control recommendations have not been cured.

§ 113.86. Notices of nonrenewal or cancellation forwarded by agents.

An insurer shall be deemed in compliance with the requirement that notices of midterm cancellation or nonrenewal be forwarded by the insurance company directly to the named insured if an agent, who is authorized by an insurer to act on its behalf for purposes of providing notice of midterm cancellation or nonrenewal forwards notices of midterm cancellation or nonrenewal to the named insured. The insurer is responsible for the authorized agent's failure to meet the requirements for providing notice of midterm cancellation or nonrenewal to the named insured.

§ 113.87. Return of unearned premiums.

An insurer is responsible for the return of unearned premium to the named insured within the time period required by the act. An insurer may authorize its agents to return unearned premium to the named insured. The insurer is responsible for the agent's failure to return

unearned premium to the named insured as required by the act.

[Pa.B. Doc. No. 98-479. Filed for public inspection March 27, 1998, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 51]

Petitions for Boating Regulations

The Fish and Boat Commission (Commission) by this order amends § 51.6 (relating to petitions for regulations). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendment concerns administration.

A. Effective Date

This amendment will go into effect immediately upon publication of this order in the *Pennsylvania Bulletin*.

B. Contact Person

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

C. Statutory Authority

The amendment is published under the statutory authority of section 10 of the Sunshine Act (65 P. S. § 280) and section 506 of The Administrative Code of 1929 (71 P. S. § 186). This amendment also is published in accordance with section 204 of the act of July 31, 1968 (P. L. 769, No. 240)(45 P. S. § 1204) (CDL) which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) if the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are under the circumstances impracticable, unnecessary or contrary to the public interest.

D. Purpose and Background

Under § 51.5 (relating to correction of regulations), the Executive Director is authorized to take immediate corrective action on the Commission's behalf if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*. It has been brought to the Commission's attention that § 51.6(f), as published in the *Pennsylvania Code*, erroneously refers to section 5122(c) of the code (relating to registrations, license permits, plates and statistics) instead of section 5121(c) of the code (relating to promulgation). The purpose of the amendment is to correct this incorrect reference.

E. Summary of Change

The Commission is amending § 51.6(f) to change section 5122(c) of the code to section 5121(c) of the code.

F. Paperwork

The amendment hereby adopted will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The amendment hereby adopted will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment will impose no new costs on the private sector or the general public.

H. Public Involvement

Under section 204 of the CDL, an agency may omit the procedures specified in sections 201 and 202 of the CDL if the agency finds that these procedures are unnecessary. The Commission, therefore, did not publish this amendment as a notice of proposed rulemaking or solicit public comment.

Findings

The Commission finds that:

(1) An error was discovered in the text of 58 Pa. Code § 51.6(f) as published in the *Pennsylvania Code*.

(2) Under § 51.5, the Executive Director is authorized to take immediate corrective action on behalf of the Commission, including, if necessary, the issuance of an order to make the necessary correction, if the Executive Director or the Commission's staff discovers an error in the text of a Commission regulation as published in the *Pennsylvania Code*.

(3) Under the circumstances, the procedures of sections 201 and 202 of the CDL are unnecessary.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 51, are amended by amending § 51.6 to read as set forth at Annex A, with ellipses referring to the existing text of the regulation.

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

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

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-76. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

§ 51.6. Petitions for regulations.

* * * * *

(f) *Boating regulations.* For boating regulations, the staff will submit the petition, the staff report, the petitioner's response, if any, and the staff response, if any, to the Boating Advisory Board for review and consideration at its next regular meeting occurring more than 30 days

after the file is deemed complete. The Boating Advisory Board shall review the materials and provide advice and recommendations to the Commission as provided in section 5121(c) of the code (relating to promulgation).

* * * * *

[Pa.B. Doc. No. 98-480. Filed for public inspection March 27, 1998, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 6, 8a AND 35]

Enforcement; Tax Examinations and Assessments

The Department of Revenue (Department), under the authority in section 2910-A of the act of June 30, 1995 (P. L. 139, No. 21) (72 P. S. § 9910-A) (Act 21) and section 270 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7270), by this order adopts amendments to delete § 6.22 (relating to further examination of books and records); to add Chapter 8a (relating to enforcement); and to amend § 35.1 (relating to tax examinations and assessments).

Purpose of Amendments

The purpose of these amendments is to advise taxpayers of the Department's interpretation of section 2915-A of the TRC (72 P. S. § 9915-A).

Explanation of Regulatory Requirements

Upon final publication of Chapter 8a, the language set forth in § 6.22 is no longer necessary; therefore, the section is being deleted in its entirety.

Section 8a.1 (relating to definitions) defines the following terms for use in this chapter: "audit period," "block sample," "clustered sample," "deviation from the mean," "outlier," "population," "range," "standard deviation," "standard error," "statistical estimation," "statistical sample," "stratum," "taxpayer," "test audit," "test period" and "transaction."

In accordance with section 2915-A(a) of the TRC, § 8a.2 (relating to examination) provides that the Department may examine all books, papers and records of a taxpayer or another person having possession of or dominion over records to: (1) Verify the accuracy and completeness of a tax return or tax report filed by the taxpayer and ascertain or assess tax or other liability owed to the Commonwealth; (2) Ascertain or assess tax or other liability owed to the Commonwealth if no tax return or tax report has been filed by the taxpayer.

Under section 2915-A(b) of the TRC, § 8a.3 (relating to audit types) provides that examination may be made by desk audit, field audit or another form of audit. Under § 8a.4 (relating to determination of liability), the Department may determine a tax liability owed by a taxpayer based upon the facts contained in a tax return, tax report or other information that may come into the Department's possession.

Section 8a.5 (relating to determination of audit method) provides that when the taxpayer does not have complete records or when the review of each transaction would be unduly burdensome on the Department to conduct an audit in a timely and efficient manner, the

Department will determine whether to examine all of the records of a taxpayer for an entire audit period, employ a test audit method or utilize a combination of audit methods. This section lists factors that the Department will consider in determining the audit method.

When a test audit is employed, § 8a.6 (relating to selection of sample) describes the basis for selection of the sample. The Department may utilize stratification levels in performing statistical sampling. When a block sample method is chosen, the Department will select blocks whose average is approximately equal to the estimated average of key characteristics for the audit period. Examples of key characteristics include sales, taxable to gross sales ratio, purchases or number of transactions.

Section 8a.6(1) explains that in determining whether to exclude the values of certain transactions from the sample, the Department will identify the transactions in the sample that are outliers. Outliers are sample values that are so different from the other sample values that it seems unlikely they are representative of the population being audited and, further, whose magnitude is such that including them in the projection could distort the audit findings. Paragraph (2) explains the process for identifying outliers. Paragraph (3) explains the steps that will be taken with respect to confirmed outliers. Paragraphs (4) and (5) detail the factors the Department will consider when determining whether to employ the test audit method in an audit of any Motor Carrier Road Tax and State and Local Sales and Use Tax or Hotel Occupancy Tax or Public Transportation Assistance Tax.

Section 8a.7 (relating to statistical estimation and software) provides that the audit results shall be computed by projecting the audit findings identified in the sample, as adjusted for outliers as provided in § 8a.6(3), to the population, regardless of whether the sample is a statistical sample or a block sample. Paragraph (1) states that when the Department employs the block sampling method, the standard error cannot be estimated. Paragraph (2) provides that when the Department employs the statistical estimation method, a standard error of the estimate shall be computed from the sample observations adjusted for outliers as provided in § 8a.6(3) to indicate the reliability of the estimated average, total or ratio. The Department may use software that has been designed in accordance with accepted statistical practices. The formulas utilized by the software will be available for examination by the taxpayer.

Section 8a.7(3) provides that except as otherwise mutually agreed to by the Department and the taxpayer, the number of observations in the sample will be chosen so that the projected sample will, on the average, yield an estimated precision within 25% of the mid-point of a 90% two-sided confidence interval. The sample size will be determined by using the sample size selection table set forth in paragraph (4). Additionally, the Department will increase the sample size upon the request of the taxpayer. The process of increasing the sample size will be repeated until mutual agreement is reached between the taxpayer and the Department on an acceptable number of observations.

Section 8a.8 (relating to test audit plan) provides that prior to conducting a test audit, the Department will set forth in writing a test audit plan and provide the taxpayer with an opportunity to review and comment on the plan. This section further provides areas that the plan will address including the statistical estimation

procedures and the taxpayer's right to request an increase in sample size.

Section 8a.9 (relating to audit findings) provides that at the conclusion of an audit, the Department will provide the audit findings and a copy of the work papers to the taxpayer, discuss the findings with the taxpayer, provide the taxpayer the opportunity to comment in writing and explain the procedure for the processing, assessing and appealing the audit findings. In accordance with section 2915-A(C) of the TRC, § 8a.10 (relating to taxpayer appeal) provides that a taxpayer may appeal the accuracy of a test audit. In accordance with section 2917-A of the TRC (72 P. S. § 9917-A), § 8a.11 (relating to applicability) provides that Chapter 8a applies to all taxes administered by the Department.

Section 35.1 (relating to tax examinations and assessments) is being amended by deleting the current text of subsection (a)(2) because similar language is in Chapter 8a.

Affected Parties

Taxpayers subject to audit by the Department may be affected by these amendments.

Comment and Response Summary

Notice of proposed rulemaking was published at 25 Pa. B. 4005 (September 23, 1995). The amendments are being adopted with changes to the proposed rulemaking.

The Department received comments from the public, the House Finance Committee and the Independent Regulatory Review Commission (IRRC). No objections or comments were raised by the Senate Finance Committee.

Though each comment received raised some unique concerns, many of the comments were similar in nature. Generally, the comments suggested that the proposed amendments did not provide sufficient guidance and detail regarding the use of statistical sampling and test audits. The Department agrees and has incorporated changes suggested by the comments received.

On October 22, 1997, the Department submitted the final-form regulations to IRRC and the Legislative standing committees. At the same time, the Department sent copies of the final-form regulations to the parties who had commented on the proposed rulemaking during the public comment period. Under section 5.1(d) of the Regulatory Review Act, the final-form regulations were deemed approved by the Legislative standing committees on November 12, 1997. On November 20, 1997, IRRC disapproved the final-form regulations.

On December 1, 1997, the Department notified the Governor, IRRC and the Legislative standing committees of its intent to proceed with adoption of the final-form regulations under section 7(a)(2) of the Regulatory Review Act (71 P. S. § 745.7(a)(2)). Under this section and section 7(c) of the Regulatory Review Act, the Department submitted a report to the Legislative standing committees and IRRC with revised final-form regulations. The revised final-form regulations reflect substantial input provided by Legislative committee staff, IRRC staff, public commentators and a private expert statistician contracted by the Department. Numerous telephone calls and drafting meetings were conducted with the identified parties for the purpose of resolving IRRC's concerns.

In response to IRRC's suggestion that a definition section be added, § 8a.1 has been amended to set forth

definitions of the following terms: "audit period," "block sample," "clustered sample," "deviation from the mean," "outlier," "population," "range," "standard deviation," "standard error," "statistical estimation," "statistical sample," "stratum," "taxpayer," "test audit," "test period" and "transaction." IRRC had also suggested adding the definition of "Department;" however, the term "Department" is defined in § 1.1 (relating to definitions).

IRRC also suggested that the Department define "unduly burdensome" when used in the phrase "unduly burdensome on the Department to conduct an audit in a timely and efficient manner" proposed in § 8a.1(d), now § 8a.5. It is the Department's position that the term cannot be defined because each case presents unique fact situations that must be considered individually. No one standard can be applied to all taxpayers. The Department has provided in § 8a.5 a listing of considerations that will be considered in determining the type of audit method to be employed.

In response to IRRC's request that the Department clarify proposed § 8a.1(a), § 8a.2 contains two paragraphs.

A public comment expressed concern that because section 2915-A was included in Article XXIX-A, Tax Amnesty Program, the definitions in section 2901-A of the TRC also apply to section 2915-A. Following this theory, the provisions of section 2915-A of the TRC and Chapter 8a would only apply to a taxpayer participating in the Tax Amnesty Program with regard to certain specified eligible taxes delinquent as of December 31, 1993. However, section 2917-A of the TRC specifically states that section 2915-A of Article XXIX-A shall apply to all taxes collected by the Department. Because the Legislature did not use the defined term "eligible tax" in this section, section 2915-A clearly applies to all taxes collected by the Department, not just "eligible taxes" under the Tax Amnesty Program.

The language proposed in § 8a.1(e) has been deleted and replaced by § 8a.5 with language that explains various factors the Department will consider to determine whether to examine all of the records of a taxpayer for an entire audit period, employ a test audit method or utilize a combination of audit methods.

In the final-form regulations disapproved by IRRC, the Department redrafted § 8a.5 (formerly proposed § 8a.1(e)) related to the list of factors the Department may consider in determining whether to conduct a complete audit, a test audit or a combination of audit methods. Section 8a.6(3) and (4) (formerly proposed subsection (f)(3) and (4)) was also amended to advise taxpayers of additional factors that the Department may consider in determining whether to conduct a test audit in Motor Carriers Road Tax, Sales Tax, Use Tax and Hotel Occupancy Tax. In the proposed rulemaking, these subsections had provided that the Department will consider these lists of factors in selecting an appropriate audit method.

IRRC has indicated that the distinction between the terms "may" and "will" in these sections is significant. The Department's sole purpose for creating these lists was to identify for taxpayers the types of factors that would be considered by the Department in its selection of an audit method. In conformity with IRRC's concerns, the Department has revised former subsections (e), (f)(3) and (f)(4) to provide that the Department will consider the identified factors.

In its disapproval order, IRRC also indicated that the final-form regulations do not provide assurance that the

liability determined by the Department using statistical sampling or test audits will be accurate within any degree of precision. IRRC also cited a letter from the majority and minority Chairpersons of the House Finance Committee dated November 18, 1997, which provides that the final-form regulations do not sufficiently address the risk of over-assessment. This comment suggested the use of the lower limit of either a 90% two-sided confidence interval or a 95% one-sided confidence interval, both of which are identical. The rationale for using the lower limit of these confidence intervals is that it would reduce the risk of over-assessment to no more than 5%.

After extensive review of this issue, it is the Department's opinion that it is inappropriate to use the lower limit of a confidence interval to determine an audit finding. The lower limit of a confidence interval is a very unlikely value for the true value. While it is true that the use of the recommended lower limit would reduce the risk of over-assessment to no more than 5%, it would also increase the risk of under-assessment to no less than 95%.

The Department believes that the use of the lower limit of a confidence interval is not in the best interests of the accurate enforcement of the Commonwealth's tax laws. The Department also believes that the use of the lower limit is unfair to taxpayers that have accurately reported their liabilities. The midpoint of the confidence interval is the most accurate estimate of the true value of the audit finding. Therefore, the Department's regulations utilize the midpoint of a 90% confidence interval to determine the audit finding.

Related to this concern is the issue of the level of precision that should be utilized in statistical estimation. Precision as used in the amendments is the range within which the average value will lie, with the degree of certainty specified in the confidence interval. Although IRRC and the Legislative standing committees have made no formal recommendation of an acceptable precision, discussions with staff and public commentators have suggested precisions ranging from 5 to 20%. Surveys of the practices of other states indicate that the precisions routinely used by State tax agencies in test audits range from 5 to 50%. In addition, many states do not calculate the precision of their test audits.

The Department has given a great deal of consideration to the establishment of a minimum precision level. Although a high precision (for example, 5%) may be an ideal goal, the Department believes it is not appropriate to mandate an extremely high precision level for the selection of an initial sample for the following reasons:

First, the precision of a sample as measured by the confidence interval cannot be estimated without first knowing the standard deviation or coefficient of variation of the sample. The data to be projected in tax audits is highly variable by nature and is constantly changing due to frequent statutory amendments and changes in business practices. This limits the Department's ability to estimate the coefficient of variation of a sample to be selected based upon historical data.

Therefore, it is the Department's position that the best method for estimating the precision of a sample in a tax audit is to select an initial sample and calculate its coefficient of variation and precision. This process provides a basis for making a more accurate estimation of the precision to be achieved by any additional sample

selected. If the taxpayer requests an increase in the number of observations being reviewed, the sample size can be increased. However, if the initial sample selected is satisfactory to both the taxpayer and the Department, there is no necessity to mandate that additional samples be selected.

Second, the use of stratification by the Department in conducting audits limits the potential range of the taxpayer's liability determined in a test audit. In a stratified audit, the transactions being audited are subdivided into several homogenous groups with respect to the characteristics being audited. For example, the transactions may be subdivided by dollar amount. In conducting a stratified audit, the Department may elect to do a complete audit on the subdivided groups containing the transactions with the largest dollar values. However, on the small dollar value groups, the Department may elect to use statistical estimation.

The Department has documented examples of its stratified audits when a review of only 5% of the total transactions in the sample resulted in the actual examination by the Department of over 50% of the total gross receipts that were the subject of the audit. Because complete audits were done on the transactions with the highest dollar values, and greatest impact on the taxpayer's liability, a low precision in the small dollar transaction strata may not significantly affect the taxpayer's ultimate tax liability.

Finally, it is the experience of the Department that many taxpayers do not want the Department to examine the number of samples required to obtain extremely high precision levels. This is due to the fact that the taxpayer must search for and identify the record for every sample transaction to be included within the projection. These records may be located in various facilities across the country and difficult to locate.

In addition, the taxpayer may be required by the Department to answer questions and provide additional verifications to support the records selected in the sample. This often requires the taxpayer to search for and identify additional records and identify the employees that were involved in the questioned transactions. These records and employees may also be located throughout the country. If the relevant employees have left the company, the taxpayer's reconstruction and verification of the record is made even more difficult.

In the case of stratified audits, the taxpayer's cost of pulling records related to and justifying large numbers of relatively small dollar transactions routinely outweighs any justification for an extremely high precision level. Therefore, the burden imposed on the taxpayer in selecting large sample sizes is often greater than the burden imposed on the Department to review the samples selected.

Accordingly, in response to the concerns on reasonableness and clarity of the procedures used for statistical sampling and test audits, the Department has revised the procedure in § 8a.7(3) for determining the number of observations to be selected in the sample. The revised procedure provides that the taxpayer and the Department may mutually agree on the number of observations to be chosen prior to conducting any sampling. In the absence of an agreement, the initial sample selected by the Department will be chosen so that the projected sample will on average yield an estimated precision within 25% of the midpoint of a 90% two-sided confidence interval.

The midpoint of a confidence interval is the best estimate of the population characteristic. Section 8a.7(4) provides a sample size selection table to be used in determining the number of observations to be selected in the initial sample.

After the selection and review of the sample, the standard error and estimated precision of the sample will be calculated and reviewed with the taxpayer. Upon the request of the taxpayer the size of the sample will be increased. The process of increasing the sample size will be repeated until mutual agreement is reached between the taxpayer and the Department on an acceptable number of observations. The Department believes that this process mitigates the concerns raised regarding a minimum precision level.

The Department has also significantly revised § 8a.6 in the revised final-form regulations relating to the procedures for the identification and treatment of outliers. Outliers are extreme values that are contained within the sample that are atypical of the population being audited.

The revised procedures require the Department to determine the transaction difference for each transaction in the sample. The transaction difference is the difference between the audited value of the transaction and its value reported to the Department. If a transaction difference is greater than 2% of the total audited amount of the total sample, the transaction is a suspected outlier. A confirmation test is then completed for each suspected outlier using a mathematical formula contained within § 8a.6(2). The test for an outlier is based upon the difference between the value of the outlier (either positive or negative) and the average of all other sampled values, divided by a measure of the dispersion of the other values (1/4 of the range).

Revised § 8a.6(3) provides that the Department will notify the taxpayer of all confirmed outliers and request evidence that would justify a smaller difference between the audited value and the reported value. If sufficient evidence is not provided, the outlier will be eliminated from the sample and audited independently. The audit finding on the outlier will be added to the result of the projection for the remaining sample to determine the total audit finding.

Excluding outliers from the sample projected and auditing them separately should on average yield a tax deficiency that is smaller than if a complete audit of all transactions were used to determine the tax liability owed to the Commonwealth. This results from the fact that there may be other extreme values in the population that are not included in the projections since they were not represented in the sample. This procedure facilitates the recommendation of IRRC and the Legislative standing committees that the audit procedures should minimize the risk of over-assessment.

In the final-form regulations disapproved by IRRC, § 8a.6 provided that:

When a test audit method is chosen to reduce burden, or because certain records are unavailable, *or for any other reason*, the concurrence of the taxpayer in the test audit plan will be sought. In the absence of *concurrence of the block sampling method*, the Department will select blocks.... (Emphasis added.)

IRRC identified two clarity concerns with this provision. First, IRRC stated that the phrase "or for any other

reason" should be removed from the final-form regulation because it lacks clarity and does not track the statutory language. The Department agrees and has removed the questioned language from the final-form regulations.

Second, IRRC stated that the phrase "In the absence of concurrence of the block sampling method" is confusing and lacks clarity. In response to comments made by IRRC at the public meeting on the final-form regulations and comments directed to IRRC by a public commentator requesting the removal of the references to the concurrence of the taxpayer, the Department has revised this section by deleting the references to the concurrence of the taxpayer.

Section 8a.7(2) is amended by deleting the term "generally" from the phrase "generally accepted statistical practices." It was brought to the attention of the Department by public commentators that the phrase has not been defined by any organization of expert statisticians or auditors. Therefore, it was concluded that the deletion of the term "generally" from the phrase did not change its meaning and the Department agreed to make the recommended change.

In response to a comment made by the public, IRRC and the House Finance Committee, proposed subsection (h), now § 8a.8 has been amended to provide that prior to conducting a test audit, the Department will set forth in writing a test audit plan and provide the taxpayer with an opportunity to review and comment on the plan. The section sets forth areas that the plan will address including the statistical estimation procedures and the taxpayer's right to request an increase in sample size.

A public comment suggested that if the Department determined a tax liability based on information outside of the tax return or tax report, that it will provide a copy of the information to the taxpayer for purposes of determining the accuracy of the information. The Department has responded to this comment in § 8a.9 by providing that at the conclusion of the audit, the audit findings and a copy of the work papers will be provided to the taxpayer. In addition, the auditor will also discuss the findings with the taxpayer, provide the taxpayer the opportunity to comment in writing and explain the procedures for the processing, assessing and appealing of the audit findings.

In response to a concern raised by IRRC and in accordance with section 2915-A(C) of TRC, a new § 8a.10 (relating to taxpayer appeal) provides that a taxpayer may appeal the accuracy of a test audit by providing clear and convincing evidence that the method used for selecting a statistical sample or block sample test period and determining the tax liability is erroneous, lacks a rational basis or produces a different result when the complete records are considered.

Finally, to avoid any conflict or confusion, the Department is amending § 35.1 by deleting the current text of subsection (a)(2) because similar language is now contained in Chapter 8a. New language has been added to subsection (a)(2) that states that audits will be conducted in accordance with Chapter 8a.

Fiscal Impact

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

Paperwork

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

Effectiveness/Sunset Date

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

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a), on September 13, 1995, the Department submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 4004, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Department has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the Committees on January 15, 1998. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 29, 1998, and approved the final-form regulations.

Findings

The Department finds that:

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

(2) The final-form regulations are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Department, 61 Pa.Code, are amended by deleting § 6.22; amending § 35.1 and adding §§ 8a.1—8a.11 to read as set forth in Annex A.

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

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

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

ROBERT A. JUDGE, Sr.,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 859 (February 14, 1998).)

Fiscal Note: 15-371. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 61. REVENUE****PART I. DEPARTMENT OF REVENUE****Subpart A. GENERAL PROVISIONS****CHAPTER 6. TAX AMNESTY PROGRAM****§ 6.22. (Reserved).****CHAPTER 8a. ENFORCEMENT**

Sec.	
8a.1.	Definitions.
8a.2.	Examination of books and records.
8a.3.	Audit types.
8a.4.	Determination of liability.
8a.5.	Determination of audit method.
8a.6.	Selection of sample.
8a.7.	Statistical estimation and software.
8a.8.	Test audit plan.
8a.9.	Audit findings.
8a.10.	Taxpayer appeal.
8a.11.	Applicability.

§ 8a.1. Definitions.

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

Audit period—The period of time for which the audit is conducted.

Block sample—One or more groups of transactions selected as a unit from a population. For example, invoices numbered 100 to 200, or transactions for the months of May and October.

Clustered sample—A statistical sample in which blocks of adjacent transactions are selected with known probability. A statistical sample of transactions within the blocks may be selected, creating a two-stage statistical sample.

Deviation from the mean—The numerical difference between a single statistical observation and the mean (average) of all of the statistical observations.

Outlier—A statistical observation that appears to deviate markedly from other members of the sample from which it came.

Population—The total transactions during an audit period from which the sample is selected.

Range—The numerical difference between the largest and smallest statistical observations in the sample.

Standard deviation—The square root of the average squared deviation from the mean.

Standard error—The standard deviation divided by the square root of the number of statistical observations in the sample.

Statistical estimation—A method of estimating the numerical characteristics of a population, such as averages, totals or ratios, from a statistical sample and estimating the precision of the estimated characteristics.

Statistical sample—A selection of transactions in which each of the transactions in the population, or a stratum from it, has a known chance of being selected. The term is also known as a probability sample.

Stratum—A subdivision of the population in which the transactions within the subdivision are expected to be more uniform with respect to the characteristics being examined than the transactions across the subdivisions.

Taxpayer—A person, association, fiduciary, partnership, corporation or other entity required to pay, withhold or collect any tax that is administered by the Department.

Test audit—An audit of sampled transactions selected by either a block sample or a statistical sample method.

Test period—A time period or periods selected for the test audit; for example, the month of May.

Transaction—The term includes an entry, document, invoice or other record regardless of the method of creation or retention.

§ 8a.2. Examination of books and records.

The Department may examine all books, papers and records of a taxpayer or another person having possession of or dominion over these records to:

- (1) Verify the accuracy and completeness of a tax return or tax report filed by the taxpayer and ascertain or assess tax or other liability owed to the Commonwealth.
- (2) Ascertain or assess tax or other liability owed to the Commonwealth if no tax return or tax report has been filed by the taxpayer.

§ 8a.3. Audit types.

Examination may be made by desk audit, field audit or another form of audit.

§ 8a.4. Determination of liability.

The Department may determine tax liability owed by a taxpayer to the Commonwealth based upon the facts contained in a tax return, a tax report or other information that may come into the Department's possession.

§ 8a.5. Determination of audit method.

When the taxpayer does not have complete records or when the review of each transaction would be unduly burdensome on the Department to conduct an audit in a timely and efficient manner, the Department will determine whether to examine all of the records of a taxpayer for an entire audit period, employ a test audit method or utilize a combination of audit methods. In making this determination, the Department will consider the following factors:

- (1) The type of tax under audit.
- (2) The nature of the taxpayer's business.
- (3) The number of transactions in the population.
- (4) The adequacy and availability of the taxpayer's records.
- (5) Whether the taxpayer's business is cyclical or seasonal.
- (6) Whether significant changes in the taxpayer's business or activities occurred during the audit period, such as discontinuing or adding a line of business.
- (7) Other relevant factors.

§ 8a.6. Selection of sample.

When a test audit is employed, the selection of the block sample, statistical sample or clustered sample shall be based on the Department's analysis of the taxpayer's business operations and records, and shall reasonably represent the population from which the sampled transactions were selected. The Department may utilize stratifi-

cation levels in performing statistical sampling. When a block sample method is chosen, the Department will select blocks whose average is approximately equal to the estimated average of key characteristics for the audit period. Examples of key characteristics include sales, taxable to gross sales ratio, purchases or number of transactions.

(1) In determining whether to exclude the values of certain transactions from the sample, the Department will identify the transactions in the sample that are outliers.

(2) For the purpose of identifying outliers, the Department will determine the transaction difference for each transaction in the sample. The transaction difference shall be the difference between the transaction's audited value and its value reported to the Department. Any transaction difference with an absolute value greater than 2% of the total audited amount of the total sample shall be considered to be a suspected outlier. If the difference is no greater than 2% of the total audited amount of the total sample, no adjustment will be made. If the difference is greater than 2% of the total audited amount of the total sample, the following test will be done: Subtract the average of the transaction differences, omitting the suspected outlier, from the suspected outlier and divide by one-fourth of the range in values of the transaction differences, omitting the suspected outlier. If the absolute value of the ratio is four or greater, the suspected outlier shall be confirmed as an outlier. If there is more than one suspected outlier, this test shall be applied sequentially to all suspected outliers. If the population is stratified this process will be completed for each stratum in which sampling has been done.

(3) The following steps will be taken with respect to all confirmed outliers:

(i) The taxpayer will be notified concerning the outliers and requested to furnish evidence that will be considered by the auditor in determining the audited finding. If, upon examining the further evidence, the auditor agrees that a smaller difference between the reported amount and the audited amount is justified, the auditor will replace the original transaction by the adjusted finding.

(ii) If sufficient evidence is not provided, the outlier will be eliminated from the sample and audited independently. The audit finding on the outlier will be computed separately and the audit finding will be added to or, if negative, subtracted from the result of the projection for the remaining sample.

(iii) The sample values, adjusted for outliers as provided in subparagraphs (i) and (ii), will be used for projection of the total audit finding and its standard error.

(4) When determining whether to employ the test audit method in an audit of a tax under 75 Pa.C.S. §§ 9601—9622, (relating to motor carriers road tax) or a similar tax which may be enacted, the Department will consider the following factors:

- (i) The average fleet mileage as reported by the taxpayer.
- (ii) Whether the vehicles are company-owned, permanently leased from owner-operators, or a combination of both.
- (iii) The types of vehicles that make up the fleet.
- (iv) The type of fuel used to power the vehicles.

- (v) The geographical area in which the vehicles operate.
 - (vi) The type of commodities being hauled.
 - (vii) The total number of vehicles in the taxpayer's fleet.
 - (viii) The adequacy and availability of the taxpayer's records.
 - (ix) Whether the taxpayer's business is cyclical or seasonal.
 - (x) Whether significant changes in the taxpayer's business or activities occurred during the audit period, such as discontinuing or adding a line of business.
 - (xi) Other relevant factors.
- (5) When employing a test audit method in an audit of a State or local Sales and Use Tax or Hotel Occupancy Tax or Public Transportation Assistance Tax (72 P. S. §§ 7201—7282 and 9301; 53 P. S. §§ 12720.501—12720.509; 16 P. S. §§ 6150-B—6157-B) or a similar tax which may be enacted, the Department will consider the following factors:
- (i) The average gross sales.
 - (ii) The ratio of taxable sales to gross sales.
 - (iii) Whether the taxpayer's business is cyclical or seasonal.
 - (iv) Whether significant changes in the taxpayer's business or activities occurred during the audit period, such as discontinuing or adding a line of business.
 - (v) The adequacy and availability of the taxpayer's records.
 - (vi) Other relevant factors.

§ 8a.7. Statistical estimation and software.

The audit results shall be computed by projecting the audit findings identified in the sample, as adjusted for outliers as provided in § 8a.6(3) (relating to selection of sample) to the population, regardless of whether the sample is a statistical sample or a block sample.

- (1) When the Department employs the block sampling method, the standard error cannot be estimated.
- (2) When the Department employs the statistical estimation method, a standard error of the estimate shall be computed from the sample observations adjusted for outliers as provided in § 8a.6(3) to indicate the reliability of the estimated average, total or ratio. The Department may use software that has been designed in accordance with accepted statistical practices. The formulas utilized by the software will be available for examination by the taxpayer.
- (3) Except as otherwise mutually agreed to by the Department and the taxpayer, the number of observations in the sample will be chosen so that the projected sample will, on the average, yield an estimated precision within 25% of the midpoint of a 90% two-sided confidence interval. In determining the size of the sample, the Department will use the sample size selection table in paragraph (4). The estimated precision of the sample selected may be less than or greater than 25%, depending upon the variability in the sample data. The standard error and estimated precision will be calculated and reviewed with the taxpayer. The sample size will be increased upon the request of the taxpayer. The process of increasing the sample size will be repeated until mutual agreement is reached between the taxpayer and the Department on an acceptable number of observations.
- (4) The following sample size selection table identifies estimated sample sizes required to produce estimates with specified precision:

Sample Size Selection Table

Precision	Confidence Interval (2 sided)	Estimated Coefficient of Variation (CV)								
		0.25	0.50	0.65	0.75	1.00	1.50	2.00	3.00	5.00
5%	90% Normal	68	271	650	609	1,083	2,435	4,330	9,742	27,060
10%	Deviate	*	68	115	153	271	609	1,082	2,435	6,765
15%	1.645	*	31	51	68	121	271	481	1,082	3,007
20%		*	*	29	39	68	152	271	609	1,691
25%		*	*	*	25	44	97	173	390	1,082
30%		*	*	*	*	31	68	120	271	752
35%		*	*	*	*	23	50	88	199	552
40%		*	*	*	*	*	38	68	152	423

* Fewer than 20 sample observations are required.

§ 8a.8. Test audit plan.

Prior to conducting a test audit, the Department will set forth in writing a test audit plan and provide the taxpayer with an opportunity to review and comment on the plan. The plan will describe the time period subject to audit, the records subject to review, methods for selecting records, statistical estimation procedures including the taxpayer's right to request an increase in sample size and

the manner in which any tax liability will be calculated based upon the records reviewed.

§ 8a.9. Audit findings.

At the conclusion of the audit, the audit findings and a copy of the work papers will be provided to the taxpayer. The auditor will:

- (1) Discuss the findings with the taxpayer.

(2) Provide the taxpayer the opportunity to comment in writing.

(3) Explain the procedures for the processing, assessing and appealing of the audit findings.

§ 8a.10. Taxpayer appeal.

The taxpayer may appeal the accuracy of a test audit by providing clear and convincing evidence that the method used for selecting a statistical sample or block sample test period and determining the tax liability is erroneous, lacks a rational basis or produces a different result when the complete records are considered.

§ 8a.11. Applicability.

This chapter applies to all taxes administered by the Department.

**ARTICLE II. SALES AND USE TAX
CHAPTER 35. TAX EXAMINATIONS AND ASSESSMENTS**

§ 35.1. Tax examinations and assessments.

(a) *Examinations.* Tax examinations shall conform with the following:

* * * * *

(2) *Audits.* Audits shall be conducted in accordance with Chapter 8a (relating to enforcement).

[Pa.B. Doc. No. 98-481. Filed for public inspection March 27, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 33]

Commercial Motion Picture Sales; Tax Exemption Certificate

The Department of Community and Economic Development (Department), under the authority of section 204(54) of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7204(54)), proposes to adopt Chapter 33 (relating to commercial motion picture sales tax exemption certificate). The purpose of the proposed regulation is to prescribe a Pennsylvania Exemption Certificate (FORM REV-1220) as the form to be used by producers of commercial motion pictures, who are qualified to take advantage of the Pennsylvania Sales and Use Tax exclusion provided by section 204(54) of the TRC.

Introduction

Section 204(54) of the TRC excludes from the tax imposed by section 202 of the TRC (Pennsylvania sales tax) the "sale at retail to or use by a producer of commercial motion pictures of any tangible personal property directly used in the production of a feature-length commercial motion picture distributed to a national audience: Provided, however, that the production of any motion picture for which the property will be used does not violate any Federal or State law; and, Provided further, that the purchaser shall furnish to the vendor a certificate substantially in the form as the Department of Community and Economic Development may, by regulation, prescribe, stating that the sale is exempt from tax pursuant to this clause." Before qualified producers of commercial motion pictures can take advantage of the tax exclusion, they must know what form of certificate to use. Under section 204(54) of the TRC, only the Department may prescribe the type of certificate to be used. The purpose of the proposed regulation is to prescribe a Pennsylvania Exemption Certificate (FORM REV-1220) as the form to be used by producers of commercial motion pictures, who are qualified to take advantage of the Pennsylvania Sales and Use Tax exclusion provided by section 204(54) of the TRC.

Analysis

Section 33.1 (relating to required form) prescribes the type of certificate to be furnished by a qualified producer of commercial motion pictures to a vendor to comply with the statutory exclusion from the Pennsylvania Sales and Use Tax.

Fiscal Impact

The proposed regulation has no fiscal impact on the Commonwealth, political subdivisions or the public.

Paperwork

Because the certificate to be used by qualified producers of commercial motion pictures is a Pennsylvania Exemption Certificate (FORM REV-1220) which is already in use, the proposed regulation imposes no new or different paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1998, the Department submitted a copy of this proposed regulation to the Independent Regulatory Review Commission (IRRC), the Chairperson of the House Business and Economic Development Committee and the Chairperson of the Senate Community and Economic Development Committee. In addition to submitting the proposed regulation, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Improving Government Regulations." A copy of this material is available to the public upon request.

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

Effective Date/Sunset Date

The proposed regulation shall take effect upon final publication in the *Pennsylvania Bulletin*, and shall apply retroactively to May 7, 1997.

The proposed regulation will expire when section 204(54) of the TRC no longer requires the Department to prescribe the type of certificate to be used under this section.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed regulation to Jill B. Busch, Deputy Chief Counsel, Department of Community and Economic Development, Room 530 Forum Building, Harrisburg, PA 17120, (717) 783-8452.

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 4-67. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART I. GENERAL ADMINISTRATION

Subpart E. COMMERCIAL MOTION PICTURES

CHAPTER 33. COMMERCIAL MOTION PICTURE SALES TAX EXEMPTION CERTIFICATE

§ 33.1. Form required.

Producers of motion pictures, who are qualified to take advantage of the Pennsylvania Sales and Use Tax exclusion provided by section 204(54) of the Tax Reform Code

of 1971 (72 P.S. § 7204(54)), shall use a Pennsylvania Exemption Certificate (FORM REV-1220).

[Pa.B. Doc. No. 98-482. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 140 AND 181]

Eligibility Provisions for the Healthy Horizons Program for the Elderly/Disabled; Medical Assistance Income

Statutory Authority

The Department of Public Welfare (Department), under section 403(b) of the Public Welfare Code (62 P.S. § 403(b)), intends to amend its regulations to read as set forth in Annex A.

Purpose

The purpose of the proposed amendments is to change how the receipt of a lump sum is treated when determining eligibility for Medical Assistance (MA) in Chapters 140, Subchapter B and 181 (relating to eligibility provisions for the healthy horizons program for the elderly/disabled; and income provisions for categorically needy NMP-MA are MNO-MA). Current regulations state that a lump sum is treated as a resource unless it is beneficial to the client to treat it as income. This proposed change will require that when a lump sum has been treated as income in the month of receipt, any balance remaining in subsequent months will be treated as a resource. This proposed change applies to all categories of MA, including Healthy Horizons. This proposed change provides that a client who chooses to treat a lump sum as income is no worse off under this proposal than another client who chooses to treat lump sum as a resource from the time it was received.

Background

Effective November 1, 1988, the Department adopted final regulations patterned after the rules for the corresponding Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) Cash Assistance Programs except for the treatment of lump sum. The AFDC Cash Assistance Program treats lump sum under a special lump sum rule which provides for a period of ineligibility. The SSI Cash Assistance Program treats a lump sum as a resource. The disparity of treatment of a lump sum in the cash assistance programs led to the flexibility in the treatment of a lump sum for the MA Program. The individual currently has the choice of treating a lump sum as a resource, unless it is more financially helpful to the individual to have it treated as income. If the lump sum is counted as income, any balance of the lump sum remaining in subsequent months is not considered a resource under existing regulations.

As a result of this flexibility, the regulations provide a special resource exclusion for the remaining lump sum. The exclusion enables an individual to continue to receive MA benefits even though resources, including funds remaining from the lump sum, may be substantially in excess of the resource limit. Due to the fact that individuals with substantial lump sum benefits are being deter-

mined eligible for MA, even if there is a balance of the lump sum remaining which exceeds the MA resource limits, the Department is proposing to revise the regulations to specify that lump sum payments retained beyond the month of receipt are treated as a resource. An individual still has the choice of deciding whether to have the lump sum treated as a resource or as income in the month of receipt. However, any portion remaining in subsequent months will be treated as a resource along with all other countable resources subject to the maximum MA resource limit.

Need for Amendments

These proposed amendments are needed to establish equitable treatment between clients who have excess resources because of a lump sum and clients who have excess resources for any other reason, by changing the requirements for the treatment of lump sum income in Chapters 140, Subchapter B and 181.

Summary

Treatment of lump sum payment (§§ 140.291(c), (d) and (d)(3))

The proposed revision to this section counts as a resource the balance of the lump sum remaining subsequent to the calendar month in which the lump sum is received and is counted as income for the applicant/recipient of the Healthy Horizons Program. The content of subsection (d) is no longer applicable. The contents of the old subsection (d)(1) and (2) are moved to (c)(1) and (2). The old subsection (d)(3) is the revised subsection (d).

Treatment of lump sum payment (§ 181.31(d))

The proposed revision to this section counts as a resource the balance of the lump sum remaining subsequent to the calendar month in which the lump sum is received and is counted as income. This applies to an applicant/recipient of SSI-related and General Assistance (GA)-related categories of the Categorically Needy Nonmoney Payment (NMP) and Medically Needy Only (MNO) MA Programs.

Affected Persons and Organization

These proposed amendments affect all applicants and recipients of MA, living in the community or residing in an institution, who receive a lump sum.

Accomplishments/Benefits

These proposed amendments will change how the balance of a lump sum remaining subsequent to the month of receipt is treated. The proposed change would treat as a resource the balance of a lump sum remaining subsequent to the month it was received and treated as income for MA eligibility purposes. This proposed change denies MA eligibility for those individuals with a sizeable balance of a lump sum after only 1 month of MA ineligibility. These individuals could qualify for MA once their resources and income are within allowable limits.

Fiscal Impact

Commonwealth

It is anticipated that implementation of these proposed amendments will result in savings to the Commonwealth during Fiscal Year 1997-1998 of approximately \$0.182 million (\$0.086 million in State funds). Annual savings for Fiscal Year 1998-1999 are estimated in the amount of \$0.276 million (\$0.130 million in State funds).

Private Sector

There are no anticipated costs for the private sector.

Paperwork Requirements

These proposed amendments do not require additional forms or reports.

Effective Date

These proposed amendments will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

Sunset Date

No sunset date is applicable. The Department continuously reviews the MA Program and regulations through the Federally monitored Quality Control process. Also, the Federal Health Care Financing Administration staff conducts audits periodically on specific aspects of the MA Program.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the Department of Public Welfare, Patricia H. O'Neal, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717)787-4081 within 30-calendar days of the date of publication of this notice in the *Pennsylvania Bulletin*. All comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-day comment period will be considered for any subsequent revision of these proposed amendments.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1998, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

FEATHER O. HOUSTON,
Secretary

Fiscal Note: 14-421. No fiscal impact; (8) recommends adoption. These changes are expected to result in savings of \$31,000 to MA—Inpatient and \$54,000 to MA—Outpatient in 1997—1998 when implemented.

Annex A

TITLE 55. PUBLIC WELFARE
PART II. PUBLIC ASSISTANCE MANUAL
Subpart C. ELIGIBILITY REQUIREMENTS
CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS
Subchapter B. ELIGIBILITY PROVISIONS FOR THE HEALTHY HORIZONS PROGRAM FOR THE ELDERLY/DISABLED

TREATMENT OF LUMP SUM [PAYMENTS] PAYMENT

§ 140.291. Treatment of lump sum [payments] payment.

* * * * *

(c) If the lump sum is treated as income, it is counted as income in the calendar month received.

[(d) A balance remaining of the lump sum payment subsequent to the calendar month the lump sum payment was received and counted as income is not considered a resource to the applicant/recipient.]

(1) **[Earned] An earned** lump sum [payments] such as delayed wages, bonuses and EITC [are] is treated as earned income and [are] is added to other earned income received in the calendar month. The deductions listed under § 140.282 (relating to deductions from earned income) are applied to determine countable net earned income.

(2) **[Unearned] An unearned** lump sum [payments] such as cash prizes, cash lottery winnings, life insurance benefits, cash inheritances and personal injury [are] is treated as unearned income and [are] is added to other unearned income received in the calendar month. The deductions listed under § 140.281 (relating to deductions from unearned income) are applied to determine countable net unearned income.

[(3)] (d) The balance [remaining] of the lump sum [payment] remaining subsequent to the calendar month the lump sum [payment] was received and counted as [earned income or unearned] income as described in subsection (c) is [not] considered a resource to the applicant/recipient or the spouse of the applicant/recipient.

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA AND MNO-MA

Subchapter A. GENERAL PROVISIONS FOR MA INCOME COMMON TO ALL CATEGORIES OF MA

TREATMENT OF LUMP SUM PAYMENT COMMON TO ALL CATEGORIES OF MA

§ 181.31. Treatment of lump sum payment.

* * * * *

(d) The balance [remaining] of the lump sum [payment] remaining subsequent to the calendar month the lump sum [payment] was received and counted as

[earned or unearned] income as described in subsection (c) is [not] considered a resource to the applicant/recipient.

[Pa.B. Doc. No. 98-483. Filed for public inspection March 27, 1998, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 91, 95, 97, 109 AND 113]

Boating

The Fish and Boat Commission (Commission) proposes to amend Chapters 91, 95, 97, 109 and 113. The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments concern boating.

A. Effective Date

These proposed amendments will, if approved on final rulemaking, go into effect upon publication of an order adopting the regulations.

B. Contact Person

For further information on the proposed changes, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory Authority

These proposed amendments are published under the statutory authority of section 5123 of the code (relating to general boating regulations).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations pertaining to boating. The specific purpose of the proposed amendments is described in more detail under the summary of proposal. Prior to consideration by the Commission, the Commission's Boating Advisory Board considered the proposed amendments and recommended adoption by the Commission.

E. Summary of Proposal

1) *Section 91.2 (relating to definitions)*. The Commission's Bureau of Law Enforcement has reported that many boat operators are not counting passengers being towed behind their boats as being included in the number of persons allowed on the boat as rated by the capacity plate. To clarify this requirement, the Commission proposes to amend the definition of "passenger."

2) *Sections 91.4 and 109.3 (relating to age of operator; and personal watercraft)*. The Commission recently amended § 109.3 to provide that: (1) no one 11 years old or younger may operate a personal watercraft; (2) persons 12 to 15 years of age may operate a personal watercraft alone, with no passengers on board, only if they have in their possession a Boating Safety Certificate issued or recognized by the Commission; and (3) persons 12 to 15 years of age may operate a personal watercraft with or without a Boating Safety Certificate if accompanied by someone at least 18 years of age. This is somewhat

different from the requirement of § 91.4 that provides that persons 11 years of age or younger must be accompanied by someone at least 16 years of age to operate a motorboat of 10 horsepower or more. This section also requires persons 12 to 15 years of age to obtain a Boating Safety Certificate to operate boats alone with no restrictions on passengers. If they do not have a certificate, they must be accompanied by someone at least 16 years of age. The primary difference between boats of 10 horsepower or more and personal watercraft is that no one 11 years of age or younger may operate a personal watercraft, and persons 12 to 15 years of age may not operate a personal watercraft with passengers unless the passengers are at least 18 years of age. The new § 109.3 is somewhat difficult to understand or to explain, especially with the different age of operator requirements in § 91.4. To simplify the regulations, the Commission proposes to amend § 91.4 and to delete § 109.3(h) in its entirety.

3) *Section 91.6 (relating to certificates)*. The Commission currently issues Boating Safety Education Certificates free of charge to residents who have successfully completed a National Association of State Boating Law Administrators (NASBLA), an approved Commission, a United States Power Squadrons or a United States Coast Guard Auxiliary (Auxiliary) classroom boating course. The NASBLA recommends that the states recognize, for reciprocity, courses that have been approved by NASBLA and recognized by the United States Coast Guard (U.S.C.G.). The Commission therefore proposes to accept Boating Safety Education Certificates from boaters coming into this Commonwealth from out of state that are issued by another state or province or by the Auxiliary or United States Power Squadrons in another state or province. Certificates issued by private companies or Internet programs would not be accepted.

4) *Section 95.3 (relating to lights for boats)*. The Federal Rules of the Road exclude boats less than 7 meters in length from the requirement of displaying an anchor light when not in a channel or other area where boats normally navigate. The Commission intended, with § 95.3(d), to remove this exemption to require lights on all boats on all waters of this Commonwealth. Instead, a strict reading of the regulation leads to an interpretation that only those boats less than 7 meters are required to display anchor lights. The Commission proposes amending this regulation to clarify that an anchor light is required on all boats at all times on most Commonwealth waters.

5) *Section 97.1 (relating to personal flotation devices)*. This section prohibits the use of recreational vessels without one personal flotation device (PFD) for each person on board. The code does not define the word "recreational," and the word "vessel" is a boat that is defined as "every description of watercraft constructed or sold for the primary purpose of being used as a means of transportation on water." The use of these two terms together creates several problems. One is that the requirement appears not to apply to vessels used in commerce since they are not used for recreation. Second, the strict definition of "vessel" excludes certain other craft from the requirement. If the vessel was not intended as a means of transportation on water, its passengers don't have to have PFDs. The Commission therefore proposes to amend this section to replace the term "recreational vessel" with the broader term "boat" since it was not the original intent of this regulation to limit the PFD requirement to recreational vessels only.

6) *Section 109.3 (relating to personal watercraft)*. A request has been received by the Bureau of Law Enforce-

ment to amend this section so that the number of water skiers towed by a personal watercraft is limited to one. Law enforcement officers have noticed an increase in situations where operators are exceeding the carry capacity of personal watercraft by pulling more than one skier while having a full capacity of passengers on board. If an emergency were to occur or a skier wanted to board the vessel, they would be unable to do so. This creates an unsafe boating practice that needs to be more clearly addressed in the regulations. Therefore, the Commission proposes to amend this section to address this concern.

7) *Chapter 113 (relating to Aids to Navigation and Obstructions to Navigation)*. The United States began conversion of the United States Aids to Navigation System (system) to harmonize with the International Association of Lighthouse Authorities (IALA) Maritime Buoyage System in 1985, and completed the conversion for all U.S.C.G. maintained aids in 1989. The system has not changed in substance. It remains primarily a lateral aids to navigation system. The major changes are the introduction of the yellow special mark, the replacement of the black and white mid-channel aids with the red and white safe water mark, and most notably, the replacement of the older black port-hand buoys with green buoys. Information and regulatory marks remain the same as that of the Uniform State Waterway Marking System (USWMS). The states were not required to change to the system, but the Commission felt that since the U.S.C.G. was making the change, the Commonwealth should as well. The Commission started replacing the black buoys and black and white mid-channel buoys when they were no longer serviceable; the Commission replaced them with the green buoys and the red and white safe water buoys. All buoys in this Commonwealth now conform to the system. The U.S.C.G. has proposed rules that would eliminate the USWMS. The Commission therefore proposes amending Chapter 113 to reflect the current practice.

F. Paperwork

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-77. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 91. GENERAL PROVISIONS

§ 91.2. Definitions.

* * * * *

(c) The term "passenger" means any person on a boat, including persons being towed using any device.

§ 91.4. Age of operator.

(a) [A person 11 years of age or younger may not operate a motorboat propelled by a motor greater than 10 horsepower unless at least one person 16 years of age or older is present on the watercraft.] A person 11 years of age or younger may not operate a personal watercraft.

(b) [A person 12 through 15 years of age may not operate a motorboat propelled by a motor of greater than 10 horsepower without obtaining a Boating Safety Certificate issued or recognized by the Commonwealth, unless there is at least one other person in the boat 16 years of age or older.] A person 11 years of age or younger may not operate a motorboat (other than a personal watercraft) propelled by a motor of greater than 10 horsepower unless at least one person 16 years of age or older is present on the watercraft.

(c) A person 12 through 15 years of age may not operate a motorboat (other than a personal watercraft) propelled by a motor of greater than 10 horsepower unless the person has obtained and has in his possession a Boating Safety Education Certificate or the person is accompanied on board by a person who is 16 years of age or older.

(d) A person 12 through 15 years of age may not operate a personal watercraft unless the person has obtained and has in his possession a Boating Safety Education Certificate and there are no passengers on board the personal watercraft under 16 years of age.

§ 91.6. Certificates.

(a) ***

(b) A Boating Safety Education Certificate is one issued to an individual by one of the following:

(1) The Commission or by another state or province for successful completion of a boating safety education program approved by the Commission and the National Association of State Boating Law Administrators.

(2) The United States Coast Guard Auxiliary or the United States Power Squadrons in another state or province for successful completion of a boating safety education program approved by the National Association of State Boating Law Administrators.

CHAPTER 95. MANUFACTURER INSTALLED EQUIPMENT

§ 95.3. Lights for boats.

* * * * *

(e) Boat at anchor. [One all-around white light is needed—Appendix A, Figure 7E. Anchor lights are not required when anchored in special anchorage areas. Boats less than 7 meters (23 feet) in length are required to display anchor lights when anchored in or near a channel, when in an anchorage not designated as a special anchorage area, or where other vessels normally navigate.]

(1) A boat must display anchor lights when it is anchored where other vessels normally navigate. See Appendix A, Figure 7E.

(2) Exception: Anchor lights are not required on boats anchored in special anchorage areas.

* * * * *

CHAPTER 97. OPERATOR PROVIDED EQUIPMENT

§ 97.1. Personal flotation devices.

(a) A person may not use a [recreational vessel] boat unless at least one personal flotation device (PFD) of the following types is on board for each person:

* * * * *

(b) A person may not use a [recreational vessel] boat 16 or more feet in length unless one Type IV PFD is on board in addition to the total number of PFDs required in subsection (a). Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional Type IV PFD.

* * * * *

CHAPTER 109. SPECIALTY BOATS AND WATERSKIING ACTIVITIES

§ 109.3. Personal watercraft.

* * * * *

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

[(h) A person 15 years of age or younger may not operate a personal watercraft on the waters of this Commonwealth, except a person 12 to 15 years of age may operate a personal watercraft if there is a person at least 18 years of age on board the personal watercraft or if the person operating the personal watercraft has obtained a boating safety certificate issued or recognized by the Commission and there are no passengers on board the personal watercraft.]

CHAPTER 113. AIDS TO NAVIGATION AND OBSTRUCTIONS TO NAVIGATION

§ 113.1. General.

(a) [The Uniform State Waterway Marking System is the system whereby persons, including State and local governments, may place private aids to

navigation, including regulatory markers, in waters of this Commonwealth, including navigable waters of the United States not marked with aids by the Federal government.] The Coast Guard administers the United States Aids to Navigation System (33 CFR Part 62 (relating to United States Aids to Navigation System)). The System consists of Federal aids to navigation operated by the Coast Guard, aids to navigation operated by other armed services and private aids to navigation operated by other persons. This System is adopted by the Commission for use in this Commonwealth and is administered on waters not marked by the Coast Guard.

(b) [The Uniform State Waterway System consists of the following:

(1) A system of regulatory markers that indicates to a watercraft operator the existence of dangerous areas, restricted and controlled areas or that provides general information and directions.

(2) A system of aids to navigation to mark channels and obstructions.

(3) A distinctive color scheme for mooring buoys.

(c) [An aid to navigation is a device external to a vessel intended to assist a boater in determining position[,] or safe course, or warn of dangers or obstructions to navigation.

[(d) State Aids to Navigation are private aids to navigation placed in State waters that are owned by State, political subdivisions, individuals, corporations or organizations.]

§ 113.2. Prohibited acts.

(a) Aids, other than those placed by the United States government, may not be placed on or along waters of this Commonwealth unless authorized by the Commission under § 113.4 (relating to permits). [Aids authorized shall conform fully with the Uniform State Waterway Marking System.]

* * * * *

(d) A person may not place an aid to navigation that is incompatible with the United States Aids to Navigation System.

[Pa.B. Doc. No. 98-484. Filed for public inspection March 27, 1998, 9:00 a.m.]

PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY

[22 PA. CODE CH. 121]

State Grant Program; Early Childhood Education Professional Loan Forgiveness Program

The Pennsylvania Higher Education Assistance Agency (Agency), under authority contained in section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104); section 1 of the act of January 25, 1966 (P. L. 1546 (1965), No. 541) (24 P. S. § 5151); The Institutional Assistance

Grants Act (24 P. S. §§ 5181—5189); and the Urban and Rural Teacher Loan Forgiveness Act (24 P. S. §§ 5191—5197); and the Agriculture Education Loan Forgiveness Act (24 P. S. §§ 5198—5198.7), proposes to amend §§ 121.1, 121.2, 121.7—121.9, 121.21, 121.32, 121.33, 121.42, 121.48 and 121.56 and add §§ 121.10 and 121.401—121.406.

The changes proposed by the Agency affect the State Grant Program (24 P. S. § 5152.1); Loan Programs (24 P. S. §§ 5104—5112); and the Early Childhood Education Professional Loan Forgiveness Program (24 P. S. §§ 7101—7106).

State Grant Program

Section 121.1. Definitions—This section is proposed to be modified to reflect a recent clarification in the Federal definition of a “veteran” previously adopted by the Board. This is the same definition used in the Federal financial aid programs and the Agency’s use of this definition helps to streamline the application process.

Section 121.7. Notice of denial and preliminary review procedures—This section is proposed to be modified to reflect a change of title from “Executive Director” to “President and Chief Executive Officer” as previously authorized by the Board.

Section 121.8. Applicant and recipient appeals and hearings—This section is proposed to be modified to reflect a change of title from “Executive Director” to “President and Chief Executive Officer” as previously authorized by the Board.

Section 121.21. Requirement for higher education grant applicants—This section is proposed to be changed to facilitate the classification of home schooled students as graduates of an approved high school. An applicant shall be a graduate of an approved high school or the recipient of a Commonwealth Secondary School Diploma to be considered for State Grant aid. The State Grant statute mandates that the Department of Education (DE) determine the equivalent of an approved high school for State Grant purposes. The DE has already approved three home school organizations (the Pennsylvania Homeschoolers Accreditation Agency, the Erie County Homeschoolers and the Buxmont Christian Education Institute) as such, and it is staff’s understanding that the approval of additional similar organizations by the DE is under consideration. In addition, there is a statutory basis for providing an alternative procedure for students who do not receive their diplomas from an approved home school organization. This alternative procedure, as reflected in the proposed regulation change, is based on the compulsory attendance and home education program statutes, and will require verification by the school superintendent that the home schooled student has graduated from an approved high school.

Section 121.32. Approved institutions in higher education grant program—This section is proposed to be modified to incorporate a change in the name of an accrediting oversight organization. The Commission on Recognition of Postsecondary Accreditation (CORPA), was created as an interim oversight organization and has now disbanded and been replaced by the Council on Higher Education Accreditation (CHEA). The scope of oversight and membership field remain the same.

Section 121.33. Approved program of study in higher education grant program—This section is proposed to be

changed to decrease the portion of an approved program that must be completed by means of classroom instruction. The 75% requirement was implemented in the mid-1970’s to deal with “universities without walls” and other nontraditional programs. The current regulation serves to exclude most distance education programs of study activities, which involve the provision of educational services by means of telecommunications technologies, the use of which has grown tremendously within the past several years. The decrease in the percentage from 75 to 50% may be considered an interim step which recognizes this growth yet retains a measure of control over the extent of internships, on-the-job training, correspondence study and other forms of nonclassroom instruction until the educational community defines its position on this issue. It should be noted that the DE (which concurs with this proposed regulatory change) and the United States Department of Education require that at least 50% of an institution’s programs be resident based to operate in this Commonwealth and participate in Federal aid programs respectively.

Section 121.42. Submission of applications—This section is proposed to be modified to reflect a change of title from “Executive Director” to “President and Chief Executive Officer” as previously authorized by the Board.

Section 121.48. Limitation on payment of grants—This section is proposed to be modified to reflect a change of title from “Executive Director” to “President and Chief Executive Officer” as previously authorized by the Board.

Section 121.56. Year Abroad Program—This section is proposed to be modified to reflect a change of title from “Executive Director” to “President and Chief Executive Officer” as previously authorized by the Board.

Loan Programs

Section 121.2. Citizenship—This section is proposed to be updated to reflect the citizenship eligibility requirements for Federal Family Education Loan Program (FFELP) loans that are contained in current Federal regulations. Generally, to be eligible for a loan, a borrower shall be a United States citizen, United States national or an eligible noncitizen as described in paragraph (2).

Section 121.9. Administrative loan collection review procedures—This section is proposed to be amended to make reference to Non-Title IV loan collection procedures only. Any references to Title IV collections will be addressed in § 121.10 (relating to administrative wage garnishment procedures for Federal loans). Section 121.10 is proposed to be added to comply with the Federal Administrative Wage Garnishment procedures established by the United States Department of Education. Section 121.10 will only be applicable to Title IV loan collections.

Early Childhood Education Professional Loan Forgiveness Program

The Early Childhood Education Professional Loan Forgiveness Program, enacted in 1993, is intended to help stabilize and improve child-care services in this Commonwealth by forgiving up to \$2,500 annually (and up to a total of \$10,000) in Agency-administered student loan programs for qualified child-care professionals earning less than \$18,500 annually. While this program became effective in January, 1994, formal regulations have not previously been submitted to the Board due to the uncertainty of funding for this program. Although funding remains tenuous, proposed Subchapter N (relating to

early childhood education professional loan forgiveness program) is being proposed for adoption since the enabling Legislation remains in force regardless of the year-to-year funding issue. The subchapter reflects the Board-approved policies under which the program has been administered since enacted into law.

Affected Parties

The proposed amendments affect the applicants that apply for the benefits of these programs as well as other entities, such as schools, who participate in them.

Fiscal Impact

The proposed amendments should have no significant fiscal impact on the Commonwealth, its political subdivisions or the general public.

Cost and Paperwork Estimates

None of the proposed amendments affect costs or paperwork requirements already in place.

Effective Date

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

Sunset Date

The regulations as proposed will remain in effect indefinitely.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, on March 16, 1998, the Agency submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Education Committees. In addition to submitting the proposed amendments, the Agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

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

Public Comment/Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Sheila Dow Ford, PHEAA Chief Counsel, Pennsylvania Higher Education Assistance Agency, 1200 North Seventh Street, Harrisburg, PA 17102-1444 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

MICHAEL H. HERSHOCK,
President and Chief Executive Officer

Fiscal Note: 58-23. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART VIII. HIGHER EDUCATION ASSISTANCE AGENCY

CHAPTER 121. STUDENT FINANCIAL AID

Subchapter A. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

Veteran—A person who engaged in active service in the United States Army, Navy, Air Force, Marines or Coast Guard or was a cadet or midshipman at one of the service academies and was released under a condition other than dishonorable, or will be by June 30 of the academic year for which the application is made, or who was a National Guard or Reserve enlistee who [**participated in Operation Desert Shield/Storm and was discharged from active**] was activated for duty. ROTC students, cadets or midshipmen [**at**] currently attending the service academies, [**National Guard or Reserve enlistees participating in Operation Desert Shield/Storm and not yet discharged from active duty,**] National Guard or Reserve enlistees who were not activated for duty, or those currently serving in the United States Armed Forces and will continue to serve through June 30 of the academic year for which application is made are not considered veterans.

121.2. Citizenship.

To be eligible for a Federal Family Education Loan, a student or parent borrower shall be, on or before the date of filing the loan guaranty application, one of the following:

* * * * *

(2) [**In the United States for other than a temporary purpose and intending to become a permanent resident thereof; except that a student who is a permanent resident alien attending an educational institution outside the United States is not eligible to receive a Federal Stafford Loan or to have the parent of the student receive a Federal PLUS Loan on behalf of the student.**] A permanent resident alien of the United States, a temporary resident who intends to become a United States citizen or resident, or a refugee in the United States for other than a temporary purpose. For the purposes of this paragraph, the United States includes the 50 states, the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, the Trust [**Territories**] Territory of the Pacific Islands and the Northern Mariana Islands.

§ 121.7. Notice of denial and preliminary review procedures.

* * * * *

(b) All appeals from [**such**] the decisions of the Agency staff will be reviewed initially by an Administrative Review Committee composed of staff personnel of the Agency designated by the [**Executive Director**] **President and Chief Executive Officer**. The Administrative Review Committee may grant eligibility in [**such**] cases

[as] it deems proper. This subsection supersedes 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

* * * * *

§ 121.8. Applicant and recipient appeals and hearings.

* * * * *

(d) The appeal may be heard by the Board of Directors or, at its direction, by a hearing examiner appointed by the [Chairman] Chairperson of the Board of Directors of the Agency or, in the event of the unavailability of the [Chairman] Chairperson, by the Vice [Chairman] Chairperson of the Board of Directors of the Agency from a list maintained by the [Executive Director] President and Chief Executive Officer. The hearing examiner or the Board of Directors will schedule the appeal promptly for hearing and give the applicant or recipient at least 7 days' notice of the hearing. The notice will specify the date, hour[,] and place of hearing.

* * * * *

§ 121.9. Administrative loan collection review procedures.

* * * * *

(b) Administrative loan collection procedure for those loans which are held by the Agency and which are not reinsured by the United States Secretary of Education are as follows:

[(b)] (1) ***

[(1)] (i) ***

[(2)] (ii) ***

[(c)] (2) ***

[(d)] (3) All hearings will be conducted by a hearing examiner appointed by the [Chairman] Chairperson of the Board of Directors of the Agency or, in the event of the unavailability of the [Chairman] Chairperson, by the Vice [Chairman] Chairperson of the Board of Directors of the Agency from a list maintained by the [Executive Director] President and Chief Executive Officer and will be held at the offices of the Agency in Harrisburg, Pennsylvania. The time of the hearing will be fixed by the Agency within a reasonable time, as soon as convenient, after the receipt of the borrower's response, allowing at least 15 days' notice to be given to the borrower and the borrower's attorney, if an attorney has entered an appearance on behalf of the borrower. Notice of the hearing will be sent to the borrower by the hearing examiner, specifying the time and place for hearing. If a borrower wishes to request postponement of a hearing, the borrower shall contact the hearing examiner and provide the hearing examiner with valid reasons for the request. The hearing examiner may approve or disapprove the request in the examiner's discretion.

[(e)] (4) ***

[(1)] (i) ***

[(2)] (ii) ***

[(3)] (iii) ***

[(4)] (iv) ***

[(5)] (v) ***

[(f)] (5) ***

[(g)] (6) The hearing examiner will have the following powers and duties:

[(1)] (i) ***

[(2)] (ii) ***

[(3)] (iii) ***

[(4)] (iv) ***

[(5)] (v) To provide copies of the report to the [Executive Director] President and Chief Executive Officer of the Agency and to the borrower or the borrower's attorney of record within 60 days of the hearing.

[(h)] (7) ***

[(1)] (i) ***

[(2)] (ii) ***

[(3)] (iii) ***

[(4)] (iv) ***

[(5)] (v) ***

[(6)] (vi) ***

[(i)] (8) The borrower and the [Executive Director] President and Chief Executive Officer of the Agency shall each have the right to file exceptions to the hearing examiner's report within 15 days after the service of a copy of the report. Failure to file exceptions within the time allowed shall constitute a waiver of all objections to the report.

[(j)] (9) Upon consideration of the record, the hearing examiner's report, and any exceptions and briefs filed by the borrower and the [Executive Director] President and Chief Executive Officer of the Agency, the Board of Directors will enter a final order.

[(k)] (10) ***

[(l)] (11) ***

[(m)] (12) Notice of the entry of a final order by the Board of Directors will be mailed promptly to the borrower at the borrower's last known post office address. The [Executive Director] President and Chief Executive Officer may transfer the record and the order of default to the court of common pleas of the district in which the borrower resides or, when residence within this Commonwealth cannot be ascertained, to the Court of Common Pleas of Dauphin County, to be entered as a judgment.

[(n)] (13) ***

[(o)] (14) ***

[(1)] (i) ***

[(2)] (ii) ***

[(3)] (iii) ***

[(4)] (iv) ***

[(p)] (15) This section affects 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) as follows:

[(1)] (i) Subsection (b)(1) supersedes 1 Pa. Code § 35.14 (relating to orders to show cause).

[(2)] (ii) Subsection [(d)] (b)(3) supersedes 1 Pa. Code §§ 35.105 and 35.185 (relating to notice of nonrulemaking proceedings; and designation of presiding officers). Subsection (d) supplements 1 Pa. Code § 31.26 (relating to service on attorneys).

[(3)] (iii) Subsection [(e)(1)—(3)] (b)(4)(i)—(iii) supplements 1 Pa. Code § 35.126 (relating to presentation by the parties); subsection [(e)(4)] (b)(4)(iv) supersedes 1 Pa. Code § 35.169 (relating to copies to parties and agency).

[(4)] (iv) Subsection [(g)(1)—(3)] (b)(6)(i)—(iii) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers); subsection [(g)(4)] (b)(6)(iv) supersedes 1 Pa. Code § 35.205 (relating to contents of proposed reports); subsection [(g)(5)] (b)(6)(v) supersedes 1 Pa. Code § 35.207 (relating to service of proposed reports).

[(5)] (v) Subsection [(h)] (b)(7) supplements 1 Pa. Code § 35.125 (relating to order of procedure).

[(6)] (vi) Subsection [(i)] (b)(8) supersedes 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

[(7)] (vii) Subsection [(j)] (b)(9) supplements 1 Pa. Code § 35.226 (relating to final orders).

[(8)] (viii) Subsection [(l)] (b)(11) supersedes 1 Pa. Code § 35.214 (relating to oral argument on exceptions).

§ 121.10. Administrative wage garnishment procedures for Federal loans.

(a) This section implements the Federal administrative wage garnishment process authorized under section 488A of the Higher Education Act of 1965 (20 U.S.C.A. § 1095a).

(b) Loan collection procedure for those loans which are held by the Agency and which qualify as loans under the Federal Family Education Loan Program (FFELP) are as follows:

(1) If the Agency decides to garnish the disposable pay of a borrower who is not making payments on a loan held by the Agency, on which the United States Secretary of Education (Secretary) has paid a reinsurance claim, it will do so in accordance with the following procedures:

(i) The employer shall deduct and pay to the Agency from a borrower's wages an amount that does not exceed the lesser of 10% of the borrower's disposable pay for each pay period or the amount permitted by section 303 of the Consumer Credit Protection Act (15 U.S.C.A. § 1673) unless the borrower provides the Agency with written consent to deduct a greater amount. For purposes of subsection (b), the term "disposable pay" means that part of the borrower's compensation from an employer remaining after the deduction of any amounts required by law to be withheld.

(ii) At least 30 days before the initiation of garnishment proceedings, the Agency will mail to the borrower's last known address, a written notice of the nature and the amount of the debt, the intention of the Agency to initiate proceedings to collect

the debt through deductions from pay and an explanation of the borrower's rights.

(iii) The Agency will offer the borrower an opportunity to inspect and copy Agency records related to the debt.

(iv) The Agency will offer the borrower an opportunity to enter into a written repayment agreement with the Agency under terms agreeable to the Agency.

(v) The Agency will offer the borrower an opportunity for a hearing in accordance with subparagraph (x) concerning the existence or amount of the debt and, in the case of a borrower whose proposed repayment schedule under the Order of Withholding is established other than by a written agreement under subparagraph (iv), the terms of the repayment schedule.

(vi) The Agency will sue any employer for any amount that the employer, after receipt of the garnishment notice provided by the Agency under subparagraph (viii), fails to withhold from wages owed and payable to an employee under the employer's normal pay and disbursement cycle.

(vii) The Agency may not garnish the wages of a borrower whom it knows has been involuntarily separated from employment until the borrower has been reemployed continuously for at least 12 months.

(viii) Unless the Agency receives information that the Agency believes justifies a delay or cancellation of the Order of Withholding, it will send an Order of Withholding to the employer within 20 days after the borrower fails to make a timely request for a hearing, or if a timely request for a hearing is made by the borrower, within 20 days after a final decision is made by the Agency to proceed with garnishment.

(ix) The notice given to the employer under subparagraph (viii) will contain only the information necessary for the employer to comply with the Order of Withholding.

(x) The Agency will provide a hearing which, at the borrower's option, may be oral or written, if the borrower submits a written request for a hearing on the existence or amount of the debt or the terms of the repayment schedule. The time and location of the hearing will be established by the Agency. An oral hearing may, at the borrower's option, be conducted either in-person or by telephone conference. Telephonic charges are the responsibility of the Agency.

(xi) If the borrower's written request is received by the Agency on or before the 15th day following the borrower's receipt of the notice described in subparagraph (ii), the Agency may not issue an Order of Withholding until the borrower has been provided the requested hearing. For purposes of this subsection, in the absence of evidence to the contrary, a borrower will be considered to have received the notice described in subparagraph (ii) 5 days after it was mailed by the Agency. The Agency will provide a hearing to the borrower in sufficient time to permit a decision to be rendered within 60 days.

(xii) If the borrower's written request is received by the Agency after the 15th day following the

borrower's receipt of the notice described in subparagraph (ii), the Agency will provide a hearing to the borrower in sufficient time that a decision may be rendered within 60 days, but may not delay issuance of an Order of Withholding unless the Agency determines that the delay in filing the request was caused by factors over which the borrower had no control, or the Agency receives information that the Agency believes justifies a delay or cancellation of the Order of Withholding. For purposes of this subparagraph, in the absence of evidence to the contrary, a borrower will be considered to have received the notice described in subparagraph (ii) 5 days after it was mailed by the Agency.

(xiii) The hearing examiner appointed by the Agency to conduct the hearing may be any qualified individual, including an administrative law judge, not under the supervision or control of the President and Chief Executive Officer of the Agency and have the following powers and duties:

- (A) To administer oaths.
- (B) To question witnesses presented by the Agency or by the borrower.
- (C) To hear evidence submitted, review the documents presented, consider arguments and prepare a report.
- (D) To recommend in the report a proposed adjudication and order, supported by findings of fact and conclusions of law.
- (E) To provide copies of the report to the President and Chief Executive Officer of the Agency and to the borrower or the borrower's attorney of record at the earliest practicable date, but not later than 60 days after the Agency's receipt of the borrower's hearing request.

(xiv) The proceedings of a hearing will be conducted in the following order:

- (A) The hearing examiner will state the purpose of the hearing, the procedure to be followed and the manner in which the report will be transmitted to the parties.
- (B) The borrower or the borrower's attorney will present the borrower's case.
- (C) The Agency may cross-examine each witness presented by the borrower.
- (D) The Agency will present its case.
- (E) The borrower or the borrower's attorney may cross-examine each witness presented by the Agency.
- (F) The hearing examiner may question any witness at any time.

(xv) The borrower and the President and Chief Executive Officer of the Agency will each have the right to file exceptions to the hearing examiner's report within 15 days after the service of a copy of the report. Failure to file exceptions within the time allowed constitutes a waiver of all objections to the report.

(xvi) The period of time may, for good cause, be extended upon motion made before the expiration of the 15-day time period and filed with the hearing examiner.

(xvii) The period of time may be extended upon motion made after the expiration of the 15-day time period if reasonable grounds are shown for failure to act. The motion shall be filed with the hearing examiner.

(xviii) Requests for the extension of time in which to file briefs shall be filed with the hearing examiner at least 5 days before the time fixed for filing such briefs.

(xix) Upon consideration of the record, the hearing examiner's report, and any exceptions and briefs filed by the borrower and the Executive Director of the Agency, the Board of Directors will enter a final order.

(xx) When the Board of Directors receives notice of an appeal, it will place the appeal on the meeting agenda of the Board when the Board has received a stenographic record of the hearing before the hearing examiner and has had the opportunity to review the record. The Board of Directors may delegate to the review committee, comprised of three or more Board members designated by the Chairperson of the Board, the responsibility to review the record and hearing examiner's report to the Board and to make a recommendation for action by the Board. The review committee will provide an opportunity for the borrower and the Agency to present oral argument, when requested by either party, before rendering a recommendation for action by the Board. Oral argument may be conducted either in-person or by telephone conference. Telephonic charges are the responsibility of the Agency. The Board of Directors will make a final order that is just and proper.

(xxi) Notice of the entry of a final order by the Board of Directors will be mailed promptly to the borrower at the borrower's last known post office address.

(xxii) As specified in section 488A(a)(8) of the Higher Education Act of 1965, the borrower may seek judicial relief, including punitive damages, if the employer discharges, refuses to employ or takes disciplinary action against the borrower due to the issuance of a Notice of Execution.

(2) References to "the borrower" in this section include all endorsers on a loan.

(3) This section affects 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) as follows:

(i) Subsection (b)(1)(ii) supersedes 1 Pa. Code § 35.14 (relating to orders to show cause).

(ii) Subsection (b)(1)(iii) supersedes 1 Pa. Code § 35.169 (relating to copies to parties and agency).

(iii) Subsection (b)(1)(v) supersedes 1 Pa. Code § 35.105 (relating to notice of nonrulemaking proceedings).

(iv) Subsection (b)(1)(x) supersedes 1 Pa. Code § 35.105.

(v) Subsection (b)(1)(xiii)(A)—(C) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers); subsection (b)(1)(xiii)(D) supersedes 1 Pa. Code § 35.205 (relating to contents of proposed reports); subsection (b)(1)(xiii)(E) super-

sedes 1 Pa. Code § 35.207 (relating to service of proposed reports).

(vi) Subsection (b)(1)(xiv) supplements 1 Pa. Code § 35.125 (relating to order of procedure).

(vii) Subsection (b)(1)(xv) supersedes 1 Pa. Code § 35.211 (relating to procedure to except to proposed reports).

(viii) Subsection (b)(1)(xvi)—(xviii) supersedes 1 Pa. Code § 31.15(a) (relating to extensions of time) and supplements 1 Pa. Code, Subchapter D (relating to motions).

(ix) Subsection (b)(1)(xix) supplements 1 Pa. Code § 35.226 (relating to final orders).

(x) Subsection (b)(1)(xx) supersedes 1 Pa. Code § 35.214 (relating to oral argument on exceptions).

SECONDARY SCHOOL GRADUATION

§ 121.21. Requirement for higher education grant applicants.

* * * * *

(c) For purposes of the State Higher Education Grant Program, an approved secondary school shall also include any home education program that is accredited by any home schooling accreditation agency approved by the Department of Education. If the home education program lacks the requisite accreditation, certification by the appropriate local school official attesting that the home education program is in compliance with section 1327.1 of the Public School Code of 1949 (24 P. S. § 13-1327.1) shall be submitted to the Agency by the appropriate local school official.

EDUCATIONAL INSTITUTIONS

§ 121.32. Approved institutions in Higher Education Grant Program.

* * * * *

(b) To be approved, an institution shall be other than a school of theology or a theological seminary as determined by the Agency, shall be located in the United States, the Canal Zone, Puerto Rico, the Virgin Islands, American Samoa or Guam and shall comply with the following:

(1) If the institution is a college or university located within this Commonwealth, the institution shall be approved by the Department of Education and shall be accredited or a recognized candidate for accreditation with an accrediting body recognized by the [Commission on Recognition of Postsecondary] Council for Higher Education Accreditation; if the college or university is located outside this Commonwealth, the institution shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the regional institutional accrediting body recognized by the [Commission on Recognition of Postsecondary] Council for Higher Education Accreditation responsible for accreditation in the state where the college or university is conducting its educational program.

* * * * *

(3) If the institution is a trade, technical or business school located within this Commonwealth, the institution shall be approved by the Department of Education or shall currently be, and shall have been throughout the preceding 24 months, licensed by the State Board of Private Licensed Schools and shall be accredited by an

accrediting body recognized by the [Commission on Recognition of Postsecondary] Council for Higher Education Accreditation, except that this requirement for licensure and accreditation may be waived by the President and Chief Executive Officer for branch campuses of an institution that has been operating satisfactorily in this Commonwealth for 2 years or more; if the institution is located outside this Commonwealth, it shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the regional institutional accrediting body recognized by the [Commission on Recognition of Postsecondary] Council for Higher Education Accreditation responsible for accreditation in the state where the institution is conducting its educational program.

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§ 121.33. Approved program of study in Higher Education Grant Program.

To be eligible for a State higher education grant, an applicant shall enroll in a program of study approved by the Agency and offered by an institution approved by the Agency under § 121.32 (relating to approved institutions in Higher Education Grant Program) for participation in the State Higher Education Grant Program. An approved program of study shall comply with the following:

(1) An approved program of study shall be a program of instruction of at least 2 academic years which shall be the equivalent of at least 60 semester credit hours or at least 1,800 clock hours of instruction (1,500 clock hours in the case of programs leading to the associate degree in specialized technology or the associate degree in specialized business offered by institutions of higher education located within this Commonwealth) except that, other than for those community college programs which are measured in credit hours, programs not leading to a degree shall be measured in clock hours, with at least [45] 30 semester credit hours or [1,350] 900 clock hours earned through instruction within the classroom, and shall be presented over a calendar of at least 15 months.

(2) An approved program of study shall require that at least [75] 50% of the credits needed for completion of the program at the approved institution be earned through instruction within the classroom.

[(3) An approved program of study shall be offered on a full-time basis and in such a way that a recipient completes the program in the period of time normally required for the completion of the program at other approved institutions.]

[(4)] (3) ***

[(5)] (4) An approved program of study shall be on the approved list as of August 1 for the ensuing academic year. Approval after August 1 will become effective the following August 1 with two exceptions:

* * * * *

(ii) In the light of the particular circumstances related to the approval of the program of study and the funding and application processing conditions of the Agency, the [Executive Director] President and Chief Executive Officer may make the approval effective on a date prior to August 1.

Subchapter B. HIGHER EDUCATION GRANT PROGRAM

§ 121.42. Submission of applications.

* * * *

(d) The [**Executive Director**] **President and Chief Executive Officer** may authorize the setting aside of deadlines for other categories of applicants when in the judgment of the [**Executive Director**] **President and Chief Executive Officer** the setting aside of the deadline will facilitate administration of the State Higher Education Grant Program in accordance with the policies established by the Board of Directors of the Agency and will promote equitable program results. Any determination made by the [**Executive Director**] **President and Chief Executive Officer** under this subsection will be reduced to writing, which writing will delimit the category and give an estimate of the number of applicants for the particular processing year which is expected to fall within the category. A copy of the writing will be furnished to each member of the Board of Directors of the Agency.

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§ 121.48. Limitation on payment of grants.

The Agency will not make payment of, or further payment on, an existing State higher education grant on the basis of an inquiry or request received after August 1 of the calendar year next commencing following the academic year for which the payment is sought unless the [**Executive Director**] **President and Chief Executive Officer** specifically directs that payment be made in order to prevent grave hardship.

§ 121.56. Year Abroad Program.

A recipient shall be eligible to receive an award for a Year Abroad Program which shall provide the recipient with equivalent credit for the academic [**term or**] terms involved in the program as the recipient would earn at the approved institution of higher learning and which requires the recipient to pay the educational costs to [**such**] the institution. Exceptions to the requirement that educational costs [**must**] be paid to the approved institution may be made by the [**Executive Director**] **President and Chief Executive Officer**.

(Editor's Note: The following subchapter is new. It has been printed in regular type to enhance readability.)

Subchapter N. EARLY CHILDHOOD EDUCATION PROFESSIONAL LOAN FORGIVENESS PROGRAM

Sec.

- 121.401. Application of existing agency regulations.
- 121.402. Qualified applicant.
- 121.403. Loan forgiveness.
- 121.404. Employment.
- 121.405. Approved child-care facility.
- 121.406. Lottery.

§ 121.401. Application of existing agency regulations.

The following higher education grant regulations contained in Subchapters A and B (relating to general provisions and the State Higher Education Grant Program) apply to applicants in the Early Childhood Education Professional Loan Forgiveness Program except those provisions which are inconsistent with this subchapter:

- (1) Section 121.1 (relating to definitions).
- (2) Section 121.3 (relating to discrimination prohibited).

(3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).

(4) Section 121.6 (relating to denial of eligibility for financial assistance).

(5) Section 121.7 (relating to notice of denial and preliminary review procedures).

(6) Section 121.8 (relating to applicant and recipient appeals and hearings).

§ 121.402. Qualified applicant.

A qualified applicant in the Early Childhood Education Loan Forgiveness Program is a person who meets the following requirements:

(1) Has successfully completed an undergraduate program at an accredited college or university.

(2) Has a bachelor's degree and has obtained Pennsylvania State Early Childhood Education Certification (nursery through third grade), or an associate's degree in Early Childhood or Child Development.

(3) Has borrowed through the Agency-administered Guaranteed Student Loan Programs.

(4) Is a resident of this Commonwealth.

(5) Executes a sworn affidavit, under penalty of perjury, that he does not have a delinquent payment owing to any Commonwealth agency.

(6) Receives an annual salary of less than \$18,500 for the employment period for which loan forgiveness is requested.

(7) Has submitted a completed application by the filing deadline designated by the Agency.

§ 121.403. Loan forgiveness.

Qualified applicants who are selected for the program in accordance with the Early Childhood Loan Forgiveness Act (24 P. S. §§ 7101—7106) are eligible for payment by the Agency of a portion of the debt incurred by the applicant through the Agency-administered Guaranteed Student Loan Programs for the education necessary to successfully complete the specified bachelor's degree or associate's degree programs. For each 12-month employment period designated by the Agency that the applicant is a full-time professional in an approved Commonwealth child-care facility, the Agency may forgive a proportional part of the applicant's loan so that the loan may be entirely forgiven over 4 years of full-time employment in an approved child-care facility. For a graduate with a bachelor's or associate's degree in the specified areas, no more than \$2,500 may be forgiven in any year, and no more than \$10,000 may be forgiven for any applicant. Payments shall be made in accordance with the procedures established by the Agency. A loan forgiveness award may not be made for a loan that is in default at the time of the application.

§ 121.404. Employment.

An applicant selected for the Early Childhood Education Professional Loan Forgiveness Program is required to submit documentation the Agency may require as proof that those child-care professionals are working as full-time professionals in approved child-care facilities in this Commonwealth for the 12-month employment period designated by the Agency for loan forgiveness. Each child-care professional is required to submit documentation of eligibility as the Agency may require.

§ 121.405. Approved child-care facility.

An "approved child-care facility" is defined as a child day-care center or group day-care home located in this Commonwealth which is subject to and in compliance with 55 Pa. Code (relating to public welfare).

§ 121.406. Lottery.

(a) Loan forgiveness awards shall be made to the extent that funds are appropriated by the General Assembly and are sufficient to cover administration of the program. If funding is insufficient to fully fund administration and eligible applicants, the Agency shall utilize a random lottery system for determining which applicants receive loan forgiveness awards.

(b) When a random lottery is required, the lottery shall include only those records that are complete and eligible in accordance with Agency requirements at the time the lottery is conducted.

[Pa.B. Doc. No. 98-485. Filed for public inspection March 27, 1998, 9:00 a.m.]

**PUBLIC SCHOOL
EMPLOYEES' RETIREMENT
BOARD**

[22 PA. CODE CHS. 201, 211, 213 AND 215]

General Revisions; Contributions; Credited Service

Purpose of the Proposed Amendments

Under Executive Order 1996-1 the Public School Employees' Retirement Board (Board) has undertaken a review of its existing rules and regulations. Based on that review, the Board proposes a number of technical and several substantive amendments to its rules and regulations to read as set forth in Annex A.

General Comments

1. *Gender neutral language.* The proposed amendments have not been comprehensively updated since 1975, and generally use the masculine tense. The proposed changes rewrite, where applicable, to gender neutral language.

2. *Deletions of language in the Code.* Generally, where the regulatory provisions merely repeat or restate language already contained in 24 Pa.C.S. §§ 8101—8534 (relating to Public School Employees' Retirement Code) (code), the language was deleted as unnecessary.

Section by Section Analysis

§ 201.1 The proposed amendments add some provisions which may streamline an administrative hearing, and which differ from the General Rules of Administrative Practice and Procedure.

§ 201.2 *New section*, providing for an expedited hearing and decision when there are no factual disputes. This expedited hearing must be agreed to by both sides, and would allow the case to go directly to the Board for adjudication.

§ 201.3 *New section*, adopting preliminary objections and motions practice as provided in the Rules of Civil Procedure. These sections would allow more flexibility in dealing with cases which have no factual disputes.

§ 201.4 *New section*, requiring hearing examiner to dismiss case when claimant does not appear at hearing without good cause. Currently, the hearing examiners usually dismiss the case after a motion filed by the Public School Employees' Retirement System (System). These amendments would simplify the procedure.

§ 201.5 *New section*, allowing letter briefs instead of formal briefs, when the argument is no more than 3 pages. This procedure will simplify the argument process.

§ 211.1 Technical corrections

§ 211.2 Definitions

A. General Comment—deleted definitions merely repeat the code definitions.

B. Active Member—adds language to conform to Act No. 31 of 1983, which added the concept of pickup contributions, and to conform to Act No. 112 of 1992, adding service as a collective bargaining organization as an approved leave of absence. Deletes reference to workers' compensation as required by *Rowan v. SERS*, Pa.Cmwlth., No. 3377 C. D. 1995, filed 11/15/96, a decision equally applicable to the System.

C. Basic Contribution Rate—change to conform to Act No. 31 of 1983, amending the rate.

D. Beneficiary—technical corrections

E. Compensation—technical corrections

F. Date of Termination of Service—clarifies that an inactive member can remain so only for 2 years after the last date service was performed, as required by Act No. 31 of 1983.

G. Government Service—added because of Federal act known as USERRA (Uniformed Services Employment and Reemployment Act), which establishes various conditions for the purchase of military service.

I. Inactive Member—clarifies that the inactive member period is 2 school years rather than 2 calendar years.

J. Valuation Interest—deleted because this is no longer used by the system.

§ 211.3 No change.

§ 211.4 No change.

§ 213.1 Deletion of outdated provisions

§ 213.2

A. Computation—deletion of 1,100 hour standard for full time employes, as required by *Commonwealth of Pennsylvania, Public School Employees' Retirement System v. Pennsylvania School Boards Association, Inc.*, 682 A.2d 291 (Pa. 1996).

B. Approved Leave of Absence—proposed change to conform to Act No. 112 of 1992.

§ 213.3 Technical corrections

§ 213.4

A. Purchase limitations for Military Service—clarifies that a member may not double dip on military and System benefits.

B. Nonschool Service—clarifies that credit may be obtained for fractional periods beyond 1 year.

C. Service as Cadet Nurse—proposed addition to conform to Act No. 23 of 1991.

D. Service as County Nurse—proposed addition to conform to Act No. 226 of 1985.

§ 213.5 Deletes language repetitive of code

§ 213.5 Technical corrections

§ 213.6 Technical corrections

§ 213.7 Clarifies that a member must have at least one eligibility point, rather than a year of school service, to qualify for an annuity. The clarification is more consistent with the code's use of eligibility points in section 8306 of the code (relating to eligibility points).

§ 213.8 Deletes language repetitive of code

§ 213.9 Technical corrections

§ 213.10 Technical corrections

§ 213.21 Deletes outdated language

§ 213.22 Technical corrections

§ 213.23 Adds activated military service as an item of purchasable credit, to conform to Act No. 23 of 1991.

§ 213.24

A. Nonintervening Military Service—adds proposed language allowing purchase over a 5 year period without interest, as required by USERRA.

B. Activated Military Service—adds proposed language allowing purchase, as required by USERRA.

§ 213.25 Clarifies that a member's estate may complete payments of purchasable service by either lump sum or actuarial reduction of the benefit.

§ 213.26 Deletes outdated language

§ 213.27 Technical corrections

§ 213.28. No change

§ 213.29 No change

§ 213.30 Deletes outdated language

§ 213.41 Technical corrections

§ 213.42 Deletes outdated language

§ 213.43 No change

§ 213.44 Clarifies that a member whose disability is terminated can either receive an annuity or vest the benefit.

§ 213.46 Technical corrections

§ 213.47 Technical corrections

§ 213.48 No change

§ 213.49 Technical corrections

§ 215.1 No change

§ 215.2 Technical corrections

§ 215.3 Deletes language repetitive of the code

§ 215.4 Deletes language repetitive of the code

§ 215.5 Deletes language repetitive of the code, as well as makes technical corrections

§ 215.6 Deletes language repetitive of the code, as well as makes technical corrections

§ 215.7 Deletes language repetitive of the code, as well as makes technical corrections

§ 215.8 Deletes language repetitive of the code

§ 215.21 Deletes language repetitive of the code

§ 215.22 No change

§ 215.23 Technical corrections

§ 215.24 No change

§ 215.31 Deletes language repetitive of the code

§ 215.32 No change

§ 215.33 Technical corrections

§ 215.34 Deletes language repetitive of the code

§ 215.35 Deletes language repetitive of the code, as well as makes technical corrections

§ 215.36 Technical corrections

Statutory Authority

The Board's authority to promulgate rules and regulations for the uniform administration of the system is set forth in section 8502(h) of the code (relating to administrative duties of board). The Board has promulgated rules and regulations in Chapters 201, 211, 213 and 215. The proposed rulemaking consists of technical and substantive amendments to the Board's existing rules and regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 18, 1998, the Board submitted a copy of the notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Education Committee and the Senate Finance Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

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

Fiscal Impact and Paperwork Requirements

The proposed amendments do not impose increased costs or increased paperwork requirements on the Commonwealth, local governments, the private sector or the general public.

Persons Affected

The proposed amendments affect all active and inactive System members, public school employers and retirees.

Effective Date

The amended rules will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*.

Sunset Date

A sunset date is not being established for these amendments because they are necessary for the administration of the substantive provisions of the code. The Board will closely monitor these regulations for their effectiveness.

Public Comments

Interested parties are invited to submit written comments, suggestions or objections regarding the proposed amendments to Frank Ryder, Director, Government Rela-

tions, Public School Employes' Retirement System, 5 North Fifth Street, P. O. Box 125, Harrisburg, PA 17101, within 30 days following the publication of the proposed amendments in the *Pennsylvania Bulletin*.

JAMES A. PERRY,
Secretary

Fiscal Note: 43-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XIII. PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

CHAPTER 201. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

§ 201.1. Applicability of [general rules] the General Rules of Administrative Practice and Procedure.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) [are] is applicable to the activities of and proceedings before the [Public School Employes Retirement Board] Board except as provided in this chapter.

§ 201.2. Expedited disposition process.

When the claimant and System agree that no facts are in dispute, they may agree to submit the case directly to the Board for adjudication. Under these circumstances, only the claimant will file a brief in support of claimant's position. The Board will issue a proposed adjudication, to which the claimant may file exceptions. If no exceptions are timely filed, the Board will issue a final adjudication adopting the proposed adjudication. If exceptions are filed, the Board will consider the exceptions when rendering its final adjudication.

§ 201.3. Motions practice.

(a) *Preliminary objections.* The System may, before filing an answer, file preliminary objections directly with the Board. The preliminary objections shall conform to Pa.R.C.P. No. 1028 (relating to preliminary objections).

(b) *Summary judgment.* Either the System or the claimant may file a motion for summary judgment directly with the Board. The motion shall conform to Pa.R.C.P. Nos. 1035.1—1035.4.

§ 201.4. Dismissal for nonappearance.

Whenever a claimant fails to appear, either in person or through counsel, for a scheduled hearing without good cause, the hearing examiner will issue a recommendation to dismiss the case, without considering the merits of the claim.

§ 201.5. Letter briefs.

Both the claimant and the System shall be entitled to file letter briefs to the hearing examiner. The letter briefs need not conform to 1 Pa. Code §§ 35.191 and 35.192 (relating to proceedings in which briefs are to be filed; and content and form of briefs), but the letter briefs may not be more than 3 pages in length.

CHAPTER 211. PRELIMINARY PROVISIONS

§ 211.2. Definitions.

The following words and terms, when used in this part, have, consistent with the code definitions, the following meanings, unless the context clearly indicates otherwise:

Accumulated deductions—The total of pickup contributions paid into the fund by the member, on his [own] account [and for the share of the employer, to the extent applicable, for] of previous school service, current school service, or creditable nonschool service, as well as the statutory interest credited on those contributions.

Active member—A school employe [who is contributing to the fund or for whom authorized] for whom pickup contributions are being made [thereto] to the fund, including those granted a sabbatical leave of absence, or who are on an approved leave of absence for professional study [or], as an exchange teacher, or service with a collective bargaining organization, under the applicable provisions of the code. [It shall also include those receiving workman's compensation.] It shall exclude employes who are on leave of absence without pay, although the leave may entitle the employe to statutory interest as elsewhere provided under law.

* * * * *

Annuitant—A member on or after the effective date of retirement, until [his] the annuity is terminated, but excludes a beneficiary or survivor annuitant.

Basic contribution rate—A rate of [5.5%] 6.25% on compensation received by the member during school employment. The rate shall be inapplicable for an active member of Class T-A or T-B, who shall pay at the rate based on sex and age upon entry into [such] that class of service. All other members shall pay the basic contribution rate of [5.5%] 6.25% of compensation received, except for purchase of previous service. It shall be applicable to those in the joint coverage group, except that the appropriate offset factor shall be deducted on earnings covered by Federal Social Security. [From and after July 1, 1976, the basic contribution rate shall be 5.25% of compensation received.]

Beneficiary—The person last designated by a member in writing to the Board on forms [it supplies,] supplied by the Board to receive [his] accumulated deductions or a lump sum benefit upon [his] death. If [one] a beneficiary is not so designated, or if the beneficiary predeceased the member, the recipient shall be the estate of the member or those persons listed as next of kin eligible to receive employe benefits from an employer, under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), to the extent applicable.

* * * * *

Compensation—[Excludes] Pickup contributions plus any remuneration received as a school employe, excluding a bonus, severance payment or other remuneration or similar emoluments received by a school employe during [his] school service not based on the standard salary schedule for which [he] the employe is rendering service. It shall exclude payments for unused sick leave, unused vacation leave, bonuses for attending

school seminars and conventions, special payments for health and welfare plans based on the hours employed or any other payment or similar emoluments which may be negotiated in a collective bargaining agreement for the express purpose of enhancing the compensation factor for retirement benefits.

Date of termination of service—The last day of service for which [a member makes] pickup contributions are made for an active member, or in the case of an inactive member [on leave without pay], the date of [his] resignation or the date the employer formally discontinues [his] employment or 2 years following the last date of service for which contributions were made, whichever is earliest.

Effective date of retirement—The first day following the date of termination of service, if application[,] for an annuity is timely filed[,]; but, if not timely filed, the date of actual filing or date specified on the application, whichever is later. In the case of a vestee, it shall mean the attainment of superannuation age, if filed within 90 days thereof, otherwise the date of actual filing, and, in the case of a disability benefit, the date certified by the Board.

Employer—[Governmental] A governmental entity directly responsible for the employment and payment of the school employe and charged with the responsibility of providing public education within this Commonwealth. The term includes entities whose employes under prior law and regulations[,] are members of the System as of the effective date of the code.

Final average salary—In the case of a part-time employe, [his] compensation shall be annualized by multiplying [his] actual earnings by the reciprocal of the fractional portion of time worked during nonoverlapping periods of 12 consecutive months or equivalent consecutive pay periods during which compensation is received; and, in the case of a member with multiple service credit, the salary shall be determined by reference to include compensation received [by him] as a school employe or a State employe or both.

* * * * *

Government service—Service as an administrator, teacher or instructor in the field of public school education for an agency or department of the government of the United States.

Inactive member—A member for whom no pickup contributions are being made, who has accumulated deductions standing to the member's credit in the fund and for whom no pickup contributions have been made within the last 2 school years or a multiple service member who is active in the System. The term also includes [A] a member who is on furlough and has elected to leave [his] the accumulated deductions in the fund at statutory interest during the furlough period, which period [shall] may not exceed 2 school years; or a member who is on leave of absence without pay.

Member's annuity—An amount determined by dividing the accumulated deductions of the member by the cost of a \$1 annuity based on the [sex and] nearest age of the Member at the effective date of retirement and computed on the basis of statutory interest and mortality tables adopted and used by the Board.

Nonprofessional members—School employes who are not professional members and who also qualify for [the] membership in the System under section 8301 of the code (relating to mandatory and optional membership).

* * * * *

Public school—All classes or schools within this Commonwealth conducted under the order and superintendence of the Department of Education, including: educational classes of an employer charged with the responsibility of public education within this Commonwealth as well as those classes financed wholly or in part by the Federal Government, State-owned colleges and universities, the Pennsylvania State University, community colleges, area vocational-technical schools, intermediate units, the State Board of Education, Scotland School for Veterans' Children, Thaddeus Stevens State School of Technology and the Pennsylvania State Oral School for the Deaf. In all cases of doubt, the Board will determine whether any particular governmental entity is eligible as an employer within the meaning of the code.

Salary deductions—The amounts certified by the Board to be deducted from the compensation, as determined for retirement purposes, of an active member and paid into the fund for the purposes of purchasing current service, previous school service, pickup contributions and creditable nonschool service, as the case may be.

School employe—A person engaged in work relating to a public school for any governmental entity and for which work the person is receiving regular remuneration as an officer, administrator or employe. The term does not include an independent contractor or a person compensated on a fee basis. In all cases of doubt, the Board will determine whether a person is a school employe within the meaning of the code. It may also determine whether a person is an independent contractor or a person compensated on a fee basis upon review of all the circumstances surrounding the employment of the person seeking membership in the program. A person who is rendering services to the school district on a commission or fee basis, whether an elected official or not, is not a school employe for retirement purposes.

School year—[In no event shall a] The 12-month period which the governmental entity uses for purposes of administration, regardless of the actual time during which a member renders service. A member will not be credited, during a school year, with credited service in excess of [one] 1 year.

* * * * *

[Valuation interest—Interest at 5.5% per annum compounded annually to be used for purposes of determining employer liabilities and contribution rates.]

Vestee—[A member with ten or more eligibility points who has terminated school service and has left his total accumulated deductions in the fund to defer receipt of an annuity. In the event the] A member with ten or more eligibility points who has terminated school service, left accumulated deductions in the fund and is deferring the filing of an application for receipt of an annuity. When a vestee applies for an annuity, [it] the annuity shall take

effect upon filing of the application, or the date specified on the application, whichever is later.

**CHAPTER 213. CONTRIBUTIONS AND BENEFITS
GENERAL PROVISIONS**

§ 213.1. Mandatory and optional membership.

Membership shall be mandatory, as of the effective date of school employment, for all school employes, except the following categories:

* * * * *

(2) A person employed on a per diem or hourly basis for less than 80 full-day sessions or 500 hours in any fiscal year. In all cases, a school district shall report to the Board whether a school employe annually qualifies under this section based on the service rendered during any school year[, **commencing with the 1975-76 school year annually commencing thereafter.**] Any per diem or hourly school employe employed for less than the minimum eligibility requirements established in this paragraph [**shall**] is not [**be**] eligible for membership for that fiscal year period, but shall, if [**he**] the employe exceeds the minimums stated in this paragraph, be a mandatory member for that fiscal year period only.

(3) Employes in Federal programs shall conform with the following:

* * * * *

(ii) [**School employes in such programs, who have not joined the System, may elect to join the System and obtain credit for all service rendered from December 22, 1965, and prior to July 1, 1975, provided they elect to join within 120 days after the effective date of the code, which election shall require the employe to commence membership and pay for such service from the original date of eligibility. Such original date of eligibility and membership in the system shall continue until the termination of school service. The contributions required to purchase such service shall be as provided in §§ 213.21—213.30 (relating to contributions).**]

(iii) [From and after July 1, 1975, [**any**] an employe entering school service shall be required to join the System until termination of service, although the program in which he is employed is financed, in whole or in part, by the Federal government.

§ 213.2. Credited school service.

(a) *Computation.* For the purposes of computing credited school service, the following conditions [**shall be applicable**] apply:

(1) A full-time salaried employe shall receive 1 year of credited service for each nonoverlapping period of 12 consecutive employable months for which [**he**] the employe contributes for at least 180 full-day sessions [**or 1100 hours**] of employment. A full-time salaried employe may not be eligible to earn more than 1 year of credited service during any period of 12 consecutive months although [**he**] the employe may be employed for full-day sessions or for hours in excess of the limitations [**set forth**] in this section.

(2) A part-time salaried employe, that is, one who is compensated [**on a part-time basis**] as a percentage of

annual salary, shall receive credited service based on the proportion of full-time service for which [**he**] the employe is employed during a school year.

* * * * *

(5) Any member with credit for multiple service or with credit in [**either**] the School Employees' Retirement program [**or the State Employees' Retirement program**], who is employed on a concurrent basis, in one or more districts or with this Commonwealth, [**shall**] is not [**be**] entitled to more than [**one**] 1 year of credited service for any consecutive 12-month period.

* * * * *

(b) *Approved leaves of absence.* Credited service shall be granted to an active member for an approved leave of absence [**for either sabbatical leave or for professional study and growth or as an exchange teacher**] as authorized under the applicable provisions of the code. Members may be granted other types of leaves of absence[, **not within the aforementioned categories**] authorized by the code, but [**such**] these leaves [**shall**] do not entitle the member to any credited service during the period of the leave. Credited service for the approved leaves of absence shall be granted under the following conditions only:

* * * * *

(2) Proper current contributions, based on the salary as if [**he**] the member had been in regular full-time employment during the period of the leave are made by the member and by the employer if required. An employer [**shall**] is not [**be**] permitted to suspend the requirement of making its required contributions during the period of the leave. Current contributions made by the member during the period of the leave shall be transmitted through the school district on a monthly basis in the same manner as active members.

(c) *Cancellation.* In all cases [**where**] when a member withdraws [**his**] accumulated deductions, all [**of his**] credited service shall be cancelled. Any member who has so withdrawn [**his**] accumulated deductions and has [**his**] credited service cancelled shall, upon a re-entry into the system, be eligible to purchase [**such**] the service under [**the provisions of**] section 8303 of the code (relating to eligibility points for retention and reinstatement of service credits).

(d) *Improperly credited service.* If the Board finds that any school service has been improperly credited, it will [**cause such**] cancel the credit [**to be cancelled**] and refund to the member any accumulated deductions attributable thereto [**refunded to the member**].

§ 213.3. Eligibility points for retention and reinstatement of service credits.

* * * * *

(b) Every active member or multiple service member who is active in the State system, on or subsequent to March 1, 1974, may purchase credit upon which eligibility points shall be applied, as a member of Class T-C for any periods of previous school service or permissible creditable nonschool service, as provided in this part, on the condition that the member pay for [**such**] the service as provided in this part. Any active member or multiple service member seeking to reinstate previous service shall be required to purchase and pay for all [**such**] the

service previously credited **[and pay for same]**. **[Such]** The member **[may]** is not **[be]** permitted to purchase only a portion of previously credited service to be reinstated.

(c) In all instances **[where]** when creditable school or nonschool service may be purchased, **[any]** an active member, **[by application, electing]** having elected to purchase **[such]** the service, **[may]** is not **[be]** permitted to cancel the purchase **[thereof]** once payment has been made by lump sum, or **once** the member has agreed, in writing, to payroll deductions upon **[such]** the terms and conditions as provided in this part.

§ 213.4. Creditable nonschool service.

(a) Creditable nonschool service may be purchased only by an active member or a multiple service active member of the State Employees' Retirement System **[or one who had been an active member on or subsequent to March 1, 1974, provided that those members in the latter class, or who elect to purchase this service shall be required to make payment only by lump sum within 90 days after certification of amount due, whereupon the appropriate benefit adjustments shall be made. Members of this class will not be permitted to make payment by salary deductions]**.

* * * * *

(c) Intervening military service shall be service of an active nature rendered to the armed forces of the United States for which an active member had **[his]** school service interrupted so that **[he]** the member could serve voluntarily or otherwise to fulfill a draft obligation in time of war or armed conflict. Intervening military service will be disallowed or cancelled when the required military tour of duty has been voluntarily extended beyond the time of military obligation, with or without the implied or express consent of the employer.

* * * * *

(e) Purchase limitations for intervening and nonintervening military service and conditional credit shall be as follows:

(1) An active member may **not** purchase intervening or nonintervening military service, **[although he may be]** if the member has obtained credit and is eligible effective as of ____ *(Editor's Note: The blank refers to the date of adoption of this proposal)* or in the future to receive a pension for this service from another employer or governmental agency **[, on a conditional basis. If an active member purchases this conditional service, he]** Upon application to purchase this service, the member shall **[, upon eligibility to receive a benefit from this system,]** be required to submit proof as to **[his]** eligibility or ineligibility for **[any]** pension benefits from the other employer or governmental agency, as the Board may require. If the Board determines that **[the member purchasing this conditional credit]** this service is **[eligible to receive the other benefit,]** ineligible, the application will be denied. If the Board later determines that the purchased service should have been ineligible, it will cancel the service purchased and refund to the member the accumulated deductions attributable to this service at the time of

retirement or termination of service, unless cancellation and refund is requested prior thereto. **[A conditional purchase of service member may be required to sign documents the Board may require to insure that he is not receiving an annuity benefit contrary to the prohibitions of the code. The Board may also require from the member or the employer or agency from which he may be entitled to receive a benefit, documentation to determine whether the member is entitled to the service credit or to a refund of his accumulated deductions.]** If subsequent to retirement, the Board learns that a member has falsified **[his]** a record, it may take action as is otherwise provided in the code.

(2) **[An active member is not eligible for credit for nonintervening military service if this service entitles him to receive now or in the future, or if he is receiving, a governmental pension based on this nonintervening military service, irrespective of the fact that the member may have actual service in excess of the minimum amount necessary to qualify him for a Federal pension.**

(3) **[Conditional credit for nonintervening military service shall be available for all active military service actually rendered for which purchase shall be requested but, may not exceed 5 years of [such] service, if the member has 3 years of credited school service subsequent to the military service for which credit is requested.**

(f) Nonschool service may be purchased by an active member who was a teacher or instructor in a public school or public educational institution in a state other than this Commonwealth or in a territory or area under the jurisdiction of the United States and this service may also be purchased by any active member who was an administrator, teacher or instructor in the field of public school education for any agency or department of the United States Government whether under its jurisdiction or not. **The nonschool service rendered shall be at least 1 full year. The total service purchased may not exceed 12 years or the number of years of school service credited in the system, whichever is less.**

(g) Nonschool service in the Cadet Nurse Corps may be purchased by an active member for any period of training as a student or graduate nurse under a plan approved under section 2 of the act of June 15, 1943 (Pub. L. No. 78-73, 57 Stat. 153), if the total period of training under the plan was at least 2 years, and the credit for the service does not exceed 3 years.

(h) Previous nonschool service as a nurse in the employ of a county may be purchased by an active member as follows: For every 3 years or major fraction thereof in previous work experience, an individual may buy 1 year of creditable service, not to exceed a total of 5 years. The purchase of this service shall begin within 3 years of the employee's eligibility to purchase this creditable service.

[(g) (i) * * *

(h) The nonschool service listed in subsection (f) shall be for a period of at least 1 school year provided that the total credit for this service shall be the lesser of 12 years or the number of years of school service credited in the system. The service sought to be purchased under this section shall be in no less increments than 1 year, based on each

year of school service credited in the school system up to a maximum of 12 years.]

[(i)] (j) The total credit for nonschool service, identified in subsections (a)—**[(f)] (i)**, may not exceed the actual number of years of school service in the System, rendered within this Commonwealth, plus, in the case of an active multiple service member, any additional years of State service rendered in the Commonwealth and credited in the **[State Employees' Retirement]** System. This limitation on total permissible nonschool service credit does not apply to the service provided in subsection **[(g)] (i)**.

§ 213.5. Classes of service.

[(a)] Class T-C membership shall be available to any school employe on the effective date of the code or who becomes a member of the System subsequent thereto.

(b)] Members of Class T-B or T-A may, at any time prior to retirement, elect to convert **[such]** the membership into Class T-C, **[provided]** if they make the appropriate contributions as a member of this latter class. Any member of Class T-B or Class T-A may elect to become a full coverage member or elect to purchase credit for previous school or nonschool service **[provided he]** if the member converts **[such]** the membership to Class T-C and makes the appropriate contributions.

§ 213.7. Eligibility for annuities.

[In order to] To be eligible for any annuity payable under **[the provisions of]** the **[law]** code and **[the rules and regulations promulgated thereunder]** this part, a member **[must]** shall have at least **[one full year of creditable school service]** one eligibility point.

§ 213.8. [Eligibility for vesting] (Reserved).

[Any member terminating school service with ten or more eligibility points shall be entitled to vest his benefits until attainment of superannuation age.]

§ 213.9. Eligibility for death benefits.

In the event of the death of a member, **[his]** the member's beneficiary, or **[the]** estate, shall be entitled to death benefits if the member was eligible for an annuity in accordance with section 8307(a) or (b) of the code (relating to eligibility for annuities). If the deceased member is not eligible for an annuity, **[his]** the member's beneficiary or **[his]** estate, **[as the case may be,]** shall only be entitled to receive the accumulated deductions standing to **[his]** the member's credit in the fund. The Board may pay the next of kin, in the absence of a beneficiary, under the special circumstances provided in **[section 3101 of the Probate, Estates and Fiduciaries Code]** 20 Pa.C.S. § 3101 (relating to payments to family and funder directors).

§ 213.10. Eligibility for refunds.

[Any] An active member, upon termination of service, may elect to receive **[his]** the member's accumulated deductions in lieu of any benefit to which **[he]** the member would otherwise be entitled and **[such]** the

election shall constitute an irrevocable waiver of **[such]** this entitlement unless there is a subsequent return to and reinstatement of service.

CONTRIBUTIONS

§ 213.21. [Regular member contributions for current service] (Reserved).

[Every active T-C member shall make regular member contributions at the rate of 5.5% of his compensation for current service by salary deductions, provided that such contributions shall not be made by anyone other than the active T-C member except for authorized leaves of absence otherwise herein provided. Effective July 1, 1976, the contribution rate at 5.25% shall be imposed upon the compensation of every active T-C member.]

§ 213.23. Member contributions for creditable school service.

(a) An active member may purchase previous school service, sabbatical leave service, **activated military service** and full coverage membership. A State employe and a member of the **[State Employees' Retirement]** System may, if **[he]** the member elects multiple service, apply for and receive credit for total previous school service, **[provided such]** if the service is certified and **[he]** the member makes the required member contributions for the purchase of **[such]** the service, regardless of the amount of school service previously credited, if any.

(b) **[The amount required for the purchase of creditable school service as defined in subsection (a) shall be sufficient to provide an amount equal to the accumulated deductions standing to the credit of the member, had he made regular member contributions with full coverage and had those contributions been credited with statutory interest during all subsequent periods of State and school service up to the date of purchase of such aforementioned service.**

(c) Those Active Members wishing to convert from either Class T-B or Class T-A membership to Class T-C shall pay an amount equal to the additional contributions, if any, which would have been made together with statutory interest thereon during all periods of subsequent school and State service up to the date of purchase, from and after July 1, 1950, in the case of members of Class T-B, and from and after July 1, 1967, in the case of members of Class T-A.

[(d)] (c) Those active members desiring to purchase credit for an approved leave of absence, other than sabbatical **and activated military service** leave, shall make contributions sufficient to transfer membership to **[class]** Class T-C, and to provide an annuity as a member of **[such]** that class for **[such]** that additional credited service, provided that the amount which shall be paid, shall be the sum of the amount required in subsection **[(c)] (b)**, depending upon the class from which the transfer is made, and the amount determined as the sum of the member's basic contribution rate and normal contribution rate as provided in section 8328 of the code (relating to actuarial cost method) during **[such]** the period, multiplied by the compensation which was or would have been received during **[such]**

the period, together with statutory interest during all subsequent periods of school and State service up to the date of purchase.

[(e)] (d) The payment for the purchase of all credit authorized by this chapter, except that for sabbatical leave **and activated military service leave**, shall be payable in a lump sum within 90 days after certification of the amount due or, in the case of an active member, may be authorized through payroll deductions over a period of years not in excess of 6 years, **[provided]** if statutory interest at 4% annually is charged through the repayment period. The amount certified by the Board for the purchase of the aforementioned credit shall be in accordance with methods approved by the actuary. **[This subsection shall apply and be effective only for applications for the purchase of credit received in the offices of the Board on or after May 1, 1978.]**

§ 213.24. Contributions for purchase of credit for creditable school and nonschool service.

(a) *Source of contributions.* As provided in sections 8303 and 8304 of the code (relating to eligibility points for retention and reinstatement of service credits; and creditable nonschool service), creditable school and nonschool service shall be purchased entirely by the member, except in the following cases:

(1) In the case of former uncredited school service, **[where] when** a school district has failed to credit service through administrative error, the employing school district, as **[such] the** employer, **[shall be]** is required to pay its share of the contributions for **[such] the** service, although the active member shall be responsible for **[his] the member's** share.

(2) In the case of service rendered by an active member to a county board of school directors, now designated an intermediate unit, the member shall only be responsible for the purchase of **[his own] the member's** share for **[such]** previous service rendered to the county board of directors.

(3) Except for sabbatical leaves of absence, in the case of approved leaves of absence **[for professional study and growth and as an exchange teacher]**, the employe shall be required to pay, for the purchase of creditable nonschool service, both the member's share and the employer's share if it is purchased after the leave of absence has expired. If the employer reports **[such] the** leaves currently based on the employe's salary as if **[he] the employe** had been in full-time employment during the leave period, **[then]** the employe **[shall]** is only **[be]** required to pay **[his] the employe** share, whereupon the employer shall have a corresponding liability based on normal contribution rate.

(b) *Contributions for purchase of nonintervening military service.* The amount due for the purchase of nonintervening military service shall be calculated in the following manner: The average of the first 3 years' salaries subsequent to **[such] the** military service, multiplied by the sum of the member's basic contribution rate and the normal contribution rate as determined by section 8328 of the code (relating to actuarial cost method) relating to Commonwealth and district shares, and multiplied by the number of years or fractional years of military service, **[and, finally, multiplying this product by compounded statutory interest during**

all periods of school and State service rendered subsequent to the time of such military service to the date of total purchase.] The amount due for the purchase of **[such] the** military service, as calculated **[above] under this subsection**, may be paid in a lump sum within 90 days after certification of the amount due, or in the case of an active member, may be amortized through payroll deductions over a **[one, two, but not more than 3 year period provided statutory interest at 4% is charged through the repayment period] period of years not in excess of five years without interest.** All amounts certified by the Board for the purchase of **[such] the** service shall be in accordance with methods approved by the actuary. In no event may nonintervening military service be purchased unless the active member has completed no less than **[three] 3** years of subsequent credited school service as a Class T-C member.

(c) *Contributions for purchase of intervening military service.* An active member eligible to purchase credit for intervening military service shall pay the amount due in accordance with the following formula: The member's basic contribution rate at the time of entry into **[such] the** active military service multiplied by **[his] the member's** then compensation and by years of **[such] the** military service together with statutory interest during all periods of subsequent school and State service to the date of purchase, provided that all **[such] the** amounts due shall be in accordance with methods certified and approved by the actuary. The amounts due for the purchase of **[such] the** service may be paid under any one of the following methods:

(1) Regular monthly payments submitted through the school district based on the compensation of the member which **[he] the member** would have received at the time of entry into active military service without statutory interest since **[such] the** payments are made on a current contributing basis.

* * * * *

(3) Through amortized salary deductions over a **[one, two, but not more than 3-year period, provided statutory interest at 4% annually is charged through the repayment period] period of years not in excess of 5.**

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§ 213.25. Incomplete payments.

* * * * *

(d) *Death of a member.* **[In the event]** If a member applies for the purchase of service and dies prior to certification of the amount due for **[such] the** service, **[then his] the member's** legally constituted representative may purchase **[such] the** service **either** by payment of a lump sum, within 30 days after **[such] the** certification is made, **or by reducing the annuity benefit by the actuarial equivalent of the debt, including statutory interest.**

§ 213.26. [Contributions by the Commonwealth] (Reserved).

[(a) The Commonwealth obligation to make contributions, on behalf of active members based on total member payroll, shall be equal to 1/2 the rate

certified by the Board, as determined by the actuary, necessary to provide the payment of prospective annuities in accordance with section 8328(a), (b), and (c) of the code (relating to actuarial cost method) except that, in those instances where an eligible school employe has elected membership in an optional alternate retirement plan, as provided in § 215.36 (relating to optional alternate retirement programs), the Board only certifies to the Commonwealth 1/2 the normal contribution rate and accrued liability rate which must be contributed to that optional alternate plan. The Commonwealth shall not be obligated to make any payment to the Board on behalf of that alternate plan, but the amount due, based on the normal contribution rate and accrued liability rate shall be paid directly to these plans.

(b) In the case of minimum and supplemental annuities provided in accordance with section 8328(d) of the code the Commonwealth shall contribute, on behalf of such annuitants, an amount equal to 1/2 the rate certified by the Board, as determined by the actuary based on total member payroll.]

§ 213.30. Appropriations by the Commonwealth.

The Board will prepare and, through the Governor, submit annually to the General Assembly, an itemized budget consisting of the amounts necessary to be appropriated based on the actuarial cost method as certified by the actuary and presented to the Board. The sum of the various contribution rates established by the actuary, as certified by the Board, shall be applied to the total projected member payroll for the succeeding fiscal year. [One-half of such amount shall be appropriated by the General Assembly so that the Commonwealth shall meet the obligations accruing during that fiscal year period for which the appropriation shall be made. The Commonwealth shall pay the amounts due on a quarterly basis through the Department of Revenue within 30 days of the receipt of the Board's requisition, and such amounts shall be paid by the State Treasurer.]

BENEFITS

§ 213.41. Return of accumulated deductions.

Any member who elected to receive only [his] accumulated deductions, in lieu of any other benefit to which [he] the member would otherwise be entitled, shall, by [such] election, be deemed to have irrevocably waived entitlement to [such] other benefits except as otherwise provided [in the event] if a member returns to school service.

§ 213.42. [Maximum single life annuity] (Reserved).

[From and after July 1, 1976, in the case of any member, including a vestee, who has attained age 55 and has 25 or more eligibility points, he shall be entitled to a lesser reduction in his annuity as provided in sections 8342(a) of the code (relating to maximum single life annuity). Any member lacking either of the above conditions shall not be eligible for such lesser reduction, but his annuity shall be subject to the normal reduction tables currently in effect.]

§ 213.44. Disability annuities.

(a) Any member with at least [five] 5, but less than [ten] 10 years of credited school service shall be eligible, upon submitting appropriate medical evidence, to a disability annuity, but may not be entitled to elect any option on any portion of [said] the disability annuity. Any member entitled to a disability annuity, having ten or more eligibility points, [shall be] is entitled to select a joint and survivor option on that portion of the annuity to which [he] the member is otherwise entitled.

(b) Any disability annuitant no longer entitled to disability annuity in accordance with [the provisions of sections] section 8505(c)(2) or 8508(b) or (c) of the code (relating to duties of board regarding applications and elections of members), shall be entitled to either file an application for the election of optional modification of [such] the annuity to which [he] the annuitant would be otherwise entitled in accordance with section 8342 of the code (relating to maximum single life annuity) or vest the benefit, if [he] the annuitant has at least ten or more eligibility points. [In the event] If a disability annuity ceases and the member does not return to school service, [he] the member shall, if [he] the member has not already received on account of [his] the member's annuity the amount of [his] the accumulated deductions, be entitled to the difference upon application.

(c) Payments on account of disability shall be reduced by that amount by which the earned income of the annuitant, as reported in accordance with section 8505(b) of the code, [relating to rights and duties of annuitants,] for the preceding year together with the disability annuity payments for the year, exceeds the greater of \$5,000 or the last year's salary of the annuitant as a school employe, provided that the annuitant [shall] will not receive less than his member's annuity or the amount to which [he] the annuitant may be entitled under section 8342 of the code, [relating to maximum single life annuity,] whichever is greater.

§ 213.46. Termination of annuities.

* * * * *

(c) *Emergency return to school service.* Any annuitant returning to school service in an emergency situation, as provided in section 8346(b) of the code and who works for a period in excess of [60] 95 days in any school year, shall suffer discontinuance of his annuity from the [61st] 96th day of [such] service and the Board will make [such] the adjustment as the case may warrant.

(d) *Termination of annuitants—Independent contractor.* An annuitant may render service without discontinuance of an annuity if [he] the annuitant renders it in the capacity of an independent contractor for a sum certain and for a specific period of time, pursuant to a contract approved by the employer. The Board will have the right to determine whether the services to be performed [are such as to] warrant the conclusion that it is an independent contractor relationship. The Board may also inquire as to the circumstances surrounding an annuitant who seeks to render services as an independent contractor [in order] to determine whether [such] the relationship does exist, thereby entitling [such] the

person to [his] both an annuity and [his] the contractor or consultant fees simultaneously. In any case in which the Board finds that [such] the relationship may be contrary to the intent of this section, it will have the right to discontinue [such] the annuity or make [such] an adjustment as the circumstances warrant.

[(e) Termination of annuitants—disability annuitant. (Reserved).]

§ 213.47. Death benefits.

* * * * *

(b) If a single life annuitant dies before receiving in monthly annuity payments the total amount of [his] the accumulated deductions, the balance of the total accumulated deductions less total annuity payments received shall be paid to [his] the designated beneficiary without regard to the actual proportion the employer's share represents to the total monthly annuity payments actually received before death.

§ 213.49. Payment of benefits.

* * * * *

(b) If a beneficiary predeceases a member, or dies within 30 days of [his] the member's death, or if there is no valid beneficiary designation on file to take effect at death, any money payable from the account of the member shall be paid to the estate of the member or next of kin, under [the provisions of section 3101 of the Probate, Estates and Fiduciaries Code,] 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors) as the case may be.

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CHAPTER 215. GENERAL ADMINISTRATION
GENERAL PROVISIONS

§ 215.2. Administrative duties of the Board.

* * * * *

(b) The Board will furnish, to the extent required by Federal law, information to members concerning those provisions of the Internal Revenue Code of [1954] 1986 (26 U.S.C.A. [§§ 1—904(2)]) which may impose a tax liability upon a member or beneficiary. The sole responsibility for [such] the tax liability, including the tax computation, is imposed upon the member and not the Board and the member should consult tax counsel or legal counsel for advice in these matters since the Board is not qualified or required to offer [same] the advice.

(c) [Pursuant to the provisions of] Under section 8502(g) of the code [(24 Pa.C.S. § 8502(g)),] (relating to administrative duties of board), an employer failing to comply with procedures as mandated in the code dealing with duties imposed upon employers, shall pay for the cost of performing these duties, [should] if the Board [initiate] initiates action to perform [same] the duties on behalf of the employer not doing so. [In the event] If an employer is delinquent in the payment of contributions in accordance with section 8327 of the code [(24 Pa.C.S. § 8327)] (relating to payments by employers), the Board [will] shall notify the Secretary of Education and the State Treasurer of [such] the delinquency for [such] the action as those officials are required to take [hereunder], consistent with the

billing and delinquency regulations [set forth] in § 213.27(a) (relating to payments by employers).

* * * * *

(f) The Board will, in compliance with the percentage certifications in subsection (e), [bill the Commonwealth] determine within 30 days following the end of each quarter [for] the amount due based thereon, taking into consideration the member's total payroll and shall submit simultaneously therewith a requisition for [such] the amount [to the State Treasurer for payment] determined to be due from the Commonwealth.

(g) The Board will credit to the account of each member all amounts paid by [him] the member into the fund, including [his] the member's contributions for current service, payroll deductions for the purchase of service as otherwise provided in this [Part] part or lump sum payments for the purchase of service. No person or governmental employer [shall] may make payments on behalf of the member unless authorized by the code or this [Part] part. All member contributions shall be credited with statutory interest until the date of termination of service, except in the case of the vestee. In that event, statutory interest shall be credited until the effective date of retirement or until a return of [his] the accumulated deductions, if [he] the member so elects. In the case of a multiple service member, interest shall be credited to the member's accounts in each system until a termination of State or school service.

§ 215.3. [Duties of the Board to advise and report to the employers and members] (Reserved).

[(a) On or before December 31 of each year, the Board will furnish a statement to each active contributing member showing the accumulated deductions standing to his credit as of the end of the previous fiscal year as well as the number of years and fractional parts of a year of service credited. Such statement will be mailed to the address of the active contributing member. The first statement mailed after the effective date of the code will not contain the name of the designated beneficiary but, upon subsequent written request by the member, it will appear on any subsequent statement. Such beneficiary designation may be deleted at any time and remain confidential upon the written request of the member. In no event will such information be divulged to any person other than the member and then only upon his written request.

(b) Whenever an active member or eligible school employe applies for purchase of credit for previous school or creditable nonschool service, the Board will bill the applicable employer, as the case may be, for its share in order to complete the purchase of such service. The employer's billing for such service shall be paid in a lump sum at the next quarterly pay cycle and credit shall be applied to the member accordingly. Failure of the employer to make the required payment timely shall cause a delinquency to occur and shall be treated accordingly.

(c) The Board will make available to all members information regarding benefits and options, including option 4, sufficient to apprise such members of same.]

§ 215.4. [Duties of the Board to report to the State Employees' Retirement Board—multiple service members] (Reserved).

[(a) *Multiple service membership of school employees.* Upon receipt of an application for membership in the System of a school employe who is a former State employe and who has elected multiple service membership, the Board will advise the State Employees' Retirement Board accordingly.

(c) *Multiple service membership of State employes.* Upon receipt of notification from the State Employees' Retirement Board that a former school employe has become an active member in the State Employees' Retirement System and has elected to receive credit for multiple service, the Board will so certify to the State Employees' Retirement Board and concurrently certify to the member the total credited service and fractional years thereof, as well as the annual compensation received each school year by the multiple service member for credited school service. Duplicate purchases of service under subsections (a) or (b) of this section will be prohibited in both the State Employees' Retirement System and this System.

(c) Any eligible multiple service member retiring from the State system or dying in service therein shall be entitled to a multiple service benefit, a portion of which is attributable to his school service. The Board will, therefore, certify to the State Employees Retirement Board the salary history and the final average salary to the multiple service member based on the highest compensation received as a State or school employe and the annuity or benefit to which the member or his beneficiary is entitled, as modified by any option, if applicable, for his school portion of the annuity.

(d) In the event a State employe, who is a multiple service member, is eligible for an annuity or dies in State service and was eligible for a benefit, the Board will transfer to the State Fund, no later than the end of the next quarter, the total accumulated deductions standing to the multiple service member's credit in this system and the actuarial reserve required to fund the school service benefit based on the compensation as determined by the final average salary in both systems.]

§ 215.5. Duties of the Board.

(a) [*General duties.* General duties of the Board shall include:

(1) The Board will, as soon as may be practicable, after each member joins the system, issue a statement, as to that member's aggregate length of total previous school and creditable nonschool service for which he may be eligible to purchase and receive credit.

(2) In the event an active member of the State system, elects multiple service membership and is receiving an annuity from the school System, his annuity will be discontinued retroactively to the date he becomes a member of the State system and any annuity payments received from this System subsequent to that date shall be restored to the fund, within 30 days from certification of the amount due.

(3) If a multiple service member is not receiving an annuity from the school System, having elected

multiple service membership, and has not withdrawn his accumulated deductions, the Board will continue or resume the crediting of statutory interest on such deductions.

(4) In the event such member has withdrawn his accumulated deductions, he will be required to restore to the fund by a lump sum payment within 90 days of certification of the amount due, the accumulated deductions at the time of his separation had he been a full-coverage T-C member together with statutory interest for all periods of subsequent State and school service to the date of repayment.

(b)] *Application, elections [,] and disability annuities.* Duties of the Board regarding applications and elections of members and disability annuities shall include the following:

(1) Subsequent to the receipt of an application for a disability annuity based on physical and mental incapacity for the performance of a job for which the member is employed, the Board will, through its chief medical examiner, and [**such other**] **another** medical examiner as it may engage, cause the applicant to be examined; and on the basis of the medical evidence submitted, a recommendation shall be submitted to the Board stating whether a disability [**or nondisability**] should be granted, together with a report as to the permanency of the disability or the need for periodic examinations as well as the time interval for [**such**] **the** examinations. The Board will also establish an effective date of disability which shall be the day following the last day of compensation or the day the application is filed, whichever is later.

(2) Any disability applicant who is required by the Board to furnish additional medical documentation to support [**his**] **the** application, shall provide [**same**] **the documentation** within 30 days of [**such**] **the** request, or the Board may render the disability application null and void.

(3) The chief medical examiner, or [**such**] other medical examiners as the Board may engage, may recommend to the Board, on the basis of subsequent medical examinations, whether a disability annuitant should continue on disability or whether a finding of nondisability may be appropriate. In the latter event, the Board will establish the date of termination of disability, based on the recommendation of the medical examiner, whereupon the disability annuity shall be discontinued in excess of any annuity to which [**he**] **the member** may be otherwise entitled under section 8342 of the code [(24 Pa.C.S. § 8342)] (relating to maximum single life annuity).

(4) [**In the event**] **If** the Board denies a disability applicant for insufficient medical evidence, the applicant may still file, within 90 days after notification of [**such**] **the denial**, an application to vest or take an annuity, if the applicant is eligible [**for same**] **to apply.** [**Such**] **The** filing shall be considered timely, as of the original eligibility date, for the purposes of payment of other benefits or vesting, as the case may be.

(5) A disability annuity may also be subject to a disability annuity adjustment depending upon the earned income of the annuitant, as provided in section 8505(c)(3) of the code [(24 Pa.C.S. § 8505(c)(3))] (relating to duties of board regarding applications and elections of members).

[(c)] (b) Refund to members. [Duties of the Board and refund to members shall include the following:

(1) The Board will pay, to any member applying for a withdrawal of his accumulated deductions upon a termination of school service, the sum representing that amount, within 60 days after the application is filed or date of termination of service whichever is later, provided that the Board is in receipt of the required data to calculate the accumulated deductions due and owing such member.

(2)] If the Board finds that a member is terminating service at the end of a school year intending to return the subsequent school year, following vacation periods, and to reinstate [his] accumulated deductions, [it] the Board may choose not to pay [such] the deductions in the first instance. The Board may require certification from the employer that [such] the events are not intended.

[(d) Certification to vestees. Certification to vestees shall include the following:

(1) Within one year of termination of service, the Board will certify to a vestee the following:

(i) Accumulated deductions in account to date of service termination.

(ii) Number of years and fractional parts of years of credited service.

(iii) Maximum single life annuity to which a vestee would be entitled, upon attainment of superannuation age and timely filing of a proper application.

(2) The Board will also, within 90 days prior to attainment of superannuation age, notify the vestee in writing at the last address which the Board has in its files, the availability of such benefits and the fact that failure to timely file shall result in cancellation of a death benefit in excess of the accumulated deductions while a vestee, if such filing is more than 90 days subsequent to superannuation age. In the event a vestee fails to timely file for a benefit within seven years after superannuation retirement, he shall only be entitled to a return of his accumulated deductions, thereby forfeiting any other benefit available had application has been timely filed.

[(e)] (c) Payment of annuities. Payment of annuities shall include [the following:] the tax information as required by the Internal Revenue Code of 1986 (26 U.S.C.A.).

[(1) The Board will, within 60 days subsequent to the effective date of an annuity and the receipt of the required data for the calculation thereof, pay such annuity. Concurrently with the payment of such annuity, the Board will certify to each member, on a separate statement, the following:

(i) The accumulated deductions credited to the termination of service itemized as to member contributions and interest credited thereon.

(ii) The number of years and fractional parts of a year of credited service.

(iii) The final average salary on which such annuity is based as well as the applicable reduction factors due to age or option selection, or both.

(iv) The total annuity payable, the option selected, and the amount and effective date of any future reduction on account of Social Security benefits, if any.

(v) Such tax information as required by the Internal Revenue Code of 1954 (26 U.S.C.A. §§ 1-904(2)).]

[(f)] (d) Miscellaneous duties. Miscellaneous duties shall include the following:

(1) [In the event] If a member dies in service and is eligible for a death benefit, the Board will, within 60 days after receipt of the necessary data and death certificate, pay [such] the death benefit to the designated beneficiary or survivor annuitant, as the case may be.

(2) [In the event] If the Board [will receive] receives notification from an insurance carrier approved by [it] the Board that an annuitant who has attained age 65, has elected appropriate hospitalization insurance coverage, [it] the Board will [cause to be deducted] deduct from the annuity payments, the appropriate monthly installment and forward [such] the deduction to the particular insurance carrier at [such] times as the Board and carrier mutually agree.

[(3) Each joint coverage annuitant, retiring prior to July 1, 1962, may elect no later than one year after October 2, 1975, to receive his annuity without reduction attributable to social security coverage, and shall make payment of the lump sum required to pay for the offset, within 60 days after certification from the Board of the amount so due and thereby become a full coverage member. The recomputed annuity, without the offset, shall be paid beginning with the second monthly payment next following the month in which the lump sum payment is received.]

§ 215.6. Duties of employers.

(a) [Status Members. The employer shall, each month, notify the Board, in a manner it prescribes, the payroll changes effective during the past month, the date of all removals from the payroll, and the type of leave of any member who has been removed from the payroll for any time during that month.

(1) If the removal is due to leave without pay, the employer shall furnish the Board with the date of beginning leave, the date of return to service, and the reason for leave.

(2) If the removal is due to a transfer to another employer, the former employer shall furnish such employer and the Board with a complete school service record, including credited or creditable nonschool service.

(3) If the removal is due to termination of school service, the employer shall furnish the Board with a complete school service and salary record, including credited school or creditable nonschool service, and, in the case of death of the member, the employer shall so notify the Board.

(4)] The following procedures shall be employed for reporting salaried, per diem and hourly employees:

[(i)] (1) Salaried employes. Reporting procedures for salaried employes shall comply with the following:

[(A)] (i) [Effective July 1, 1975, all] All part time salaried employes, irrespective of the percentage of time employed, shall be reported based on the percentage of time employed, as it relates to full time salaried employes, and if requested, the employer shall furnish, **[pursuant to]** under section 508 of the Public School Code of 1949 (24 P. S. § 5-508), minutes of board meetings indicating the conditions of employment of **[such]** these individuals. **[Such a procedure shall be effective, on a current basis, for all salaried employes, as of July 1, 1976. For the 1975-76 school year, employes shall pay their share without statutory interest and the employer its share under the general provisions applicable to purchase such service.]**

[(B)] (ii) This procedure in no way affects the enrollment of salaried employes who are currently members of the System. The member's purchase of **[such]** the previous part time salaried service in the 1975-76 school year shall be either a lump sum payment or a method agreed upon by the System and the member without application of interest.

[(ii)] (2) Per diem and hourly employes. Since a per diem or hourly employe is required to **[join after working]** become a member of the System during a school year in which the employe works 80 days or 500 hours **[as of the date of employment]**, an employer is responsible for determining if that person shall become eligible for membership during the fiscal year.

[(A)] (i) * * *

[(B)] (ii) If an employe is enrolled as a member at the beginning of the fiscal year, or when employed, and does not qualify during that fiscal year the employe is then entitled to a refund of accumulated deductions. If an employe is not enrolled at the beginning of the fiscal year, or date of employment, but qualifies during the fiscal year, the school district shall make deductions from that time forward and the employe shall then purchase the first 500 hours or 80 days without application of interest. **[Any employe who would have been eligible for service credit for the 1975-76 fiscal year may purchase that credit, without statutory interest, if application is timely made.]**

(b) Records and information. At the direction of the Board, the employer shall furnish service and compensation records as well as other information requested by the Board as soon as same is filed, received, or determined and shall maintain and preserve such records as the Board may require for the expeditious discharge of its duties.

(c) Member and employer contribution. The employer shall certify to his treasurer the required member contributions deducted from each payroll. The treasurer shall remit to the secretary of the Board each month the total of the member contributions and, quarterly, the amount due from the employer determined in accordance with section 8327 of the code, 24 Pa.C.S. § 8327, relating to payments by employers.

(d) New employers subject to mandatory membership. Upon the assumption of duties of each new school employe whose membership in the system is mandatory, the employer shall, no later than 30 days thereafter, cause an application for member-

ship, which application shall include the home address of the employe, birthdate certified by the employer, previous school or State service and any other information requested by the Board, and a nomination of beneficiary to be made by such employe, to be filed with the Board and shall make payroll deductions from the effective date of school employment

(e) New employers subject to optional membership. The employer shall, within 30 days of employment, inform any eligible school employe, whose membership in the system is not mandatory, of his opportunity to become a member of the System provided that he elects to purchase credit for all such continuous creditable service. If such employe so elects, the employer shall no later than 30 days thereafter, cause an application for membership, containing the same information so required in subsection (d) of this section, to be filed with the Board and shall make payroll deductions from the date of employment.

(f) Advising members of duties. The employer shall advise his employes of their duties as members of the System. Employers shall be held harmless from decisions made by the employe in this regard provided the employe is furnished sufficient information to make a decision.

(g) Former State employe contributions. The employer shall, upon the employment of a former member of the State Employee's Retirement System who is not an annuitant of that system, advise such employe of his right to elect multiple service membership within 30 days of entry into the school System, and, if any such employe, who so elects, has withdrawn his accumulated deductions, require him to restore his accumulated deductions to the State system as they would have been at the time of his separation had he been a full coverage member, together with statutory interest for all periods of subsequent State and school service to date of repayment. The employer shall immediately advise the Board of such election.

(h) Former State employe annuitants. The employer shall, upon the employment of an annuitant of the State Employees' Retirement System, who applies for membership in the System, advise such employe that he may elect multiple service membership within 30 days of entry into the System, and that if he so elects, his annuity from the State Employees' Retirement System shall be discontinued and upon termination of school service and application for annuity, the annuity shall be adjusted in accordance with section 8507 of the code, 24 Pa.C.S. § 8507, relating to termination of annuities. The employer shall immediately advise the Board of such election.

(i) Independent contractors. The employer shall, upon engagement of an independent contractor, who is in receipt of an annuity from this System, notify the Board of such engagement and furnish such information as the Board may require in order for it to determine whether such annuity shall be discontinued and the individual returned to school service.

(j)] (b) Annuitants employed in an emergency. The employer shall, upon the reemployment of an annuitant from the State Employees' Retirement System who has

elected multiple service or this System, in an emergency, notify the Board of commencement and termination of [such] the employment to insure that the [60] 95-day period for a continued receipt of the annuity is not exceeded. If that limitation shall be exceeded in any school year, the employer shall reenroll [such] the annuitant from the [61st] 96th day of employment as an active member of the System, whereupon an annuity adjustment shall be made, as the case may warrant.

(k) Termination of service. The employer shall, in the case of any member terminating school service, advise such member in writing of any benefits to which he may be entitled under the provisions of this Part and shall have the member prepare on or before the date of termination of school service, one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the Board as soon as possible.

(1) An application for the return of accumulated deductions.

(2) An election to vest his retirement rights, and if he is a joint-coverage member and so desires, an election to become a full-coverage member and an agreement to pay within 30 days of the date of termination of service the lump sum required.

(3) An application for an immediate annuity and, if he is a joint-coverage member and so desires, an election to become a full-coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required. If such a member does not elect to become a full-coverage member at this time, he shall not have the right to purchase this credit at a later date.

(l) Date of application for benefits. Any application properly executed and filed with the employer under subsection (k), or properly executed and filed with the employer after termination of service shall be deemed to have been filed with the Board on the date filed with employer, whereupon only those benefits applicable to such application shall be paid.]

§ 215.7. Rights and duties of school employes and members.

(a) Information on new employes. [Upon his assumption of duties, each] Each new school employe shall [furnish his] provide the employer with a complete record of [his] previous school or State service, or creditable nonschool service, proof of [his] date of birth, in the order of preference set forth in subsection (b), [his] home address, [his] current status in the system and in the State Employees' Retirement System and [such] other information as the Board may require. Willful failure to provide the information required by this subsection, to the extent available, or the furnishing of erroneous information upon entrance into the System shall result in the forfeiture of the right of the member to subsequently assert [any] a right to benefits based on [such] the erroneous information or on any of the required information which [he] the member failed to provide, intentionally or otherwise. [In any case in which] When the Board finds that a member is receiving an annuity based on false, misleading[,] or improper

information, the additional amounts received predicated on [such] the information together with statutory interest doubled and compounded shall be deducted from the present value of [any] remaining benefits to which the member is legally entitled and [such] the remaining benefits shall be correspondingly decreased.

* * * * *

(c) Application for membership. In those cases where a member has optional membership and in the event he chooses not to join, he shall, nevertheless, execute on forms supplied by the Board, a declination of membership in the System during his continuous school service while in that optional category. In the event an employe designated in section 8301(a)(3) of the code, 24 Pa.C.S. § 8301(a)(3) has chosen membership in the system, his membership shall commence from the original date of eligibility.

(d)] (c) * * *

(e)](d) [Beneficiary] Beneficiaries. Every member shall nominate a beneficiary and contingent beneficiary, if desired, on a form to be filed with the Board and supplied by [it] the Board. In all such cases, the designated or contingent beneficiary, as the case may be, shall be the only one entitled to receive the accumulated deductions or the death benefit for those who die in service or those who would be entitled to a benefit under the provisions of Option 1 under section 8345 of the code (relating to member's options). If the beneficiary or contingent beneficiary so designated fails to survive the member, then [such] the payment, subject to the limitation in [section 3101 of the Probate, Estates and Fiduciaries Code, (]20 Pa.C.S. § 3101[,)] (relating to payments to family and funeral directors) shall be paid to the next of kin. If the applicable limitation cannot be met, then the payment, in the absence of a designated beneficiary, shall be paid to the estate upon the submission of documents required by the Board to authorize payment.

(f)](e) Termination. Upon termination of service, a member, by written application, may elect to do any of the following:

(1) Withdraw [his] the accumulated deductions, thereby forfeiting any other benefit to which [he] the member would otherwise be entitled.

(2) Vest [his] the retirement account, thereby making [him] the member eligible for the vesting benefits as otherwise provided in this part [, and if]. If [he] the member is a joint coverage member [and so desires to], the member may elect to become a full-coverage member and to pay the lump sum required within 30 days subsequent to termination of service.

(3) Receive an immediate annuity and [if he so elects], in the case of joint coverage membership, pay the lump sum required to become a full-coverage member within 30 days of termination of service.

(g)] (f) Rights of vestees. [Any] A vestee may, subsequent to vesting, and at any time during the vesting period, withdraw [his] the accumulated deductions, thereby forfeiting any other benefit to which [he] the vestee would be otherwise entitled, or apply for an

annuity, if [**he**] the vestee has at least ten eligibility points. The vestee shall also nominate a beneficiary to receive the vested benefits [**should he fail**] if the vestee fails to survive the receipt of the benefit [**himself**].

[**(h)**] **(g)** *Right of vestee at superannuation age.* [**In order for**] For a vestee to be entitled to, and receive, an annuity, effective the date [**he**] the vestee attains superannuation age, [**he**] the vestee shall file [**his**] an application no later than 90 days thereafter. [**Any**] An application subsequently filed shall be effective upon the date filed. If a vestee dies within the 90-day period subsequent to superannuation age, not having filed an application for benefits, [**he**] the vestee shall be deemed to have elected the automatic death benefit Option 1. [**Should**] If the vestee fails to do anything within [**seven**] 7 years subsequent to superannuation age, [**he**] the vestee shall be deemed to have elected to receive [**his**] the accumulated deductions and shall, upon application, be entitled to receipt of [**same**] the deductions, thereby forfeiting any other benefit [**to which he would otherwise be entitled.**]

(i) *Failure to apply for annuity.* If a member is eligible to receive an annuity and fails to file a proper application within 90 days of termination of service, he shall be deemed to have elected to vest, and his annuity shall become effective as of the date an application is filed with the Board or the date designated on the application, whichever is later.

(j) **(h)** *Nomination of beneficiary or survivor annuitant.* A member in receipt of a reduced annuity, under any of the options, shall have the following rights with regard to designation of a beneficiary or survivor annuitant:

(1) In the event a member elects Option 1, [**he**] the member may change [**his**] the designated beneficiary at any time.

(2) [**In the event**] If the member selects a survivor annuity option, [**that is, Option 2 or Option 3,**] no new survivor annuitant [**shall**] may be permitted to be named except in the event that the survivor annuitant [**predeceased him**] predeceases the member or there is a change in marital status subsequent to the election of the option. In [**such**] these cases, [**only one new survivor annuitant may be selected and**] the annuity shall be recomputed to be actuarially equivalent as of the date of recomputation to the annuity in effect immediately prior thereto. In [**such**] this case, the member may elect a new option in addition to the [**one**] new survivor annuitant. In no other case shall a benefit plan be changed by an annuitant.

(3) Any annuitant having a right to [**re-elect**] re-elect an option and name a new survivor annuitant under the circumstances [**set forth**] in paragraphs (1) and (2), may do so at any time after the death of the beneficiary or change in [**his**] marital status. [**In no event shall an annuitant, under the circumstances set forth in paragraphs (1) and (2), select more than one survivor annuitant under Option 2 or 3.**]

(k) *Disability annuities.* An application for a disability annuity filed prior to superannuation age, on behalf of one whose physical or mental incapacity precludes him from the performance of duty, may have such application executed by a person legally authorized, to act on his behalf. Such person shall have evidence of appropriate judicial documents giving him the authority to so act, or shall provide such documentation as the Board may require in the circumstances.]

§ 215.8. [**Rights and duties of annuitants**] (Reserved).

[**(a)**] *Full coverage annuity.* Any annuitant joint coverage member receiving an annuity prior to July 1, 1962, may elect to receive a full-coverage annuity provided the election is made within one year following the effective date of the code. The lump sum payment required shall also be made to the Board within 60 days of receipt of the amount certified to be due.

(b) *Periodic earnings statements by disability annuitants.* It shall be the duty of a disability annuitant, while still under superannuation age, to furnish a written statement within 30 days of the close of each year of all earned income during that year and information showing whether or not he is able to engage in a gainful occupation and such other information as may be required by the board. On failure, neglect, or refusal to furnish such information for the period of the preceding year, the Board may refuse to make further payments due to disability to such annuitant until he has furnished such information to the satisfaction of the Board. Should such refusal continue for six months, all of his rights to the disability annuity payments, in excess of any annuity to which he is otherwise entitled, shall be forfeited from the date of his last statement to the Board. Any moneys received in excess of those to which he was entitled shall be deducted from the present value of the annuity to which he is otherwise entitled.

(c) *Medical examinations.* Any disability annuitant refusing, while required to do so, to submit to a medical examination requested by the Board through its medical examiners, shall result in his disability payments being discontinued because of such refusal, and, if the refusal continues for a period of at least six months, his disability payments in excess of any annuity benefits to which he would be otherwise entitled, shall be immediately forfeited.]

MANAGEMENT OF FUND AND ACCOUNTS

§ 215.21. [**Management of fund and accounts**] (Reserved).

[**(a)**] *Trustees.* The Board members will be trustees of the fund with exclusive control and management of the same and with full power to invest the same subject to the limitations herein imposed and also imposed by the act of April 15, 1929 (P.L. 723)(72 P.S. § 3603), dealing with investments by the various agencies of the Commonwealth.

(b) *Custodians.* The custodian of the fund shall be the State Treasurer and no payments shall be made from the fund unless made by the State Treasurer in accordance with requisitions signed by the Board Secretary as ratified by Board resolution.

(c) *Fiduciaries.* Each member of the Board, its employes and agents, will be fiduciaries to the members of the System, regarding investments and disbursements of any of the fund monies, and will not benefit or profit, directly or indirectly, with respect to any transaction in which it is directly or indirectly involved.

(d) *Name for transacting business.* All business of the system, including investments and disbursements, shall be conducted in the name of the Public School Employees' Retirement System or the Public School Employes' Retirement System. The Board pursuant to its authority to transact business will establish a nomination registration procedure to facilitate the sale and transfer of securities under the fictitious name of "SERPA & CO."

(e) *Investment in corporate stocks.* [Reserved].

(f) *Investment in real estate and mortgages.* [Reserved].

§ 215.23. Member's Savings Account.

Interest is credited to each member's savings account during active or inactive service and also during the period a vestee retains [his] vested credits. No interest is credited to a member's savings account if [he] the member has terminated service or has been an inactive member over 2 years and is not eligible for vested benefits. The rate of interest when credited is the statutory rate of 4.0% per annum.

MISCELLANEOUS PROVISIONS

§ 215.31. [Commonwealth guarantee] (Reserved).

[The required statutory interest charges payable, the maintenance of reserves in the fund, and the payment of all annuities and other benefits granted by the Board under the provisions of the code are hereby made obligations of the Commonwealth, as specifically provided for in sections 8326 and 8327 of the Code, 24 Pa.C.S. §§ 8326 and 8327.]

§ 215.33. Taxation, attachment and assignment of funds.

The exemption provided in this section shall also [extend to] include a spouse's election as authorized under [sections 6108 and 6111 of the Probate, Estates, and Fiduciaries Code ()20 Pa.C.S. §§ 6108 and 6111()] (repealed) (relating to designation of beneficiaries of insurance or employee death benefits not testamentary; and conveyance to defeat marital rights) to the extent applicable. From and after the effective date of this law, the Board will not entertain an assignment from any credit union which, under prior law, was authorized to forward assignments [in order] to collateralize funds in the system to the extent of \$750. From and after [three] 3 years from the effective date of the code, the Board will not honor any credit union loan which had, under prior law, been forwarded to the Board under the provisions thereof. [No] A credit union [shall] may not, directly or indirectly, use an existing assignment on record with the Board as a device to renew or reassign an existing loan in order to collateralize the funds in the System.

§ 215.34. [Fraud and adjustment of errors.] (Reserved).

[(a) *Offense defined.* Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this System in any attempt to defraud the System as a result of such act shall be guilty of a misdemeanor of the second degree.

(b) *Adjustment of errors.* Should any change or mistake in records result in any member, beneficiary or survivor annuitant receiving from the System more or less than he would have been entitled to receive had the records been correct, then regardless of the intentional or unintentional nature of the error and upon the discovery of such error, the Board will correct the error so far as practicable and will adjust the payments which may be made for and to such person in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled will be paid. The Board shall recover erroneous payments as the circumstances may warrant.]

§ 215.35. General regulations.

(a) Former annuitants who are active members of the System on the effective date of the code [shall] are not [be] subject to the recalculation of annuities of annuitants who return to school service thereafter.

[(b) Active members eligible to purchase creditable nonschool service, under the provisions of the Public School Employes' Retirement Code of 1959 (24 P.S. §§ 3101—3808 (repealed)), shall not be required to pay interest on such purchase, provided the active member elects to purchase such service and makes the required lump sum payment prior to January 1, 1976, or commences regular payments through salary deductions for such service purchase prior to such date, provided, however, that he completes such payments prior to January 1, 1978. Any member entitled to an interest free purchase, as provided in this subsection, who fails to make the elected lump sum payment he has prior to January 1, 1978, shall be required to purchase all such service with interest in accordance with the code, as in all other cases.]

[(c)] (b) * * *

[(d)] (c) * * *

[(e)] (d) * * *

[(f)] (e) * * *

[(g) The provisions reducing the basic contribution rate of active members from 5.5% of compensation to 5.25% of compensation, shall become effective on July 1, 1976, and the provisions relating to the frequency of payment of the employer contributions shall become effective on July 1, 1975.

(h)] (f) * * *

[(i)] (g) * * *

§ 215.36. Optional alternate retirement programs.

[Pursuant to] Under section 8301(a)(1) of the code [(24 Pa.C.S. § 8301(a)(1))] (relating to mandatory and optional membership), certain school employes may elect not to join the [Public School Employes'

Retirement] System, or to depart from it in favor of an optional alternate retirement program approved by the employer, such as the Secretary of Education or the governing body of certain State institutions, including Pennsylvania State University, as the case may be. Therefore, the following **[rules and regulations are]** is adopted by the Board to establish guidelines and procedures, insofar as the Board is authorized to do so, with respect to implementing **[such]** a program for certain eligible school employees:

* * * * *

(2) Employees, including those employed on the effective date of the establishment of an optional alternate retirement program, who are eligible for membership therein, and who are active members of this System, shall have the option of continuing their active membership or of joining the optional alternate retirement program provided they shall make **[such] this** election within **[nine] 9** months of the effective date of the establishment of **[such] the** optional alternate retirement program. Every employe who subsequently becomes eligible for membership in the optional alternate retirement program shall make **[such] the** election within 30 days of the first date of active employment. **[All employes]** **Employes** not exercising the option to join the optional alternate retirement program **[as aforesaid]** shall be deemed to have chosen to commence or continue active membership in this System, unless they **[shall]** have elected membership in the State Employees' Retirement System, as otherwise provided by law.

(3) **[Where]** **When** an eligible employe, who is an active member of this System, elects to participate in the optional alternate retirement program in accordance with the provisions of paragraph (2) **[of this subsection, he] the employe** may elect to withdraw **[his] the** accumulated deductions from the fund as of the date of **[such] the** election; or, if **[such] the** employe is eligible for vesting in accordance with **[the provisions of]** the code, **[he] the employe** may elect to leave **[his] the** accumulated deductions credited to **[his]** account **of the employe** in the fund and receive a retirement allowance from the System upon separation from employment; or, at **[his] the employe's** option, upon attainment of superannuation retirement age, if later. **[Such] This** retirement allowance shall be based upon **[his]** credited service and final average salary while a contributing member to this System only.

(4) Notwithstanding any provisions **[heretofore]** to the contrary, an eligible employe employed on the effective date of the establishment of the optional alternate retirement program, who is eligible for membership therein, who is an active member of this System, and who is not vested in the retirement system, shall have the option of joining the optional alternate retirement program within 60 days of the date upon which **[he] the employe** becomes eligible for vesting in accordance with the applicable provisions of the code, in which case **[he] the employe** may vest and join the optional alternate retirement program under the same conditions as provided in paragraph (3).

(5) **[Where]** **When** an eligible employe elects to participate in the optional alternate retirement program in accordance with **[the provisions of paragraphs]**

paragraph (2) or (4), the election shall be final and binding so long as **[he] the employe** shall remain eligible to remain in the optional alternate retirement program. **[Where]** **If** an employe later is employed in a capacity which does not qualify **[him]** for membership in the optional alternate retirement program, **[he] the employe** shall, upon meeting the qualifications for membership in this System, resume making contributions to the fund or reinstate **[his] the** former credited service for which contributions had been withdrawn, as the case may be, in accordance with the applicable provisions of the code. In no case shall service, salary or other compensation paid to an employe while a member of the optional alternate retirement program be credited toward membership in this System.

(6) In the case of eligible employes who elect to join the optional alternate retirement program, the contribution of the Commonwealth to the optional alternate retirement program on behalf of **[such] the** employes **[shall] will not** be **[no]** more than 1/2 of the employer normal contribution rate and accrued liability rate as determined in accordance with 24 Pa.C.S. § 8328 (b) and (c) (relating to actuarial cost method).

[Pa.B. Doc. No. 98-486. Filed for public inspection March 27, 1998, 9:00 a.m.]

STATE BOARD OF AUCTIONEER EXAMINERS

[49 PA. CODE CH. 1] Biennial Renewal Fees

The State Board of Auctioneer Examiners (Board) proposes to amend Chapter 1 by adding § 1.41 (relating to schedule of fees) and amending §§ 1.23 and 1.26 (relating to auctioneer licensure examination; and application for auction house and auction company licenses), to read as set forth in Annex A.

The proposal will raise the biennial renewal fee for auctioneers, apprentice auctioneers, auction houses and auction companies for the upcoming biennial renewal. The current biennial period expires on February 28, 1999. As proposed, the biennial renewal fees for apprentice auctioneers would increase from \$30 to \$100 and the biennial renewal fees for auctioneers, auction companies and auction houses would increase from \$50 to \$200.

Statutory Authority

Section 6(a) of the Auctioneer and Auction Licensing Act (act) (63 P.S. § 734.6(a)), requires the Board to establish fees by regulation. Section 6(b) of the act requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

Purpose and Need for the Amendments

The current biennial renewal fees were established by the Legislature in 1978 in section 203 of the Bureau of Professional and Occupational Affairs Fee Act (Fee Act) (63 P.S. § 1401-203). The Board first implemented the biennial reconciliation of revenues and expenditures required under section 6 of the act (63 P.S. § 733.6), for the biennial renewal period commencing July 1, 1985. From

FY 1985-86 to FY 1995-96, the Board's revenue account showed sufficient balance to meet anticipated expenditures. At the end of FY 1995-96, the balance in the Board's operating account was \$160.85. In FY 1996-97, the Board incurred a deficit of \$110,401.62.

The proposed increase is necessary to accommodate the \$110,401.62 deficit carried forward from the 1995-97 biennial renewal period and to anticipate continuing deficits in future cycles. Based on current fees, the Board is projected to have a deficit of \$235,191.62 on June 30, 1998, \$263,611.62 on June 30, 1999, and \$409,211.62 on June 30, 2000. Renewal fees have not been raised since 1978.

Biennial revenues for the Board have remained relatively constant. In contrast, expenditures over the past 4 fiscal years have increased by an average of 12.41% per year and are expected to increase by at least 3% in continuing years. As a result of increased expenditures and shortfalls in revenue, expenditures must be rolled to the next fiscal year.

The Board anticipates that with the implementation of the proposed increase it will not be necessary to increase renewal fees again for at least three biennial renewal periods. Increased revenues will result in the Board having a closing balance of \$86,208.48 on June 30, 1999, and a deficit of \$59,391.52 on June 30, 2000. The Board's closing balance will rise to \$252,008.48 on June 30, 2001, and \$96,408.48 on June 30, 2002.

Description of Proposed Amendments

The Board proposes to establish a new § 1.41 where all fees will be conveniently located. In addition to establishing the new biennial renewal fees, the Board relocates the current fees for the licensure examination and auction license and auction company licenses from § 1.23 and § 1.26, respectively. The existing \$200 fee for a special auction license in section 203(8) of the Fee Act is relocated and reestablished in § 1.41.

The following chart compares the proposed new and existing fees:

Category	Proposed	Current
Examination	\$ 87	\$87 (Moved from 49 Pa. Code § 1.23)
License—Auctioneer	\$ 50	\$50 63 P. S. § 1401.203(4)
Biennial Renewal	\$200	\$50 63 P. S. § 1401.203(6)
License—Apprentice Auctioneer	\$ 30	\$30
Biennial Renewal	\$100	\$30 63 P. S. § 1401.203(7)
License—Auction House and Auction Company	\$ 50	\$50 (Moved from 49 Pa. Code § 1.26)
Biennial Renewal	\$200	\$50
Special License	\$200	\$200 63 P. S. § 1401.203(8))

Fiscal Impact

The proposed amendments will increase the biennial renewal fees for apprentice auctioneers, auctioneers, auction houses and auction companies in this Commonwealth. The cost per license is \$75 annually. The increase in renewal fees should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed amendments will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendments should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1998, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of the material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Linda Dinger, Administrator, State Board of Auctioneer Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

KENNETH A. GEYER,
Chairperson

Fiscal Note: 16A-642. 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 1. STATE BOARD OF AUCTIONEER EXAMINERS
LICENSURE

§ 1.23. Auctioneer licensure examination [; fees].

* * * * *

(b) The applicant for auctioneer's license shall apply to the Board for admission to the licensure examination and pay the fee [of \$87].

* * * * *

§ 1.26. Application for auction house and auction company licenses [; fees].

(a) An applicant for an auction house or auction company license shall:

* * * * *

(2) Submit with the application a check or money order **[in the amount of \$50] for the required fee**, payable to the "Commonwealth of Pennsylvania."

* * * * *

(b) Auction houses and auction companies which were issued licenses prior to July 8, 1989, and have not paid the **[\$50] required fee [are required to] shall remit [that] the fee** within 30 days of receipt of notice from the Board and thereafter will be required to pay the biennial renewal fee. Failure to remit the required licensure fee within that time will result in the license being placed on inactive status. The Board may take disciplinary action against a license holder for operation of an auction house or auction company when the license is on inactive status.

[(c) The biennial renewal fee is \$50.]

FEES

§ 1.41. Schedule of fees.

Applicants shall pay the following fees:

- (1) Examination fee for auctioneer license \$87
- (2) Application fee for auctioneer license \$50
- (3) Biennial renewal fee for auctioneer license \$200
- (4) Application fee for apprentice auctioneer license \$30
- (5) Biennial renewal fee for apprentice auctioneer \$100
- (6) Application fee for auction house and auction company \$50
- (7) Biennial renewal fee for auction house and auction company \$200
- (8) Special license to conduct auction \$200

[Pa.B. Doc. No. 98-487. Filed for public inspection March 27, 1998, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending March 17, 1998.

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-13-98	Community Bank and Trust Company Forest City Susquehanna County	125 North State St. Clarks Summit Lackawanna County	Approved
3-13-98	Union Bank and Trust Company Pottsville Schuylkill County	Redner's Market Route 61 Schuylkill Haven Schuylkill County	Approved
3-13-98	FirstService Bank Lansdale Montgomery County	Neshaminy Valley Commons Condominium Bristol Road Bensalem Bucks County	Approved
3-13-98	Patriot Bank Pottstown Montgomery County	Wegman's Plaza Tilghman Street Allentown Lehigh County	Filed
3-14-98	Berks County Bank Reading Berks County	500 Hawkridge Drive Hamburg Berks County	Opened
3-16-98	First Republic Bank Philadelphia Philadelphia County	1818 Market Street Philadelphia Philadelphia County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-13-98	Abington Savings Bank Jenkintown Montgomery County	<i>To:</i> 1536 Easton Road Horsham Montgomery County <i>From:</i> 1432 Easton Road Warrington Bucks County (Approved/Unopened)	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
3-13-98	Northern Central Bank Williamsport Lycoming County	To provide for a change in the principal place of business <i>From:</i> 102 West Fourth Street, Williamsport, PA; <i>To:</i> 101 West Third Street, Williamsport, PA	Approved and Effective

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

Articles of Amendment

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
3-13-98	PP&L G.O.L.D. Credit Union Allentown Lehigh County	To provide for a change in Article 8 amending the field of membership.	Approved and Effective

RICHARD C. FISHEL,
Secretary

[Pa.B. Doc. No. 98-488. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

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

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

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

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

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

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

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

PA 0055786. Sewage, **William and Lisa Schatz**, 43 Carter Road, Thornton, PA 19373.

This application is for renewal of an NPDES permit to discharge treated sewage from a single residence sewage treatment plant in Thornbury Township, **Delaware County**. This is an existing discharge to unnamed tributary to West Branch of Chester Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 400 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
NH ₃ -N (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Fecal Coliform	200 #/100 ml	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	
Total Residual Chlorine	monitor/report	monitor/report

PA 0051454. Sewage, **Kimmel Enterprises, Inc.**, 1055 West Germantown Pike, Norristown, PA 19403.

This application is for renewal of an NPDES permit to discharge treated sewage from a small flow treatment plant in East Norriton Township, **Montgomery County**. This is an existing discharge to an unnamed tributary to Stony Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 1,460 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	1.5	3.0
(11-1 to 4-30)	4.5	9.0
Total Residual Chlorine (Years 1 and 2)	monitor/report	
(Years 3, 4 and 5)	0.5	
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0041718. Industrial waste, **Louis Dreyfus Energy**, 58th Street and Schuylkill River, Philadelphia, PA 19142.

This application is for renewal of an NPDES permit to discharge stormwater from the Louis Dreyfus Associates Petroleum Marketing Terminal, located in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to the Schuylkill River.

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

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbons			monitor/report

Other Requirements:

1. DMR to DRBC
2. Product Contaminated Stormwater Runoff
3. Monitoring and Reporting
4. PPC Plan Requirements
5. Other Wastewaters
6. Definitions

The EPA waiver is in effect.

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.

PA0061107. Sewerage, **Stillwater Sewer Corporation, c/o NEPA Management Associates**, 304 Park Avenue, Stroudsburg, PA 18360-1524.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Hawkey Creek in Coolbaugh Township, **Monroe County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is at the point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.235 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	15.0	30.0
Total Suspended Solids	30.0	60.0
NH ₃ -N		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorous as P	1.0	2.0
Dissolved Oxygen	a minimum of 6.0 mg/l at all times	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine		
(Months 1 to 36)	monitor and report	
(Months 37 to 60)	0.8	1.8

The EPA waiver is in effect.

PA 0051551. Industrial waste, SIC: 3443, **Ecolaire, Inc.**, 1550 Lehigh Drive, Easton, PA 18042.

This proposed action is for renewal of an NPDES permit to discharge process wastewater cooling water into Lehigh River in West Easton Borough, **Northampton County**.

The receiving stream is classified for the following uses: high quality, cold water, warm water 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/proposed downstream potable water supply (PWS) considered during the evaluation is City of Philadelphia water supply on Delaware River.

Outfall 001

The proposed effluent limits based on a design flow of .0001 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6—9 standard units at all times		

Outfall 002

The proposed effluent limit based on a design flow of .01 mgd.

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6—9 standard units at all times		
Temperature	monitor/report		

Outfall 003

The proposed effluent limits based on a design flow of .001 mgd.

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6—9 standard units at all times		

The EPA waiver is in effect.

PA 0043044. Sewerage, **Ringtown Sewer Authority**, P. O. Box 202, Ringtown, PA 17967.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Dark Run in Ringtown Borough, **Schuylkill County**.

The receiving stream is classified for the following uses: cold water 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 Danville Borough Water Company on the North Branch of Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of .125 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	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	5		10
Dissolved Oxygen	a minimum of 5 mg/l at all times		
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
pH	6.0—9.0 standard units at all times		
Total Residual Chlorine (1st month—36th month) (37th month—expiration)	monitor and report .5		1.2

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (717) 327-3666.

PA 0113484. SIC: 4952, **Robinson Mobile Home Park**, 1727 West Roosevelt Highway, Mansfield, PA 16933.

This proposed action is for issuance of an NPDES permit for an existing discharge of treated sewage to unnamed tributary of North Elk Run in Richmond Township, **Tioga County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is the New York/Pennsylvania Border.

The proposed effluent limits for Outfall 001, based on a design flow of 0.0078 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
NH ₃ -N (5-1 to 9-30)	5	10
NH ₃ -N	15	30
Total Residual Chlorine	1	2.3
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
pH	6.0—9.0 at all times	

Other Conditions:

The EPA waiver is in effect.

PA 0209562. Industrial waste, SIC: 4953, **Eagle Environmental L. P.**, 9 Logan Boulevard, Altoona, PA 16602.

This proposed action is for issuance of an NPDES permit for a new discharge of treated industrial wastewater to Chest Creek in Chest Township, **Clearfield County**.

The receiving stream is classified for the following uses: warm water fishes, 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 PA American Water Company located at Milton.

The proposed effluent limits for Outfall 001, based on a design flow of 0.061 mgd, are:

<i>Specific Substance</i>	<i>Monthly Average (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	100.000	200.000	250.000
BOD ₅	100.000	200.000	250.000
Ammonia-N	20.000	40.000	50.000
Total Antimony	0.450	0.900	1.125
Arsenic +3	0.050	0.100	0.125
Total Beryllium	0.005	0.010	0.013
Total Cadmium	0.005	0.010	0.013
Total Chromium	0.125	0.250	0.313

<i>Specific Substance</i>	<i>Monthly Average (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Copper	0.050	0.100	0.125
Total Lead	0.036	0.072	0.090
Total Nickel	0.150	0.300	0.375
Total Selenium	0.075	0.150	0.188
Total Silver	0.010	0.020	0.025
Total Thallium	0.100	0.200	0.250
Total Zinc	1.000	2.000	2.500
Total Cyanide	0.020	0.040	0.050
Total Barium	0.100	0.200	0.250
Total Boron	0.450	0.900	1.125
Total Cobalt	0.050	0.100	0.125
Total Iron	3.000	6.000	7.500
Total Manganese	1.000	2.000	2.500
Total Tin	0.450	0.900	1.125
Total Aluminum	0.275	0.550	0.688
Total Vanadium	0.009	0.018	0.023
Benzene	0.050	0.100	0.125
Chlorobenzene	0.050	0.100	0.125
Chloroform	0.010	0.020	0.025
1,1-Dichloroethane	0.090	0.180	0.225
Chloromethane	0.100	0.200	0.250
Methylene Chloride	0.100	0.200	0.250
Toluene	0.050	0.100	0.125
1,2-Trans-Dichloroethylene	0.030	0.060	0.075
1,1,1-Trichloroethane	0.100	0.200	0.250
Phenol	0.050	0.100	0.125
Butybenzyl Phthalate	0.010	0.020	0.025
2-Chloro-Naphthalene	0.010	0.020	0.025
Diethyl Phthalate	0.025	0.050	0.063
Isophorone	0.050	0.100	0.125
Lindane (gamma-BHC)	0.007	0.014	0.018
4,4'-DDT	0.005	0.005	0.005
Acetone	0.109	0.218	0.273
2-Butanone (MEK)	0.210	0.420	0.525
Bis-(Chloromethyl)-Ether	0.015	0.030	0.038
1,2,3-Trichloropropane	0.100	0.200	0.250
Xylene (Mixed Isomer)	0.010	0.020	0.025
1-Propanol	0.550	1.100	1.375
2-Propanol	0.540	1.080	1.350
Tetrahydrofuran	0.025	0.050	0.063
p-Cresol	0.050	0.100	0.125
2-Hexanone	0.015	0.030	0.038
4-Methyl-2-Pentanone	0.015	0.030	0.038
Dibromomethane	0.010	0.020	0.025
Oil and Grease	15.000	30.000	30.000

The EPA waiver is in effect.

PA 0113506. SIC: 4952, **David Valenti (Shady Oaks Mobile Home Park)**, 1946 Wyoming Avenue, Exeter, PA 18643.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to Mud Creek in Derry Township, **Montour County**.

The receiving stream is classified for the following uses: warm water fishery and 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 Sunbury Municipal Authority located 22 miles downstream on the Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of 0.0029 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Total Residual Chlorine	2.0	4.6

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
pH		6.0—9.0 at all times

Other Conditions: none

The EPA waiver is in effect.

PA 0110485. SIC: 4952, **Columbia County Industrial Development Authority**, 238 Market Street, Bloomsburg, PA 17815-1769.

This proposed action is for renewal of an NPDES permit for discharge of treated sewage to the Susquehanna River in South Centre Township, **Columbia County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is Shamokin Dam located approximately 30 miles downstream.

The proposed effluent limits for Outfall 001, based on a design flow of 0.035 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Total Residual Chlorine	1.0	2.3
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
pH		6.0—9.0 su at all times

The EPA waiver is in effect.

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

PA 0026514. Sewage, **West Mifflin Sanitary Sewer Municipal Authority**, 1302 Lower Bull Run Road, West Mifflin, PA 15122-2902.

This application is for renewal of an NPDES permit to discharge treated sewage from the Kenmore Sewage Treatment Plant in West Mifflin Borough, **Allegheny County**.

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

Outfall 001: existing discharge, design flow of 0.48 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0091146. Sewage, **North Union Township Municipal Services Authority**, 7 South Evans Station Road, Lemont Furnace, PA 15456.

This application is for renewal of an NPDES permit to discharge treated sewage from the Industrial Park No. 2 STP in North Union Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Gist Run, which are classified as a trout stocked 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 North Fayette County Municipal Authority.

Outfall 001: existing discharge, design flow of .054 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38	50
Suspended Solids	30	45	60
Ammonia Nitrogen			
(5-1 to 10-31)	2.5	3.8	5.0
(11-1 to 4-30)	6.0	9.0	12.0
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
Total Residual Chlorine	1.4		3.3
Dissolved Oxygen	not less than 5.0 mg/l		
pH	not less than 6.0 nor greater than 9.0		

The EPA waiver is in effect.

PA 0098183. Sewage, **Gary A. Sippel**, 2593 Wexford-Bayne Road, Sewickley, PA 15143.

This application is for amendment of an NPDES permit to discharge treated sewage from the Stone Mansion Sewage Treatment Plant in Franklin Park Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of East Branch Big Sewickley Creek, which are classified as a trout stock 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 ARCO Chemical Company BV Plant at Ohio River Mile 29.5.

Outfall 001: existing discharge, design flow of 0.0283 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	monitor and report			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The above listed flow and corresponding effluent limitations will be in effect until expiration of the permit unless the proposed facility expansion is accomplished and in operation prior to the expiration date.

Outfall 001: proposed expansion discharge, design flow of 0.03583 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The above listed flow and corresponding effluent limitations would be applicable upon expansion of the existing facility. Before the facility can be expanded, the applicant must obtain an amendment to his Water Quality Management Permit No. 0288428.

The EPA waiver is in effect.

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

PA 0210498. Sewage. **Dennis J. Spirk, Pittsburgh N. Truck Stop**, 22237 Perry Highway, Zelienople, PA 16063.

This application is for renewal of an NPDES permit, to discharge treated sewage to an Unnamed Tributary to Glade Run in Jackson Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fish, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Municipal Authority of the Township of North Sewickley located at river mile 7.56, which is approximately 29 miles below point of discharge.

The proposed discharge limits for Outfall 001, based on a design flow of 0.005800 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31) (11-1 to 4-30)	8	16
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	monitor and report 200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Phosphorus (4-1 to 10-31)	2	4
Total Residual Chlorine	1.5	3.5
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0101176. Sewage. **Harvey J. Wolfe**, 1547 Rosely Road, St. Marys, PA 15857.

This application is for renewal of an NPDES permit to discharge treated sewage to Unnamed Tributary to the South Fork in the City of St. Marys, **Elk County**. This is an existing discharge.

The receiving water is classified for the following uses: high quality cold water fish, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emporium Water Company on West Creek located at Emporium, approximately 17.6 miles below point of discharge.

The proposed discharge limits for Outfall 001, based on a design flow of 0.000350 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
TSS	20	40
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	monitor and report	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0035696. Sewage, **Eric H. Coe**, 6101 Wattsburg Road, Erie, PA 16509.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary to Mill Creek in Millcreek Township, **Erie County**. This is an existing discharge.

The receiving water is classified for warm and migratory water fishery, aquatic life, water supply and recreation. There are no potable water supplies affected by this discharge.

The proposed effluent limits for Outfall 001, based on an average design flow of 0.028 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N (5-1 to 10-31) (11-1 to 4-30)	5	10
	15	30

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
Total Residual Chlorine (Interim)	monitor and report	
(Final)	1.4	4.3
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

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 (Department) 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). Any 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 Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and 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 Manager 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 the Department's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0035271	Tall Timbers Village Mobile Home Park 1559 Main Street Peckville, PA	Lackawanna LaPlume Township	South Branch of Tunkhannock Creek	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

**Applications under the Pennsylvania Clean Streams Law
(Part II Permits)**

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

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the name, address and telephone number of the protester, identifica-

tion of the plan or application to which the protest is addressed and a concise statement or protest 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 protester will be notified in writing of the time and place of any scheduled hearing or conference concerning the plan, action or application to which the protest relates. 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.

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

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

A. 1398401. Sewerage. **Borough of Lehigh**, P. O. Box 29, Lehigh, PA 18235. Application to construct and operate the East Penn Street Sewer Extension/Pump Station, located in the Borough of Lehigh, **Carbon County**. Application received in the Regional Office February 4, 1998.

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

WQM Permit No. 2698201. Industrial waste. **Belden and Blake Corporation**, 22811 Titusville Road, Pleasantville, PA 16341. Application to construct and operate an industrial wastewater treatment facility in Dunbar Township, **Fayette County**. Application received in the Regional Office January 28, 1998.

A. 6598202. Industrial waste. **Armand Agostinone**, Box 335, Bradenville, PA 15620. Application for the construction of a 100% Recycling Facility located in the Township of Derry, **Westmoreland County** to serve the Agostinone Mushroom, Inc. and Blue Ridge Mushroom Farm, Inc.

A. 0285406, Amendment No. 3. Sewerage. **Pleasant Hills Authority**, 410 East Bruceton Road, Pittsburgh, PA 15236. Application for the construction of an ultraviolet disinfection system located in the Township of South Park, **Allegheny County** to serve the Pleasant Hills Sewage Treatment Plant.

A. 0298404. Sewerage. **Robinson Township Municipal Authority**, P. O. Box 15539, Pittsburgh, PA 15539. Application for the construction and operation of sewers and appurtenances located in the Township of Robinson, **Allegheny County** to serve the Robinson Town Centre Phase II.

A. 2698401. Sewerage. **Redstone Township Sewer Authority**, R. R. 1, Box 210C, Grindstone, PA 15442. Application for the installation of complete new sanitary collection, conveyance and treatment facilities to serve the Cardale, Allison, Merrittstown and Republic areas of Redstone Township, **Fayette County**. The proposed facilities include two pump stations, a 300,000 gpd SBR treatment facility in addition to sewers ranging in size from 6" to 15".

A. 3091402, Amendment No. 1. Sewerage. **Greensboro-Monongahela Township Joint Sewer Authority**, P. O. Box 342, Greensboro, PA 15338. Application for the construction and operation of sanitary sewers, a sewage pumping station and a force main located in the Township of Monongahela, **Greene County** to serve the Penn Pitt and Seventh Pool areas of the Greensboro Monongahela Township STP.

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

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

WQM Permit No. 2598406. Sewerage. **Scenic Heights Golf Course, John T. Afton**, 7616 Knoyle Road, Erie, PA 16510. This project is for the construction of a nine hole golf course consisting of a clubhouse, parking lot and one residential lot in Venango Township, **Erie County**.

INDIVIDUAL PERMITS

(PAS)

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

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

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 reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the 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 appeal 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 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.

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

NPDES Permit PAS10-G310. Stormwater. **Owen J. Roberts School District**, 901 Ridge Road, Pottstown, PA 19464, has applied to discharge stormwater from a construction activity located in North Coventry Township, **Chester County**, to Unnamed Tributary to Pigeon Creek.

NPDES Permit PAS10-G311. Stormwater. **Woolbridge Construction of PA**, 1500 Green Hill Road, West Chester, PA 19380, has applied to discharge

stormwater from a construction activity located in East Goshen Township, **Chester County**, to West Branch Ridley Creek.

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

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

NPDES Permit PAS10S064. Stormwater. **Quail Ridge, Fern Partners**, 257 Rimrock Rd., Stroudsburg, PA 18360, has applied to discharge stormwater from a construction activity located in Hamilton Township, **Monroe County**, to Appenzell Creek.

NPDES Permit PAS10S065. Stormwater. **Stroudsburg Municipal Authority Water Distribution System**, P. O. Box 237, E. Stroudsburg, PA 18301, has applied to discharge stormwater from a construction activity located in Stroud Township, **Monroe County** to Pocono and Brodhead Creeks tributaries.

NPDES Permit PAS10S066. Stormwater. **Shawnee Commons, Shawnee Commons Corp., Inc.** (P. O. Box 93, Fort DePuy, Shawnee on Delaware, PA 18356, has applied to discharge stormwater from a construction activity located in Smithfield Township, **Monroe County**, to Marshalls Creek.

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

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

NPDES Permit PAS-10-H079. Stormwater. **Misty Meadows Partners**, 257 Country Club Road, Abbottstown, PA 17301, has applied to discharge stormwater from a construction activity located in South Middletown Township, **Cumberland County**, to Yellow Breeches.

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

NPDES Permit PAS10K009-1. Stormwater. **Fairview School District**, 7460 McCray Road, Fairview, PA 16415, has applied to discharge stormwater from a construction activity located in Fairview Borough, **Erie County**, to Unnamed Tributary to Trout Run.

SAFE DRINKING WATER

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

Northeast Regional Office, Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

1398501. Public water supply. **Nathan's Hamlet Water Supply System**, Jeffery Maithland, Box 303, HCR 1, Lakeside Drive, Sciota, PA 18354. This proposal involves construction of a new pump station to include chlorine contact tanks, three hydro tanks, chlorination system and electric controls. It is located in Franklin Township, **Carbon County**. *Engineer: Weldon C. Harris, P. E.*

4098502. Public water supply. **Bottling Facility, Nature's Way Pure Water**. This proposes the construction of a new bottling plant replacing an existing bottling facility. The new facility will utilize the Pennsylvania

American Water Company Water Treatment Facility as a source of supply serving the bottling works. The bottling facility will retain the existing bottle water label No. 2406411. It is located in Dupont, **Luzerne County**. *Engineer: George Albert, Project Engineer.*

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

A. M. A. The Department has received a construction permit for **Pine Valley Mobile Home Court** (P. O. Box 72, Vicksburg, PA 17883) West Buffalo Township, **Union County** for renewal of public water supply permit no. 6095501 with addition of indoor water supply reservoir with hypochlorite disinfection and boost pump installation.

A. M. A. The Department has received a construction permit for **Mansfield University Water Plant** (Brooks Maintenance Building, Mansfield University, Mansfield, PA 16933-1607, Mansfield, **Tioga County**) to add chemical feed equipment for corrosion control treatment for lead and copper.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

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

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

Financial Trust Regional Headquarters, Carlisle Borough, **Cumberland County**. Financial Trust, Inc., 1415 Rittner Highway, Carlisle, PA 17101, has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the background standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Carlisle Sentinel* during the week of March 2, 1998.

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

William Grosskopf Residence, Avondale Borough, **Chester County**. Kevin Van Kuren, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Notice of Intent to Remediate site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard. A final report was simultaneously submitted.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southcentral Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.

A. 101606. Kline's Service, Inc. (P. O. Box 626, Salunga, PA 17538). Application for major modification for acceptance of residual waste for processing at a site in East Hempfield Township, **Lancaster County**. Application determined to be administratively complete in the Regional Office March 5, 1998.

A. 101538. South Central Counties Solid Waste Authority Landfill, (SCCSWA) South Central Counties Solid Waste Agency, (P. O. Box 57, Defiance, PA 16633). Application for change of ownership of SCCSWA Landfill to WSI Hopewell Landfill, Inc. in Broad Top Township, **Bedford County**. Application determined to be administratively complete in the Regional Office March 5, 1998.

AIR POLLUTION

Public Notice

Notice of Plan Approval and Operating Permit Applications

Nonmajor Sources and Modifications

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

The Department has received applications for plan approvals and/or operating permits from the following

facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

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

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

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

OPERATING PERMITS

Operating permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

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

21-307-005B: The Frog, Switch & Manufacturing Company (P. O. Box 70, Carlisle, PA 17013) for the operation of two vacuum process molding systems in Carlisle, **Cumberland County**.

22-301-060: Pinnacle Health at Polyclinic Hospital (2601 North Third Street, Harrisburg, PA 17110) for a medical waste incinerator controlled by a packed tower scrubber, an electrostatic precipitator and an activated carbon adsorber, in the City of Harrisburg, **Dauphin County**.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

19-319-001: Schultz Electroplating, Inc. (R. R. 5, Box 195, Bloomsburg, PA 17815-8942) for the operation of two hard chromium electroplating baths and a mist eliminator in South Centre Township, **Columbia County**.

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

OP-65-00869: Keystone Foam Corp. (929 North, P. O. Box 355, Loyalhanna, PA 15661) for the operation of plastic foam products manufacturing in Derry Township, **Westmoreland County**.

OP-32-00163: Tanoma Coal Company (699 Rayne Run Road, Marion Center, PA 15759) for the operation of fluidized bed thermal dryer in Rayne Township, **Indiana County**.

OP-30-00086: Marsh Asphalt, Inc. (P. O. Box 1125, Uniontown, PA 15401) for the operation of asphalt paving material manufacturing at the Carmichaels Plant in Franklin Township, **Greene County**.

OP-04-00440: General Materials Terminals, Inc. (15 State Street, Baden, PA 15005) for the operation of marine cargo handling at the Conway Yard in Conway Borough, **Beaver County**.

OP-03-00133: Penn Mag, Inc. (R. D. 1, Box 22, Adrian, PA 16210) for the operation of iron ore processing at the Adrian Plant in East Franklin Township, **Armstrong County**.

OP-26-00353: Carbon Fuel Resources, Inc. (P. O. Box 275, West Leisenring, PA 15489) for the operation of coal refuse processing at the Bute Prep Plant in Dunbar Township, **Fayette County**.

OP-32-00227: Electro-Mec Inc. (4470 Lucerne Road, P. O. Box 159, Indiana, PA 15701) for the operation of electric motor and drive repair in White Township, **Indiana County**.

OP-65-00601: Marsh Asphalt, Inc. (P. O. Box 1125, Uniontown, PA 15401) for the operation of asphalt paving materials manufacturing at the Belle Vernon Plant in Rostraver Township, **Westmoreland County**.

OP-65-00704: Greater Latrobe School District (410 Main Street, P. O. Box 452, Latrobe, PA 15650) for the operation of three hot water boilers at the Senior High School in Unity Township, **Westmoreland County**.

OP-56-00127: Agway, Inc. (951 South Edgewood Avenue, Somerset, PA 15501) for the operation of whole farms supplies in Somerset Borough, **Somerset County**.

OP-32-00218: P & N Coal Co., Inc. (P. O. Box 332, 240 West Mahoning Street, Punxsutawney, PA 15767) for the operation of coal loading at the Hillman Tipple in Banks Township, **Indiana County**.

OP-11-00174: B. P. Bender Coal Co., Inc. (Main and Lehmer Streets, P. O. Box 594, Carrolltown, PA 15722) for the operation of coal handling at Fallentimber in Reade Township, **Cambria County**.

OP-65-00621: Kennametal, Inc. (P. O. Box 231, Latrobe, PA 15650) for the operation of titanium carbide powder production at the Kingston Plant in Derry Township, **Westmoreland County**.

OP-65-00891: Firestone Building Products Co. (525 Congressional Blvd., Carmel, IN 46032) for the operation of plastic foam product manufacturing at the Youngwood Plant in Youngwood Borough, **Westmoreland County**.

OP-11-00311: E. P. Bender Coal Co., Inc. (Main and Lehmer Streets, P. O. Box 594, Carrolltown, PA 15722) for the operation of coal handling at Dysart No. 1 in Dean Township, **Cambria County**.

PLAN APPROVALS

Plan Approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

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

28-310-006D: New Enterprise Stone & Lime Co. (P. O. Box 77, New Enterprise Stone, PA 16664) for the replacement of a jaw crusher controlled by a wet suppression system located at their Dry Run Quarry located in Fannett Township, **Franklin County**.

38-309-049: Carmeuse Pennsylvania, Inc. (P. O. Box 160, Annville, PA 17003) for the modification of the fuel stream for the No. 5 lime kiln. The kiln is subject to 40 CFR 60, Subpart HH, Standards of Performance for New Stationary Sources.

67-303-013: York Building Products Co., Inc. (P. O. Box 1708, York, PA 17405) for installation of a batch asphalt plant located in Hanover Borough, **York County**.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

08-317-003A: Taylor By-Products, Inc. (P. O. Box 849, Wyalusing, PA 18853) for the installation of an existing boiler to be used as a thermal oxidizer on various pieces of rendering equipment in Wyalusing Township, **Bradford County**.

17-305-042: Commonwealth Synfuel, L.L.C. (3280 North Frontage Road, Lehi, UT 84057) for the construction of a coal agglomeration facility in Karthaus Township, **Clearfield County**.

47-303-003: Milestone Materials, Inc. (P. O. Box 231, Easton, PA 18044-0231) for the construction of a drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) at the Milton Quarry in Limestone Township, **Montour County**. This plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

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

PA-11-416: Pheasant & Shearer (922 Ohio Street, Johnstown, PA 15904) for the installation of hammermill flex tooth crusher at Rider Slag Dump in East Taylor Township, **Cambria County**.

PA-63-064A: North Central Processing, Inc. (P. O. Box 396, Chagrin Falls, OH 44020) for the installation of coke drying in Carroll Township, **Washington County**.

PA-65-905A: Amerikohl Mining, Inc. (P. O. Box 427, Acme, PA 15610) for the installation of nonmetallic mineral production at the Ruff Surface Mine in Mt. Pleasant Township, **Westmoreland County**.

PA-56-264B: Svonavec, Inc. (140 West Union Street, Somerset, PA 15501) for installation of stone crusher at Milford Mine in Milford Township, **Somerset County**.

04-307-099C: Shasta Inc. (300 9th Street, Monaca, PA 15061) for the installation of condition grinding operation at the Aliquippa Plant in Aliquippa Borough, **Beaver County**.

PA-56-267A: Future Industries, Inc. (P. O. Box 157, Meyersdale, PA 15552) for the construction of coal crushing facility in Brothersvalley Township, **Somerset County**.

PA-11-005B: Bar Technologies, Inc. (227 Franklin Street, Suite 300, Johnstown, PA 15901) for the installation of Bloom/Billet Caster at the Johnstown Plant, Franklin Borough, **Cambria County**.

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

PA-25-044A: GAF Materials Corp. (P. O. Box 1128, Erie, PA 16512), for construction of an asphalt saturator (39,750 tons roofing/year), and thermal afterburner, in Erie, **Erie County**. This application is subject to Federal NPS regulations defined in 40 CFR Part 60, Subpart UU.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

The Department of Environmental Protection (Department) will conduct a public hearing on Tuesday, April 21, 1998, beginning at 1 p.m. in the main floor conference room at the Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335.

The hearing is for the Department to accept testimony concerning its decision to approve, with conditions, a modification to Owens-Brockway Glass Containers, (Route 219 North, Brockway, PA 15824), Plant #19, Crenshaw, Reasonably Available Control Technology (RACT) Operating Permit, No. OP 33-002. Owens-Brockway has applied to the Department, based on high maintenance and replacement costs, for revision of the operating permit, to remove the requirement for a NOx Continuous Emission Monitor (CEM). The CEM is used for showing compliance with NOx RACT emission limitations on Glass Melting Furnace A. Annual stack testing will be a condition of the revision, and will be required for NOx emission compliance monitoring.

The RACT Operating Permit was issued to meet the requirements under 25 Pa. Code §§ 129.91—129.95 (RACT), concerning the emissions of nitrous oxides (NOx), from various air contamination sources. The modified RACT proposal will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan. This facility is located in Jefferson County.

The proposed SIP revision does not adopt any new regulations. The revision incorporates the provisions and requirements contained in the RACT approval for this facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into Plan Approvals and/or Operating Permits for the facility and will be submitted to the EPA as a revision to Pennsylvania's State Implementation Plan.

The public hearing will be held for the purpose of receiving comments on the above proposed modified Operating Permit, and the proposed SIP revisions. The public hearing is scheduled on April 21, 1998, 1 p.m. to 3 p.m. at the Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335.

Persons wishing to present testimony at the hearing should contact Steve Curcio, Community Relations Coordinator, DEP, 230 Chestnut Street, Meadville, PA 16335-3494, (814) 332-6945 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony are required. Each organization is requested to designate one witness to present testimony in its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Steve Curcio, Community Relations Coordinator, (814) 332-6945, or the Pennsylvania AT&T relay service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing but who wish to comment should provide written comments to Bob Huston at (814) 332-6940; Air Pollution Control Engineer, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494. Comments should be submitted within 30 days of the date of this publication notice.

All the pertinent documents (applications, review memos and draft approvals) are also available for review from 8 a.m. to 4 p.m. at the Meadville Regional DEP office (Air Quality). Appointments for scheduling a review must be made by calling the Department's contact person noted previously.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

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

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

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

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts

upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

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

Coal Applications Received

56980103. Godin Brothers, Inc. (136 Godin Drive, Boswell, PA 15531), commencement, operation and restoration of bituminous strip mine in Lincoln and Jenner Townships, **Somerset County**, affecting 143.3 acres, receiving stream Quemahoning Creek and unnamed tributaries to Quemahoning Creek. Application received March 5, 1998.

56920106. Permit Revision, **Cooney Brothers Coal Company** (P. O. Box 246, Cresson, PA 16630), to allow for disposal of breaker rock in Shade Township, **Somerset County**, affecting 276.0 acres, receiving stream unnamed tributary to Hinson Run, unnamed tributary to Shade Creek, unnamed tributary to Stony Creek. Application received March 6, 1998.

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

65890108R. V. P. Smith Co., Inc. (P. O. Box 242, Ligonier, PA 15658-0242). Renewal application received for continued reclamation of a bituminous surface mine located in Ligonier Township, **Westmoreland County**. Receiving streams: unnamed tributary to Hannas Run, Hannas Run to Mill Creek to Loyalhanna Creek to the Conemaugh River. Renewal application received: March 6, 1998.

03880109R. Terry Coal Sales, Inc. (Box 58, Distant, PA 16223). Renewal application received for continued reclamation of a bituminous surface mine located in Cowanshannock Township, **Armstrong County**. Receiving streams: unnamed tributaries to Cowanshannock Creek to the Allegheny River. Renewal application received: March 9, 1998.

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

49871601T. Calvin V. Lenig Coal Prep & Sales (R. R. 1, Box 330, Shamokin, PA 17872), transfer of an existing coal preparation plant operation from Calvin V. Lenig in Little Mahanoy Township, **Northumberland County** affecting 3.2 acres, receiving stream none. Application received March 2, 1998.

54743007T3. Schuylkill Reclamation Corporation (P. O. Box 434, Gilberton, PA 17934), transfer of an existing surface mine operation from Continental Energy Associates in Branch and Cass Townships, **Schuylkill County** affecting 325.9 acres, receiving stream West Creek. Application received March 6, 1998.

35980101. Alliance Landfill (398 South Keyser Avenue, Taylor, PA 18517), commencement, operation and restoration of an anthracite surface mine in Taylor Borough and Ransom Township, **Lackawanna County**, affecting 81.9 acres, receiving stream unnamed tributary to St. John's Creek. Application received March 9, 1998.

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

Noncoal Permits Received

35950302T. Keystone Pocono Block & Supply Company, Inc. (750 West Linden Street, Scranton, PA 18503), transfer of an existing quarry operation from Goodman Block, Inc., in the City of Scranton, **Lackawanna County** affecting 8.0 acres, receiving stream none. Application received March 5, 1998.

7975SM2A1C4. Haines & Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474), renewal of NPDES Permit No. PA0613151 in Plumstead Township, **Bucks County**, receiving stream Geddes Run. Application received March 10, 1998.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

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

E09-763. Encroachment. **PA DOT**, 200 Radnor-Chester Rd., St. Davids, PA 19087-5178. To construct, operate and maintain a highway bridge over Neshaminy Creek (WWF, MF) which will carry the proposed reconstructed and realigned segment of Bridgetown Pike (S. R. 2010), Section 08B. This bridge will be located 120 feet upstream of the existing Bridgetown Pike Bridge which will remain in place for pedestrian traffic. The proposed 290-foot twin-span bridge with a reinforced concrete deck and steel girders will be supported on concrete abutments and a pier. This bridge will have an approximate 17 feet of minimum underclearance, and will require realignment of the Bridgetown Pike roadway approaches. The project also proposes replacement of the existing stone twin-arch bridge structure spanning Newtown Pike (S. R. 0413) over Core Creek (WWF, MF). The proposed bridge will be constructed at the same location. This single span, 65-foot long bridge is supported by reinforced concrete abutments and has 9 feet of minimum underclearance. The project includes placement of rip-rap stone erosion protection at bridge abutments and pier. The site is located near the intersection of Bridgetown Pike and Newtown Pike

(Langhorne, PA Quadrangle N: 12.0 inches; W: 7.25 inches) in Middletown and Northampton Township, **Bucks County**.

E15-569. Encroachment. **Caln Township**, 253 Municipal Drive, P. O. Box 149, Thorndale, PA 19372. To realign 65 linear feet of Valley Run Creek stream channel and provide bank stabilization. Also to place fill in the presently eroded portion of this stream channel. This site is located approximately 1,000 feet east of the intersection of Bailey Road and G. O. Carlson Blvd. (Coatesville, PA Quadrangle N: 22.00 inches; W: 1.25 inches) in Caln Township, **Chester County**.

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

E13-109. Encroachment. **Lake Harmony Estates Property Owners Association**, in MLA, P. O. Box 629, Pocono Summit, PA 18346. To remove the existing structure and to construct and maintain a 60-foot long by 6-foot wide concrete and timber dock along the shoreline of Lake Harmony (HQ-CWF). The project is located at the eastern end of Lake Harmony approximately 0.1 mile south of the intersection of T523 and T525 (Blakeslee, PA Quadrangle N: 12.9 inches; W: 11.1 inches) in Kidder Township, **Carbon County** (Philadelphia District, U. S. Army Corps of Engineers).

E39-348. Encroachment. **Four Bulk Handling Corporation**, 614 Front Street, Catasauqua, PA 18032. To place and maintain a 30-inch diameter PVC outfall structure along the left bank of Lehigh Canal (CWF). The project is located along the left bank of the Lehigh Canal approximately 0.23 mile downstream of the Northampton County/Lehigh County boundary line (Catasauqua, PA Quadrangle N: 5.1 inches; W: 12.2 inches) in Catasauqua Borough, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

E54-247. Encroachment. **John J. and Ann Marie Biros**, P. O. Box 94, Shepton, PA 18248-0094. To place fill in 0.2 acre of PEM wetlands for the construction of a proposed unknown commercial building development. This project is located in the northwest corner of the intersection of S. R. 0924 and Oak Street (Conyngham, PA Quadrangle N: 3.6 inches; W: 16.3 inches) in East Union Township, **Schuylkill County**. The applicant is proposing to provide for 0.2 acre of replacement wetlands by participating in the Pennsylvania Wetlands Replacement Project (Baltimore District Army Corps of Engineers).

E64-187. Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Crooked Creek (HQ-CWF), consisting of a 20.0-foot by 7.0-foot precast concrete box culvert, with its invert depressed 1.0-foot below streambed elevation. The new structure will be located approximately 30 feet upstream of the existing structure to allow realignment of a substandard horizontal curve in the roadway. The project is located on S. R. 4007, Section 671, Segment 0280, Offset 0017, approximately 0.5 mile north of the Buckingham Township/Lebanon Township boundary (Lake Como, PA Quadrangle N: 5.2 inches; W: 5.4 inches) in Buckingham Township, **Wayne County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E06-508. Encroachment. **Westbury Development Company**, David Binder, 226 N. Sixth Street, Reading, PA 19601. To place fill along the channel of Cacoosing Creek and along the channel of a tributary to Cacoosing Creek for the purpose of constructing a golf course at a point along State Hill Road (Sinking Spring, PA Quadrangle N: 18.1 inches; W: 1.4 inches) in Lower Heidelberg and Spring Townships, **Berks County**.

E07-288. Encroachment. **Leonard S. Fiore, Inc.**, 5506 Sixth Avenue, Rear, Altoona, PA 16602. To place fill in 0.44 acre of wetlands in conjunction with the development of a 25-acre residential subdivision known as Old Town Village located along the east side of SR 2007 about 1.3 miles south of its intersection with US Route 22 (Frankstown, PA Quadrangle N: 9.5 inches; W: 15.0 inches) in Frankstown Township, **Blair County**.

E22-380. Encroachment. **Joseph Rovak**, Rovak Drive, Middletown, PA 17057. To construct and maintain a bridge having a span of 22 feet and an underclearance of 5.6 feet across the channel of Laurel Run at a point approximately 1,170 feet upstream of Route 283 (Steelton, PA Quadrangle N: 19.3 inches; W: 6.0 inches) in Lower Swatara Township, **Dauphin County**.

E22-381. Encroachment. **Londonderry Township**, Brenda Shuey, 783 S. Geyers Church Rd., Middletown, PA 17057. To remove an existing structure and to construct and maintain an 8-foot x 3-foot box culvert in the channel of Iron Run at a point at Snavely Road (Middletown, PA Quadrangle N: 18.1 inches; W: 6.4 inches) in Londonderry Township, **Dauphin County**.

E36-649. Encroachment. **Earl Township**, Clarence Buch, 517 N. Railroad Ave., New Holland, PA 17557. To remove three existing road structures, construct and maintain new road culverts. Project includes (1) four 30-inch pipe culverts at Station 41+49, with 30 linear feet of riprap channel lining at the inlet and outlet ends. To realign a tributary of Mill Creek by construction of a 3-foot wide trapezoidal channel, beginning 125 feet upstream and 150 feet downstream of the pipe culverts; (2) to realign the tributary and construct about 450 linear feet of 4-foot bottom width trapezoidal channel and to construct a 2-foot diameter cross-drain culvert at Station 32+25; and (3) twin cell concrete box culverts, each having a 9-foot span x 1.5-foot rise on a 50 degree skew, with 30 linear feet of riprap inlet and outlet protection will be constructed at Station 12+36. The proposed activities are a part of the South Custer Avenue Road realignment and channel improvement project (New Holland, PA Quadrangle N: 16 inches; W: 12 inches) located south of New Holland Borough in Earl Township, **Lancaster County**.

E44-094. Encroachment. **PA Department of Transportation, District 2-0**, Kim Bartoo, 1924-30 Daisy Street, Clearfield, PA 16830. To remove an existing bridge and to construct and maintain a six span prestressed concrete I-Beam bridge having four clear spans of 109.84 feet and two clear spans of 109.88 feet and an underclearance of about 25.84 feet across the Juniata River located on SR 3021, Section A01, Segment 0010, Offset 0072 at the Borough of New Hamilton (Newton Hamilton, PA Quadrangle N: 3.0 inches; W: 12.0 inches) in Newton Hamilton Borough and Wayne Township, **Mifflin County**.

E50-191. Encroachment. **Kelly Ragan**, 1050 Dellville Road, Duncannon, PA 17020. To construct and maintain a culvert in the channel of a tributary to Shermans Creek

at a point along Dellville Road (Shermansdale, PA Quadrangle N: 24.1 inches; W: 0.3 inch) in Wheatfield Township, **Perry County**.

E50-192. Encroachment. **Bloomfield Borough**, Dale Beaston, P. O. Box 144, New Bloomfield, PA 17068. To replace an existing waste water treatment plant located in the floodway fringe of a tributary to the Juniata River at a point approximately 600 feet upstream of Route 34/274 (Newport, PA Quadrangle N: 7.6 inches; W: 7.9 inches) in Bloomfield Borough, **Perry County**.

E67-621. Encroachment. **Shawn Campbell**, 15 Old Mill Inn Road, York, PA 17404. To construct and maintain an underground small flow wastewater treatment plant with a 4-inch diameter outfall in the floodway of the Little Conewago Creek located northeast of the intersection of Susquehanna Trail and Old Mill Inn Road (Dover, PA Quadrangle N: 8.6 inches; W: 2.3 inches) in Manchester Township, **York County**.

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

E14-318. Encroachment. **DCNR, Bureau of Forestry**, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing structure and to construct and maintain a single span glulam timber bridge with a total clear span of 9.200 meters, skew of 85 degrees, and a minimum underclearance of 0.849 meter across White Deer Creek located on McCall Dam Road immediately downstream of the McCall Dam Picnic Area (Carroll, PA Quadrangle N: 3.1 inches; W: 7.6 inches) in Miles Township, **Centre County**. Estimated permanent stream disturbance is approximately 44 meters; stream classification is HQ-WWF.

E18-252. Encroachment. **Leidy Township Supervisors**, P. O. Box 279, Cross Forks, PA 17729. Construct, operate and maintain a dry hydrant in Kettle Creek to provide water for community fire protection. The dry hydrant shall be constructed with 6 inch PVC plastic. The project is located along the eastern right-of-way of SR 144 approximately 1.5 miles north of the intersection of Trout Run Road and SR 4001 (Tamarack, PA Quadrangle N: 15.8 inches; W: 15.4 inches) in Leidy Township, **Clinton County**. Estimated stream disturbance is approximately 10 feet with no wetland impact; stream classification is Exceptional Value.

E59-360. Encroachment. **Middlebury Township Supervisors**, R. R. 2, Box 293A, Middlebury Center, PA 16935. To remove gravel bars on an as needed basis for a period of 5 years from Crooked Creek approximately 1.6 miles west of Keeneyville off Rt. 249 (Keeneyville, PA Quadrangle N: 19.5 inches; W: 11.8 inches) in Middlebury Township, **Tioga County**. Estimated stream disturbance is approximately 450 feet with no wetland impact; stream classification is warm water fishery.

E59-361. Encroachment. **Middlebury Township Supervisors**, R. R. 2, Box 293A, Middlebury Center, PA 16935. To remove gravel bars on an as needed basis for a period of 5 years from Crooked Creek approximately 0.5 mile east of Keeneyville off Rt. 249 (Keeneyville, PA Quadrangle N: 19.9 inches; W: 6.7 inches) in Middlebury Township, **Tioga County**. Estimated stream disturbance is approximately 600 feet with no wetland impact; stream classification is warm water fishery.

E59-362. Encroachment. **Middlebury Township Supervisors**, R. R. 2, Box 293A, Middlebury Center, PA 16935. To remove gravel bars on an as needed basis for a period of 5 years from Crooked Creek at the confluence of

Crooked Creek with Locey Creek in Keeneyville off Rt. 249 (Keeneyville, PA Quadrangle N: 19.9 inches; W: 8.1 inches) in Middlebury Township, **Tioga County**. Estimated stream disturbance is approximately 500 feet with no wetland impact; stream classification is warm water fishery.

E59-363. Encroachment. **Middlebury Township Supervisors**, R. R. 2, Box 293A, Middlebury Center, PA 16935. To remove gravel bars on an as needed basis for a period of 5 years from Crooked Creek at the confluence of Crooked Creek off Rt. 249 0.25 mile west of the intersection of Rt. 287/249 (Keeneyville, PA Quadrangle N: 4.1 inches; W: 8.1 inches) in Middlebury Township, **Tioga County**. Estimated stream disturbance is approximately 450 feet with no wetland impact; stream classification is warm water fishery.

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

E11-260. Encroachment. **ASC Development, Inc.**, 564 Forbes Avenue, Suite 700, Pittsburgh, PA 15219. To place and maintain fill in 1.23 acres of palustrine emergent wetlands for the purpose of constructing a commercial development. The project is located in the watershed of an unnamed tributary to South Branch Blacklick Creek (CWF) and along U. S. 22 approximately 4,000 feet east of its interchange with U. S. 219 (Nanty Glo, PA Quadrangle N: 18.3 inches; W: 0.1 inch) in Cambria Township, **Cambria County**. The applicant will compensate for wetland loss by creating 1.40 acres of palustrine emergent and scrub-shrub wetlands on an adjacent area.

E63-450. Encroachment. **Charles and Julia Oldenburg**, 597 McCombs Road, Venetia, PA 15367. To enlarge and maintain the width and depth of a tributary to Peters Creek (TSF) for the purpose of constructing a 24.0' x 12.0' x 34.0' deep nonjurisdictional, ornamental fish pond. The project is located on the south side of McCombs Road approximately 1,000 feet east of its intersection with Bower Hill Road (Bridgeville, PA Quadrangle N: 1.6 inches; W: 9.0 inches) in Peters Township, **Washington County**.

E02-1219. Encroachment. **PA Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To remove the existing structures; to widen and maintain a prestressed concrete box beam bridge having a single span of 87.5 feet and an underclearance of 11.0 feet over Peters Creek (TSF); to construct and maintain a 375.0 foot long soldier beam wall in Lewis Run (TSF); to construct and maintain a dual cell, (2) 15.0 feet x 7.3 feet box culvert (depressed 10.0 inches) in Lewis Run; to construct and maintain a reinforced concrete 28.0 feet x 8.5 feet box culvert (depressed 12.0 inches) in Lewis Run; to widen and maintain a concrete T-beam bridge having a single span of 24.0 feet and an underclearance of 7.7 feet over Lewis Run; to extend and maintain a reinforced concrete 20.2 feet by 10.5 feet arch culvert from 120.0 feet to 135.0 feet in Lewis Run; to extend and maintain a reinforced concrete 20.0 feet x 10.5 feet arch culvert from 110.0 feet to 112.0 feet in Lewis Run; to construct and maintain a precast concrete 20.9 feet x 6.9 feet arch culvert having a total length of 40.0 feet in Lewis Run; to construct and maintain a 970 foot long soldier beam wall in Lewis Run; to construct and maintain a reinforced concrete 23.0 feet x 7.5 feet box culvert (depressed 12.0 inches) and having a length of 97.0 feet in Lewis Run; to construct and maintain a 48-inch reinforced concrete culvert having a length of 80.0 feet in a tributary to Lewis Run; to widen and maintain a prestressed box beam bridge having a single span of 26.0 feet and an underclearance of 8.0 feet

in Lewis Run; to extend and maintain a reinforced concrete 18.0 feet × 8.4 feet arch culvert from 90.0 feet to 95.0 feet in a tributary to Lewis Run; to relocate and maintain 845.0 linear feet of Lewis Run; to construct and maintain 2,557.0 linear feet of rock bank stabilization in Lewis Run and 50.0 linear feet of rock stabilization in a tributary to Lewis Run. To place and maintain fill in 0.01 acre of palustrine emergent wetlands for the purpose of widening and improving 2.28 miles of S.R. 0051 in conjunction with the construction of the Mon/Fayette Expressway project (S.R. 0043) Construction Section 52M. The project is located along S.R. 0051 from the Village of Large extending northward 2.28 miles to a point approximately 1,000 feet north of Coal Valley Road. (Project starts at Glassport, PA Quadrangle N: 7.5 inches; W: 5.5 inches; the project ends at Glassport, PA Quadrangle N: 12.0 inches; W: 9.0 inches) in Jefferson Borough, **Allegheny County**. The applicant has constructed replacement wetlands under the authorization of Permit E02-1132.

E63-449. Encroachment. **Washington County Commissioners**, 701 Courthouse Square, Washington, PA 15301. To rehabilitate and maintain the existing county Van Voorhis bridge having a span of 85 feet and underclearance of 13 feet across Pigeon Creek (WWF). The bridge is located on T-581 approximately 1 mile north of its intersection with S.R. 917 (Monongahela Quadrangle N: 6.0 inches; W: 13.7 inches) in Fallowfield Township, **Washington County**.

E02-1155-A1. Encroachment. **Tonomo Marine Inc.**, 36 Allegheny Square, Glassport, PA 15045-1649. To amend permit no. E02-1155 to expand and maintain the existing barge mooring facility in the channel of and along the right bank of the Monongahela River (WWF) for the purpose of providing additional mooring space for barges. The project is located near River Mile 18.83 (Glassport, PA Quadrangle N: 12.3 inches; W: 2.5 inches) in Glassport Borough, **Allegheny County**.

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

E10-276. Encroachment. **PA Department of Transportation, Engineering District 10-0**, P. O. Box 426, Route 286 South, Indiana, PA 15701. To remove the existing structure and to construct and maintain a reinforced concrete box culvert with a waterway opening measuring 17 feet wide by 7 feet high by 68.75 feet long on SR 1011 across Thorn Creek (HQ-WWF, Trout Stocked). The new bridge will be relocated approximately 50 feet upstream of the existing bridge to improve sight distances and traffic safety. The bottom of the box culvert will be depressed approximately 1 foot into the streambed to allow for unobstructed access for aquatic organisms. This project will also include minor stream realignment (130 feet total) for placement of the culvert and will include a de minimis wetland impact (approximately 0.003 acre). The project is located on SR 1011 across Thorn Creek adjacent to the intersection of SR 1011 and Conway Road located in Oakland Township, **Butler County**.

E20-452. Encroachment. **Janet Heffernan**, 27642 Shoemaker Road, Cochran, PA 16314. To operate and maintain a private bridge having a span of 21 feet and an underclearance of 6.8 feet across Deckard Run approximately 128 feet south of Deckards Road (SR 2018) and 1.5 miles east of SR 173 (Sugar Lake, PA Quadrangle N: 6.1 inches; W: 19.2 inches) located in Wayne Township, **Crawford County**.

E20-454. Encroachment. **Maryann Schultz**, 4049 West 38th Street, Erie, PA 16506. To construct and maintain a 40-foot-wide by 80-foot-long pole building within the FEMA designated 100-year Floodway of French Creek (WWF, Nominated 1-A Scenic). The project is located approximately 1,200 feet northwest of the intersection of Terrace Street Extension and Stan Road (T-613) (Meadville, PA Quadrangle N: 7.7 inches; W: 6.5 inches) located in West Mead Township, **Crawford County**.

E24-197A. Encroachment. **Borough of Ridgway**, P. O. Box 149, 108 Main Street, Ridgway, PA 15853. To amend DEP Permit No. E24-197 which authorized the Borough of Ridgway to perform periodic removal of accumulated debris and sediment and to repair and maintain existing bank protection along a 2,100 foot reach of Gallagher Run beginning at its mount near Mill Street and extending upstream to Depot Street (S.R. 120) (Ridgway, PA Quadrangle N: 8.8 inches; W: 14.5 inches) located in the Borough of Ridgway, **Elk County**. Proposed amendment will extend the project an additional 1,600 feet beginning at SR 219 and extending upstream to the existing dam known as Heindl Pond.

E25-550A. Encroachment. **Erie Sewer Authority**, 68 Port Access Road, Erie, PA 16501-1461. To amend Permit No. E25-550 which authorizes Erie Sewer Authority to construct and maintain a 90-inch diameter reinforced concrete pipe relief outfall structure with rock riprap armor in Lake Erie beginning at the shore near the Erie Wastewater Treatment Plant and extending a total distance of 7,100 feet into Lake Erie, ending with a diffuser. The proposed amendment is to construct and maintain a 72-inch diameter concrete pipe across Garrison Run approximately 50 feet downstream of the outlet of the existing stream enclosure in Garrison Run near the entrance to the Erie Wastewater Treatment Plant off of Port Access Road located in City of Erie, **Erie County**. This pipe is associated with the Headworks Improvement and Overflow Retention Facility Project and will carry effluent from the Overflow Retention Facility to a junction structure for discharge into the outfall structure.

E25-563. Encroachment. **Erie-Western PA Port Authority**, 17 West Dobbins Landing, Erie, PA 16507-1424. To place fill in 5.47 acres of a wetland area as part of an expansion of the existing Mountfort Terminal. This expansion will serve as a storage site for shipping and handling of various materials transported by Great Lakes Cargo vessels. This project will include the creation of a total of 5.77 acres of replacement wetlands in three separate locations adjacent to the project. (0.3 acre of the replacement area is being created for PA DOT SR 4034 East Side Access Phase I. (Application No. E25-566). This project is located adjacent to Presque Isle Bay approximately 1,800 feet northwest of the City of Erie Wastewater Treatment Facility (Erie North, PA Quadrangle N: 4.0 inches; W: 11.0 inches) located in City of Erie, **Erie County**.

E37-117. Encroachment. **Chad A. Marinelli**, 19 Belaire Drive, New Castle, PA 16105. To authorize permanent operation and maintenance of a single-span multisteel beam bridge having a clear span of 19 feet 1 inch and a maximum underclearance of approximately 7 feet across McKee Run (WWF) for private residential access. This application is a follow up action that resulted from the July 9, 1997 Notice of Violation for placement of this structure without a permit, and the temporary authorization secured by the applicant under GP083797604 issued on August 8, 1997. This project is

located across McKee Run approximately 2,400 feet east of the intersection of S. R. 2001 (Savannah Road) and Union Valley Road in the village of Union Valley (New Castle South, PA Quadrangle N: 11.25 inches; W: 11.4 inches) located in Shenango Township, **Lawrence County**.

E42-255. Encroachment. **Bradford City Water Authority**, 28 Kennedy Street, Bradford, PA 16701. To remove the existing Pine Street footbridge and waterline and to construct and maintain a new 12-inch-diameter waterline and support beams across West Branch Tunungwant Creek providing a span of 80 feet and an underclearance of 8 feet (Bradford, PA Quadrangle N: 14.8 inches; W: 13.5 inches) located in the City of Bradford, **McKean County**.

E43-265. Encroachment. **PA Department of Transportation, Engineering District 1-0**, 1140 Liberty Street, Franklin, PA 16323-1251. To remove the existing structure and to construct and maintain a single span rigid frame/channel beam bridge with a clear span of 30 feet and an average underclearance of 5 feet on SR 3022 across Lackawannock Creek (TSF). This project will include a de minimis wetland impact (<0.001 acre) during construction. The project is located on SR 3022 across Lackawannock Creek approximately 900 feet northwest of the intersection of SR 3022 and Grove Road by the Big Bend Church. (Fredonia, PA Quadrangle N: 4.2 inches; W: 8.2 inches) located in Jefferson Township, **Mercer County**.

ENVIRONMENTAL ASSESSMENT

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

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

EA24-003NW. Environmental Assessment. **North Central Pennsylvania Planning and Development Commission**, 651 Mountmorenci Avenue, Ridgway, PA 15853. To remove an abandoned cooling unit and two abandoned buildings which are across/over tributaries to Elk Creek as part of the Stackpole Center Demolition Project. The project is located within the Stackpole Center in the City of St. Marys approximately 1,600 feet northwest of the intersection of Theresia Street (S. R. 1005) and S. R. 0120 (Saint Marys, PA Quadrangle N: 10.4 inches; W: 7.1 inches) located in City of Saint Marys, **Elk County**.

WATER ALLOCATIONS

Applications received 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.

Southeast Regional Office: Bureau of Water Supply Management, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WA15-67G. Water allocation. **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. The applicant is requesting the right to withdraw 4.0 mgd from the East Branch Brandywine Creek in Wallace Township, **Chester County**.

ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

NPDES Permit No. PA-0025224. Sewerage. **St. Clair Sewer Authority**, 16 South Third Street, St. Clair, PA 17970 is authorized to discharge from a facility located in East Norwegian Township, **Schuylkill County** to Mill Creek.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17011, (717) 657-4590.

NPDES Permit No. PAG043579. Sewerage/SFRSTP. **Drew Dreisbach**, 307 South Lancaster Street, Lebanon, PA 17046, is authorized to discharge from a facility located in Bethel Township, **Lebanon County** to an unnamed tributary to Monroe Creek.

NPDES Permit No. PA0084514. Sewerage. **Shade Gap Area Joint Municipal Authority**, P. O. Box 185, Shade Gap, PA 17255-0089, is authorized to discharge from a facility located in Dublin Township, **Huntingdon County** to the receiving waters named Shade Creek.

NPDES Permit No. PAG043586. Sewerage/SFSTF. **Susan and Larry Grubb**, R. D. 2, Box 122A, Clearville, PA 15535, is authorized to discharge from a facility located in West Providence Township, **Bedford County** to the Juniata River, Raystown Branch.

NPDES Permit No. PA0087718. Industrial waste. **Genwove, US Ltd.**, Route 915, Intersection I-70, Crystal Spring, PA 15536, is authorized to discharge from a facility located in Brush Creek Township, **Fulton County** to the receiving waters named Little Brush Creek.

Northcentral Regional Office, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0023582. Sewerage. **Freeburg Borough Municipal Authority**, P. O. Box 308, Freeburg, PA 17827. Applicant granted an NPDES permit to discharge treated sewage from their treatment plant serving the Freeburg Borough, **Snyder County**.

NPDES Permit No. PA0033782. Sewerage. **Timberend Estates Inc.**, R. D. 2, Muncy, PA 17756. Applicant granted an NPDES permit to discharge treated sewage from treatment facilities located at Fairfield Township, **Lycoming County**.

NPDES Permit No. PA0111937. Sewerage. **Patriot Treatment Plant Inc.**, 6009 New Berwick Highway, Bloomsburg, PA 17815. Applicant granted renewal permit for facility located at South Centre Township, **Columbia County**.

NPDES Permit No. PA0114553. Sewerage. **Millheim Borough Council**, 225 East Main Street, Millheim, PA 16854-0421. Applicant granted renewal to receive treated sewage discharge from facility located at Penn Township, **Centre County**.

WQM Permit No. 1795408-A30. Sewerage. **Bradford Township/Merritt**, P. O. Box 79, Woodland, PA 16881. Pilot program has been approved to install treatment system to serve single family residence located at Bradford Township, **Clearfield County**.

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

NPDES Permit No. PA0013820. Industrial waste. **Allegheny Ludlum Corporation**, River Road, Brackenridge, PA 15014 is authorized to discharge from a facility located at Brackenridge Facility, Brackenridge Borough, **Allegheny County** to the Allegheny River.

NPDES Permit No. PA0007196. Sewage. **Charles Shay**, R. R. 1, Box 2120, Clarksburg, PA 15725 is authorized to discharge from a facility located at Young Township, **Indiana County** to Unnamed Tributary of Blacklegs Creek.

NPDES Permit No. PA0028703, Amendment No. 1. Sewage, **Peters Township Sanitary Authority**, 3244 Washington Road, McMurray, PA 15317 is authorized to discharge from a facility located at Donaldson Crossroads Sewage Treatment Plant, Peters Township, **Washington County**.

NPDES Permit No. PA0041114. Sewage, **Kiskiminetas Springs School**, 1888 Brett Lane, Saltsburg, PA 15681 is authorized to discharge from a facility located at Kiskiminetas Springs School STP, Loyalhanna Township, **Westmoreland County** to the Kiskiminetas River.

NPDES Permit No. PA0092339. Sewage, **Bell Acres Municipal Sewage Authority**, 1151 Camp Meeting Road, Sewickley, PA 15143 is authorized to discharge from a facility located at Grouse Ridge Sewage Treatment Plant, Bell Acres Borough, **Allegheny County** to a drainage swale which leads to an unnamed tributary of Big Sewickley Creek.

NPDES Permit No. PA0094455. Sewage, **Derry Township Municipal Authority**, P. O. Box 250, New

Derry, PA 15671 is authorized to discharge from a facility located at Dogwood Acres MHP STP, Derry Township, **Westmoreland County** to McGee Run.

NPDES Permit No. PA0095176, Amendment No. 2. Sewage, **Elliott Turbomachinery Company, Inc.**, North Fourth Street, Jeannette, PA 15644-0800 is authorized to discharge from a facility located at Jeannette Facility, Jeannette, **Westmoreland County**.

Permit No. 6575412, Amendment No. 1. Industrial waste, **Menasha Packaging**, P. O. Box M, Yukon, PA 15698. Installation of a flow equalization basin located in the Township of Sewickley, **Westmoreland County** to serve the existing waste water treatment plant at the Menasha Corporation in Yukon, PA.

Permit No. 3297408. Sewerage, **Indiana County Municipal Service Authority**, P. O. Box 351, Indiana, PA 15701. Construction of a sewage treatment plant located in the Township of Young, **Indiana County** to serve the Village of Iselin.

Permit No. 6398401. Sewerage, **North Strabane Township Municipal Authority**, 1929 B Route 519 South, Canonsburg, PA 15317-5007. Construction of gravity sewers and appurtenances located in the Township of North Strabane, **Washington County** to serve the Meadow Brook Phases I, II, III and IV.

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

NPDES Permit No. PA0210331. Sewage. **Pine Grove Mobile Home Park and Sales, Inc.**, 374 North Perry Highway, Mercer, PA 16137 is authorized to discharge from a facility located in Coolspring Township, **Mercer County** to an unnamed tributary to Munell Run.

NPDES Permit No. PA0023451. Sewage. **Borough of Mt. Jewett**, P. O. Box 7215, Mt. Jewett, PA 16740-7215 is authorized to discharge from a facility in Mt. Jewett Borough, **McKean County** to an unnamed tributary to Kinzua Creek.

WQM Permit No. 1097409. Sewage. **Peter Rabbit Campground, Inc.**, 551 Mahood Rd., Butler, PA 16001. This project is for major modifications of an existing facility in Brady Township, **Butler County**.

WQM Permit No. 4298401. Sewage. **Pennsylvania Department of Transportation, McKean County Maintenance Facility**, P. O. Box 124, Cyclone, PA 16726. This project is to remove the existing sewage treatment facility and to install a new small flow sewage treatment facility including a septic tank, dosing tank, subsurface sand filter and chlorine contact tank in Lafayette Township, **McKean County**.

WQM Permit No. 4398406. Sewerage, **Seth and Evelyn Johnson, SRSTP**, 110 Tanner Rd., Greenville, PA 16125. Construction of Seth and Evelyn Johnson SRSTP located in West Salem Township, **Mercer County**.

INDIVIDUAL PERMITS

(PAS)

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, (610) 832-6130.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-G293	Augustino Badalamenti 226 Hoeffcker Road Phoenixville, PA 19460	East Vincent Twp. Chester County	French Creek
PAS10-G299	Robert Sweeney, Jr. 116 Culbertson Run Road Downingtown, PA 19355	Honeybrook Twp. Chester County	West Branch Brandywine Creek

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10S055	PA American Water Co. 20 E. Union St. Wilkes-Barre, PA 18701	Monroe Co. Coolbaugh Twp. Mt. Pocono Boro.	Tobyhanna Crk.
PAS10U085	James Carty 2796 Mountainview Ave. Bath, PA 18014	Northampton Co. Bushkill Twp.	Buskill Crk.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS106605	Pa. Dept. of Transportation 715 Jordan Ave. Montoursville, PA 17754	Tioga County Liberty, Hamilton, Bloss Twps., Blossburg Borough	Tioga River

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10K021	Robert Tidmore 521 Seminole Drive Erie, PA 16505	Erie County Millcreek Twp.	Thomas Run

INDIVIDUAL PERMITS

(PAR)

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

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

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

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

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems

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

PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

General Permit Type—PAG 2

Facility Location

<i>County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Upper Allen Township Cumberland County	PAR-10-H147	William K. Laird Cumberland Parkway Storage 350 South 7th Street Lemoyne, PA 17043	Cedar Run	Cumberland County CD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Swatara Township Dauphin County	PAR-10-I138	Shiloh Church of God P. O. Box 5389 Harrisburg, PA 17110	Spring Creek	Dauphin County CD 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Lower Swatara Township Dauphin County	PAR-10-I139	Harrisburg Express LP 7500 Greenway Center Drive Suite 510 Greenbolt, MD 20770	Swatara Creek	Dauphin County CD 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Erie County Summit Township	PAR10K097	Kenneth Haibach 8615 Oliver Road Erie, PA 16509	Unnamed Tributary to Elk Creek	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Luzerne County Pittston Twp.	PAR10R142	Heritage Pittston Realty Inc. 1 Commerce Rd. Pittston, PA 18640	Lidy Crk.	Luzerne CD (717) 674-7991
Luzerne County Hanover Twp.	PAR10R141	Nardone Bros. Baking Pizza Co. 123 Hazle Ave. Wilkes-Barre, PA 18702	Sugarnotch Run	Luzerne CD (717) 674-7991
Luzerne County Hazle Twp.	PAR10R140	PADOT District 4-0 O'Neill Highway Dunmore, PA 18512	Cranberry Crk. Tomhicken Crk. Catawissa Crk. Black Creek	Luzerne CD (717) 674-7991
Lackawanna Co. Moosic Boro.	PAR10N059	James B. McDonough Hemingway Development Corp. Glenmaura National Blvd. Moosic, PA 18507	Tributary to Springbrook	Lackawanna CD (717) 587-2607
Schuylkill Co. Pottsville City	PAR10S754	Providence Place of Pottsville G. M. Lender Corp. 1528 Sand Hill Rd. Hummelstown, PA 17036	W. Branch Schuylkill River	Schuylkill CD (717) 622-3742
Monroe County E. Stroudsburg Borough	PAR10S019	Victoria Heights Prospect Hills Development 553 Main St. Stroudsburg, PA 18360	Brodhead Crk.	Monroe CD (717) 629-3060

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Northumberland County Lower Mahonoy Twp. and Jordan Twp.	PAR104919	Line Mountain School District R. R. 1, Box 857 Herndon, PA 17830	Unt. Fidlers Run	Northumberland CCD R. R. 3, Box 238C Sunbury, PA 17801 (717) 988-4224
Northumberland County Riverside Borough	PAR104920	Tim S. Karr River Hill Subdivision 521 N. Derr St. Lewisburg, PA 17837	Susquehanna River	Northumberland CCD R. R. 3, Box 238C Sunbury, PA 17801 (717) 988-4224
<i>General Permit Type—PAG 3</i>				
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Cranberry Township Butler County	PAR208312	TRACO (Three Rivers Aluminum Company, Inc.) 71 Progress Ave. Cranberry Township, PA 16066	Brush Creek	Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG 4</i>				
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Columbia County Main Township	PAG044988	James C. Williams R. R. 8, Box 468 Bloomsburg, PA 17815	unnamed tributary Catawissa Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Bradford County Ulster Township	PAG044991	Roscoe and Phyllis Pipher R. D. 1, Box 266 Towanda, PA 18848	unnamed tributary to Cash Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Clearfield County Bradford Township	PAG045000	Vicki Merritt 322 East Church St. Clearfield, PA 16830	unnamed tributary to Jake Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Lycoming County Piatt Township	PAG044994	Ellen J. Dailey R. R. 4, Box 398 Jersey Shore, PA 17740	Stewards Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
West Salem Township Mercer County	PAG048486	Seth and Evelyn Johnson 110 Tanner Road Greenville, PA 16125	Tributary Little Shenango	Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG 5</i>				
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Cambria County Geistown Borough	PAG056115	Michael Shaffer 2463 Bedford Street Johnstown, PA 15401	Sams Run to Stonycreek River to Conemaugh River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG 9

*Facility Location
County and
Municipality*

Permit No.

*Applicant Name
and Address*

*Receiving Stream
or Body of Water
(If Applicable)*

*Contact Office and
Telephone No.*

Newton Township
Lackawanna County

PAG92203

Robert Esslinger
Roto Rooter
408 Marian Street
Clarks Summit, PA 18411

Northeast Region Office
Water Management
Program
Wilkes-Barre, PA 18711
(717) 826-2511

**SEWAGE FACILITIES ACT
PLAN APPROVAL**

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

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

**Sugarloaf Township, Conyngham Borough,
Luzerne County**

The Department of Environmental Protection (Department) has completed its review of the Official Sewage Facilities Plan Update Revision (Plan Update) dated August 28, 1997 (received by the Department on October 6, 1997), with additional documentation dated: December 17, 1997 (received by the Department on December 22, 1997), December 29, 1997 (received by the Department on December 30, 1997) and January 28, 1998 (received by the Department on January 30, 1998) as prepared by George R. Nelson Associates.

The Department's review has found that the Plan Update is now acceptable and hereby grants planning approval. The approval of this Plan Update is conditioned upon ultimate compliance with the provisions of the History Code (37 Pa.C.S. § 507). The costs of conducting any required survey work related to compliance with the History Code must be included in the cost of the proposed sewerage facilities project. If recovery work or system redesign is required as a result of attaining compliance with the requirements of the PA Historical and Museum Commission, Sugarloaf Township must notify the Department immediately.

Sugarloaf Township proposes to implement Alternative No. 1 of the Plan Update. Alternative No. 1 proposes the installation of a new wastewater collection and conveyance system to serve 61 Equivalent Dwelling Units (EDUs) in the immediate Village of Sybertsville Area. The areas and structures to be served by the proposed system are shown on Drawing No. 94-00-D-08-SA found in Exhibit 10 of the Plan Update.

The wastewater collection system proposed will consist of approximately 4,935 linear feet of gravity and low-pressure sewer lines along with associated appurtenances. The conveyance system will include the construction of a wastewater pumping station and approximately 855 linear feet of 4' force main. The force main will convey the service area's wastewater to a tie-in point in the existing Sugarloaf Township/Conyngham Borough Authority's wastewater conveyance system. Wastewater will then be conveyed through the existing conveyance system's lines to the Conyngham Borough Authority's (Authority's) Wastewater Treatment Facility for treatment and discharge.

Since the Authority's Wastewater Treatment Facility is currently under a sewer connection prohibition, the 61

EDUs proposed to be connected must be accounted for from the sewer connection allocation available for Sugarloaf Township. Upon connection of the proposed Sybertsville system to the Authority's Wastewater Treatment Facility, Sugarloaf Township and the Authority shall show, in the appropriate Quarterly Sewer Allocation Status Report, that the 61 EDUs have been deducted from the appropriate sewer connection allocation.

In accordance with the provisions of the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20(a)) (Act 537) and Chapter 71 of the Department's regulations (25 Pa. Code Ch. 71), the Department will hold Sugarloaf Township responsible for the complete and timely implementation of the Plan Update's chosen wastewater disposal alternative. Implementation of the Plan Update's chosen wastewater disposal alternative must be performed within the timeframes indicated in the Plan Update's Schedule of Implementation.

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

This approval covers only the wastewater planning aspects of the proposed construction project as it relates to Sugarloaf Township's Official Sewage Facilities Plan. Before construction of the proposed project may commence, the Township must obtain a Part II—Water Quality Management Permit from the Department. Please remember to include a copy of this approval correspondence with the permit application when it is submitted to the Department's Northeast Regional Office.

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

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

Rice Township, Luzerne County

The Department of Environmental Protection (Department) has reviewed the Prospect Road Area Act 537 Special Study (Special Study), dated June 1996 and revised July 1997 (received by the Department on September 10, 1997), as submitted by Milnes Engineering, Inc., on behalf of Rice Township.

During the review of an Official Sewage Facilities Plan Update or Special Study, the Department must ensure that various, relevant issues are addressed in both an adequate and comprehensive manner. The Special Study, currently under review for the Prospect Road Area of Rice Township, continues to have several issues which have not been adequately addressed.

The major issue which remains to be adequately addressed is:

The user costs for the proposed Prospect Road Area Sewer Construction Project (Project) appear to be unusually expensive in comparison to wastewater collection system projects for similar communities. The Township's current proposal indicates that homeowners have the choice of two financing options: either purchasing or financing a grinder pump. If the homeowner initially purchases the grinder pump, the initial cost is estimated to be \$5,375 per household with the monthly user fee being approximately \$40 per household. If the homeowner elects to finance the purchase of the grinder pump, the initial cost is estimated to be \$2,875 with the monthly user fee being approximately \$70 per household. Under either of these scenarios, the estimated user costs are high. If the grinder pump is purchased upfront, the initial cost is high. If the grinder pump is financed, the monthly user fee is high.

This project is not acceptable because there are other less costly alternatives which are easier to administer and which provide a more comprehensive approach to water quality management and wastewater disposal in the Prospect Road Area. On several occasions within the past year, the Mountaintop Area Joint Sanitary Authority (MAJSA) proposed other more cost-effective, alternative projects which they agreed to both administer and construct. The most recent proposal was forwarded by the Department to Rice Township on February 10, 1998. Also, the Township can expand the scope of the proposed project to address the present and future sewer needs of the Prospect Road Area in a manner that would further decrease costs.

In addition to the major issue listed above, the following questions/comments must be adequately addressed by Rice Township before the Department may approve any subsequent Special Study. The questions/comments listed are arranged according to the order specified in the Department's Act 537 Plan Content and Environmental Assessment Checklist (Checklist). Listing of the question or comment in this correspondence does not limit or prevent the Department from requesting further information or clarification based on the responses supplied or additional information obtained, in future submissions, to answer the questions/comments provided:

Completeness Checklist

Item No. 7—Item 3, of the Schedule of Implementation, and its subsequent items, should be based upon the approval date of the Special Study by the Department. A Part II—Water Quality Management Permit Application will not be accepted by the Department for review until after the appropriate Official Sewage Facilities Plan Approval is issued. The implementation schedule in the Special Study must be revised, in an appropriate manner, to address this issue.

General Plan Checklist

Item No. III.B.2—The Smolenak Residence, located at 349 Prospect Road, was previously identified by the Department as having a malfunctioning onlot wastewater disposal system. This Special Study indicates that a possible malfunction currently exists at this residence. Given the Department's and the Township's observations of the onlot system and the severe soil limitations for onlot wastewater disposal systems in the area of this residence, this structure should be required to connect to the central sewer system currently available in front of the property.

The Department has also learned that the owners of the Davis and Haydt properties (located at 331 and 319

Prospect Road respectively), are considering connecting to the MAJSA line located in the vicinity of these residences. The Davis property is identified in the Special Study as a possible malfunction (lush grass over the drainfield with no wet spots). The Haydt property's onlot system was not inspected as part of the Special Study. The desire of these properties' owners, to connect to the existing sewer system, must be considered when developing a comprehensive solution which addresses the poor physical conditions and onlot system problems in the Prospect Road Area.

Item No. VI.D&E—Please see the comments concerning the major issue remaining to be resolved earlier in this correspondence regarding the project scope/financing offer of the MAJSA.

Item No. VI.F.2.a—This item should be further addressed in the Special Study since both the Township's current proposal and the MAJSA proposal allow the option of not immediately connecting into the existing and proposed wastewater collection systems until an onlot wastewater disposal system malfunction occurs. Please indicate how often Rice Township will continue to inspect the Jacob's and other onlot wastewater disposal systems in the planning area to determine their malfunction status and insure that a public health hazard does not develop.

Item No. VI.C.2—Section V.A.1, found on page 12 of the Special Study, indicates that Rice Township will need to enact a mandatory connection ordinance to require the various properties on the north side of Prospect Road to connect to the central sewer system in the area. The Department disagrees with the Township's assertion that a new mandatory connection ordinance is required. A review of the Township's existing mandatory connection ordinance appears to indicate that it is worded in a fashion that its requirements apply to all portions of Rice Township accessible to a municipal, central sewer system.

Item No. VIII.A&B—This entire section, especially Item VIII.A.5 will need to be revised since it appears that MAJSA proposal has not been seriously evaluated (technically-considering the poor soils and age of the installed onlot systems in the area and financially) and considered.

Conclusions

Due to the deficiencies listed above, the Department hereby disapproves the Special Study comprised of the submissions listed in the first paragraph of this correspondence.

Rice Township has a continuing obligation, under section 5 of the Pennsylvania Sewage Facilities Act and the regulations promulgated thereunder, to revise its Official Sewage Facilities Plan to address existing and future sewage disposal needs in the vicinity of Prospect Road and provide for adequate sewage treatment facilities. The Department requests that Rice Township immediately take all actions necessary to revise its Official Sewage Facilities Plan in consideration of the above comments.

Over the past year, the Department has been working closely with both the municipal officials and the engineering consultant of Rice Township to ensure the development of a Special Study which addresses the current and future wastewater disposal needs of the Prospect Road Area in a cost-effective and environmentally sound manner. On numerous occasions, the Department has informed municipal officials and the engineering consultant that the current proposal and its predecessors are unduly expensive in light of other available alternative projects.

This position has been communicated by telephone, meetings at the Rice Township Municipal Building and Department correspondence dated March 13, 1997, May 30, 1997, July 3, 1997 and February 10, 1998.

In response to Rice Township's failure to address the deficiencies of the proposed project, the Department intends to initiate an enforcement action against Rice Township. This action will compel the Township to adequately address the wastewater disposal needs of the Prospect Road Area using a cost-effective and comprehensive wastewater disposal alternative which meets the requirements of the Pennsylvania Sewage Facilities Act.

SAFE DRINKING WATER

Operation Permits issued under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

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

A. 4196501. The Department issued an operating permit to **Orchard Mobile Home Park** (R. R. 3, Box 2504, Hughesville, PA 17737, Wolf Township, **Lycoming County**) for operation of facilities consisting of four 2,500 gallon polyethylene finished water storage tanks and four system booster pumps, approved under Public Water Supply Construction Permit No. 4196501; issued July 9, 1996.

Construction Permit issued under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

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

A.M.A. The Department issued a construction permit to **State College Borough Water Authority** (1201 West Branch Road, State College, PA 16801-7697, State College Borough, **Centre County**) for construction modifications to Well Field No. 6 (Alexander Well Field).

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

Permit No. 2598501. Public water supply. **Erie City Water Authority**, 340 West Bayfront Parkway, Erie, PA 16507 has been issued a permit for the construction of a booster pump station and transmission line along Station and Jordan Roads in Harborcreek Township, **Erie County**.

Type of Facility: Community Water Supply

Consulting Engineer: Ted Fithian, P. E., President, KLH Engineers, Inc., 5173 Campbells Run Road, Pittsburgh, PA 15205.

Permit to Construct Issued: March 9, 1998

Permit No. 1097508. Public water supply. **Peter Rabbit Campground**, 551 Mahood Road, Butler, PA 16001 has been issued a permit for the construction of Well #4 in Brady Township, **Butler County**.

Type of Facility: Community Water Supply

Consulting Engineer: William J. McGarvey, P. E., McGarvey Engineering, 172 Woodcrest Road, Butler, PA 16002-0064.

Permit to Construct Issued: March 9, 1998

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of 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's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final report:

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

William Grosskopf Residence, Avondale Borough, **Chester County**. Kevin Van Kuren, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103, has submitted a Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide health standard.

SOLID AND HAZARDOUS WASTE RESIDUAL WASTE PROCESSING FACILITIES

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

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

Permit No. 301077. Laidlaw-Environmental Services (Tucker), Inc., 4105 Whitaker Avenue, Philadelphia, PA 19124. This permit is for the continuing operation of a PCB waste transfer facility at the above mentioned facility which is located in the City of Philadelphia. Permit was issued at the Southeast Regional Office on March 6, 1998.

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

Permits issued 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.

Northcentral Regional Office, Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3653.

Permit No. 300987. Montour SES Ash Area No. 3 (Pennsylvania Power & Light Company, Two North Ninth Street, Allentown, PA 18101). Repermitting of 64-acre residual waste landfill located in Derry Township, **Montour County**. Issued in the regional office on March 9, 1998.

**AIR POLLUTION
OPERATING PERMITS**

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

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

OP-65-865A: Sony Chemicals Corp. of America (1001 Technology Drive, Mt. Pleasant, PA 15666) issued March 9, 1998, for the operation of a rotary R&D coater at the Pittsburgh Manufacturing Center in Mt. Pleasant Township, **Westmoreland County**.

OP-63-00872: RTS Packaging, LLC (PO Box 116, Charleroi, PA 15022) issued March 4, 1998, for the operation of paperboard partition manufacturing at the Charleroi partition in Charleroi Borough, **Washington County**.

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

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

OP-14-0005: Pennsylvania Department of Corrections (PO Box 598, Camp Hill, PA 17001-0598) issued on March 5, 1998, for the minor modification of an operating permit to impose more restrictive coal usage limitations and to establish coal usage record keeping requirements on a per boiler, per month basis at SCI Rockview in Benner Township, **Centre County**.

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

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

TV-65-00839: Texas Eastern Transmission Corp. (PO Box 1642, Houston, TX 77251-1642) for their Delmont Station located in Salem Township, **Westmoreland County**.

land County. The facility's major sources include various turbines and compressor engines which emit major quantities of NOx.

PLAN APPROVALS

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

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

PA-15-0015A: Sartomer Company, Inc. (610 South Bolmar Street, West Chester, PA 19382) issued March 10, 1998, for the operation of a Emergency Generator in West Chester Borough, **Chester County**.

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

06-1083: Roeberg Enterprises, Inc. (17th and Fairview Streets, Reading, PA 19606) issued March 9, 1998, for the construction of the dry cleaning facility (Yorgey's Dry Cleaning) in Reading, **Berks County**.

07-330-004: Hamilton Beach Proctor-Silex, Inc. (4421 Waterfront Drive, Glen Allen, VA 23060) issued March 11, 1998, for the installation of a groundwater and soil vapor remediation system in Antis Township, **Blair County**.

21-02013C: Fry Communications, Inc. (800 West Church Road, Mechanicsburg, PA 17055) issued March 12, 1998, for the installation of three four-unit quadruple web Atlas pneumatic nonheatset printing presses in Building #2, located in Mechanicsburg Borough, **Cumberland County**.

21-310-031A: Valley Quarries, Inc. (PO Box J, Chambersburg, PA 17201-0809) issued March 9, 1998, for modification of the limestone crushing plant in Southampton Township, **Cumberland County**. This source is subject to 40 CFR 60, Subpart 000, Standards of Performance for New Stationary Sources.

21-317-059: The Quaker Oats Co. (PO Box 3040, Shiremanstown, PA 17011) issued March 12, 1998, for the construction of a what dryer controlled by a fabric filter in Hampden Township, **Cumberland County**.

36-320-014D: R. R. Donnelley & Sons, Co. (1375 Harrisburg Pike, Lancaster, PA 17601) issued March 11, 1998, for the construction of seven heatset web offset printing presses controlled by a thermal oxidizer in the City of Lancaster, **Lancaster County**.

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

PA-04-504A: Mitsui/ZCA Powders Company (300 Frankfort Road, Monaca, PA 15061) issued March 3, 1998, for the construction of a high purity zinc powder plant in Potter Township, **Beaver County**.

PA-30-120A: CoBon Synfuel #2, L.L.C. (1145 East Union Avenue, Midvale, UT 84047) issued March 2, 1998, for the installation of coal agglomeration at the Alicia Facility in Monongahela Township, **Greene County**.

PA-65-788D: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) issued March 9, 1998, for the installation of salvage fume scrubber FS-2 at Pittsburgh Manufacturing Center in Mt. Pleasant Township, **Westmoreland County**.

PA-04-516A: Vesuvius McDanel Company (510 9th Avenue, PO Box 560, Beaver Falls, PA 15010) issued March 9, 1998, for the installation of ceramic production at Beaver Falls Plant in Beaver Falls, **Beaver County**.

PA-65-016B: Latrobe Steel Company (2626 Ligonier Street, PO Box 31, Latrobe, PA 15650) issued March 9, 1998, for the construction of two homogenization furnaces at Latrobe Plant in Latrobe Borough, **Westmoreland County**.

PA-56-206A: New Enterprise Stone & Lime County, Inc. (PO Box 77, New Enterprise, PA 16664) issued January 15, 1998 for the construction of an asphalt batch plant in Somerset Township, **Somerset County**.

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

PA 37-291A: LaFarge Corporation, Pulaski Plant (Route 551, New Wilmington, PA 16142) issued March 10, 1998, for the construction of a slag processing facility at Pulaski Township, **Lawrence County**.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

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

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

OP-46-0070: Finnaren & Haley, Inc. (901 Washington Street, Conshohocken, PA 19428) issued March 5, 1998, for the operation of a Facility VOC/NOx RACT in Whitmarsh Township, **Montgomery County**.

OP-09-0027: Fres-Co System USA, Inc. (3005 State Road, Telford, PA 18969) issued March 5, 1998, for the operation of a Facility VOC/NOx RACT in West Rockhill Township, **Bucks County**.

OP-15-0025: Transwall Corp. (1220 Wilson Drive, West Chester, PA 19380) issued March 10, 1998, for the operation of a Facility VOC/NOx RACT in West Chester Borough, **Chester County**.

MINING

**APPROVALS TO CONDUCT COAL AND NONCOAL
ACTIVITIES**

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

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

Coal Applications Issued

32920101. Permit Renewal, Pitt Mining Company (R. D. 3, Box 95B, Shelocta, PA 15774), continued restoration and reclamation only of a bituminous strip mine in Young Township, **Indiana County**, affecting 272.3 acres, receiving stream two branches of an unnamed tributary to Gobbler Creek to Crooked Creek to the Allegheny River. Application received August 8, 1997; permit issued March 9, 1998.

32970108. Simpson Coal Company (R. D. 1, Box 244, New Alexandria, PA 15670), commencement, operation and restoration of a bituminous strip mine in Young and Conemaugh Townships, **Indiana County**, affecting 166.6 acres, receiving stream Harpers Run and unnamed tributary to Blacklegs Creek. Application received July 10, 1997; permit issued March 9, 1998.

11920107. Permit Renewal, E. P. Bender Coal Company, Inc. (Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip-coal refuse disposal, valid for reclamation, only mine in Reade Township, **Cambria County**, affecting 56.5 acres, receiving stream Powell Run. Application received December 24, 1997; permit issued March 10, 1998.

56900111. Hoffman Mining, Inc. (P. O. Box 130, 118 Runway Road, Friedens, PA 15541), permit revision to change the land use for the premining land use of forestland to be restored to pastureland or land occasionally cut for hay postmining on the Richard L. Merrill, Patricia M. Hankinson and Sally M. Ancona properties in Brothersvalley Township, **Somerset County**, affecting 188.6 acres, receiving streams unnamed tributaries to Buffalo Creek and unnamed tributary to Piney Run. Application received December 24, 1997; issued March 12, 1998.

56970103. Marquise Mining Corporation (3889 Menoher Boulevard, Johnstown, PA 15905), commencement, operation and restoration of a bituminous strip-auger mine in Shade Township, **Somerset County**, affecting 308.0 acres, receiving stream Fallen Timber Run and an unnamed trib. to Stonycreek. Application received July 25, 1997; permit issued March 11, 1998.

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

26970103. Piccolomini Contractors, Inc. (P. O. Box 4, Waltersburg, PA 15488). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Franklin Township, **Fayette County**, affecting 48.5 acres. Receiving streams: unnamed tributary to Redstone Creek, Redstone Creek to Monongahela River. Application received: May 15, 1997. Permit issued: March 10, 1998.

3572SM15. Allegheny Metals & Minerals, Inc. (731—733 Washington Road, Fifth Floor, P. O. Box 11999, Pittsburgh, PA 15228-0999). Permit issued to change name from Allegheny Sand, Inc., for continued operation and reclamation of a bituminous surface mine located in Gilpin Township, **Armstrong County**, affecting 634.7 acres. Receiving streams: Unnamed Run, Unnamed Run, Unnamed Run to Allegheny River to Ohio River. Application received: January 27, 1998. Permit issued: March 12, 1998.

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

Noncoal Permits Issued

06960301. Allentown Cement Company, Inc. (PO Box 619, Blandon, PA 19510-0619), commencement, operation and restoration of a quarry operation in Oley Township, **Berks County**, affecting 201.0 acres, receiving stream—unnamed tributary to Manatawny Creek. Permit issued March 9, 1998.

5575SM1A3C2. State Aggregates, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9454), renewal of NPDES Permit No. PA0119555 in Clifford Township, **Susquehanna County**, receiving stream—East Branch of Tunkhannock Creek. Renewal issued March 11, 1998.

48750401C3. Lafarge Corporation (5160 Main Street, Whitehall, PA 18052), correction to an existing quarry operation in Allen Township, **Northampton County** affecting 342.0 acres, receiving stream—Lehigh River. Correction issued March 12, 1998.

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

Coal Applications Withdrawn

54970205. A/C Fuels Company (1001 Industrial Road, Nesquehoning, PA 18204), commencement, operation and restoration of a coal refuse reprocessing operation in Reilly Township, **Schuylkill County** affecting 165.9 acres, receiving stream—Muddy Creek. Application received October 9, 1997. Application withdrawn March 13, 1998.

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

Industrial Minerals NPDES Permit Renewal Applications Issued

4275SM20. U. S. Silica Company (P. O. Box 187, Berkeley Springs, WV 25411), renewal of NPDES Permit No. PA0125334, Brady Township, **Huntingdon County**, receiving streams Juniata River; Saddler Creek; unnamed tributary of Shaughnessy Run; and unnamed tributary of Flush Run. NPDES renewal application received December 08, 1997; issued March 6, 1998.

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

General Small Noncoal Bond Release Application

64910802. Pocono Custom Homes, Inc. (PO Box 21, New Foundland, PA 18445), Stage I & II bond release for a small quarry operation in Sterling Township, **Wayne County** affecting 2.0 acres for \$2,000 on property owned by Roger Altemier. Application received March 2, 1998.

**ACTIONS TAKEN UNDER
SECTION 401: FEDERAL
WATER POLLUTION
CONTROL ACT
ENCROACHMENTS**

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the

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

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

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

E22-376. Encroachment. Dauphin County Board of Commissioners, Russell Sheaffer, PO Box 1295, Harrisburg, PA 17108. To remove the existing structure and replace it with a bridge having a normal span of 55 feet and an underclearance of 4.5 feet across the channel of Wiconisco Creek at a point at Arch Street (T-707) (Lykens, PA Quadrangle N: 12.38 inches; W: 9.75 inches) in Lykens Borough and Wiconisco Township, **Dauphin County**.

This permit also includes 401 Water Quality Certification.

E28-247. Encroachment. Greene Township Board of Supervisors, Charles Jamison, Jr., PO Box 215, Scotland, PA 17254. To remove the existing structure and to construct and maintain an 18 feet by 6.5 feet concrete box culvert across an overflow channel of the Conococheague Creek on T-415 (Brindle Road) located about 1.5 miles south of Scotland Village (Scotland, PA Quadrangle N: 12.75 inches; W: 12.3 inches) in Green Township, **Franklin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E31-131. Encroachment. Ralph Weiler, Chairperson, Jackson Township Supervisors, RR 1, Box 389A, Petersburg, PA 16669. Description: To maintain the work done at Slate Hill Road Bridge #1 in Greenlee Run under emergency permit EP319607 which authorized the filling of a portion of an instream scour hole, downstream of the bridge, with R-6 riprap; filling a portion of the scour hole under the bridge with Class C concrete and embedded R-3 riprap in the top surface; underpinning and placing scour protection concrete at both bridge abutments and placing R-6 riprap on the banks downstream of the bridge located on Township 529 about 300 feet east of Township 530 (McAlevys Fort, PA Quadrangle N: 7.3 inches; W: 10.6 inches) in Jackson Township, **Huntingdon County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E50-190. Encroachment. **Wheatfield Township Board of Supervisors**, Harold Mullen, 6 Ankajam Drive, Duncannon, PA 17020. To replace an existing structure with a 24-foot × 5.75-foot aluminum box culvert across the channel of Dark Run at a point at T-348 (Pleasant Grove Road) (Duncannon, PA Quadrangle N: 2.0 inches; W: 14.0 inches) in Wheatfield Township, **Perry County**. This permit also includes 401 Water Quality Certification.

E67-609. Encroachment. **York County Rail/Trail Authority**, Gwen Loose, RD 8, Box 438A, York, PA 17403. To realign approximately 240 feet of stream channel and place riprap to stabilize the bed and banks of a tributary to South Branch Codorus Creek beginning upstream of rail/trail Bridge at M. P. 49.84 (West York, PA Quadrangle N: 1.8 inches; W: 1.5 inches) in North Codorus Township, **York County**. This permit also includes 401 Water Quality Certification.

E67-610. Encroachment. **Manchester Township Municipal Authority**, Delmar Hauck, 3289 Susquehanna Trail, York, PA 17402. To construct and maintain an 8-inch diameter (PVC) sanitary sewer main with manholes, crossing two tributaries to Codorus Creek and 294 feet of wetlands located along the west side of North George Street (SR 0181) (York Haven, PA Quadrangle N: 5 inches; W: 15 inches) in Manchester Township, **York County**. This permit also includes 401 Water Quality Certification.

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

E18-240. Encroachment. **DCNR, Bureau of Facility Design & Construction**, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove an existing deteriorated structure and to construct and maintain a prestressed concrete spread box beam bridge with a 27 foot normal span and an average underclearance of 5 feet across County Line Branch which is located approximately 0.25 mile northbound on Robinson Road from its intersection with Benson Road (Slate Run, PA Quadrangle N: 17.8 inches; W: 16.6 inches) in Chapman Township, **Clinton County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E19-173. Encroachment. **Dave Evans**, 341 Millville Rd., Bloomsburg, PA 17815. To maintain a 30 foot wide by 40 foot long by 20 foot high wooden barn in the right floodway of Little Fishing Creek located approximately 2 miles north on SR 0042 from SR 0080 (Bloomsburg, PA Quadrangle N: 6.8 inches; W: 14.8 inches) in Hemlock Township, **Columbia County**. This permit was issued under section 105.13(e) Small Projects.

E41-413. Encroachment. **James Eppley, DCNR**, Bureau of Facility Design & Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove an existing structure and to construct, operate and maintain a single cell precast reinforced concrete box culvert to carry Pleasant Stream Road across Bovier Run. The box culvert shall be constructed with a span of 20 feet, rise of 5 feet and length of 58 feet. The project is located along the eastern right-of-way of SR 0014 and approximately 1.5 miles south of the intersection of SR 1013 and Pleasant Stream Road (Barbours, PA Quadrangle N: 22.3 inches; W: 12.5 inches) in McIntyre Township, **Lycoming County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E55-154. Encroachment. **Pa. Dept. of Transportation**, P. O. Box 218, Montoursville, PA 17754. To construct

and maintain articulated grout mattress approximately 11 foot wide by 33 foot long by 8 inch thick depressed 6 inches in the center of Hoffer Creek under the bridge located on SR 2002 approximately 600 feet south of the intersection of SR 2002 with SR 2001 (Dalmatia, PA Quadrangle N: 9.3 inches; W: 8.4 inches) in Chapman Township, **Snyder County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

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

E65-682. Encroachment. **Equitable Resource Exploration, A Division of Equitable Resources Energy Co.**, Cloverleaf Square, Building G, Big Stone Gap, VA 24219. To remove the existing structure and to construct and maintain a culvert crossing consisting of two 60-inch corrugated metal pipes in an unnamed tributary to Jacobs Creek for the purpose of providing access to a gas well. The project is located off of T-748 (Mount Pleasant, PA Quadrangle N: 3.1 inches; W: 8.4 inches) in East Huntingdon Township, **Westmoreland County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

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

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

E25-560. Encroachment. **Deangelo Family Limited Partnership**, 521 Seminole Drive, Erie, PA 16505. To construct and maintain a laminated timber bridge having a clear, normal span of 33.5 feet and an average underclearance of 6.5 feet across a tributary to Walnut Creek (Thomas Run) on an access road in Echo Hills Estates Subdivision (Echo Hill Lane) approximately 2,800 feet northwest of the intersection of Thomas Road and California Road (Swanville, PA Quadrangle N: 6.4 inches; W: 5.3 inches) located in Millcreek Township, **Erie County**.

E25-561. Encroachment. **Erie-Western Pennsylvania Port Authority**, 17 West Dobbins Landing, Erie, PA 16507. To excavate and maintain an area measuring 269 feet long by 65 feet wide along the east side of the existing Sassafras Street Dock (Sand Dock) to elevation 563 feet (USGS Datum) in the West Canal Basin, Presque Isle Bay, Lake Erie (Erie North, PA Quadrangle N: 1.8 inches; W: 12.5 inches) located in the City of Erie, **Erie County**. To install and maintain the following additional structures in the excavated area: rock riprap slope protection around the perimeter, an approximately 260-foot-long by 6-foot-wide floating header dock and eight 32-foot-long by 3-foot-wide floating finger piers.

E37-115. Encroachment. **Lawrence County Commissioners**, Lawrence County Courthouse, Court Street, New Castle, PA 16101. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent

box beam bridge having a clear, normal span of 23.5 meters (77.2 feet) and minimum underclearance of 2.5 meters (8 feet) across North Fork Little Beaver Creek on T-356 (Wallace Road) approximately 2,000 feet east of S. R. 3011 (New Galilee, PA Quadrangle N: 21.0 inches; W: 7.0 inches) located in Little Beaver Township, **Lawrence County**.

[Pa.B. Doc. No. 98-489. Filed for public inspection March 27, 1998, 9:00 a.m.]

Radiation Protection Advisory Committee Meeting

A Radiation Protection Advisory Committee (RPAC) meeting is scheduled for April 23, 1998, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the RPAC meeting should be addressed to Stuart Levin at (717) 787-3720 or e-mail at levin.stuart@a1.dep.state.pa.us. The agenda is also available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marianne Hansen directly at (717) 787-2480 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-490. Filed for public inspection March 27, 1998, 9:00 a.m.]

Small Business Assistance Program Compliance Advisory Committee; Change of Meeting Location

The location for the April 22, 1998, meeting of the Small Business Assistance Program Compliance Advisory Committee has been changed from Harrisburg to Johnstown. The meeting will begin at 10:30 a.m. and will be held at Concurrent Technologies Corp., 1425 Scalp Avenue, Johnstown.

The purpose of this meeting is to inform the committee members of Small Business Assistance activities. Questions concerning the meeting can be directed to Scott Kepner, Bureau of Air Quality, at (717) 772-2330 or e-mail to Kepner.Scott@a1.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Scott Kepner directly at (717) 772-2330 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-491. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF HEALTH

WIC; Public Meeting

In accordance with 7 CFR 246.4(b) (as amended, 50 FR 6108 et seq., February 13, 1985) the Department of Health (Department) has scheduled a public meeting for the purpose of obtaining comments and recommendations for the development of the 1999 State Plan of Program Operations and Administration for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) in Pennsylvania.

The Department invites comments on all aspects of the program's operations. General comments on other issues pertinent to the program are also requested.

Persons wishing to give testimony at the public meeting are requested to preregister with the State WIC Program Office by calling (717) 783-1289. Anyone unable to attend the meetings, but wishing to express their views, may submit written comments by May 31 to the Department. Direct written comments to: Department of Health, Division of Women, Infants and Children (WIC), Attention: Program Operations and Evaluation Section, P. O. Box 90, Harrisburg, PA 17108.

Persons who require reasonable accommodations in accordance with the Americans with Disabilities Act (ADA) of 1990, should contact Wendy Unger at (717) 783-1289 for assistance.

The meeting will be held on Thursday, April 23, 1998 at 10 a.m.—3 p.m. in the Health and Welfare Building—Room 802, Commonwealth and Forster Streets, Harrisburg, PA.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 98-492. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The contractors referenced as follows have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-11—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), this firm or persons, or any firms, corporations or partnerships in which the firm or persons have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Blue Eagle Construction (Fed. ER Tax I. D. No. 25-1725623)	4830 Hatfield St. Pittsburgh, PA 15201	06/13/97

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Ellen F. Lynch and Allyn L. Lynch	Professional Complex Suite 100 15 Forbes Road Trafford, PA 15085	02/20/98

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 98-493. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

1997 Group Two Exception Requests; MA/LTC Participation Review

The Department of Public Welfare (Department), by statement of policy effective December 19, 1996, adopted an interim policy announcing that, as a general matter, it intended to exercise its discretion to terminate or to refuse to enter into an MA provider agreement with a provider of nursing facility services that sought to in-

crease the number of MA certified nursing facility beds through enrollment or expansion, unless the Department granted an exception on a case-by-case basis to permit that provider to enroll or expand; or, in the case of an enrolled provider, the provider did not expand by more than 10 beds or 10%, whichever was less, over a 2-year period. See 26 Pa.B. 5996 (December 14, 1996). The Department revised its interim policy effective August 11, 1997, to prohibit enrolled nursing facility providers from expanding their existing licensed bed capacity, under any circumstances, without first receiving an exception from the Department. See 27 Pa.B. 4005 (August 9, 1997).

When it published its initial interim statement of policy, the Department announced its intention to supersede the interim policy with a permanent MA/Long Term Care (LTC) participation review process. To that end, the Department developed a process and guidelines that it intends to use to grant exceptions on a case-by-case basis to its general policy to deny or terminate MA enrollment. The Department published a final policy in the *Pennsylvania Bulletin*. See 28 Pa.B. 138 (January 10, 1998).

Under those guidelines, the Department has committed to publish a notice in the *Pennsylvania Bulletin* listing all pending Group Two exception requests. By this notice, the Department announces the 1997 Group Two exception requests covering the submission period of July 1, 1997 through December 31, 1997.

Expansion Projects

<i>Number</i>	<i>Name</i>	<i>Address</i>	<i>County</i>	<i>Beds</i>
JD97002	ManorCare—Laureldale	2125 Elizabeth Avenue, Laureldale	Berks	2
JD97012	ManorCare—Elizabethtown	320 South Market Street, Elizabethtown	Lancaster	6
JD97022	Hospitality Care Center of Hermitage	3726 E. State Street, Hermitage	Mercer	3
JD97037	Fox SubAcute Center	2644 Bristol Road, Warrington	Bucks	17
JD97039	Immaculate Mary Home	2990 Holme Avenue, Philadelphia	Philadelphia	50
JD97040	St. John Neumann Nursing Home	10400 Roosevelt Blvd., Philadelphia	Philadelphia	50
JD97041	Orangeville Nursing & Rehabilitation Ctr	Orangeville	Columbia	9
JD97042	Heritage Nursing Home, Inc.	200 South Main Street, Athens	Bradford	45
JD97047	Gnaden Huetten Nursing & Conv. Center	211 N. 12th Street, Lehighton	Carbon	45
JD97048	Fulton County Medical Center	216 South First Street, McConnellsburg	Fulton	43
JD97050	Haven Crest Nursing Center	1277 Country Club Road, Monongahela	Washington	10
JD97052	Atrium I Nursing, Research & Rehab. Ctr.	5180 Campbells Run Road, Pittsburgh	Allegheny	30
JD97054	Margaret E. Moul Home	2050 Barley Road, York	York	30
JD97056	Mercy Health Care Center	147 Newport Street, Nanticoke	Luzerne	10
JD97059	Butler Valley Manor	RR1 Box 1355, Drums	Luzerne	19
JD97062	Bear Creek Health Care Center	Route 115, Bear Creek	Luzerne	8
JD97063	Easton Nursing Center Associates	498 Washington Street, Easton	Northampton	270

New Facility Projects

<i>Number</i>	<i>Name</i>	<i>Address</i>	<i>County</i>	<i>Beds</i>
JD97003	White Billet	412 South York Road, Hatboro	Montgomery	39
JD97011	Bentleyville Nursing Home, Inc.	119 Wilson Road, Bentleyville	Washington	*
JD97025	Gettysburg Hospital	147 Gettys Street, Gettysburg	Adams	23
JD97036	Rebecca Residence	Cedar Ridge Rd., West Deer Township	Allegheny	60
JD97038	Millcreek Manor	3401 Poplar Street, Erie	Erie	60
JD97043	Schreffler Manor	200 Rachel Drive, Pleasant Gap	Centre	24
JD97044	Sage Health Services	404 East Hartford Street; Milford	Pike	67
JD97051	Northern Health Facilities, Inc.	Bullskin	Fayette	120
JD97053	Atrium II Nursing, Research & Rehab Ctr	Fawn Township	Allegheny	120
JD97055	Atrium III Nursing, Research & Rehab Ctr	Monument Avenue, Philadelphia	Philadelphia	125

*This facility's exception request submitted did not identify the number of beds included in the proposed project.

Copies of the above listed exception requests are available for review by the public during regular business hours. To schedule an appointment to review a request, call (717) 772-2570.

The Department will accept written comments related to the requests for a 30-day period following the date of this publication. Written comments may be submitted to: Department of Public Welfare, Bureau of LTC Programs, Attention: Policy Section, P. O. Box 8025, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Persons who require another alternative format should contact Thomas Vracarich at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-167. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 98-494. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$50,000 Cash Vault Instant Lottery Game

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

1. *Name:* The name of the game is Pennsylvania \$50,000 Cash Vault.

2. *Price:* The price of a Pennsylvania \$50,000 Cash Vault instant lottery game ticket is \$2.00.

3. *Play Symbols:* Each Pennsylvania \$50,000 Cash Vault instant lottery game ticket will contain one play area featuring one "Winning Numbers" area and one "Your Numbers" area. The play symbols and their captions located in the "Winning Numbers" area and "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SNTN), 18 (EGTN), 19 (NINTN) and 20 (TWTY).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOUR DOL), \$8.⁰⁰ (EIGHT DOL), \$16\$ (SXTN DOL), \$24\$ (TWY FOUR), \$40\$ (FORTY), \$80\$ (EIGHTY), \$400 (FOUR HUN) and \$50,000 (FIFTY THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$8, \$16, \$24, \$40, \$80, \$400 and \$50,000. The player can win up to eight times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,800,000 tickets will be printed for the Pennsylvania \$50,000 Cash Vault instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$50,000 (FIFTY THO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$400 (FOUR HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$80\$ (EIGHTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$80.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$40\$ (FORTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$24\$ (TWY FOUR) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$16\$ (SXTN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$16.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$8.⁰⁰ (EIGHT DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$8.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$4.⁰⁰ (FOUR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Winning Numbers" play symbols and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

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:

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 10,800,000 Tickets</i>
\$1 + \$1	\$2	1:10	1,080,000
\$2	\$2	1:18.75	576,000
\$1 x 4	\$4	1:32.61	331,200
\$1 x 2 + \$2	\$4	1:44.12	244,800
\$2 x 2	\$4	1:53.57	201,600
\$4	\$4	1:68.18	158,400
\$1 x 8	\$8	1:375	28,800
\$1 x 4 + \$4	\$8	1:750	14,400
\$4 x 2	\$8	1:750	14,400
\$8	\$8	1:750	14,400
\$2 x 8	\$16	1:375	28,800
\$2 x 4 + \$4 x 2	\$16	1:750	14,400
\$1 x 4 + \$4 + \$8	\$16	1:750	14,400
\$16	\$16	1:750	14,400
\$2 x 6 + \$4 + \$8	\$24	1:750	14,400
\$4 x 2 + \$16	\$24	1:750	14,400
\$8 + \$16	\$24	1:750	14,400
\$2 x 4 + \$4 x 4	\$24	1:750	14,400
\$24	\$24	1:750	14,400
\$4 x 6 + \$8 x 2	\$40	1:1,500	7,200
\$8 x 3 + \$16	\$40	1:2,000	5,400
\$8 x 5	\$40	1:3,000	3,600
\$8 + \$16 x 2	\$40	1:3,000	3,600
\$16 + \$24	\$40	1:6,000	1,800
\$40	\$40	1:12,000	900
\$8 x 6 + \$16 x 2	\$80	1:6,000	1,800
\$40 x 2	\$80	1:20,000	540
\$16 + \$24 + \$40	\$80	1:12,000	900
\$8 x 3 + \$16 + \$40	\$80	1:12,000	900
\$80	\$80	1:30,000	360
\$16 x 2 + \$24 x 2 + \$80 x 4	\$400	1:40,000	270
\$400	\$400	1:120,000	90
\$50,000	\$50,000	1:675,000	16

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$50,000 Cash Vault 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 \$50,000 Cash Vault, prize money from winning Pennsylvania \$50,000 Cash Vault 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 \$50,000 Cash Vault 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 61 Pa. Code Part V (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. The announcement will be disseminated through media used to advertise or promote

Pennsylvania \$50,000 Cash Vault or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-495. Filed for public inspection March 27, 1998, 9:00 a.m.]

Pennsylvania Lucky Duck Doubler Instant Lottery Game

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

1. *Name:* The name of the game is Pennsylvania Lucky Duck Doubler.

2. *Price:* The price of a Pennsylvania Lucky Duck Doubler instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Lucky Duck Doubler instant lottery game ticket will contain one "Play Area." The play symbols and their captions located in the "Play Area" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOUR DOL), \$5⁰⁰ (FIVE DOL), \$8⁰⁰ (EIGHT DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$80\$ (EIGHTY), \$250 (TWHNFTY), \$5,000 (FIVE THO) and a Duck Symbol (DOUBLE).

4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$5, \$8, \$10, \$20, \$40, \$80, \$250, \$500 and \$5,000.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Lucky Duck Doubler instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of \$5,000 (FIVE THO) in the "Play Area" on a single ticket, shall be entitled to a prize of \$5,000.

(b) Holders of tickets with two matching play symbols of \$250 (TWHNFTY), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets with three matching play symbols of \$250 (TWHNFTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$250.

(d) Holders of tickets with two matching play symbols of \$40\$ (FORTY), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$80.

(e) Holders of tickets with three matching play symbols of \$80\$ (EIGHTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$80.

(f) Holders of tickets with two matching play symbols of \$20\$ (TWENTY), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$40.

(g) Holders of tickets with three matching play symbols of \$40\$ (FORTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets with two matching play symbols of \$10⁰⁰ (TEN DOL), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets with three matching play symbols of \$20\$ (TWENTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets with two matching play symbols of \$5.⁰⁰ (FIVE DOL), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets with three matching play symbols of \$10.⁰⁰ (TEN DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets with two matching play symbols of \$4.⁰⁰ (FOUR DOL), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$8.

(m) Holders of tickets with three matching play symbols of \$8.⁰⁰ (EIGHT DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$8.

(n) Holders of tickets with three matching play symbols of \$5.⁰⁰ (FIVE DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets with two matching play symbols of \$2.⁰⁰ (TWO DOL), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$4.

(p) Holders of tickets with three matching play symbols of \$4.⁰⁰ (FOUR DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets with two matching play symbols of \$1.⁰⁰ (ONE DOL), and a Duck play symbol (DOUBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$2.

(r) Holders of tickets with three matching play symbols of \$2.⁰⁰ (TWO DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets with three matching play symbols of \$1.⁰⁰ (ONE DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$1.

(t) A prize will be paid only for the highest Pennsylvania Lucky Duck Doubler 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).

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

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 12,000,000 Tickets</i>
3-\$1	\$1	1:9.38	1,280,000
3-\$2	\$2	1:27.27	440,000
2-\$1 + DBL	\$2	1:18.75	640,000
3-\$4	\$4	1:150	80,000
2-\$2 + DBL	\$4	1:75	160,000
3-\$5	\$5	1:300	40,000
3-\$8	\$8	1:750	16,000
2-\$4 + DBL	\$8	1:500	24,000
3-\$10	\$10	1:1,500	8,000
2-\$5 + DBL	\$10	1:375	32,000

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 12,000,000 Tickets</i>
3-\$20	\$20	1:750	16,000
2-\$10 + DBL	\$20	1:500	24,000
3-\$40	\$40	1:4,000	3,000
2-\$20 + DBL	\$40	1:3,000	4,000
3-\$80	\$80	1:12,000	1,000
2-\$40 + DBL	\$80	1:10,000	1,200
3-\$250	\$250	1:60,000	200
2-\$250 + DBL	\$500	1:80,000	150
3-\$5,000	\$5,000	1:500,000	24

DBL = Doubler

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lucky Duck Doubler 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 Lucky Duck Doubler, prize money from winning Pennsylvania Lucky Duck Doubler 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 Lucky Duck Doubler instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

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

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

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-496. Filed for public inspection March 27, 1998, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Retention of Engineering Firms

Northampton County
Project Reference No. 08430AG2172

The Department of Transportation will retain an engineering firm to provide supplementary construction in-

spection staff of approximately twelve (12) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on S. R. 0078, Section 033, Northampton County, in Lower Saucon Township. This project involves the construction of a new concrete interchange connecting the S. R. 0033 extension project to existing S. R. 0078. This project also includes widening of an existing S.R. 0078 bridge, a new structure and a truck climbing lane on S.R. 0078.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section of the Pennsylvania Bulletin.
- b. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving, drainage, guiderail, pavement markings, new interchange construction.
- c. Understanding of Department's requirements, policies, and specifications.
- d. Past Performance.
- e. Number of available inspectors in each payroll classification.
- f. Number of NICET certified inspectors in each payroll classification.
- g. Workload.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1)	1 (1)
(NICET Highway Construction Level 4 or equivalent)	
Transportation Construction Ins. Super. (TCIS)	3 (2)
(NICET Highway Construction Level 3 or equivalent)	
Transportation Construction Inspector—Materials (TCI-Materials)	1 (1)
(NICET Highway Materials Level 2 or equivalent)	
Transportation Construction Inspector (TCI)	6 (3)
(NICET Highway Construction Level 2 or equivalent)	

<i>Classification</i>	<i>No. of Inspectors</i>
Technical Assistant (TA)	1 (0)
(NICET Highway Construction Level 1 or equivalent)	

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1998:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCM-1)	\$44.93
(TCIS)	\$39.36
(TCI-Materials)	\$35.51
(TCI)	\$34.43
(TA)	\$23.67

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; one (1) of the inspectors listed should be PennDOT CDS certified and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License
- 1 Vehicle for the Transportation of Nuclear Gauges

- 1 Base Radio Station
- 12 Two-Way Radios
- 1 Two-Way Radio Repeater Station
- 1 Camera (type 35mm, with film)

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and/or TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI-M	2
TCI	8

No resumes are required for the TA Classification.

The second copy of the letter of interest and required forms, (see general requirements and information section) shall be sent to: Mr. Walter E. Bortree, P.E., District Engineer, District 5-0, 2460 Parkwood Drive, Allentown, PA 18103. Attention: Mr. Brian H. Graver

Any technical questions concerning the requirements for this project should be directed to: Mr. Brian H. Graver, District 5-0, at (610) 791-6022.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit two copies of a Letter of Interest are required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to: Mr. Charles W. Alwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P.O. Box 3060, Harrisburg, Pennsylvania 17105-3060. Note: The Zip Code for express Mailing is 17101-1900.

The Letter of Interest and required information must be received within twenty (20) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 P.M. prevailing time of the twentieth day.

The second copy of the letter of interest and required information must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If an individual, firm, or corporation not authorized to engage in the practice of engineering desires to submit a Letter of Interest, said individual, firm, or corporation may do so as part of a Joint Venture with an individual,

firm, or corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act, WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Each Letter of Interest must include the following information and the information must be packaged and presented in the following order:

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

The subject heading of the transmittal letter must include the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate in the body of their transmittal letter the names and Professional Engineer License Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm.

2. Project Organizational Chart (one page, one side, maximum size 11" x 17")

This Chart must show key staff from the prime and each subconsultant and their area of responsibility.

3. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team)

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

Under Item 4 of this form, Column A must specify only the number of subconsultant personnel and Column B must specify only the number of prime consultant personnel to be assigned to work on this project reference number. Do not include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, must accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the Letter of Interest, the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

These Forms must be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Form 255.

5. Workload Projection Graph (Not required for Construction Inspection Services)

Separate Workload Projection Graphs for the prime and each subconsultant shown in Item 6 of the Form 255 must be included and must indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next two-year time frame. The Workload Projection Graphs must be submitted for the office(s) where the work would be performed and must only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (For Construction Inspections Services, if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the

Letter of Interest, the letters from proposed prime employees must be first, followed by subconsultant employees, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. Overhead Rates (one page)

A single page summary must indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public Accountant must be indicated. New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-497. Filed for public inspection March 27, 1998, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Cancellation of April 21, 1998, Meeting

The April 21, 1998, Environmental Quality Board meeting has been cancelled. The next meeting is scheduled for May 21, 1998, in the First Floor Meeting Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 98-498. Filed for public inspection March 27, 1998, 9:00 a.m.]

HOUSING FINANCE AGENCY

Request for Proposals; 1998 Tax-Exempt Qualified Residential Rental Facilities Seeking Private Activity Bond Allocations

Private activity bonds to finance qualified residential rental facilities are subject to the limitations imposed through the Statewide unified private activity bond cap. In accordance with the Tax Exempt Bond Allocation Act of 1980, as amended, the Department of Community and Economic Development (Department) provides for the allocation of authority for the issuance of private activity bonds among the various qualified issuers in this Commonwealth. Each year, the Department provides certain allocations to the Housing Finance Agency (Agency) for the issuance of private activity bonds for housing purposes. The Agency has designed this Request for Proposals (RFP) to allow for a process of evaluation of qualified tax exempt residential rental facilities seeking allocations of private activity volume cap to local issuers for 1998.

The RFP announces the limited availability of 1998 housing bond volume cap for the funding to meet all qualifications of the Internal Revenue Code (Code). In the event additional volume cap becomes available in this Commonwealth for the provision of housing bonds, the Agency may determine to fund additional multifamily projects meeting the minimum qualifications set forth in the RFP.

In addition to meeting all requirements relating to private activity bonds set forth in the Code, projects using Federal low income housing tax credits in their financing plan must also meet all requirements of section 42 of the Code, as amended, and the 1998 Agency tax credit program guide, processing guide and program submission deadlines.

The amount of volume cap available for multifamily projects is extremely limited due to the competing uses of volume cap in this Commonwealth and among housing bond programs. Sponsors are advised and cautioned that funds will be extremely competitive and many otherwise qualified projects may not receive funding due to the scarcity of resources. Any and all costs incurred in this application process are the sole responsibility of the sponsor.

Requests for a copy of the 1998 Request for Proposals and for an application for a 1998 private activity bond allocation may be submitted to Housing Finance Agency, Attn: Development Division, P.O. Box 8029, Harrisburg, PA 17105-8029, (717) 780-3882, TDD (717) 780-1869.

WILLIAM C. BOSTIC,
Executive Director

[Pa.B. Doc. No. 98-499. Filed for public inspection March 27, 1998, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, March 12, 1998, and took the following actions:

Regulation Approved:

#1800 Department of Education #6-257: Private Driver Training Schools (adds 22 Pa. Code §§ 101.101—101.181)

Regulations Dissapproved:

#1700 Public School Employes' Retirement System #43-6. Change in Benefit Payment Plan (amends 22 Pa. Code Chapter 213)

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner;

Public Meeting held
March 12, 1998

Department of Education—Private Driver Training Schools; Doc. No. 6-257

Order

On March 26, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Education (Education). This rulemaking adds 22 Pa. Code §§ 101.101—101.181. The authority for this regulation is section 14 of the act of January 18, 1952 (24 P. S. § 2844) known as the Private Driver Education or Training School Act. The proposed regulation was published in the April 5, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 17, 1998.

The regulation represents an updated and substantial revision of the existing regulations for private driver training schools. The existing regulations were adopted in June 1970 and were never revised. The rulemaking establishes requirements for school and teacher licensure, school plant standards, recordkeeping and advertising. Education estimates that the total cost for criminal background checks for 150 licensed driving schools will be \$3,000 annually.

The House Education Committee voted to approve this regulation on March 9, 1998. The Commission also received a letter dated March 9, 1998, from Senator James J. Rhoades, Chairperson of the Senate Education Committee, stating that his Committee did not have any concerns with this regulation.

We have reviewed this regulation and find it to be in the public interest. In response to comments from the House Education Committee and this Commission, Education made several changes to the regulation that improved its clarity. Major improvements include the incorporation of statutory language or citations in important areas of the regulation.

Therefore, It Is Ordered That:

1. Regulation No. 6-257 from the Department of Education, as submitted to the Commission on February 17, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
March 12, 1998

Public School Employees' Retirement System—Change in Benefit Payment Plan; Doc. No. 43-6

Order

On January 2, 1996, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Public School Employees' Retirement System (PSERS) which amends 22 Pa. Code Chapter 213. The authority for this regulation is section 8502(h) of the Public School Employees' Retirement Code (act). The proposed regulation was published in the January 20, 1996 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 19, 1998.

The regulation establishes the procedures that a member must comply with in order to change the terms of the retirement contract.

We have reviewed this regulation and find it not to be in the public interest. Based on reasonableness and clarity, the regulation does not meet the criteria of the Regulatory Review Act. We have one substantive concern with the revised language and two other items which we believe should be clarified.

First, § 213.45(a) of the final-form regulation provides that "an Annuitant may declare an intent to change the final terms of the benefit payment plan by filing a written intent with the System within 15 days of the date of the initial benefit letter sent to the member by the System."

We believe that 15 days is not a reasonable amount of time for the member to respond, particularly as the 15-day period begins on the date of the letter as opposed to the date the letter is received.

Therefore, we recommend that PSERS amend the 15 days to a more reasonable period, such as 30 days. This would allow a member the opportunity to respond in a timely manner. In addition, PSERS should add language to this section which makes it clear that the 30 days begins upon receipt of the initial letter, and that a member is presumed to have received the letter 3 days after mailing.

Second, § 213.45(b) of the final-form regulation provides that "an Annuitant may declare an intent to change the final terms of the benefit payment plan by filing a written intent with the System within 30 days after the date of mailing of the statement provided for in Section 8505(g) of the Code, if one or both of the following conditions are met."

The phrase "if one or both of the following conditions are met" could be confusing. PSERS should amend it to

read "if one of the following conditions are met." In addition, as noted above, PSERS should clarify that the 30 days begins upon receipt of the final statement, and that a member is presumed to have received the statement 3 days after mailing.

In addition, § 213.45(b)(2) of the final-form regulation uses the term "scrivener's error."

PSERS indicated that a "scrivener's error" is a precise term with certain parameters. However, these parameters do not appear in the regulation. The term "scrivener's error" should be clearly defined in the regulation.

Therefore, It Is Ordered That:

1. Regulation No. 43-6 from the Public School Employees' Retirement System, as submitted to the Commission on February 19, 1998, is disapproved;

2. The Public School Employees' Retirement System shall, within 7 days of receipt of this Order, notify the Governor, the designated Standing Committees of the House of Representatives and the Senate, and the Commission of its intention to either proceed with the promulgation of the regulation without revisions, to revise the regulation, or to withdraw the regulation. Failure to submit notification within the 7-day period shall constitute withdrawal of the regulation;

3. The Commission will transmit a copy of this Order to the Legislative Reference Bureau; and

4. This Order constitutes a bar to final publication of Regulation No. 43-6 under section 6(b) of the Regulatory Review Act.

JOHN R. MCGINLEY, JR.,
Chairperson

[Pa.B. Doc. No. 98-500. Filed for public inspection March 27, 1998, 9:00 a.m.]

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
15-373	Department of Revenue Public Transportation Assistance Fund Taxes and Fees	3/12/98
14-424	Department of Public Welfare Medical Assistance Income	3/13/98

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-501. Filed for public inspection March 27, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Acquisition of General Accident Insurance Company, Pennsylvania General Insurance Company and Potomac Insurance Company

Commercial Union plc, has filed an application to acquire the issued and outstanding stock of General Accident Insurance Company, Pennsylvania General Insurance Company and Potomac Insurance Company. The filing was made under the requirements set forth under the Insurance Holding Company Act (40 P. S. § 991.1402 et seq.). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-1879.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-502. Filed for public inspection March 27, 1998, 9:00 a.m.]

Application for Acquisition of Oxford Health Plans (PA), Inc.

TPG Partners II, L. P., TPG Investors II, L. P. TPG Parallel II, L. P. and TPG Oxford LLC, have filed an application to acquire the issued and outstanding stock of Oxford Health Plan (PA), Inc. The filing was made under the requirements set forth under the Insurance Holding Company Act (40 P. S. § 991.1402 et seq.). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-1879.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-503. Filed for public inspection March 27, 1998, 9:00 a.m.]

Application for Acquisition of U. S. Insurors Company

Mutual Risk Management, Ltd. has filed an application to acquire the issued and outstanding stock of U. S. Insurors Company from Great Alliance Insurance Ltd.

The filing was made under the requirements set forth under the Insurance Holding Company Act (40 P. S. § 991.1402 et. seq.). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 (717) 787-1879.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-504. Filed for public inspection March 27, 1998, 9:00 a.m.]

Application and Request for Plan Approval of a Merger Between National Slovak Society of the United States of America and Russian Orthodox Catholic Women's Mutual Aid Society

National Slovak Society of the United States of America, a Pennsylvania domiciled fraternal benefit society, has submitted a Plan of Merger, whereby it proposes to merge with Russian Orthodox Catholic Women's Mutual Aid Society, also a Pennsylvania domiciled fraternal benefit society. The survivor will be National Slovak Society of the United States of America. The initial filing was received on March 2, 1998, and was made under requirements set forth under the Fraternal Benefit Societies Act of 1992 (P. L. 835, No. 134) (40 P. S. § 1142). Persons wishing to comment on the grounds of public or private interest in the filing of this merger are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the author, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, or by fax to (717) 787-8557.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-505. Filed for public inspection March 27, 1998, 9:00 a.m.]

Christine Bronson; Hearing

Appeal of Christine Bronson; Flagship Insurance Co.; Pennsylvania Assigned Risk Plan; Doc. No. PH98-03-002

Under the Pennsylvania Assigned Risk Plan, Section 19, that was adopted by the Insurance Commissioner under 75 Pa.C.S. § 1741, notice is hereby given that Christine Bronson has requested a hearing on the deter-

mination by the Pennsylvania Assigned Risk Plan Governing Committee of the failure to cover damages of a vehicle.

The hearing will be held at the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102 on April 30, 1998, at 10 a.m.

Both parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. 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), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.193, 35.225—35.251, 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) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-506. Filed for public inspection March 27, 1998, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

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

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

Appeal of Mark D. McDonald; file no. 98-497-90172; Pennsylvania National Mutual Casualty; doc. no. E98-03-010; April 14, 1998, 1 p.m.;

Appeal of Edward J. Miskiel, Jr.; file no. 98-280-30635; CNA Insurance Companies; doc. no. PH98-03-009; April 15, 1998, 11 a.m.;

Appeal of Delores F. Smith; file no. 98-181-00943; Fidelity and Guaranty Insurance Company; doc. no. P98-03-011; April 16, 1998, 9 a.m.

Appeal of Randy and Kathleen Turner; file No. 97-188-07737; Victoria Ins. Co. (USF & G Subsidiary); doc. no. P98-03-007; April 16, 1998, 11 a.m.;

Appeal of Brenda Conlon; file no. 97-193-06773; Allstate Indemnity Company; doc. no. P98-03-006; April 21, 1998, 9 a.m.;

Appeal of Charles F. Urban; file no. 98-267-30752; Allstate Insurance Company; doc. no. PH98-03-017; April 21, 1998, 1 p.m.

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

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

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-507. Filed for public inspection March 27, 1998, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P.S. § 1171.8) in connection with the termination of the insured's policy.

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

Appeal of Allstate Insurance Company; file no. 98-280-30460; Sandra Glass; doc. no. PH98-03-016; April 21, 1998, at 10:30 a.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) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-508. Filed for public inspection March 27, 1998, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Dauphin County, Wine & Spirits Shoppe #2209, 333 Market Street, Harrisburg, PA 17101-2209.

Lease Expiration Date: February 28, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within the following market area: Commonwealth Ave. to the East, Walnut Street to the North, Market Street to the South, and the Susquehanna River to the West.

Proposals due: April 17, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney (717) 657-4228

Allegheny County, Wine & Spirits Shoppe #9209, Monroeville Mall, 308 Mall Blvd., Monroeville, PA 15146-2227.

Lease Expiration Date: September 30, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 6,500 net useable square feet of new or existing retail commercial space in a shopping center environment in the vicinity of Monroeville Mall.

Proposals due: April 17, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Joseph J. Molhoek (412) 565-5130

The Liquor Control Board seeks the following new sites:

Clarion County, Wine & Spirits Shoppe #1603.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within .5 mile of the Interstate 80 and State Route 68 intersection. Good loading facilities and off-street parking are required.

Proposals due: April 17, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Tom Deal, (412) 565-5130

Lancaster County, Wine & Spirits Shoppe #3617, Quarryville.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,400 net useable square feet of new or existing retail commercial space within the Borough of Quarryville.

Proposals due: April 17, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Williard J. Rhodes, (717) 657-4228

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 98-509. Filed for public inspection March 27, 1998, 9:00 a.m.]

PENNSYLVANIA COMMISSION FOR WOMEN

Meeting Notice

The Pennsylvania Commission for Women has scheduled the Commissioner's Meeting for the second quarter of 1998 to be held Monday, April 6, 1998, at 10 a.m. until 3 p.m. in Room 60E of the East Wing Rotunda, State Capitol. The public is invited to attend. Persons who need accommodations due to a disability and want to attend should contact Christine Anderson, PA Commission for Women, 205 Finance Building, Harrisburg, PA 17120 at (717) 787-8128, at least 24 hours in advance so arrangements can be made.

LOIDA ESBRI,
Executive Director

[Pa.B. Doc. No. 98-510. Filed for public inspection March 27, 1998, 9:00 a.m.]

PENNSYLVANIA DEVELOPMENTAL DISABILITIES COUNCIL

State Plan for Fiscal Years 1999—2003; Suggestions from the Public

Under the provisions of the Federal Developmental Disabilities Assistance and Bill of Rights Act, as amended, Pub.L. No. 103-230 (The 1994 DD Act), this announcement serves to notify the public of the planning activities of the Pennsylvania Developmental Disabilities Council (Council).

The Council is currently forming its State Plan for the Federal Fiscal Years of 1999—2003, provided that the Federal funds for these years continues intact for Council activities.

This State Plan is to be submitted in August of 1998, updated each subsequent August, and reported on each January. The State Plan is submitted to the Secretary of Health and Human Services for approval to expend the Commonwealth's allotment of Federal funds under Part B of the 1994 DD Act. As Section 101(b) of the 1994 DD Act states, the Council shall "assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports and other assistance and opportunities that promote independence, productivity, integration and inclusion into community."

The composition of the Council and its working committees includes individuals with developmental disabilities, parents and relatives of persons with developmental disabilities, representatives of the principal state agencies that administer funds serving people with disabilities, the State's university affiliated program, the State's protection and advocacy system and persons associated with local agencies, nongovernmental agencies and private nonprofit organizations concerned with services for individuals with developmental disabilities. It is these individuals who have developed the plan thus far.

Through this notice, the Council makes its 1999—2003 Plan, as developed thus far, available to the public in order to "take into account and respond to significant suggestions" that may be offered. Suggestions for the Plan will be welcome until April 30, 1998 and must be submitted in writing to:

The Pennsylvania Developmental Disabilities Council
Attention: Rosemary Barrett
Room 561—Forum Building
Harrisburg, PA 17120

The remainder of this announcement delineates the 33 initiatives and activities in which the Council expects to engage over the next 5-year period. Unless otherwise indicated, the Council's approach to fulfilling these initiatives is to issue a competitive bid, called a Request for Proposals (RFPs), to fund one or more entities to carry out the work as will be described in the RFP. The Federal fiscal years (FFYs) for which funding is planned and the total amount to be expended over the 5 years are indicated after each description. The descriptions are arranged per six Federally defined "life domains" plus an "other state selected" domain.

Health Domain

1. *Managed Care.* To fund an entity that will educate persons with disabilities and their families on managed care services, particularly with respect to their rights, responsibilities and options, including the appeal process; and to develop and disseminate position papers on managed care and people with disabilities including appropriateness, access, legal rights, responsibilities and how managed care technologies and protocols are best applied to this population. FFY 99-03; \$475,000

2. *Health Care Professionals.* To fund one or more entities to provide continuing education and training to a full range of health care providers and organizations so that they accord people with developmental disabilities and their families the same respect in selecting and receiving their health care treatments as patients without disabilities. FFY 99-03; \$300,000

Housing Domain

3. *Citizen Owned Housing.* To fund an entity to provide intensive technical assistance, and to replicate known, successful methods, whereby citizens with severe disabilities are assisted to own their own homes. FY 99-03; \$475,000

4. *Long Term Care.* To fund one or more entities that will advocate for community based services to provide alternative living choices to traditional long term care residential placements such as, but not limited to, nursing homes, personal care boarding homes, pediatric care homes and intermediate care facilities for persons with mental retardation. (ICF/MRs). FFY 99-01; \$210,000

5. *Personal Assistance Services.* To fund an entity to advocate for the expansion of personal assistance services to people with all types of disabilities, including physical, cognitive and sensory disabilities, and to promote regulatory change that will realistically meet the every day needs of people who rely on personal care service systems. FFY 00-02; \$150,000

Employment Domain

6. *Business Leaders Network.* To fund an entity that will support the development of a Pennsylvania Business Leaders Network to proactively engage local employers in the issues of disability hiring, advancement, work force diversity, and access to customers with disabilities. FFY 99-03; \$200,000

7. *Entrepreneurship.* To continue to support entrepreneurship activities begun in the Council's 96-98 Plan cycle. FFY 99-01; \$120,000

8. *Employment.* To support activities related to improving opportunities for the employment of people with developmental disabilities. FFY 99-03; \$200,000

Education Domain

9. *Monitoring Outcomes for Children.* To fund an entity to research what are the valued outcomes for children and families using early intervention and early childhood services; and to implement best practice models while continuing the long range study. FFY 00-03; \$320,000

10. *Leadership on School Inclusion.* To fund a State-wide leadership institute on school inclusion that supports and networks teachers, families, school personnel and community members around inclusion practices. FFY 99-01; \$75,000

11. *Teacher Preparation.* To continue to fund Council's current three "Teacher Preparation" projects in FFY 99 and 00 which are establishing model teacher preparation programs in universities, and to reserve funds in FFY 01-03 to solidify these systemic changes and/or to influence standards around formal teacher certification. FFY 99-03; \$650,000

Community Inclusion Domain

12. *Minority Outreach/Cultural Competence.* To fund an entity that will train Council funded projects around the issues and values of racial, ethnic and cultural diversity and inclusion; and that will provide information to minority communities about the Council and its work. FFY 99-03; \$90,000

13. *Parent Supports.* To fund several local entities which engage parents of children with disabilities of all types and of all ages to promote inclusion concepts and activities in both generic settings and specialized service

settings their children use; and to continue to fund Statewide support to and coordination of this work. FFY 99-03; \$750,000

14. *Building Inclusion Capacities in the Community.* To fund a series of entities, using a variety of proven approaches which promote inclusionary practices, to work in nondisability related community settings and to educate and build alliances among such groups and between such groups and specialized services so as to broaden their efforts toward inclusionary practices; and to continue to fund the Statewide support to and coordination of this work as well as to continue to refine and disseminate information pertaining to these approaches. FFY 99-03; \$1,075,000

15. *Formal Citizen Advocacy.* To continue to support and ensure that the Citizen Advocacy Consortium of Pennsylvania is firmly established in the State. FFY 99-02; \$680,000

16. *Inclusion in Faith Communities.* To fund a variety of small scale efforts that will promote inclusion and full access to a fulfilling spiritual life for people with developmental disabilities and their families in faith communities of their choice. FFY 99-01; \$90,000

17. *Personal Forms of Advocacy.* To reserve funds for demonstrating and promoting new forms of personal, one-to-one advocacy. FFY 01-03; \$100,000

18. *Citizen Monitoring.* To fund an entity to facilitate and provide technical assistance to people with developmental disabilities, their family members, and a full range of county service system providers to develop realistic citizen monitoring programs of the full range of local services upon which people with disabilities rely. FFY 99-03; \$240,000

19. *Family Support.* To continue to fund the development of state legislation for a cross-disabilities, noncategorical, comprehensive, inclusive family support system. FFY 99-01; \$240,000

Self-Determination Domain

20. *Legal Advocacy.* To fund one entity to conduct specified legal advocacy and legal education activities that will assure service protections for children and adults with disabilities and their families; to disseminate and encourage the implementation of relevant case law; to affirm and support the Americans with Disabilities Act and other civil rights legislation related to people with developmental disabilities. FFY 99-03; \$725,000

21. *Leaders Development.* To fund one or more entities to engage in specified leadership development, training and technical assistance activities on behalf of the Council. FFY 99-03; \$375,000

22. *Local and Collective Advocacy.* To fund many entities engaged in local, collective, grassroots and/or self advocacy efforts across the State; to establish networks of these groups; and to continue to fund the Statewide effort that provides technical assistance and coordination to the local efforts. FFY 99-03; \$875,000

23. *Fellowship.* To continue to fund, on an every other year basis, the Council's Fellowship Program. In FFYs 99, 01, 03; \$150,000

24. *Voucher Viability.* To fund a 1-year study and the preparation of position papers on the viability of using vouchers in a full range of disability service systems in

order to inform the Council's next steps in this area and to consider possible collaboration with others about this type of service system change. FFY 99; \$30,000

State Choice/"Other" Domain

25. *Public Information/Relations.* With oversight by the Council regarding content and vision of the materials, to fund one entity to provide a variety of technical services assisting the Council in all forms of its public information services. FFY 99-03; \$240,000

26. *Project Evaluation.* To fund an entity to provide on-going evaluation of all Council funded projects in this Plan cycle and to analyze the collected data for purposes of Federal reporting and for the Council's public information and quality improvement purposes. FFY 99-03; \$180,000

27. *Transportation.* To fund up to two entities that will develop and support local efforts to improve transportation services around the State for people with disabilities not served by fixed route systems, particularly those in rural areas. FFY 99-03; \$480,000

28. *Provider Practice Training Model.* To fund an entity that will establish a model training institute for agency personnel, particularly direct care staff, in the values and practices of the field that the Council espouses and in establishing networks and mentoring opportunities for such personnel. FFY 99-03; \$210,000

29. *Criminal Justice System Change.* To collaborate with and partially fund efforts to design and provide training to professionals in the Criminal Justice system about persons with developmental disabilities in that system. FFY 99-01; \$15,000

30. *Sustainability.* To continue to support the Council's organizational sustainability efforts begun in the 96-98 Plan cycle. FFY 03; \$25,000

31. *Informing Policymakers.* To fund an entity to provide assistance and consultation to the Council regarding its development of position papers to inform policymakers about issues important to people with developmental disabilities and their families, and to facilitate communication between the Council and policymakers at all levels. FFY 99-03; \$360,000

32. *Meeting Coordination.* To fund an entity to coordinate the regular, annual meetings called by the Council and up to 20 other special events, conferences, gatherings or round table discussions to be designed and sponsored by the Council over the 5-year Plan. Thus far, two types of special events are planned: a) Cross-disabilities roundtable discussions on current, selected issues; and b) Regional dialogues and exchanges among families who have members residing in a range of residential settings. FFY 99-03; \$273,000

33. *Special Projects.* To continue to fund three or more small special projects each year that support the Council's basic goals and objectives. FFY 99-03; \$115,000

GRAHAM MULHOLLAND,
Executive Director

[Pa.B. Doc. No. 98-511. Filed for public inspection March 27, 1998, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Railroad With Hearing

C-00970911. Department of Transportation v. Consolidated Rail Corporation, et al. A complaint has been made to the Pennsylvania Public Utility Commission (Commission), under the provisions of the Public Utility Code. The complainant states the crossing with Conrail and State Route 0741 in East Hempfield Township, Lancaster County (AAR No. 517 590 F) needs to be repaired as a result of failed field panels and protruding lags. This crossing is the subject of a prior Commission Order at Application Doc. No. A-00105400 wherein the Commission ordered Conrail to maintain its facilities. Additional respondents are East Hempfield and Lancaster County.

An initial hearing on this matter will be held Wednesday, May 6, 1998, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interests may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-512. Filed for public inspection March 27, 1998, 9:00 a.m.]

Railroad With Hearing

C-00957368. Stewartstown Borough v. Stewartstown Railroad Company, et al. A complaint has been made to the Pennsylvania Public Utility Commission, under the provisions of Public Utility Code. The complainant alleges deplorable conditions of paving at two Stewartstown Rail locations in the Borough of Stewartstown and asks that improvements be made to insure a smooth ride. Additional respondents are: Pennsylvania Department of Transportation and the County of York.

An initial hearing on this matter will be held Thursday, May 14, 1998, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interests may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-513. Filed for public inspection March 27, 1998, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered

as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before April 20, 1998, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00114732. Lancaster Emergency Medical Services Association, Inc. (1829 Lincoln Highway East, Lancaster, Lancaster County, PA 17604-4652), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Lancaster, and from points in said county, to other points in Pennsylvania, and vice versa.

A-00114734. Hope Mills Limo, Incorporated (1183 Old Mercer Road, Mercer, Mercer County, PA 16137), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the county of Mercer, and from points in said county, to other points in Pennsylvania, and return. *Attorney:* David Goodwin, P.O. Box 673, Sharon, PA 16146.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00112339, Folder 1, Am-A. Best of Times Chauffeured Limousine Service, Inc. (1154 Summeytown Pike, Lansdale, Montgomery County, PA 19446), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the counties of Montgomery, Bucks, Chester and Delaware and the city and county of Philadelphia, located within an airline distance of 15 statute miles of the boundaries of Montgomery County, and from points in said territory, to other points in Pennsylvania, and return. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, Suite 1400, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102-1890.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.

A-00114731. Amish Neighbors, Inc. (750 May Post Office Road, Strasburg, Lancaster County, PA 17579), a corporation of the Commonwealth of Pennsylvania—(1) persons in group and party service from the Willow Valley Family Resort and Conference Center in the township of West Lampeter; the Circle M Ranch Campground in the township of Pequea; the Millersville Lion Club Community Building in the borough of Millersville; and from 110 Circle Road, in the borough of Millersville; all in Lancaster County, to points in Pennsylvania; subject to the following condition: that no right, power or privilege is granted to provide transportation in motor vehicles having a seating capacity exceeding 15 passengers, and (2) persons, on tours, or sight-seeing trips and special excursions, between points in the townships of West Lampeter, Strasburg and Paradise, the borough of Strasburg, all located in the county of Lancaster, and from points in said townships and borough, to points in

Pennsylvania, and return; with Right No. 2 subject to the following condition: that no right, power or privilege is granted to provide transportation in motor vehicles having a seating capacity exceeding 15 passengers; which is to be a transfer of all of the rights authorized under the certificate issued at A-00109190, to Leo H. Eckert, Sr., t/a Eckert's Tours (deceased), Evelyn B. Eckert, executrix for the estate, subject to the same limitations and conditions. *Attorney:* John A. Kenneff, 246 B Manor Avenue, Millersville, PA 17551.

Applications of the following for approval of the right to begin to operate as a broker for the transportation of persons as described under each application.

A-00114733. Groomes Tours, Inc. (R. D. 2, Box 87, Scottdale, Westmoreland County, PA 15683), a corporation of the Commonwealth of Pennsylvania—brokerage license, evidencing the Commission's approval of the beginning of the right and privilege to operate as a broker, to arrange for the transportation of persons, between points in Pennsylvania. *Attorney:* Donald L. Defurio, 221 Pittsburgh Street, Scottdale, PA 15683.

A-00114748. Jenny's Custom Journeys, Inc. (1137 Younts Road, Bedford, Bedford County, PA 15522), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons and their baggage between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Application of the following for the approval of the transfer of stock as described under each application.

A-00108743, F. 5000. Airlines Acquisition Co., Inc., t/d/b/a Airlines Transportation Company (110 Lenzner Court, Sewickley, Allegheny County, PA 15143), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of all issued and outstanding stock from Charles S. Lenzner (1,000 shares) and John E. Lenzner (1,000 shares) to Coach USA, Inc. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00112970, F. 5000. Regency Transportation Group, Ltd. (401 Neptune Street, Pittsburgh, Allegheny County, PA 15220), a corporation of the Commonwealth of Pennsylvania—stock transfer—approval of the transfer of all issued and outstanding stock from Gary L. Arndt (100 shares) to Regency Transportation Group, Ltd. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

**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 April 13, 1998.

A-00114738 Seyler Trucking, Inc.
R.R. 3, Box 459 J-2, Mill Hall, PA
17751: Dwight L., Jr., 110 North Second
Street, P.O. Box 1320, Clearfield, PA
16830

A-00114739 H. Dain Null, t/d/b/a Null's Towing
P.O. Box 189, Cochranville, PA 19330

A-00114738 Seyler Trucking, Inc.
R.R. 3, Box 459 J-2, Mill Hall, PA
17751: Dwight L., Jr., 110 North Second
Street, P.O. Box 1320, Clearfield, PA
16830

A-00114740 Parke G. Hess, t/d/b/a Hess Trucking
3997 Main Street, Conestoga, PA 17516

A-00114741 Kathleen M. Straughn, t/d/b/a Pets Come
First
711 Marigold Avenue, Southampton, PA
18966

A-00114742 Robar Leasing, Inc.
80 Broad Street, Beaver Meadows, PA
18216: John Fullerton, P.O. Box 9500,
Harrisburg, PA 17108

A-00114743 Thomas J. Hinkler, t/d/b/a T. J. Hinkler
Trucking
10364 Barton Road, Waterford, PA
16441

A-00114744 Anna May Moore, t/d/b/a Moores Auto
Wrecking
245 McCleary Road, Hookstown, PA
15050

A-00114745 John J. Merritt, t/d/b/a Merritt Trucking
280 Cindy Drive, Jonestown, PA 17038

A-00114746 JSK, Inc.
455 Nemoral Street, Warminster, PA
18974-4630

A-00114747 Mark R. Jones, t/d/b/a M. B. Enterprise
Services
Route 3, Box 296, Clearville, PA 15535
JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-514. Filed for public inspection March 27, 1998, 9:00 a.m.]

**Water Service
Without Hearing**

A-212285 F0050. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in a portion of Limestone Township, Clarion County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pa. 17105-3265 with a copy served on the applicant on or before April 13, 1998, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company
Through and By Counsel: Velma A. Redmond, Esq. 800
West Hersheypark Drive, Hershey, PA 17033.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-515. Filed for public inspection March 27, 1998, 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:

April 22, 1998	Brenda J. Anderson (Disability)	1 p.m.
April 29, 1998	Anthony Andrezski (Contested Domestic Relations Order)	1 p.m.
May 13, 1998	Tohshik Choi (Death Benefit)	1 p.m.

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. 98-516. Filed for public inspection March 27, 1998, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 98-018-RQ08—Rehabilitation of Bridge No. NB-703 at M. P. A-099.3 in Lackawanna Co., PA

Bid Opening Date—April 29, 1998, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per set (Do not add State tax) by check or P. O. Money Order (no cash) payable to the Pennsylvania Turnpike Commission. Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the

Pennsylvania Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-517. Filed for public inspection March 27, 1998, 9:00 a.m.]

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 94-002-FT17—Roadway grading and bridge construction of Mon/Fayette Expressway, S. R. 0043, Section 52E, between M. P. M-40.76 and M.-42.10 in Washington Co., PA

Bid Opening Date—April 28, 1998, 11 a.m.

Bid Surety—5%

Plans, Cross Sections, Specifications and Contract Documents will be available and purchased upon payment by check or P. O. Money Order (no cash) to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. Selection of the desired materials shall be by the following designations with proper respective remittance (Do not add sales tax): A) Construction Plans including roadway, structures and subsurface profiles—\$100; B) Cross Sections—\$55; C) Specifications and Contract Bid Documents—\$25; Total—\$180. No refund for any reason will be made for plans, specifications and contract documents.

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

A prebid meeting for the project under the direction of the Engineer is scheduled for 10 a.m., April 7, 1998, at the field office of the project's Construction Manager, Trumbull Corporation, 600 Park Ave., Monongahela, PA 15063, (412) 258-9234.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-518. Filed for public inspection March 27, 1998, 9:00 a.m.]

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 98-021-RF56—Rehabilitation of Eight Bridge between M. P. 133 and 138 in Bedford Co., PA

Bid Opening Date—April 30, 1998, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$50 per set (Do not at State tax) by check or P. O. Money Order (no cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

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

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-519. Filed for public inspection March 27, 1998, 9:00 a.m.]

Request for Proposals; Revised

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 91-031-RF17—General Construction of a new salt storage facility at the Everett Maintenance Facility located at M. P. 154.2 EB on the PA Turnpike in Bedford Co., PA

Bid Opening Date—April 16, 1998, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$25.00 per set (Do not add State tax) by check or P. O. Money Order (no cash) payable to the Pennsylvania

Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

Prequalification by the Pennsylvania Department of Transportation is not a prerequisite for bidding. Qualification forms supplied by the Commission must be executed and accompany the proposal.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-520. Filed for public inspection March 27, 1998, 9:00 a.m.]

Retention of a Developer; Reference No. 146-112

The Turnpike Commission (Commission) will consider entering into a long-term (maximum of 50 years), unsubordinated ground lease of 11± acres in Caernarvon Township, Berks County. The property has frontage on Rt. 10 in Morgantown and on the Pennsylvania Turnpike. It is located across Rt. 10 from the Home Furnishings Outlet Mall and McDonald's Restaurant. The property is currently zoned C-3 (Highway Commercial) and C-2 (Neighborhood Commercial). The Commission will consider proposals from all qualified firms for development of this property.

All interested parties must attend a mandatory meeting scheduled for 11 a.m., May 21, 1998 at the Pennsylvania Turnpike Commission's Eastern Regional Office, located at 251 Flint Hill Road, King of Prussia, PA. The proposals must be received by the Commission at its Harrisburg office by 4 p.m., July 31, 1998.

Firms interested in receiving a copy of the Request for Proposals (RFP) should call Ann Clemens at (717) 986-9685, or send written requests to Ann Clemens, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, PA 17106.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 98-521. Filed for public inspection March 27, 1998, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

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

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

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

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

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

Reader's Guide

Legal Services & Consultation—26

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

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.
 Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division 787-0000

REQUIRED DATA DESCRIPTIONS

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

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

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

Commodities

1776227 Agricultural machinery and supplies—1 each latest model tractor, Steiner Model 230, no substitute, low profile 2 wheel drive tractor w/72" high capacity mower deck No. MD472; 1 each less trade in 1984 model 882 diesel Cub Cadet tractor w/42" mower, Serial No. 729977; 1 each less trade in 1981 Wheelhorse tractor w/48" mower Serial No. 13118340.

Department: Fish and Boat Commission
Location: Bellefonte, Centre County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1699137 Bedding—2 each First Step Plus 200-600 fluidized air mattress.

Department: Military and Veterans Affairs
Location: Hollidaysburg, Blair County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1879217 Cables, electric—11,000 foot cables, electric 4/0 5 KV cable to be shipped in 1,000' reels.

Department: Public Welfare
Location: Wernersville State Hospital, Wernersville, Berks County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8084790 Clothing and individual equipment—1,500 dozen gloves, children's size; 2,500 dozen gloves, women's size; 3,000 dozen gloves, men's size.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1724357 Communication equipment—1 lot Contex full scale scanner Model No. FSS 8300DSP-Plus with interface kits, cadimage/scan software, cables and floor stand.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8148790 Construction and building materials—1,922 tons bituminous paving course FB-3 wearing.

Department: Transportation
Location: Pittsburgh, Allegheny County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1805047 Construction, mining, excavating and highway maintenance equipment—1 each latest model American Lincoln No. 7760 gas powered rider sweeper/scrubber, 63 HP, no substitute.

Department: State Farm Products Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8151380 Containers, packaging and packing supplies—2 each 5,000 gallon calcium chloride tank and dispensing systems.

Department: Transportation
Location: Warren, Bradford County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8209180 Containers, packaging and packing supplies—1 each tank system for liquid chloride, furnish and set up.

Department: Transportation
Location: Wellsboro, Tioga County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1854077 Fire safety equipment—3,000 each smoke detectors (including batteries).

Department: Health
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1775357 Laboratory instruments and equipment—2 each portable analyzer.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1661117 Motor vehicles, trailers and cycles—2 each latest model livestock trailer.

Department: Corrections
Location: Graterford, Montgomery County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1751117 Motor vehicles, trailers and cycles—5 each 1998 or newer box trailers.

Department: Corrections
Location: Camp Hill, Cumberland County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1752237 Motor vehicles, trailers and cycles—2 each 1998 model cab and chassis w/10 ton 18' tilt back body.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1828327 Paper and printing—500M Form SCSC-2A printed two sides—for use on NCS OPSCAN 10 Model 40 paper.

Department: Civil Service Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8504340 Paper and printing—550M inspection sticker annual outside color: red.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8141400 Promotional items—2 each 48" x 96" full matrix LED message board; 1 each 32" x 72" full matrix LED message board.

Department: Transportation
Location: Franklin, Venango County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1631117 Service and trade equipment—2 each commercial washer/extractor for use in H&I housing to be manufactured by Speed Queen/Raytheon Co. Model No. SC25MN2; 2 each commercial drying tumblers for use in H&I housing units, to be manufactured by Speed Queen/Raytheon Co. Model No. 30 CE.

Department: Corrections
Location: Huntingdon, Huntingdon County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1652117 Textiles—75,000 yards poplin, width 60", color SnowWhite (Pantone Color 11-0602TP).

Department: Corrections
Location: Huntingdon, Huntingdon County, PA
Duration: FY 97—98
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

SERVICES

Auctioneer Services—03

B-2120 For automotive auctioneering services. The successful bidder will provide the Bureau with an auctioneer who will sell used Commonwealth vehicles to the general public through oral auction. The Bureau will furnish the necessary clerks. The auctions will number approximately one per month. Auctioneer must be available to perform the auctioneering services any working day, Monday through Friday, with the exception of State holidays. Auctioneer should provide the name of the individual and the individual's auctioneer's license number who will be conducting the sales. This person should have at least 3 years experience in large volume motor vehicle auctioneering. Auctioneer must average one vehicle per minute or auction approximately 210 vehicles in 3 1/2 hours. The auctioneer also will be responsible for selling "rerun" vehicles. Auctioneer will receive the same contracted rate for all vehicles. The auctioneer must be able to open and conduct the sale of the vehicles to the public in a clear and understanding manner.

Department: General Services
Location: Bureau of Vehicle Management, 2221 Forster Street, Commonwealth Garage, Harrisburg, PA 17125
Duration: July 01, 1998 through June 30, 1999; Contract may be renewed for four successive 1-year terms with the consent of both parties.
Contact: Bureau of Vehicle Management, (717) 787-3162

Audio/Video—04

98-001 Contractor shall provide a maintenance service to include preventative maintenance, repair parts and emergency service for the entire institutional telephone network to exclude incoming service/trunk lines.

Department: Corrections
Location: State Regional Correctional Facility—Mercer, 801 Butler Pike, Route 258 South, Mercer, PA 16137-5699
Duration: July 1, 1998 to June 30, 2001
Contact: Guy Harper, (724) 662-1837, Ext. 123

Computer Related Services—08

97-6102-374 Contractor to provide data entry services for Office of Inspector General's accounts receivable system, special projects, and print payment coupon books. Completed service will provide punched magnetic tape 1600 BPI EBCDIC, unblocked and unlabeled and/or floppy disks as required. Vendor must have capability to input and merge magnetic tapes or floppy disks and must be able to convert 800 BPI and 6250 BPI density to 1600 BPI as required. Return request to: Office of Inspector General, 300 North 2nd Street, 9th Floor, Harrisburg, PA 17101, Attn: Jane L. Benfer.

Department: Office of Inspector General
Location: Harrisburg, PA
Duration: July 1, 1998 through June 30, 2001
Contact: Jane L. Benfer, (717) 783-7756

A-7 The Pennsylvania Higher Education Assistance Agency (PHEAA) is seeking qualified vendors to provide a client server based training administration package which will incorporate the workflow for the entire training administration process, including scheduling, tracking, and analysis. Interested parties should contact the Purchasing Office (717) 720-2702 for details regarding how to proceed by no later than 12 noon, Friday, April 10, 1998.

Department: PA Higher Education Assistance Agency
Location: 1200 North Seventh Street, Harrisburg, PA 17102-1444
Duration: Indeterminate 1997—98
Contact: Donna Orris, (717) 720-2702

SPC 356744 Supply all labor, material and equipment to prepare a student information data base which will supply the needs of all departments at Scotland School for Veterans' Children. All student information system software applications must be totally integrated. Must have multiple methods of access, upload capability to generate a school-wide database, add/transfer/drop individual student information electronically on a real-time basis from station to station, access level system for restricting access abilities and data for different users, and must show evidence of ability to do custom programming to software on an ongoing basis. Must run cross-platform to support Macintosh, Windows and Power PC Stations.

Department: Military and Veterans Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254-0900
Duration: 3 months
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

Construction Maintenance—09

Project No. 815 Installation of an interior 40' x 36' x 8" concrete reinforced pad at OMS Shop No. 13.

Department: Military and Veterans Affairs
Location: OMS No. 13, 325 Emerson Street, Pittsburgh, Allegheny County, PA
Duration: April 15—December 30, 1998
Contact: Emma Schroff, (717) 861-8518

2-1-0001 This contract will provide manpower, equipment and incidental guiderail material for installation of approximately 12,000 linear feet of strong post at various locations throughout Centre County. All guiderail material will be supplied by the Department of Transportation except for the bolts, nuts, washers, rotating brackets, bridge connection plates, anchor bolts, concrete for the end treatments and end anchorages. It will be the Contractor's responsibility to pick up the material and deliver it to the work sites. A mandatory prebid meeting (only 1 day) will be held to include review of the guiderail locations, and a site will be determined where the guiderail will be stored. The Department shall be responsible for removal of all existing guiderail and for any grading of shoulder stabilization prior to the placement of the guiderail by the contractor. All requests for bid packages must be received by fax (814) 355-5930 or telephone (814) 355-4731.

Department: Transportation
Location: District 0210, various locations within Centre County, PA
Duration: One year contract
Contact: William Lucas or Tina Smith, (814) 355-4731

0280-03 This contract will provide manpower, equipment and incidental guiderail material for installation of approximately 15,000 linear feet of strong post guiderail at various locations throughout Elk County. All guiderail material will be supplied by the Department of Transportation except for the bolts, nuts, washers, rotating brackets, bridge connection plates, anchor bolts, concrete for end treatments and end anchorages. It will be the Contractor's responsibility to pick up the material and deliver it to the work sites. A mandatory prebid meeting (only 1 day) will be held which will include review of the guiderail locations, and a site will be determined where the guiderail material will be stored. The Department shall be responsible for removal of all existing guiderail and for any grading of shoulder stabilization prior to the placement of the guiderail by the contractor. Requests for bid packages must be received by fax at (814) 781-6708 (Attn: Thomas Saline).

Department: Transportation
Location: Engineering District 0280, various locations within Elk County, PA
Duration: One year
Contact: Thomas C. Saline, (814) 834-2861

DGS A 251-319 Project title: Air Condition System. Brief description: Work includes asbestos abatement, demolition, installing new chiller, ventilation air handler, four pipe HW/CW fan coil system and new electric service, HVAC, plumbing and electrical construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, April 22, 1998. A prebid conference has been scheduled for Wednesday, April 8, 1998 at 10 a.m. at PennDOT District 12-0 in the Basement Classroom, Uniontown, PA. Contact: John Dombrowski, (814) 269-9300, Ext. 354. All contractors who have secured contract documents are invited and urged to attend this pre-bid conference.

Department: General Services
Location: PennDOT District 12-0, Uniontown, Fayette County, PA
Duration: 235 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 982-50 Project title: Restoration and Fixed Exhibits. Brief description: Renovations to existing facility including paving, fencing, concrete, painting, stormwater systems, curbs, railing and roofing. Also included are minor lighting and electrical renovations to facility. General and electrical construction. Plans deposit: \$28 per set. Payable to: Leung Hemmler Camayd, P.C. 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 requests to: Leung Hemmler Camayd, P.C., 305 Linden Street, 4th Floor, Scranton, PA 18503-1432, (717) 961-1302. Bid date: Wednesday, April 22, 1998 at 1 p.m.

Department: General Services
Location: Scranton Iron Furnaces, Scranton, Lackawanna County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Contract No. FDC-012-378 Rehabilitation of Pleasant Stream Road in Forest District 12. Roadway work includes channel and swale excavation (10,000 S. F.); AASHTO No. 1 aggregate (1,700 tons); 2A aggregate (2,000 tons); riprap, R-5 (100 C. Y.), and R-8 (650 C. Y.); 1 inlet; 180 L. F. of C. P. pipe; seeding and mulching; concrete (85 C. Y.). Structural work consists of a precast R. C. box culvert with guide rail, concrete wing walls, architectural surface treatment, rock lining, traffic signing and landscaping.

Department: Conservation and Natural Resources
Location: McIntyre/McNett Townships, Lycoming County, PA
Duration: Complete all work by October 30, 1998
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-109-302 Modifications to an existing wastewater treatment facility at Hills Creek State Park. Work includes providing and installing a bulkhead, flow equalization equipment, pumps and controls.

Department: Conservation and Natural Resources
Location: Charleston Township, Tioga County, PA
Duration: 60 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-303-196 Providing and placing: 2A aggregate (900 tons), ID-2 binder (150 tons), ID-2 wearing (400 tons), and BCBC (400 tons) at Caledonia State Park.

Department: Conservation and Natural Resources
Location: Greene Township, Franklin County, PA
Duration: 60 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-322-424 Removal of existing structure; excavating, backfilling and compacting; erosion and sedimentation control measures; 10' 6" x 5' 6", approximately 16' long—structural plate aluminum arch culvert; guiderail; reinforced class "A" concrete (11 C. Y.); and architectural surface treatment. All work is located at Penn Roosevelt State Park.

Department: Conservation and Natural Resources
Location: Harris Township, Centre County, PA
Duration: 60 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FDC-409-416 Work consists of diversion and care of water and approximately 1,750 C. Y. of silt removal from No. 5 dam at Hickory Run State Park.

Department: Conservation and Natural Resources
Location: Kidder Township, Carbon County, PA
Duration: 45 days
Contact: Construction Management Section, (717) 787-5055

IN-768.1 Tennis Court Repair. Work included under this project consists of tennis court repair consisting of removing existing footers, fiberglass membrane etc., to furnish and install new resin coated fiberglass, plexibond coating, acrylic binders, acrylic resurfacer, acrylic color coating system, etc. Notice to Contractors may be requested from IUP. Phone: (724) 357-2289. Fax: (724) 357-6480. Internet: <http://www.iup.edu/phyfac>.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705-1087
Duration: Six (6) months
Contact: Ronald E. Wolf, Procurement Specialist, (724) 357-4851

Demolition—11

AE-5187 Demolition of masonry and concrete building. Fax (717) 787-7971.

Department: Transportation
Location: 1200 West 4th Street, Lewistown, Mifflin County, PA
Duration: 60 calendar days; proposed bid April 1998
Contact: Valentina Chubb, (717) 787-7001

Engineering Services—14

08430AG2172 To provide supplementary construction inspection staff of approximately 12 inspectors for construction inspection and documentation services on the S. R. 0078, Section 033 project involving the construction of a new interchange connecting the S. R. 0033 extension project to existing S. R. 0078 in Lower Saucon Township, Northampton County.

Department: Transportation
Location: Engineering District 5-0
Duration: Forty-three (43) months
Contact: Consultant Agreement Division, (717) 783-9309

SPC 356741 The purpose of the RFP is to obtain a comprehensive condition and utilization study and subsequent report based on actual site conditions and practices; as well as those professional standards (educational, medical, etc.), building, labor laws, regulations, and other appropriate legislation (ADA) in order to maximize use of the facility.

Department: Military and Veterans Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254-0900
Duration: 2 months
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

Environmental Maintenance—15

C56:1-107.1 Paint Creek Stilling Basin Rehabilitation involves an estimated 42 s. f. wire sawcutting concrete, 27 c. y. common excavation and 41 s. y. grouted riprap.

Department: Environmental Protection
Location: Windber Borough, Somerset County, PA
Duration: 45 days after Notice to Proceed
Contact: Construction Contracts Unit, (717) 783-7994

FC-246S Groundwater exploration program for exploratory and production well construction.

Department: Fish and Boat Commission
Location: Kettle Creek Watershed, Potter County, PA
Duration: Completion by June 30, 1998
Contact: James A. Young, (814) 359-5152

X1956 Provide drilling, sampling, field testing and laboratory analysis of soil, rock and concrete at sites throughout Pennsylvania.

Department: Environmental Protection
Location: Statewide
Duration: July 1, 1998—June 30, 2002
Contact: Ally Hubler, (717) 787-2471

Extermination Services—16

304-07425 Contractor to furnish labor and equipment for Integrated Pest Management (IPM) in the Harrisburg buildings. All work must be performed in a first-class manner in accordance with the standards of the trade.

Department: General Services
Location: Buildings and Grounds, State Capitol Buildings, Harrisburg, PA 17125
Duration: July 1, 1998 through June 30, 2001
Contact: Marc Waxman, (717) 787-2155

DSFM-0124-97 The contractor shall provide extermination services to the State Correctional Institution at Coal Township.

Department: Corrections
Location: State Correctional Institution at Coal Township, 1 Kelley Drive, Coal Township, PA 17866
Duration: July 1, 1998 to June 30, 2001
Contact: Nancy A. Lasko, Purchasing Agent, (717) 644-7890, Ext. 142

Food—19

5189 Fresh-baked breads and rolls, for delivery July, 1998—December, 1998.

Department: Public Welfare
Location: Torrance State Hospital, Dietary Storeroom, S. R. 1014, Torrance, PA 15779-0111
Duration: July through December, 1998
Contact: Nancy E. Byers, Purchasing Agent 1, (724) 459-4677

5190 Fresh-baked pastries, for delivery July, 1998—December, 1998.

Department: Public Welfare
Location: Torrance State Hospital, Dietary Department, S. R. 1014, Torrance, PA 15779-0111
Duration: July through December, 1998
Contact: Nancy E. Byers, Purchasing Agent 1, (724) 459-4677

Inquiry No. 30230 Bread and rolls. Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September 1998.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September 1998
Contact: Ginny Stinespring, Purchasing Agent, (724) 873-3256

Inquiry No. 30231 Tea (Nutra Sweet and ice tea). Dates, specifications, quantities, special delivery instructions available upon request. For period: July, August, September 1998.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: July, August, September 1998
Contact: Ginny Stinespring, Purchasing Agent, (724) 873-3256

Inquiry No. 240-0208 Frozen juice, juice drinks and dairy products to be delivered through July, August and September 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July, August and September 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 240-0208A Miscellaneous frozen entrees to be delivered through July, August and September 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July, August and September 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 240-0208B Miscellaneous baked goods to be delivered through July, August and September 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July, August and September 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 240-0208C Meat and meat products to be delivered through July, August and September 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July, August and September 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 240-0208D Miscellaneous frozen fruits and vegetables to be delivered through July, August and September 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July, August and September 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 240-0208E Fresh baked bread and rolls to be delivered July through December 1998. For specifications, contact Facility Purchasing Department, (412) 665-6727.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July through December 1998
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

6500-049 Processed meats, frozen fish products, bulk cheeses. Turkey ham, minced turkey bologna, turkey salami, frankfurters, Lebanon bologna, meatballs, liver, turkey franks, veal patties, pullman hams, sandwich steaks, frozen fish (breaded and unbreaded), cheeses (American, mozzarella, cheddar), and any other meat product as may be required by the institution. Items to be bid on a monthly basis for the period of July 1, 1998 through June 30, 1999.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-050 Poultry and poultry products—chicken fryers, split; chicken parts; turkey roast; ground turkey; and other poultry items as required. Items to be bid on a monthly basis for the months July 1, 1998 through June 30, 1999.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-051 Fruits and vegetables—fresh radishes, celery, cabbage, carrots, oranges, grapefruit, apples, bananas, tomatoes, onions, potatoes, tangerines, nectarines, cantaloupes, kiwi, watermelons, and other fruits and vegetable items as required by the institution. Bids to be submitted monthly—deliveries weekly.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-052 Pizza. Pizza with tomato sauce and real cheese (no cheese substitutes), fully baked. To be bid as needed to fulfill menu requirements. Estimated monthly usage: 45 trays (19 lbs. per tray).

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-053 Ice cream, popsicles, frozen novelties. Ice cream/frozen yogurt/sherbet—4 oz. portions; popsicles and other frozen novelties as required. All products to be free from pork or pork by-products. To be bid as needed per institutional menu requirements.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-054 Butter and margarine—1 pound block and ready-pats. Items will be bid on a quarterly basis. Bid specifications and delivery dates available from institutional purchasing office.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

6500-055 Eggs, domestic hen type. Domestic hen eggs to be delivered weekly. Amount of delivery will be based on institutional menu requirements (approximately 450 dozen per delivery). Product will be bid on a quarterly basis.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: July 1, 1998 through June 30, 1999
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

Fuel Related Services—20

IFB No. 1998-1 The Department of Insurance, Underground Storage Tank Indemnification Fund (Fund) is soliciting bids for financial document processing services to include document design and layout, laser printing, sorting, folding, stuffing, multi-nesting, sealing and mailing of financial documents and informational materials. Documents include but are not limited to statements, mailing inserts, marketing materials (brochures, fact sheets, folders, etc.). The selected vendor shall coordinate with the Fund Information System office and lock box vendor in ensuring accurate document design.

Department: Insurance
Location: Bureau of Special Funds, 901 North 7th Street, Harrisburg, PA 17102
Duration: 60 months
Contact: Betty Bordner, (717) 787-0763

HVAC—22

Project No. 816 Upgrade to existing Penn Co. gas-fired boiler.

Department: Military and Veterans Affairs
Location: PAARNG Armory, 826 Crane Avenue, Pittsburgh, Allegheny County, PA
Duration: April 15—December 30, 1998
Contact: James R. Rusnic, (717) 861-8580

2001 Vendor will be required to utilize generally accepted procedures to evaluate the efficiency of the combustion control system for the boiler house located at the State Correctional Institution at Pittsburgh. Vendor will be required to perform this service at least twice per year. Must be in compliance with A.C.H.D., Section 2101.20, Article XXI. For premise visit contact James Crytzer, Facilities Maintenance Manager III, at (412) 761-1955, Ext. 260.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 1998 to June 30, 2001
Contact: Carol R. Schaeffer, Purchasing Agent II, (412) 732-2115

98-520 Contractor will furnish all equipment, personnel and materials necessary to complete electrical repairs or servicing as required by the Department. Work will be performed at various sites within Carbon County. Electrical foreman—200 hours; electrical journeyman—200 hours; bucket truck—60 hours; miscellaneous parts allowance—\$500.00. Bid package can be obtained upon request. Fax request to: Linda Czarnecki, (717) 424-3985.

Department: Transportation
Location: Carbon County, PA
Duration: One year with four 1-year renewals
Contact: Robert Rutko, (610) 377-1880

Project No. 409-FO Improvements to Medium Voltage Electrical Distribution System, No. 409-FO. Lock Haven University of PA, of Pennsylvania's State System of Higher Education (SSHE) is seeking bids for electrical construction. A prebid meeting will be held March 18, 1998 (1:15 p.m.) in the RLC—Hall of Flags. Bids are due on April 06, 1998 (2 p.m.) and will be publicly opened on April 07, 1998 (2 p.m.). For further information, or to request contract documents at a nonrefundable cost of \$50, bidders can contact Paulette Rider of Comprehensive Design, 3054 Enterprise Drive, State College, PA, 16801, (814) 238-7706. Prevailing wages, contract bonds, and MBE/WBE participation apply. The System encourages responses from small firms, minority firms, women-owned firms, and firms which may have not previously performed work for the System. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and of the State System of Higher Education.

Department: State System of Higher Education
Location: Lock Haven University of PA, North Fairview Street, Lock Haven, PA 17745
Duration: Substantial completion no later than August 24, 1998
Contact: Comprehensive Design A and E, (814) 238-7706

0870-HTG98 Cleaning and maintenance of heating system. All requests for bid packages should be faxed, Attn: Jeralyn Rettew, (717) 299-7635 between the hours of 7 a.m. and 4 p.m., or by contacting Jeralyn Rettew at (717) 299-7621 between the hours of 7 a.m. and 2:30 p.m.

Department: Transportation
Location: 2105 Lincoln Highway East, Lancaster, Lancaster County, PA 17602
Duration: One 12 month contract with four optional renewals
Contact: James E. Rineer, (717) 299-7621, Ext. 303

Janitorial Services—23

SP367114 Provide janitorial services within the Willow Oak Building on the grounds of the Harrisburg State Hospital. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: Room 233 Health and Welfare Building, P. O. Box 2675, Harrisburg, PA 17105-2675
Duration: July 01, 1998—June 30, 1999 with two additional 1-year renewals
Contact: Lori Vessella, (717) 783-9281

SP367115 Provide janitorial services at the Cherrywood Building located on the grounds of the Harrisburg State Hospital. Complete details and specifications may be obtained by contacting the Procurement Office.

Department: Public Welfare
Location: Room 233 Health and Welfare Building, P. O. Box 2675, Harrisburg, PA 17105-2675
Duration: July 01, 1998—June 30, 1999 with two additional 1-year renewals
Contact: Lori Vessella, (717) 783-9281

Laboratory Services—24

X113689 Provide laboratory services to prepare (crushing and pulverizing) overburden rock samples for analysis by the Department.

Department: Environmental Protection
Location: Statewide
Duration: July 1, 1998—June 30, 1999 with option to renew
Contact: Ally Hubler, (717) 787-2471

Laundry/Dry Cleaning—25

APR No. 1 Vendor to furnish laundering, dry cleaning, pressing, repairs and alterations for Capitol Police uniforms at the Capitol Complex in Harrisburg, PA. Contract effective from July 1, 1998 through June 30, 1999. Approximate number of uniforms to be serviced is: dry clean and press uniform trousers—10,000 pair; dry clean winter jackets—200 each; launder and press long and short sleeve shirts—12,000 each; clean neckties—100 each; dry clean sweaters—100 each; dry clean wool blankets—20 each; sew on buttons, sew on emblems and rank chevrons, mend tears and rips, sew broken belt loops, hem trousers, etc. Quantities cited above are estimates only and payment will be made only for actual services performed. Vendor agrees to pick up and deliver all cleaning to the first floor of the Capitol Police offices in the Capitol East Wing building twice a week on a schedule convenient to both vendor and agency. Insurance coverage for garments while under vendor's possession is required for large amounts at one time. Invoicing will be made monthly.

Department: General Services
Location: Police and Safety, Suite 70E, Capitol Addition, Harrisburg, Dauphin County, PA 17125
Duration: July 1, 1998 through June 30, 1999
Contact: Charles Klein, (717) 787-9635

Mailing Services—28

97-6121-375 Contractor to provide bulk mailing services. Return request to: Office of Inspector General, 300 North 2nd Street, 9th Floor, Harrisburg, PA 17101, Attn: Jane L. Benfer.

Department: Office of Inspector General
Location: Harrisburg, PA
Duration: July 1, 1998 through June 30, 2001
Contact: Jane L. Benfer, (717) 783-7756

SPC 341710 Pickup and delivery service of parcels at Shawnee State Park, Bedford County.

Department: Conservation and Natural Resources
Location: State Parks, Shawnee State Park, R. R. 2, Box 142B, Schellsburg, PA 15559
Duration: July 01, 1998 to June 30, 2003
Contact: Robert F. Bromley, (814) 733-4218

Medical Services—29

Inquiry No. 121-0168 Contractor to provide the services of qualified registered nurses, RNs, to fill-in during absences of facility employees due to illness or any other unforeseen circumstances. This is a Supplemental Staffing Service contract.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July 01, 1998 through June 30, 2001
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Inquiry No. 121-0168A Contractor to provide the services of licensed practical nurses, LPNs, and nursing assistants, currently enrolled on the PA Nurse Aide Registry, fill-in during absences of facility employees due to illness or any other unforeseen circumstances. This is a Supplemental Staffing Service contract.

Department: Military and Veterans Affairs
Location: Southwestern Veterans Center, 7060 Highland Drive, Pittsburgh, PA 15206
Duration: July 01, 1998 through June 30, 2001
Contact: Ken Wilson, Purchasing Agent 3, (412) 665-6727

Moving Services—30

RFP 99-02 Kutztown University is seeking interested contractors able to supply continuing moving services in support of new construction and renovation projects on campus. Contract will be for 1 year period, renewable for up to four additional terms. RFP packages are available March 30, 1998. Interested firms should request a package in writing and direct it to: Barbara Reitz, Director of Purchasing, Kutztown University, Kutztown, PA 19530, (610) 683-4132, fax (610) 683-4674 or e-mail: reitz@kutztown.edu. Responses are due back April 24, 1998 at 2 p.m. There will not be any formal prebid, however campus visits are encouraged.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: 1 year, option to renew for 4 additional years
Contact: Barbara Reitz, (610) 683-4132

FM 2120 The Pennsylvania Board of Probation and Parole will be soliciting bids for professional moving services. These services will be utilized for the relocation of their Central Headquarters Offices (3 sites), locally, within the Harrisburg area. This bid is to provide all labor, equipment and supervision necessary to properly move office furniture and contents, fixtures and equipment for the Pennsylvania Board of Probation and Parole within the Harrisburg area.

Department: Board of Probation and Parole
Location: 3101 North Front Street, Harrisburg, PA 17110
Duration: May 01, 1998 to August 31, 1998
Contact: David Payton, Director, (717) 787-6247

Personnel, Temporary—31

RFP 99-03 Kutztown University is seeking firms interested in bidding to contract with Kutztown University to provide temporary personnel services for fiscal year July 1, 1998—June 30, 1999. Positions to be filled would be for clerical positions as needs arise. Bid packages are available by written request March 30, 1998. Requests may be faxed to: Kutztown University, Attn: Gina Frankhouser, Purchasing Agent, (610) 683-4674 or mailed to: Kutztown University, Attn: Gina Frankhouser, Purchasing Agent, P. O. Box 730, Kutztown, PA 19530. Bids are due at 2 p.m. on April 17, 1998.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: July 1, 1998—June 30, 1999
Contact: Gina Frankhouser, Purchasing Agent, (610) 683-4663

Photography Services—32

SP373904 Photographic finishing services.

Department: General Services
Location: 333 Market Street, 2nd Floor, Harrisburg, PA 17126-0333
Duration: July 1, 1998—June 30, 1999
Contact: Sandra Geesey, (717) 783-1051

Property Maintenance—33

040094 The Department of Transportation, District 4-0 requires the furnishing and planting of ornamental shrubs and tubers on approximately 8 acres of Interstate Highway in Luzerne County. All methods and materials required to complete project must comply with Publication 408. Requests for bid packages may be received by fax at (717) 963-4245, Attn: Roadside or by phoning (717) 963-4048, 8 a.m. to 3 p.m., Monday through Friday.

Department: Transportation
Location: Luzerne County, PA
Duration: One (1) year
Contact: Martha Spaide, (717) 963-4048

300937 Tree and stump removal: provider will furnish all labor to professionally trim three trees, conforming to the standards set by the National Arborist Association, remove large limb, top and remove dead limbs, remove six stumps and one complete tree.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: December 1, 1998 through March 31, 1999, a period of 4 months
Contact: Jack W. Heinze, Purchasing Agent 3, (717) 772-7435

FM0977-97-03 Repair existing roof on boiler plant at Western Center. Remove/relocate stone ballast in work area and pressure wash roof area. Install a polyester roofing fabric to all existing seams. Apply two coats of liquid urethane to total roof areas. Replace ballasts.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: April 1, 1998—June 30, 1998
Contact: Ginny Stinespring, Purchasing Agent I, (724) 873-3256

Project No. KU 98-02 Kutztown University is seeking qualified general contractors for Rickenbach Learning Center and University Garage roof replacement. Bid packages are available for a nonrefundable fee of \$35 from Entech Engineering, Inc., 4 South Fourth Street, P. O. Box 32, Reading, PA 19603, (610) 373-6667, fax (610) 373-7537. Bid packages are available March 30, 1998 through April 8, 1998. A prebid meeting has been scheduled for Wednesday, April 8, 1998 at 10 a.m. Bids will be received April 29, 1998 by 2 p.m., and opened on April 30, 1998 at 2 p.m.

Department: State System of Higher Education
Location: Kutztown, PA 19530
Duration: 60 days after Notice to Proceed
Contact: Jeffrey W. Nelson, Contracts Specialist, (610) 683-4602

Project No. KU 98-03 Kutztown University is seeking qualified general contractors for South Dining Hall foam roof replacement. Bid packages are available for a nonrefundable fee of \$35 from Entech Engineering, Inc., 4 South Fourth Street, P. O. Box 32, Reading, PA 19603, (610) 373-6667, fax (610) 373-7537. Bid packages are available March 30, 1998 through April 8, 1998. A prebid meeting has been scheduled for Wednesday, April 8, 1998 at 10 a.m. Bids will be received April 29, 1998 by 2 p.m., and opened on April 30, 1998 at 2:30 p.m.

Department: State System of Higher Education
Location: Kutztown, PA 19530
Duration: 45 days after Notice to Proceed
Contact: Jeffrey W. Nelson, Contracts Specialist, (610) 683-4602

Project No. KU 98-05 Kutztown University is seeking qualified general contractors for Johnson Hall roof replacement. Bid packages are available for a nonrefundable fee of \$35 from Entech Engineering, Inc., 4 South Fourth Street, P. O. Box 32, Reading, PA 19603, (610) 373-6667, fax (610) 373-7537. Bid packages are available March 30, 1998 through April 8, 1998. A prebid meeting has been scheduled for Wednesday, April 8, 1998 at 10 a.m. Bids will be received April 29, 1998 by 2 p.m., and opened on April 30, 1998 at 3 p.m.

Department: State System of Higher Education
Location: Kutztown, PA 19530
Duration: 45 days after Notice to Proceed
Contact: Jeffrey W. Nelson, Contracts Specialist, (610) 683-4602

X1914 Provide, prepare and spread topsoil and seeding on approximately 1 acre of land located in the Borough of Moosic, Lackawanna County.

Department: Environmental Protection
Location: Lackawanna County, PA
Duration: Through June 30, 1998
Contact: Ally Hubler, (717) 787-2471

SP-367539 Remove corrugated cartons and waste on a regular established schedule from the premises of approximately 10 shoppes located in Beaver County.

Department: Liquor Control Board
Location: Beaver County, PA
Duration: July 1, 1998 through June 30, 2003
Contact: Betty J. Goodling, (717) 787-6360

SPC 99-02 Kutztown University is seeking contractors interested in bidding on a contract with the University for the removal of all trash, scrap, rubbish and garbage from the campus of Kutztown University. Bid packages are available by written request March 30, 1998. Requests may be faxed to: Kutztown University, Attn: Gina Frankhouser, Purchasing Agent, (610) 683-4674, or mailed to: Kutztown University, Attn: Gina Frankhouser, Purchasing Agent, P. O. Box 730, Kutztown, PA 19530. Bids are due at 2 p.m. on April 10, 1998.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: July 1, 1998—June 30, 1999 (with possible renewals)
Contact: Gina Frankhouser, (610) 683-4663

Real Estate Services—35

60A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Community and Economic Development with 1,521 useable square feet of new or existing office space with parking for two vehicles, in Harrisburg, Dauphin County, PA, within the following boundaries: North: Forster Street; South: Chestnut Street; East: 7th Street; West: Front Street. Proposals due: April 6, 1998. Solicitation No.: 92657.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1997—98
Contact: Cynthia T. Lentz, (717) 787-4394

61A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Health with 2,790 useable square feet of new or existing office space with parking for six vehicles within the vicinity of the Boro of Mercer, along Route 19 North, 2.0 miles north of the Boro limits; along Route 62, from the Northern Boro limits to the Intersection of Route 62 and I-79, to include areas in or near Jackson Commerce Park; along Route 62 South from the Southern Boro limits to the Intersection of Route 19 and I-80 to include all areas in the vicinity of the I-80 interchange; along Route 62, 1.1 miles west of the Boro limits (near Autumn Drive), along Route 58, 0.5 mile north of the Boro limits. Proposals due: May 11, 1998. Solicitation No. 92616.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1997—98
Contact: John A. Hocker, (717) 787-4394

Sanitation—36

FD-3483 Provide all labor, materials and equipment necessary to clean, remove, transport, and dispose of all waste products generated by two oil-water separator units and to remove and dispose of 36, 55-gallon barrels of waste generated by a previous cleaning. Bidders must provide two references. A visit to the State Fire Academy is required prior to bid submission. All work must be completed on or before June 30, 1998.

Department: PA Emergency Management Agency
Location: State Fire Academy, Lewistown, PA 17044
Duration: Not to exceed June 30, 1998
Contact: Christopher Nolan, (717) 651-2191

SP-367538 Remove corrugated cartons and waste from approximately 84 shoppes located in Allegheny County. The pick-up frequency varies from one per week to per call.

Department: Liquor Control Board
Location: Allegheny County, PA
Duration: July 1, 1998 through June 30, 2003
Contact: Betty J. Goodling, (717) 787-6360

Security Services—37

00000-000-98-AS-50 Maintenance On Fire System *FY 98—99. Maintain fire and security system in good working order and performance for 3 years. Work is to include: quarterly tests and inspections, repair and/or replacement of damaged, worn out or improperly functioning system components, 24 hour response to reports of problems with system, training of staff in use of systems and documentation of changes made to system. A prebid meeting and sign in will be held on April 15, 1998 at 1 p.m. at the Erie Maritime Museum, for all firms interested in submitting bids for the project. For directions, please contact the site at (814) 871-4596. All interested bidders should submit a request for a bid package in writing to: PA Historical and Museum Commission, P. O. Box 1026, Room 526, Harrisburg, PA 17108-1026, Attn: Judi Yingling or fax request to (717) 783-1073. Proposals are due on Wednesday, April 29, 1998 at 10 a.m. Proposals will be received in Room 526 of The State Museum of PA, corner of 3rd and North Streets, Harrisburg, PA.

Department: Historical and Museum Commission
Location: Bureau of Historic Sites and Museums, Erie Maritime Museum, 150 East Front Street, Suite 1, Erie, PA 16507
Duration: July 1, 1998 to June 30, 2001
Contact: Judi Yingling or Ron Foflygen, (717) 772-2401

Miscellaneous—39

PFBC 4500 Bio Project: Biomonitoring of Alosids in the Susquehanna River and its tributaries. Scope: Services will focus on biomonitoring and assessment of adult and juvenile American shad and river herring in the Susquehanna River and its tributaries. Information obtained from the catches will be used to document the occurrence and relative abundance of naturally produced and stocked Alosids.

Department: Fish and Boat Commission
Location: Susquehanna River
Duration: July 01, 1998 to June 30, 2003
Contact: Kathi Tibbott, Purchasing Agent, (814) 359-5131

RFP 97-16 The objective of this project is to provide for a contractor serving in a property management capacity to oversee the maintenance of all PennDOT's Roadside rests in the following counties that make up District 1-0: Crawford, Erie, Forest, Mercer, and Venango counties. The services that the contractor must be able to provide for each Roadside Rest must include building and grounds maintenance, janitorial, repairs, and pavement maintenance (for parking lots and access roads). Project requirements and a request for the request for proposal (RFP) may be faxed to (717) 783-7971, Attn: Tina Chubb. Include name of contact person, company name, address, phone number, and fax number.

Department: Transportation
Location: PennDOT, Bureau of Office Services, District 1-0: Crawford, Erie, Forest, Mercer, Venango counties, PA
Duration: Up to 5 years
Contact: Tina Chubb, (717) 787-7001

RFP-1998-03 Perform consumer call center functions for the Pennsylvania Public Utility Commission (PUC) relating to gas and electric customer choice. Duties included in operating the Competition Call Center are as follows: provide information about customer choice to PA consumers who call; transcribing/downloading of consumer voice messages; return calls to consumers who left a voice message; providing consumer education material about electric generation customer choice; and make a computer record of every call and voice message which must be integrated with the PUC's existing mainframe database.

Department: Public Utility Commission
Location: Bureau of Consumer Services; Proposers must agree to operate the Competition Call Center facility physically within the geographical boundaries of this Commonwealth. This includes all telephone facilities.
Duration: Upon award to June 30, 1999; renewable in 1 year increments; max two
Contact: David J. Lewis, (717) 787-5468

SPC No. 012751 Maintenance and repair of the 8th floor snack bar's kitchen equipment and accessories. Fax (717) 787-0462.

Department: Transportation
Location: 555 Walnut Street, Harrisburg, PA 17101-1900
Duration: 5 year contract; proposed bid April 1998
Contact: Susan Sobotor, (717) 783-3931

SPC No. 012753 Kitchen ventilation system and life safety/fire suppression maintenance contract 8th floor. Fax (717) 787-0462.

Department: Transportation
Location: 555 Walnut Street, Harrisburg, PA 17101-1900
Duration: 5 year contract; proposed bid April 1998
Contact: Susan Sobotor, (717) 783-3931

SPC 356740 The purpose of this RFP is to obtain a study/appraisal of the property owned by Scotland School for Veterans' Children and determine the highest and best use of each area indicated. There is a total of 186 acres of land, 2.8 miles of road, 51 occupied and 12 unoccupied buildings.

Department: Military and Veterans Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254-0900
Duration: 2 months
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

[Pa.B. Doc. No. 98-522. Filed for public inspection March 27, 1998, 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

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
1763356-02	03/16/98	Associated Supply Co., Inc.	15,345.00
1521117-01	03/16/98	United Restaurant Equipment	9,700.00
1557117-01	03/16/98	Clark Associates, Inc.	5,882.00
1596117-01	03/16/98	Sonco Worldwide	12,752.75
1645187-01	03/16/98	Cardels	3,415.00
8504210-01	03/16/98	Fry Communications, Inc.	205,712.00
1646207-01	03/16/98	Cardels	4,969.08
1437207-01	03/16/98	Jones Pontiac GMC Truck Company	125,181.00
1547117-01	03/16/98	Chem Tick Coated Fabrics, Inc.	16,950.00
1591117-01	03/16/98	Associated Supply Co., Inc.	6,591.00
5710-01	03/18/98	Warden Asphalt Co.	829,317.00
5710-01	03/18/98	Whitaker Roads Corp.	122,513.00
5710-01	03/18/98	Neville Chemical Co.	151,257.00
5710-01	03/18/98	Russell Standard Corp.	2,700,012.00

Requisition or Contract #	Awarded On	To	In the Amount Of
5710-01	03/18/98	Koch Material Co.	4,157,882.00
5710-01	03/18/98	JMG Enterprises	480,864.00
5710-01	03/18/98	Suite-Kote Corp.	340,380.00
5710-01	03/18/98	Vestal Asphalt, Inc.	51,276.00
5710-01	03/18/98	Dosch-King Emulsions	143,135.00
5710-01	03/18/98	Valley Emulsion Co.	2,110,384.00
5710-01	03/18/98	Ashland Petroleum Co.	10,647.00
5710-01	03/18/98	Daniel B. Krieg, Inc.	50,000.00
5710-01	03/18/98	IA Construction Corp.	10,000.00
5710-01	03/18/98	Eastern Industries, Inc.	50,000.00
5710-01	03/18/98	A. L. Blades & Sons, Inc.	10,000.00
5710-01	03/18/98	T.D.P.S. Materials	10,000.00
5710-01	03/18/98	Highway Materials, Inc.	10,000.00

GARY E. CROWELL,
Secretary

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