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# PENNSYLVANIA BULLETIN

Volume 27

Number 15

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Pages 1773—1908

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(Master Transmittal Sheet):**

**No. 269, April 1997**

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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.

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

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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 GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER 1996-11]

#### Disability-Related Policy

December 20, 1996

*Whereas*, The Americans With Disabilities Act of 1990, P. L. 101-336 and The Rehabilitation Act of 1973, P. L. No. 93-112, are intended to empower people with disabilities to lead independent and productive lives and to participate fully in the activities of their communities; and

*Whereas*, Pennsylvania has a proud and distinguished history of protecting the rights of individuals with disabilities through such laws as The Pennsylvania Human Relations Act and The Universal Accessibility Act, as amended, December 20, 1988; and

*Whereas*, The Americans With Disabilities Act and The Rehabilitation Act complement those State laws and thereby further open the doors of opportunity for Pennsylvanians who seek to be considered on the basis of their abilities and not their disabilities; and

*Whereas*, The Americans With Disabilities Act requires State services, programs, and activities, when viewed in their entirety, to be accessible to individuals with disabilities; and

*Whereas*, Pennsylvania cannot be a Commonwealth to all of its people until all of its people enjoy the opportunity to participate fully in society; and

*Whereas*, this Administration has an abiding commitment to the equal rights of all Pennsylvania citizens.

*Now, therefore*, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct as follows:

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 7. MISCELLANEOUS PROVISIONS

#### Subchapter MM. COMMONWEALTH DISABILITY-RELATED POLICIES

##### Sec.

- 7.571. Individuals with disabilities.
- 7.572. Assessment of Commonwealth programs.
- 7.573. Direction for disability-related policy.
- 7.574. Coordination of meetings.
- 7.575. Rescission.
- 7.576. (Reserved).
- 7.577. (Reserved).

#### § 7.571. Individuals with disabilities.

No Commonwealth agency, board or commission under the Governor's jurisdiction may discriminate against any individual with a disability because of his disability. Individuals with disabilities shall be treated with respect and dignity and shall be provided access to Commonwealth services, programs, activities and employment opportunities.

**§ 7.572. Assessment of Commonwealth programs.**

Commonwealth agencies, boards and commissions under the Governor's jurisdiction shall assess the programs they offer to the public to ensure that they are nondiscriminatory, accessible and address the particular challenges faced by persons with disabilities.

**§ 7.573. Direction for disability-related policy.**

(a) The Secretary of Administration is responsible for ensuring compliance with the employment provisions of Title I of the Americans With Disabilities Act (act) (42 U.S.C.A. §§ 12101—12213); and section 504 of the Rehabilitation Act of 1973 (42 U.S.C.A. § 794), relating to Commonwealth employment and for ensuring public access to Commonwealth programs and services.

(b) The Secretary of General Services is responsible for ensuring compliance with Title II of the act (42 U.S.C.A. §§ 12101—12117) relating to Commonwealth buildings and facilities and contract compliance.

(c) The Governor's Policy Office coordinates the implementation of Commonwealth disability-related policies and assess the effectiveness of those policies.

(d) The Office of General Counsel provides direction and guidance to executive agency legal counsel on handling disability-related litigation and reviews proposed disability-related rules and regulations of executive agencies before they are deposited with the Legislative Reference Bureau as required by sections 102, 201—208 and 602 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201—1208 and 1602).

**§ 7.574. Coordination of meetings.**

The Governor's Policy Office coordinates regular meetings of the responsible agencies to discuss disability-related policy and resolve issues that may arise.

**§ 7.575. Rescission.**

Executive Order 1992-3, The Americans With Disabilities Act of 1990, is rescinded.

**§ 7.576. (Reserved).****§ 7.577. (Reserved).**


*Governor*

**Fiscal Note:** GOV 97-7. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-541. Filed for public inspection April 11, 1997, 9:00 a.m.]

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**PART I. GOVERNOR'S OFFICE**

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER 1996-7]

**Pennsylvania Center for Environmental Education**

December 20, 1996

*Whereas*, the Pennsylvania Constitution entitles the people of the Commonwealth to clean air, pure water, and preservation of the natural, scenic, historic, and aesthetic values of the environment; and

*Whereas*, environmental education is critically important to encourage citizenry, business, industry, and local governments to help promote a healthy environment and an understanding of the functioning of the natural world and the necessity of environmental protection and sound resource management; and

*Whereas*, the Pennsylvania Environmental Education Act (Act 24 of 1993) imposes duties on the Departments of Environmental Protection and Conservation and Natural Resources to conduct an evaluation of the status of environmental education taking place in the nonformal educational sector of the Commonwealth and to maintain an inventory of environmental education materials, programs, and resources available in Commonwealth agencies; and

*Whereas*, there is a great need and demand for balanced environmental education in both the public and private sectors of the Commonwealth; and

*Whereas*, training and continuing education of both public and private sectors of the Commonwealth are necessary to provide appropriate and effective environmental education; and

*Whereas*, Pennsylvania business, industry, and local governments play an important role in protecting the environment and in environmental education; and

*Whereas*, the Department of Environmental Protection is promoting the use of sound science in decision making, pollution prevention, and public participation to achieve its goals, all of which cannot be accomplished without a strong environmental education program; and

*Whereas*, the Department of Education supports environmental education in the Commonwealth through the development of rigorous standards that address the environment and ecology, and by providing environmental education resources and technical guidance in environmental studies to all Pennsylvania schools; and

*Whereas*, the Department of Conservation and Natural Resources provides and promotes environmental education related to the conservation, utilization, and preservation of the natural resources of the Commonwealth and has a network of environmental education centers and state parks to provide the public, students, and educators access to environmental education services; and

*Whereas*, the Department of Community and Economic Development recognizes the role of environmental education in strengthening the sustainable global competitiveness of the Pennsylvania economy and enhancing the quality of life of Commonwealth communities; and

*Whereas*, the State System of Higher Education has set priorities to develop, refine, and conduct an ongoing review and revision of curricula to address student skill development in problem solving and decision making, along with their capacity for critical thinking and informed judgment to prepare them to live in a rapidly changing world and is dedicated to the improvement of teaching and learning for faculty at its own institutions as well as other colleges and universities; and

*Whereas*, the Pennsylvania Game Commission provides and promotes environmental education related to the conservation of wildlife, habitats and natural resources; has a Statewide network of wildlife education specialists and wildlife conservation officers who provide teacher workshops and youth and adult education programs; sponsors Project WILD, a National, interdisciplinary environmental education curriculum; and develops and distributes environmental education materials throughout the State; and

*Whereas*, the Fish and Boat Commission is committed to increasing knowledge and awareness of Pennsylvania's aquatic resources and contributes to that end through environmental education programs which provide educational resources and train educators to teach about the Commonwealth's aquatic and fishery resources, thereby complementing the Commis-

sion's efforts to provide fishing and boating opportunities through the protection and management of aquatic resources; and

*Whereas*, the Pennsylvania Association of Conservation Districts, Inc. is committed to promoting sound environmental education by developing materials and supporting the educational programs and other efforts of the Commonwealth's 66 county conservation districts; and

*Whereas*, the Pennsylvania Alliance for Environmental Education promotes and supports environmental education activities and efforts throughout Pennsylvania in order to develop a citizenry that understands and appreciates the natural world, recognizes and accepts responsibility for its impact on natural systems and is motivated to take personal action to solve environmental problems; and

*Whereas*, the efforts of all partners in environmental education in Pennsylvania would be enhanced by the existence of a center which would support and facilitate environmental education on a Statewide basis through school districts, intermediate units, county conservation districts, and nonprofit citizen and environmental education organizations; and

*Whereas*, the Departments of Environmental Protection, Conservation and Natural Resources, Education, Community and Economic Development, State System of Higher Education, Fish and Boat Commission, Game Commission, Pennsylvania Association of Conservation Districts, Inc., and Pennsylvania Alliance for Environmental Education wish to cooperate in a partnership to provide public access to quality environmental education, reduce the cost of the delivery of environmental education services, and provide an avenue for increased participation of educators, local officials, county conservation districts, citizen and nonprofit groups, business and industry as partners in the implementation of quality environmental education on a statewide basis.

*Now, Therefore*, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania, the Environmental Education Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and other laws, and in furtherance of the purposes and policies of the Pennsylvania Constitution, do hereby establish the Pennsylvania Center for Environmental Education, as hereinafter set forth:

#### **Annex A**

### **TITLE 4. ADMINISTRATION**

#### **PART I. GOVERNOR'S OFFICE**

#### **CHAPTER 5. COUNCILS AND COMMITTEES**

#### **Subchapter MMM. PENNSYLVANIA CENTER FOR ENVIRONMENTAL EDUCATION**

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5.932.	Functions.
5.933.	Composition.
5.934.	Relationship with other agencies.
5.935.	Staffing and expenses.
5.936.	Effective date.

#### **§ 5.931. Purpose.**

The Pennsylvania Center for Environmental Education is established to provide increased public and private access to quality environmental education through service, education and research.

#### **§ 5.932. Functions.**

The functions of the Pennsylvania Center for Environmental Education (Center) are to:

- (1) Establish an environmental education computer network system to help disseminate environmental education materials and programs.
- (2) Provide technical assistance for preservice teacher preparation in the area of environmental education.

(3) Provide the opportunity for professional development through continuing education.

(4) Promote the formation of partnerships with educators, schools, local officials, county conservation districts, business, industry, nonprofit citizen and environmental education organizations. In particular, the Center shall consult with the Pennsylvania Alliance for Environmental Education and National Environmental Education Advancement Project seed team members to set priorities and develop activities.

**§ 5.933. Composition.**

An executive committee, consisting of representatives of the Departments of Environmental Protection, Conservation and Natural Resources, Education, Community and Economic Development, State System of Higher Education, Fish and Boat Commission, Game Commission, Pennsylvania Association of Conservation Districts, Inc. and the Pennsylvania Alliance for Environmental Education shall be formed and meet at least annually for the purpose of setting priorities and suggesting activities. Additional executive committee members may be added at the discretion of the executive committee.

**§ 5.934. Relationship with other agencies.**

To implement the purpose of this subchapter, the committee may request and receive from any department, division, board, bureau, commission or any other agency under the Governor's jurisdiction, cooperation, information and data needed by the committee to properly carry out its powers and duties.

**§ 5.935. Staffing and expenses.**

The agencies shall cooperate in providing staff and financial resources to the Pennsylvania Center for Environmental Education.



*Governor*

**Fiscal Note:** GOV 97-9. (1) General Fund; (2) Implementing Year 1996-97 is \$52,100; (3) 1st Succeeding Year 1997-98 is \$245,000; 2nd Succeeding Year 1998-99 is \$252,300; 3rd Succeeding Year 1999-00 is \$259,900; 4th Succeeding Year 2000-01 is \$267,700; 5th Succeeding Year 2001-02 is \$275,700; (4) FY 1995-96 \$59.5 million; FY 1994-95 \$56.0 million; FY 1993-94 \$49.8 million; (7) Environmental Protection Operations; (8) recommends adoption.

[Pa.B. Doc. No. 97-542. Filed for public inspection April 11, 1997, 9:00 a.m.]

**PART I. GOVERNOR'S OFFICE**

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER 1996-12]

**Workplace Policy for HIV/AIDS**

December 20, 1996

*Whereas*, the number of Pennsylvanians directly and indirectly affected by HIV infection and AIDS continues to grow, touching every segment of the population; and

*Whereas*, the Commonwealth of Pennsylvania is devoting significant resources and energies in the fight against HIV and AIDS; and

*Whereas*, the Human Immunodeficiency Virus (HIV) that causes AIDS is transmissible from person to person only in limited ways and is not transmissible through casual contact; and

*Whereas*, currently there is no known cure for HIV/AIDS, available treatments have limited effect on the course of the disease, and the scientific community has found that HIV/AIDS is a chronic fatal disease; and

*Whereas*, personal behavior changes and education, as well as the use of safe practices known as "universal precautions" when coming in contact with blood and body fluids, are the best means currently available to prevent transmission of HIV; and

*Whereas*, other diseases related to HIV/AIDS, such as tuberculosis, are a significant workplace concern; and

*Whereas*, State employes must be prepared to work effectively with members of the public, clients, and coworkers with HIV or AIDS.

*Now, therefore*, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct as follows:

#### **Annex A**

### **TITLE 4. ADMINISTRATION**

#### **PART I. GOVERNOR'S OFFICE**

#### **CHAPTER 7. MISCELLANEOUS PROVISIONS**

#### **Subchapter FF. WORKPLACE POLICY FOR HIV/AIDS**

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7.432.	Detailed provisions of the HIV/AIDS and related disease workplace policy.
7.433.	Agency HIV/AIDS policies.
7.434.	Rescission.

#### **§ 7.431. Overall HIV/AIDS and related disease workplace policy.**

(a) It is the policy of this administration to provide a nondiscriminatory environment that addresses the needs of persons with HIV/AIDS, takes steps to reduce the spread of HIV and ensures a safe working environment for staff who work with persons with HIV/AIDS.

(b) A person with HIV or AIDS shall be treated with respect and dignity and not to be denied any government service due to the person. State agencies, consistent with the services they provide, shall take steps to address the HIV/AIDS epidemic, including educating employes on the disease and working with clients on behavior changes that reduce the chance of transmission of HIV and related diseases. State employes and persons served by the Commonwealth may not be discriminated against on the basis of their actual or perceived HIV or AIDS status. This prohibition is reaffirmed by the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963). The confidentiality of persons with HIV/AIDS shall be protected by State agencies.

(c) Commonwealth agencies shall take steps to minimize the chances of on-the-job exposure to HIV through procedures known as universal precautions. These steps also will reduce the chance of transmission of other diseases which are spread through blood or body fluids, such as Hepatitis B.

#### **§ 7.432. Detailed provisions of the HIV/AIDS and related diseases workplace policy.**

(a) Individuals or State employes with HIV infection or AIDS, or perceived to have these conditions, will not be discriminated against with regard to State services and with regard to appointment, transfer, promotion or other employment action. The Americans With Disabilities Act of

1990 (42 U.S.C.A. §§ 12101—12213) and the Pennsylvania Human Relations Act (43 P. S. § 951—963) prohibit this discrimination, as does section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794), The Civil Rights Restoration Act of 1987 (P. L. No. 100-259) (102 Stat. 28) and recent court decisions.

(b) No current or prospective State employe will be required to receive an HIV or AIDS antibody test, or other diagnostic test associated with HIV/AIDS, or reveal the results thereof as a condition of employment unless Federal or State law or regulations require this disclosure.

(c) State employes with HIV infection or AIDS may continue in their current jobs and work assignments as long as their health permits. If an employe with HIV/AIDS is unable to carry out essential job functions because of the illness, the employe will be afforded the same considerations as any other employe whose disability prevents the performance of essential job functions. Because of the episodic nature of secondary illnesses which affect persons with HIV/AIDS, employes may request reasonable accommodations which allow them to continue to work with their disability. These requests should be honored to the extent practicable, consistent with The Americans With Disabilities Act of 1990 and the Commonwealth Personnel Rules. State employes with HIV or AIDS who request a transfer or reassignment because of their medical condition should have these requests considered, consistent with agency needs.

(d) Managers, supervisors and employes should be given the name of a contact person within their agency who will operate as the agency HIV/AIDS coordinator providing information and assistance on HIV/AIDS-related issues and questions.

(e) Agencies will provide ongoing education and information to employes on HIV/AIDS and related diseases. Effective education should result in improved services to the public and reduced chances of transmission of disease in Commonwealth work settings. Education should be ongoing to reinforce earlier efforts and reflect new information. Of particular concern is education for those State employes who provide health care and counseling to clients at risk for HIV, those in law enforcement and criminal justice, and those who make or advise on policy decisions concerning HIV/AIDS and related diseases.

(f) Federal guidelines for protection against exposure to blood and body fluids shall be adopted by Commonwealth agencies. These guidelines are issued by the United States Public Health Service, Centers for Disease Control and Protection (CDC). Agencies shall take steps to ensure that staff who have the potential to be exposed to blood or body fluids implicated in the transmission of HIV follow specific Federal guidelines.

(g) State employes wanting more information on HIV/AIDS should contact their agency HIV/AIDS coordinator or personnel office. Additional information can be obtained from the Department of Health HIV/AIDS Factline, State and other public health centers, and local HIV/AIDS support groups. State employes wanting an HIV or AIDS antibody test should be referred to the Department of Health's testing centers.

(h) If an HIV or AIDS antibody test is desired by an employe because of a documented incident in the workplace, the test can be conducted during paid work hours and if there is a charge, costs will be reimbursed by the Commonwealth. The testing and reimbursement will be in accordance with the employing agency's work-related incident policies and procedures.

(i) HIV and AIDS-related information on State employes, dependents and clients shall be handled with strict confidentiality by agencies. Employe records that include HIV/AIDS-related information may not be filed in the Official Personnel Folder. Supervisory and management staff shall assure confidentiality when handling HIV/AIDS-related information, whether regarding employes or in the course of providing agency services. Agencies shall follow the Confidentiality of HIV-Related Information Act (35 P. S. §§ 7601—7612).

(j) The Secretary of Administration is responsible for updating and providing detail on the overall HIV/AIDS workplace policy for the Commonwealth and for coordinating education efforts for employes and contractors of State agencies on HIV/AIDS and related diseases. The Secretary of Health is responsible for establishing overall public health policy for the Commonwealth regarding HIV/AIDS and related diseases and for informing Commonwealth agencies of Federal and State public health requirements and guidelines for preventing transmission of HIV and related diseases in the workplace.

**§ 7.433. Agency HIV/AIDS policies.**

State agencies that develop individualized workplace policies on HIV/AIDS or related diseases, either centrally or for field facilities, should ensure that their issuances are consistent with Commonwealth policy. These policies are to be approved, in writing, by the Secretary of Administration and Secretary of Health before issuance.

**§ 7.434. Rescission.**

Executive Order 1989-5, AIDS Workplace Policy, is rescinded.



Governor

**Fiscal Note:** GOV 97-8. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-543. Filed for public inspection April 11, 1997, 9:00 a.m.]

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**Proclamation of Disaster Emergency**

April 1, 1997

*Whereas*, investigations made at my direction have disclosed that a severe winter storm with heavy accumulations of snow and high winds resulting in extensive road closures, utility outages, property damages and other adverse impacts upon the population in Northeastern Pennsylvania; and

*Whereas*, the emergency situation throughout the Commonwealth has the potential for requiring the sheltering or evacuation of those citizens for their protection; and

*Whereas*, the emergency situation may be of such magnitude or severity to render essential the Commonwealth's supplementation of county and municipal efforts and resources and the activation of all applicable state, county and municipal emergency response plans;

*Now, Therefore*, pursuant to the provision of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 *et seq.*), I do hereby proclaim the existence of a disaster emergency in the following counties: Monroe County, Pike County, Schuylkill County, Carbon County, Wayne County, Luzerne County, Chester County and Lackawanna County and I direct all Commonwealth departments and agencies to utilize all available resources and personnel as is deemed necessary to cope with the magnitude and severity of this emergency situation.

*Further*, I hereby transfer up to \$1,000,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses incurred by the various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. The time consuming bid and contract procedures and formalities normally prescribed by law shall be waived for the duration of the Proclamation, mandatory constitutional requirements excepted.

*Further*, I hereby authorize the Secretary of the Department of Transportation to use all available equipment, resources and personnel of the Department, in whatever manner that he deems necessary, to ensure that all interstate, other federal and state highways in the Commonwealth are cleared of snow and any other obstructions resulting from this severe winter storm. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources and personnel to assist local jurisdictions in clearing and removal of snow and other types of obstructions from non-state-owned highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of the Department of Transportation. However, this assistance does not apply to privately owned highways, roads, streets, or other types of property.

*Further*, I direct that the emergency response and recovery aspects of the Commonwealth and all applicable county, municipal and other disaster response plans be activated and that all state, county and municipal actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency; and

*Further*, pursuant to the powers vested in me by the Constitution and laws of the Commonwealth, I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency, such individuals and units of the Pennsylvania National Guard, as requested by the Pennsylvania Emergency Management Agency, to alleviate the danger to public health and safety caused by the aforementioned emergency.

In particular, the Adjutant General is hereby authorized to use National Guard equipment, resources, and personnel to provide transportation to assist those segments of the general population that may be in need of medical or other types of emergency assistance as a result of the adverse impacts of this severe winter storm, and

*Still Further*, I hereby urge the governing bodies and executive officers of all political subdivisions affected by this emergency to act as necessary to meet the current exigencies as legally authorized under this Proclamation, namely, by the employment of temporary workers, by the rental of equipment and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time consuming procedures and formalities normally prescribed by law, mandatory constitutional requirements excepted.

*Given* under my hand and the Seal of the Governor, at the City of Harrisburg, this first day of April in the year of our Lord one thousand nine-hundred and ninety-seven, and of the Commonwealth the two hundred and twenty-first.



*Governor*

[Pa.B. Doc. No. 97-544. Filed for public inspection April 11, 1997. 9:00 a.m.]

# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Directive Concerning Location of Principal Office of Court Appointed Counsel; Directive No. 2 of 1997

On March 25, 1997, the Administrative Governing Board, upon review of the appropriate rules, regulations and practice utilized in appointing counsel for indigent parties determined that, in addition to other applicable requirements, appointed counsel must maintain a principal office in Philadelphia County to be eligible to receive court appointments. All counsel who receive court appointments shall forthwith advise the Court if they do not maintain a principal office in Philadelphia County.

In the meantime, effective immediately, the applicable appointment units shall remove from the various court-appointment lists those attorneys who, according to the records maintained by the Court, do not maintain a principal office in Philadelphia County.

Any counsel who is removed from any court appointment list pursuant to this Directive, may only be reinstated upon proof of the existence of a principal Philadelphia County office submitted to the President Judge of Municipal Court, or the appropriate Administrative Judge of the Court of Common Pleas.

This directive is issued consistent with the Order of the Supreme Court dated March 26, 1996, at No. 164 Judicial Administration Docket No. 1, and shall become effective immediately. As required by Pa.R.Crim.P. No. 6, the original Directive shall be filed with the Prothonotary in a docket maintained for Directives issued by the Administrative Governing Board of the First Judicial District of Pennsylvania, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Criminal Procedure Rules Committee. Copies of the Directive shall also be submit-

ted to Legal Communications, Ltd., *The Legal Intel-*  
*ligencer*, Jenkins Memorial Library, and the Law Library  
for the First Judicial District.

ALEX BONAVITACOLA,  
*President Judge*

[Pa.B. Doc. No. 97-545. Filed for public inspection April 11, 1997, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Anthony A. Muraski having been suspended from the practice of law in the State of Michigan, the Supreme Court of Pennsylvania issued an Order dated March 27, 1997 suspending Anthony A. Muraski from the practice of law in this Commonwealth for a period of three years, to be effective April 26, 1997.

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

[Pa.B. Doc. No. 97-546. Filed for public inspection April 11, 1997, 9:00 a.m.]

### Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that William D. Beamer of Fort Lauderdale, Florida, has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated February 24, 1997, pursuant to Rule 219, Pa.R.D.E. The Order became effective March 26, 1997.

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

[Pa.B. Doc. No. 97-547. Filed for public inspection April 11, 1997, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [7 PA. CODE CHS. 3, 5 AND 7—9]

#### Tuberculosis and Brucellosis Testing and Documentation Requirements for Cattle, Goats and Bison

The Department of Agriculture (Department) amends Chapters 3, 5 and 7—9 to relieve this Commonwealth's animal production industry of unnecessary test requirements restricting the intrastate transportation and marketing of cattle, goats and bison, and the products of these animals.

Section 1702 of The Administrative Code of 1929 (71 P. S. § 442) makes it the duty of the Department to take measures to prevent, control and eradicate diseases of animals. The proposed version of these amendments was published at 26 Pa.B. 3837 (August 10, 1996), and cited sections 2, 3 and 9 of the act of April 17, 1929 (P. L. 533, No. 236)(3 P. S. §§ 342, 343 and 349) as statutory authority. Those statutory provisions were repealed by section 2 of the act of July 11, 1996 (P. L. 561, No. 100) which created 3 Pa.C.S. §§ 2301—2389 (relating to Domestic Animal Law) (act). The act became effective on September 9, 1996. The act: (1) requires the Department to monitor this Commonwealth's domestic animal population for the presence of transmissible diseases of animals, 3 Pa.C.S. § 2327 (relating to disease surveillance and detection); (2) identifies tuberculosis and brucellosis as dangerous transmissible diseases, 3 Pa.C.S. § 2321(a)(12) and (38) (relating to dangerous transmissible disease); (3) authorizes the Department to establish and enforce quarantines, prevent or otherwise restrict the transportation of suspect animals into or within this Commonwealth, 3 Pa.C.S. § 2329 (relating to quarantine); and (4) empowers the Department to regulate in this area, 3 Pa.C.S. § 2382 (relating to regulations). The foregoing comprises the statutory authority for these amendments.

Tuberculosis and brucellosis are dangerous transmissible diseases of cattle, goats and bison and are also communicable to humans. The loosening of restrictions and requirements for the intrastate transportation of cattle, goats and bison is justified by the decreased risk posed by these diseases. In recent years, incidents of tuberculosis or brucellosis in cattle have become increasingly infrequent. The Department is satisfied that its ongoing disease monitoring efforts and the Federal requirements with respect to the interstate shipment of cattle, goats and bison are adequate to detect, isolate and eradicate any outbreaks of tuberculosis or brucellosis in these animals.

These amendments will also allow the Department to redirect its resources to address more imminent threats to the health of this Commonwealth's animal population.

#### *Comments*

Notice of proposed rulemaking was published at 26 Pa.B. 3837 and provided for a 30-day public comment period.

Comments were received from the Independent Regulatory Review Commission (IRRC), the House Committee

on Agriculture and Rural Affairs (House Committee), Representative Sheila Miller and a private individual.

IRRC, the House Committee and the private individual commentator offered the recommendation that the Department decide whether to use the term "buffalo" or "bison" in these amendments and revise the amendments to use the term consistently throughout. IRRC also suggested this revision extend to other regulatory sections not addressed in the proposed rulemaking.

The Department responds that the term "bison" is more appropriate than "buffalo." The final-form regulations have been revised at §§ 3.151, 9.5 and 9.6 (relating to general provisions; animals to be tested (cattle, goats and bison); and animals not to be tested) to consistently use this term.

As for IRRC's suggestion that other regulatory sections be revised to consistently use the term preferred by the Department, the Department responds that this change will be forthcoming. The act accomplished a wide-sweeping modernization of the Department's statutory authority with respect to domestic animals. That act allows the Department to continue to use and enforce its current animal health regulations to the extent they are not inconsistent with the act, 3 Pa.C.S. § 2382(b), the Department plans a systematic updating of its animal health regulations over the next 2 years. The Department will ultimately revise its animal health regulations to consistently use the term "bison" rather than "buffalo."

The House Committee requested clarification that the phrase "identified by an official ear tag or other unique identification device" in proposed § 3.151(a) allows the Department only to approve—but not mandate—identification devices other than official ear tags. IRRC repeated this request, and suggested proposed § 3.151(a) be revised for greater clarity and that this Preamble clearly reflect the Department's position on this subject.

The Department responds that the act at 3 Pa.C.S. § 2323(a) makes it the responsibility of the Department to establish identification standards for domestic animals. Currently, an ear tag will suffice, in most cases, to accurately identify a diseased or contaminated animal as described in § 3.151. A National effort is underway, though, to develop and implement electronic forms of identification that may be superior and preferable to current ear tag technology. For this reason, the Department declines to limit its authority to subsequently require some technologically or economically superior form of unique identification device, or both, for animals. This type of a device would benefit both the Department and this Commonwealth's animal production industry.

IRRC also offered comments with respect to §§ 7.4 and 9.4 (relating to identification of cattle; and identification of animals). Neither of these sections were proposed for amendment by the Department. IRRC recommended these sections be revised so that substantially the same language appeared in each. IRRC also suggested these sections reference the fact that cattle, goats and bison that have been tested for tuberculosis and brucellosis receive an ear tag. At the conclusion of its comment, IRRC recommended its concerns be addressed in a future rulemaking.

The Department agrees that further revisions are necessary with respect to its animal health regulations. As stated, the Department will conduct a top-to-bottom

review of its animal health regulations over the next 2 years, in order to address changes in statutory authority brought about by the recent act. That statute has revised, modernized and strengthened the Department's authority with respect to domestic animals. The Department will consider IRRC's comment as it prepares the extensive regulatory revisions necessitated by the act.

Representative Sheila Miller offered support for the Department's proposed elimination of tuberculosis and brucellosis testing requirements for the intrastate shipment of cattle, goats and bison. The Representative expressed concern, though, over the Department's proposed revision of § 3.151(a), which would delete the identification exemption for feeder steers, spayed heifers and cattle, goats or bison transported for immediate slaughter. Representative Miller expressed apprehension that this deletion may impose undue additional costs and recordkeeping requirements on the beef industry. In addition, the Representative asked whether this requirement might result in a single animal receiving multiple ear tags as it moves from owner-to-owner, and whether/how this required identification trail will be enforced by the Department.

The Department responds that current regulations in §§ 5.47 and 5.49 (relating to slaughter animals; and feeder cattle) are not affected by this final rulemaking and will continue to require that slaughter cattle and feeder cattle have a sales tag that clearly identifies the animal or a USDA Market Cattle Inspection Program backtag, or both, that clearly identifies the animal. The revision of § 3.151(a) will not impose a new identification requirement on feeder cattle, spayed heifers and cattle going directly to slaughter. These animals will continue to remain exempt from identification requirements under § 3.151 unless they are diseased, contaminated or shipped for exhibition purposes.

#### *Fiscal Impact*

##### *Commonwealth*

These amendments will impose no costs and have no fiscal impact on this Commonwealth, other than to free financial resources to be redirected as necessary to address the identification, containment and eradication of other dangerous transmissible diseases of animals in this Commonwealth.

##### *Political Subdivisions*

These amendments will impose no costs and have no fiscal impact upon political subdivisions.

##### *Private Sector*

These amendments will decrease costs and paperwork requirements previously imposed upon the private sector. In particular, producers of cattle, goats and bison will be relieved of the cost of testing animals for tuberculosis or brucellosis prior to intrastate shipment. These costs are not readily measurable.

##### *General Public*

These amendments will impose no costs and have no fiscal impact upon the general public.

#### *Paperwork Requirements*

These amendments will not result in an appreciable increase in paperwork.

#### *Contact Person*

Further information is available by contacting the Department of Agriculture, Attention: Phillip DeBok,

D.V.M., Bureau of Animal Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 31, 1996, the Department submitted a copy of the notice of proposed rulemaking to IRRC and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs 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 the comments received as well as other documentation.

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

These final-form regulations were deemed approved by the House Committee on February 18, 1997, were deemed approved by the Senate Committee on February 18, 1997, and were approved by IRRC on February 20, 1996, in accordance with section 5(c) of the Regulatory Review Act.

#### *Findings*

The Department of Agriculture finds that:

(1) Public notice of intention to adopt the amendments encompassed 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) A public comment period was provided as required by law and that the comments received were considered.

(3) The modifications that were made to these final-form regulations in response to comments received do not enlarge the purpose of the proposed amendments.

(4) The final-form regulations meet the requirements of Executive Order 1996-1, "Regulatory Review and Promulgation."

(5) The adoption of the final-form regulation in the manner provided by this order is necessary and appropriate for the administration of the authorizing statutes.

#### *Order*

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

(a) The regulations of the Department, 7 Pa. Code Chapters 3, 5, 7, 8 and 9, are amended by amending §§ 3.1, 5.1, 5.45, 8.26 and 9.34 and by deleting §§ 3.152—3.158 and 7.53 to read as set forth at 26 Pa.B. 3837 and by amending §§ 3.151, 9.5 and 9.6 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order, 26 Pa.B. 3837 and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Secretary of the Department shall certify this order, 26 Pa.B. 3837 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*.

CHARLES C. BROSIUS,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 1215 (March 8, 1997).)*

**Fiscal Note:** Fiscal Note 2-106 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART I. BUREAU OF ANIMAL INDUSTRY**

**CHAPTER 3. HEALTH REQUIREMENTS FOR IMPORTATION AND INTRASTATE TRANSPORTATION OF ANIMALS**

**Subchapter I. INTRASTATE TRANSPORTATION OF CATTLE, GOATS AND BISON**

**§ 3.151. General provisions.**

(a) *Identification required.* Cattle, goats and bison transported within this Commonwealth described in subsections (b) and (c) shall be identified by an official eartag or other unique identification device approved and recorded by the Department.

(b) *Diseased or contaminated animals.* Cattle, goats and bison affected with or exposed to diseases or disease agents determined by the Department to be dangerous and transmissible or hazardous to animal or human health shall, when transported within this Commonwealth, be accompanied by a permit issued by the Department.

(c) *Animals for exhibition.* Cattle, goats and bison transported within this Commonwealth for exhibition purposes shall meet the applicable requirements of this chapter and Chapters 5, 7, 8 and 9.

**CHAPTER 9. CONTROL AND ERADICATION OF TUBERCULOSIS OF LIVESTOCK**

**Subchapter A. GENERAL PROVISIONS**

**§ 9.5. Animals to be tested (cattle, goats and bison).**

(a) Individual plan for accreditation—test all animals over 24 months of age.

(b) Other tests—test animals regardless of age.

**§ 9.6. Animals not to be tested.**

Retests of tuberculin response cattle, goats and bison may not be conducted for 60 days following the last test because of desensitization. The exception is the retest of response animals by the comparative cervical test which can be done within 10 days of the previous caudal test by approved regulatory veterinarians only and if over 10 days then the comparative cervical test shall be conducted after 60 days.

[Pa.B. Doc. No. 97-548. Filed for public inspection April 11, 1997, 9:00 a.m.]

**DEPARTMENT OF AGRICULTURE**

**[7 PA. CODE CH. 110]**

**Noxious Weeds**

The Department of Agriculture (Department) adopts an amendment to § 110.1 (relating to noxious weed control list).

This amendment is made under authority of sections 3(b), 8 and 9 of the Noxious Weed Control Law (act) (3 P. S. §§ 255.3(b), 255.8 and 255.9) which, respectively, require the Department to establish a noxious weed control list, prescribe certain plants to be included on that

list and empower the Department to adopt regulations necessary to implement the provisions of the act.

The amendment deletes *Cichorium intybus* (commonly known as chicory or succory or blue daisy) from the noxious weed control list and adds *Lythrum salicaria* (commonly known as Purple Loosestrife) to that list. In accordance with the act, this amendment has been reviewed and approved by the Noxious Weed Control Committee, an administrative board of the Department.

*Cichorium intybus* has great potential as a forage crop, and farmers have shown increasing interest in growing it. By contrast, *Lythrum salicaria* is a nonindigenous wetland plant that thrives in the absence of the insects and diseases that controlled it in Europe and Asia. It clogs waterways, crowds-out native plant species and decreases the population of animals that are dependent upon native plant species for survival.

*Comments*

Notice of proposed rulemaking was published at 26 Pa.B. 1558 (April 6, 1996), and provided for a 30-day public comment period.

The Legislative Director of the Pennsylvania State Grange offered the only comment with respect to the proposed amendment. This comment reiterated that group's historic support for the Department's effort to add *Lythrum salicaria* to the noxious weed control list.

Neither the appropriate Standing Committees of the House and Senate nor the Independent Regulatory Review Commission (IRRC) offered comments on the proposed amendment.

The final version of this regulation is identical to the proposed version.

*Fiscal Impact*

*Commonwealth*

The final-form regulation will impose no costs and have no fiscal impact upon the Commonwealth.

*Political Subdivisions*

The final-form regulation will impose no costs and have no fiscal impact upon political subdivisions.

*Private Sector*

The final-form regulation will impose no costs and have no fiscal impact upon the private sector.

*General Public*

The final-form regulation may impose some costs upon the owner of land infested with *Lythrum salicaria* if the Secretary, under authority of section 5 of the act (3 P. S. § 255.5), declares the land to be in a weed control area and orders weed control measures on the landowner's part.

*Paperwork Requirements*

The final-form regulation will not result in an appreciable increase in paperwork.

*Contact Person*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pa. 17110-9408, Attention: Lyle B. Forer.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 27, 1996, the Department submitted a copy of the notice of proposed rulemaking to

IRRC and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs 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 the comments received, as well as other documentation.

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

This final-form regulation was deemed approved by the House Committee on February 18, 1997, was deemed approved by the Senate Committee on February 18, 1997, and was deemed approved by IRRC on February 20, 1997, in accordance with section 5(c) of the Regulatory Review Act.

#### Findings

The Department finds that:

(1) Notice of intention to adopt the amendment encompassed 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) A public comment period was provided as required by law and that the comments received were considered.

(3) The regulation meets the requirements of Executive Order 1996-1, "Regulatory Review and Promulgation."

(4) The adoption of this final-form regulation in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

#### Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 110, are amended by amending § 110.1 to read as set forth in Annex A.

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

(c) The Secretary of Agriculture 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*.

CHARLES C. BROSIUS,  
*Secretary*

**Fiscal Note:** Fiscal Note 2-95 remains valid for the final adoption of the subject regulations.

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 1215 (March 8, 1997).)*

#### Annex A

### TITLE 7. AGRICULTURE

#### PART V. PLANT INDUSTRY

#### CHAPTER 110. NOXIOUS WEEDS

##### § 110.1. Noxious weed control list.

Under section 3(b) of the Noxious Weed Control Law (3 P. S. § 255.3(b)), the Noxious Weed Control Committee establishes the following noxious weed control list:

- (1) *Cannabis sativa*, commonly known as marijuana.
- (2) *Lythrum salicaria*, commonly known as purple loosestrife.
- (3) *Cirsium arvense*, commonly known as Canada thistle.
- (4) *Rosa multiflora*, commonly known as multiflora rose.
- (5) *Sorghum halepense*, commonly known as Johnson grass.
- (6) *Carduus nutans*, commonly known as musk thistle.
- (7) *Cirsium vulgare*, commonly known as bull thistle.
- (8) *Datura stramonium*, commonly known as jimson weed.
- (9) *Polygonum perfoliatum*, commonly known as mile-a-minute.
- (10) *Pueraria lobata*, commonly known as kudzuvine.
- (11) *Sorghum bicolor cv. drummondii*, commonly known as shattercane.

[Pa.B. Doc. No. 97-549. Filed for public inspection April 11, 1997, 9:00 a.m.]

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

#### [25 PA. CODE CH. 285]

#### Marking of ICW Containers

The Environmental Quality Board (Board) by this order amends the Department of Environmental Protection's (Department's) regulations governing municipal waste management, particularly infectious and chemotherapeutic waste, by amending Chapter 285 (relating to storage, collection and transportation of municipal waste). These amendments are set forth in Annex A.

This order was adopted by the Board at its meeting of December 17, 1996.

#### A. Effective Date

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

#### B. Contact Persons

For further information, contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, 14th floor, 400 Market Street, P. O. Box 8472, Harrisburg, PA 17105-8472, telephone: (717) 787-7381, or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, 9th floor, 400 Market Street, P. O. Box 8464, Harrisburg, PA 17105-8464, telephone: (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final rulemaking is available electronically through the Department's Website (<http://www.dep.state.pa.us>).

#### C. Statutory Authority

The final rulemaking is being made under the authority of sections 105 and 201 of the Solid Waste Manage-

ment Act (35 P. S. §§ 6018.105 and 6018.201); sections 1 and 4 of the Infectious and Chemotherapeutic Waste Disposal Act (35 P. S. §§ 6019.1 and 6019.4); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20). Under sections 105 and 201 of the Solid Waste Management Act and sections 1 and 4 of the Infectious and Chemotherapeutic Waste Disposal Act, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of infectious and chemotherapeutic waste as are necessary to protect the public's health, safety and welfare, as well as protect the environmental resources of this Commonwealth. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

#### D. *Background and Summary*

This final rulemaking revises the Department's regulations pertaining to marking and labeling of containers holding infectious and chemotherapeutic waste (ICW). Previously, generators and transporters of ICW had to mark containers, except for rigid fiberboard containers, by labeling and color coding (red for infectious and yellow for chemotherapeutic). Under these amendments rigid containers, whether or not made out of fiberboard, only have to be labeled. Nonrigid containers, that is bags, must still be color coded as well as labeled.

This rulemaking is in response to DeRoyal Industries Incorporated's (DeRoyal) August 1, 1995, petition to the Board. DeRoyal petitioned the Board to amend § 285.147(d) (relating to marking of containers) to allow an alternative to the requirement that ICW containers must be red or yellow in color. DeRoyal manufactures a product, a rigid-plastic container, which can be used for storing or transporting ICW. This product is marketed Nationally. DeRoyal contends that specially manufacturing containers to meet the Commonwealth's unique color coding requirements unnecessarily increases the cost of manufacturing the containers.

The Department is aware of another company that manufactures reusable, rigid nonfiberboard containers for storing and transporting ICW. This company also markets the containers Nationally. As a result, this company also has a similar problem of increased manufacturing costs due to compliance with the mandatory color coding requirements of § 285.147.

In addition to the business issues raised by the petition, the Department's ICW marking requirements have become more stringent than Federal requirements. When the Department's container color coding requirements were first promulgated in 1988, those requirements were consistent with industry practice at that time. However, since 1988 several changes have taken place at the Federal level, including rule changes at the United States Department of Labor's Occupational Safety and Health Administration (OSHA) and the United States Department of Transportation (USDOT). The regulations promulgated by these agencies are less stringent than the Department's regulations requiring color coding and labeling of ICW containers. OSHA is responsible for promulgating regulations setting standards for the protection of workers. Under OSHA's Bloodborne Pathogen Rule (29 CFR 1910.1030), infectious waste containers must either be labeled with the universal biological hazard symbol or colored red. The USDOT is responsible for promulgating regulations establishing standards for the safe transportation of hazardous materials. Under the USDOT regulations (49 CFR Part 173) containers of infectious sub-

stances to be transported must be marked with either an infectious substances label or, if the infectious material is a regulated medical waste, a biological hazard symbol. There is no requirement that the container be color coded.

In addition to the consistency issue, the Department's existing regulations concerning the marking of ICW containers have been in part preempted by the USDOT regulations. The USDOT regulations are promulgated under the Hazardous Materials Transportation Act (HMTA). The HMTA preempts State laws that are not substantively equivalent to USDOT regulations concerning the marking or labeling of containers. See 49 U.S.C.A. §§ 5101—5127.

As stated previously, the USDOT has promulgated standards for containers used to transport infectious substances, including regulated medical wastes. The USDOT's definition of infectious substance includes materials the Department defines as infectious waste. Both the USDOT and the Department require that infectious waste be transported in rigid containers. Since the USDOT's regulations do not require these containers to be color coded, the Department's existing regulations requiring rigid nonfiber board containers to be color coded are preempted.

Due to the foregoing concerns, the Department developed a proposed rulemaking that would have made color coding and labeling alternative methods of marking containers. This proposed rulemaking called for amending § 285.146(d) (relating to storage containers) to allow labeling as an alternative to color coding the container. The label will be the universal biological hazard symbol and the words "infectious and chemotherapeutic waste," as described in § 285.147(c).

This proposed rulemaking was submitted to the Solid Waste Advisory Committee (Committee) at its March 14, 1996, meeting. The Committee voted to recommend approval of the proposed amendments as they pertain to rigid containers. However, it was recommended that the regulations should continue to require that bags containing ICW be both color coded and labeled.

The Committee's recommendations are incorporated into the final rulemaking. Section 285.146 (relating to storage containers) is amended to make it clear that bags used as ICW containers be labeled and color coded, red for infectious and yellow for chemotherapeutic waste. The final-form regulations still authorize labeling of rigid containers which is substantially the same as Federal requirements. As a result, the Committee, at its September 12, 1996, meeting voted for the Department to proceed with the final rulemaking.

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

Notice of proposed rulemaking was published at 26 Pa.B. 2790 (June 15, 1996) and was followed by a 30-day public comment period. No public meetings or hearings were held.

Five persons and organizations commented on the proposed amendments during the comment period. The Independent Regulatory Commission (IRRC) also submitted comments.

The Department has prepared a "Comment and Response Document" summarizing and responding to the comments received by the Board. This document is available for review upon request from the contact persons identified in Section B of this Preamble.

Three of the six commentators strongly urged that color coded bags and containers should also be labeled according to the type of waste they hold. The commentators expressed concerns relative to the possible confusion that may arise when ICW containers/bags are only color coded. As an example, because some institutions utilize yellow colored bags/containers for radioactive waste, yellow bags/containers containing chemotherapeutic waste that are not also labeled may be mistaken for radioactive waste and managed improperly.

The Department agrees with the commentators. The final rulemaking leaves intact the current regulatory requirement of both color coding and labeling of bags used for infectious or chemotherapeutic waste storage. Section 285.146 is amended by adding a cross reference to the marking requirements in § 285.147.

The final rulemaking requires all rigid containers to be labeled. Color coding will not be an acceptable method of identifying these containers. This labeling requirement is being adopted in part to address the USDOT preemption issue previously discussed. Furthermore, the Department believes that requiring rigid containers to be labeled will ensure that the ICW will be properly managed.

The Department's previous regulations already exempted fiberboard boxes from the requirement to be color coded. The Department is not aware of any significant instances where fiberboard ICW containers were mishandled.

Two of the commentators were confused by the meaning of "(f)\*\*\*\*" at the end of the proposed rulemaking. The Department's response explained that the use of the three asterisks is the designation used by the Legislative Reference Bureau to signify that no changes have been proposed to the existing regulatory language.

One commentator recommended that to ensure that the ICW was not disposed in a municipal landfill, that the ICW containers be color coded and labeled. For the reasons stated previously, the Department believes that the best approach is to require ICW bags to be color coded and only require labeling for rigid ICW containers.

The petitioner, DeRoyal, submitted comments supportive of the proposed amendments. The Department believes that the final rulemaking continues to satisfy the petitioner's objectives.

Finally, IRRC submitted a recommendation that the final-form regulations should make color coding an allowable supplemental method of identifying the ICW containers. This recommendation was based upon the fact that four commentators were concerned about making color coding an alternative to labeling.

The Department does not believe that IRRC's recommendation addresses the commentator's concerns. The Department agrees with the other commentators that ICW bags should be color coded as well as labeled. With respect to rigid containers, nothing in the final-form regulations prohibits the use of color coding in addition to labeling. However, given the USDOT preemption issue, the Department believes it is advisable to state that possibility in the final rule.

#### F. *Benefits, Costs and Compliance*

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

##### *Benefits*

By amending §§ 285.146 and 285.147, companies that manufacture and Nationally market rigid containers for

the storage and transportation of ICW will be able to market the same container in this Commonwealth. This should reduce the cost of these containers in this Commonwealth.

#### *Compliance Costs*

These final amendments will not impose any new costs on individuals managing infectious and chemotherapeutic wastes.

#### *Compliance Assistance Plan*

The Department will provide compliance assistance by providing written notice to Pennsylvania licensed infectious and chemotherapeutic waste transporters and by providing notice to professional organizations including: The Hospital Association of Pennsylvania, Pennsylvania Veterinary Medical Association, Pennsylvania Medical Society and the Pennsylvania Dental Association.

#### *Paperwork Requirements*

No additional paperwork will be required as a result of this final rulemaking.

#### G. *Sunset Review*

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

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 4, 1996, the Department submitted a copy of the proposed amendments to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble. The Committees did not provide comments on the proposed rulemaking.

The final-form regulations were deemed approved by the House Environmental Resources and Energy Committee on February 24, 1997, and were deemed approved by the Senate Environmental Resources and Energy Committee on February 24, 1997. IRRC met on March 6, 1997, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

#### I. *Findings*

The Board finds that:

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

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

(3) These amendments do not enlarge the purpose of the proposal published at 26 Pa.B. 2790.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

*J. Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 285, are amended by amending §§ 285.146 and 285.147 to read as set forth in Annex A.

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately upon publication.

*(Editor's Note: The amendment of § 285.146, amended in this document, was not included in the proposal at 26 Pa.B. 2790.)*

JAMES M. SEIF,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 1519 (March 22, 1997).)*

**Fiscal Note:** Fiscal Note 7-298 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE VIII. MUNICIPAL WASTE**

**CHAPTER 285. STORAGE, COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE**

**Subchapter A. STORAGE OF MUNICIPAL WASTE**

**§ 285.146. Storage containers.**

(a) Infectious and chemotherapeutic waste shall be placed in containers that are:

- (1) Leakproof.
- (2) Impervious to moisture.
- (3) Sufficient in strength to prevent puncturing, tearing or bursting during storage.

(b) In addition to the requirements of subsection (a), used sharps shall be stored in containers that are:

- (1) Rigid.
- (2) Tightly lidded.
- (3) Puncture resistant.

(c) In addition to the requirements of subsection (a), infectious waste fluids—quantities greater than 20 cubic centimeters—and chemotherapeutic waste fluids shall be stored in containers that are:

- (1) Break resistant.
- (2) Tightly lidded or tightly stoppered.

(d) When bags are used as the only storage container, double or multiple bagging shall be employed and the following requirements shall be met:

- (1) Upon packaging, the bags shall be securely tied.
- (2) The bag shall be constructed of material of sufficient single thickness strength to meet the following:
  - (i) The ASTM standard D1709-91, *Test Method for Impact Resistance of Polyethylene Film by the Free Falling Dart Method*, with an impact resistance of 165 grams or greater (Method A).
  - (ii) The ASTM standard D1922-89, *Propagation Tear Resistance of Plastic Film and Thin Sheeting by Pendulum Method*, with a tearing resistance, parallel and perpendicular to the length of the bag, of 480 grams.
  - (iii) If the standards in subparagraphs (i) and (ii) are modified by ASTM, the standard that is in effect on the date of manufacture of the bags shall be applied.

(3) Bags shall include one of the following certifications indicating that the ASTM standards have been met:

- (i) Each bag shall contain a printed certification by the manufacturer.
- (ii) The manufacturer may issue a certification letter to the infectious or chemotherapeutic waste generator and print a certification on each packaged lot of the bags.

(4) Bags used as containers shall have sufficient seam strength that is at least equal in resistance to tearing and equally impermeable as the other portions of the bag.

(5) Bags used as containers shall be yellow in color for each package of chemotherapeutic waste and red in color for each package of infectious waste and shall be labeled in accordance with § 285.147(c) (relating to marking of containers).

(e) Red or yellow containers shall contain colorants which are organic pigments with no heavy metal content.

(f) With the exception of persons who work at a small quantity generator's operation, where less than 220 pounds of infectious and chemotherapeutic waste is generated per month, persons packaging infectious or chemotherapeutic waste for offsite transportation shall wear:

- (1) Protective overalls.
- (2) Heavy gloves of neoprene or equivalent materials.

**§ 285.147. Marking of containers.**

(a) The outermost container for each package of infectious or chemotherapeutic waste for offsite transportation shall be labeled immediately after packing. The label shall be securely attached and shall be clearly legible. Indelible ink shall be used to complete the information on the label, and the label shall be at least 3 inches by 5 inches in dimension.

(b) The following information shall be included on the label:

- (1) The name, address and telephone number of the generator.
- (2) The date the waste was generated.
- (3) The name of the transporter and, if applicable, Department-issued infectious and chemotherapeutic waste transporter license number.

(c) The following information shall be printed on the outermost container or bag for each package of infectious or chemotherapeutic waste for either onsite movement or offsite transportation:

(1) The words "infectious waste" or "chemotherapeutic waste," whichever is applicable.

(2) The universal biohazard symbol that conforms to the design shown in regulations of the United States Occupational Safety and Health Administration at 29 CFR 1910.145(f)(8)(ii) (relating to specifications for accident prevention signs and tags).

(d) The labeling information specified in subsection (c) shall be fluorescent orange or orange-red in color, or predominately so, with a background of a contrasting color for infectious waste, and yellow in color, or predominately so, with a background of a contrasting color for chemotherapeutic waste.

(e) Stationary waste storage containers shall be lined with the appropriate colored bag for infectious or chemotherapeutic waste.

[Pa.B. Doc. No. 97-550. Filed for public inspection April 11, 1997, 9:00 a.m.]

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [67 PA. CODE CH. 457]

#### Prequalification of Prospective Bidders

The Department of Transportation (Department), Bureau of Construction and Materials adopts amendments to Chapter 457 (relating to prequalification of bidders) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 26 Pa.B. 895 (March 2, 1996) with an invitation to submit written comments within 30 days of publication. Comments were received by the Department from three interested parties.

#### *Comments Received*

The Department received one written public comment and one verbal comment in addition to comments from the Independent Regulatory Review Commission (IRRC). The written comment was submitted by the Executive Vice President of the Associated Pennsylvania Constructors (APC). The verbal comment was received from a research analyst for the House of Representatives Transportation Committee.

Both comments were reiterated in a letter dated May 1, 1996, from the Executive Director of IRRC to the Secretary of the Department. This letter also addressed and referenced concerns related to the House Transportation Committee hearing held on October 19, 1995.

The letters from the APC and IRRC disagreed with the proposed amendment to § 457.5(f)(1) (relating to classification), which would have fixed unlimited financial capacity at \$500 million. Both the APC and IRRC indicated that this higher level would restrict competition and increase costs to the Commonwealth. They noted that bonding companies are particularly vigilant of the financial health and prospects of contractors before issuing performance and payment bonds required on construction projects.

Existing and past Department policy used \$100 million; however, this policy was not previously stated in the regulations. The Department has agreed to continue the existing policy and will retain the \$100 million limit as identifying firms with unlimited financial capacity. For

purposes of documenting existing policy, the modification to § 457.5(f)(1) will indicate that \$100 million will identify firms with unlimited financial capacity.

The comment received from the House research analyst questioned whether any changes were made to the regulations as a result of the House Transportation Committee hearing on October 19, 1995. This same comment was emphasized and expanded on by IRRC in its May 1, 1996, letter. Both also referenced Secretary Mallory's letter of November 28, 1995, to the Honorable Thomas W. Druce subsequent to the House Transportation Committee hearing on October 19, 1995. The concerns resulting from the House Transportation Committee hearing focused on construction contracts being performed on time so that people's lives are not disrupted and businesses not destroyed due to delays in road construction work. It was recommended that scheduling be integrated into the Past Performance Report as a major category to be evaluated.

The Department has agreed to revise the existing Past Performance Report to incorporate scheduling as a major category to be evaluated. Scheduling will be weighted at a minimum of 20% of the total overall rating. The Department plans to implement the revised Past Performance Report in February 1997, in time for the 1997 construction season. The Department's November 28, 1995, letter from Secretary Mallory to Representative Druce indicated this would be ready for the 1996 construction season. Unfortunately, the Department was overly optimistic in view of the time frame needed to update the Contract Computer Management System. Coordination with the Department district offices has been completed as to the types of questions to be included in the evaluation of scheduling, and it is anticipated that the final format to be inserted in the computer system will be completed by December.

The house research Analyst and IRRC also addressed initiatives the Department plans to undertake to assure timely completion of highway and bridge projects.

The initiatives the Department plans to undertake include the following concepts:

1. *Incentive/Disincentive Clause Application*—This concept provides incentives for completing a project ahead of schedule, and penalties for falling behind schedules. Of seven projects bid in the past using this concept, five resulted in incentive payments, and two resulted in disincentive payments.

2. *Cost Plus Time Method (A + Bx Concept)*—This concept involves time with an associated cost in the bid determination. The bid for award consideration is based on a combination of both the cost of contract items and the cost of time needed to complete the work. Of three projects bid in the past using this concept, two were considered successful, and one not so successful, since a sizeable claim was involved.

3. *Lane Rental Method*—This concept includes provisions in the bid proposal for a lane rental fee assessment. This fee is based on the estimated cost of delays to road users during that rental period, and is deducted from monthly progress payments. Major urban area projects are prime candidates for this approach.

4. *Design/Build Contracting*—This concept involves the identification of the end result parameters, and establishes the design criteria minimums. Prospective bidders develop design proposals that optimize their construction abilities. The proposals are rated by the contracting agency on factors such as design quantities, timeliness, management capability and cost. There is a

great deal of flexibility for innovations, but it also puts greater responsibility on the contractor.

5. *Alternate Design by Contractor*—This concept allows contractors to bid alternate structures in bridge projects. Approximately 5% have been bid this way in the past. The Department will continue this practice in the future.

6. *Use of Warranties*—This concept involves a shared effort between the Department and contractor organizations to form warranty specifications. The Department is presently evaluating the possibility of implementing this concept.

7. *Use of Critical Path Method (CPM) Scheduling*—This concept involves the development of mutually agreed-upon activity charts between the Department and the contractor. On construction projects where major traffic disruption is anticipated, a CPM schedule is required, so that disruption can be analyzed. Major rehabilitation projects are ideal candidates for CPM application. The Department has actively implemented this concept on several projects over the last few years.

8. *Road User Costs Determination*—This concept involves the application of road user costs including additional travel time (delay) due to reduced speeds through work zones or detours, or both, additional fuel costs due to reduced speeds through work zones or detours, or both, maintenance of traffic costs on the project, winter shut down time costs, and the like. These costs are used in determining the penalties or incentive amounts in highway and bridge contracts.

The Department will continue to emphasize the use of these alternatives in the future. Evaluation of these alternatives as to the benefits derived will also be completed as more of these alternatives are used.

Another comment submitted by both the House research analyst and IRRC, related to § 457.8(c) (relating to certification of classification and capacity), which allows for the rejection of bids if major changes have occurred that would affect the responsibility of a firm after it has been prequalified. The Department is reviewing the necessary legal and Legislative initiatives that can be taken to strengthen the enforcement of this section. Another comment submitted by both the House research analyst and IRRC, concerned the development of procedures to expedite the employment of a second contractor after a contractor has been declared in default. Due to the multitude and complexity of construction, design, legal and administrative issues involved in expediting construction in a default situation, the Department proposes to initiate a feasibility study to determine if a workable and practical solution can be developed. If a feasible resolution is considered a possibility, the Department will initiate a reengineering process to develop procedures to address this situation. This process would include personnel from the Bureau of Construction, the Bureau of Design, the Office of Chief Counsel and the Department's engineering districts, as well as individual contractors and possibly a surety firm. The processing by or through a surety is viewed as potentially the major impediment in revising the existing procedures.

IRRC also recommended that § 457.10 (relating to past performance report) be modified to indicate that the Department's review of a contractor's performance include timeliness of completing previous projects; a history of suspensions and fine assessments, including amounts, for lateness; and a history of issuance of any letters of concern. The Department has agreed to modify § 457.10 to reflect the inclusion of scheduling as a major component to be evaluated in the past performance report.

#### *Additional Modifications to the Proposed Rulemaking*

The final text of the regulations contains modifications which do not enlarge the scope of these regulations as originally proposed, and thus may be published as final rulemaking. The following represents a summary of the modifications:

1. Section 457.3(d)(3) (relating to general requirements) has been amended by capitalizing Prequalification Officer in the last sentence to provide consistency with the rest of the chapter.

2. Section 457.4(b)(3) (relating to statements to be furnished under oath) has been amended to include a hyphen in the word "line-of-credit" between of and credit. This is consistent with the hyphenation of this wording in the rest of the chapter.

3. Section 457.5(f)(1) (relating to classification) has been further amended by decreasing the threshold of unlimited financial capacity from \$500 million to \$100 million. Existing and past Department policy established the threshold for determining unlimited financial capacity of contractors at \$100 million, although this policy was never set forth in these regulations. Upon proposal of the \$500 million threshold, IRRC and the APC noted that this increase would restrict competition and increase costs to the Commonwealth. Since neither of these results were intended by the Department, the proposed \$500 million threshold has been decreased to \$100 million. This amendment will inform contractors of the Department's existing and continuing policy regarding unlimited financial capacity.

4. Section 457.8(c) (relating to certification of classification and capacity) has been amended to substitute the word "its" for "his" in the first sentence.

5. Section 457.8(c) has also been amended to substitute the word "Department" for "Secretary" in two places in the first sentence. These changes were made to provide consistency with similar substitutions throughout the chapter.

6. Section 457.9 (relating to false certification with bid) has been amended to substitute the word "Department" for "Secretary" in the last sentence. This change was made to provide consistency with similar substitutions throughout the chapter.

7. Section 475.10(b) (relating to past performance report) has been amended to clarify what the Department will consider when reviewing a contractor's past performance. The past performance report will include an evaluation of a contractor's attitude and cooperation, equipment, organization and management, scheduling and work performance. This amendment will alert contractors as to the criteria the Department will employ in developing a past performance report.

8. Section 457.13(c) (relating to suspension or debarment) has been amended to correct a typographical error. The word "by" has been replaced with the word "be" in the last sentence.

#### *Purpose of these Amendments*

The purpose of these amendments is to amend the existing regulations by incorporating provisions of the Contractor Responsibility Program as contained in Management Directive 215.9, dated July 17, 1990, and Chapter 491 (relating to administrative practice and procedure); by incorporating definitions for "suspension," "debarment," "contractor" and "subcontractor"; by including additional reasons for suspension and debarment; by

deleting the present appeal committees; by establishing an appeal process which includes an Administrative Hearing Officer; by providing an informal meeting as the first step in the classification appeals process; by deleting a no extension clause for prequalification expiration dates, and allowing for an extension of 30 days if a renewal certificate is not issued by the expiration date; by amending the cycle for prequalification to 2 years from 1 year; by assigning umbrella prequalification certificates to the parent company and three subsidiaries, and enforcement of suspension or debarment to the parent company and all subsidiaries prequalified under one umbrella certificate; by including a definition of "general contractor"; by acceptance of a review report for the financial statement under certain conditions; by clarifying that line-of-credit statements must be designated in the name of the applicant; by amending a number of classification codes to more accurately consider recent types of activities performed by the Department; by clarifying that the amount for an unlimited maximum financial capacity is \$100 million; and, by amending the past performance reports to include scheduling.

#### *Persons and Entities Affected*

These amendments affect highway contractors involved in bidding on Department projects. These amendments also affect subcontractors performing work for prime contractors.

#### *Fiscal Impact*

These amendments will not require the expenditure of additional funds by either the Commonwealth or local municipalities. These amendments will reduce costs for applicants filing audited financial statements since they will be required to file on an average once every 2 years as compared to the present requirement of an average of once a year. Additionally, applicants with working capital of less than \$50,000, will not be required to complete audited financial statements to be prequalified as prime contractors. This should provide a cost savings for smaller firms. No additional costs other than a filing fee for classification appeals are required. These additional costs will be minimal while at the same time these amendments will promote compatibility with the Commonwealth's Contractor Responsibility Program and the Department's Rules of Administrative Practice and Procedure. These amendments will impose additional reporting requirements on the affected persons relating to contractor integrity and responsibility. There should also be some reduction of recordkeeping as a consequence of the extension of time for prequalification application renewals, the acceptance of a review statement and the issuance of umbrella certificates to parent companies and their subsidiaries or divisions.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 2, 1996, the Department submitted a copy of these proposed amendments to IRRC and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting these amendments, 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 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

In preparing these final-form regulations, the Department has considered the comments received from the Commonwealth and the public.

These final-form regulations were deemed approved by the Committees on February 20, 1997, and were approved by IRRC on February 20, 1997, in accordance with section 5(c) of the Regulatory Review Act.

#### *Sunset Provisions*

The Department is not establishing a sunset date for these regulations since these regulations are needed to administer provisions required under the State Highway Law (36 P. S. §§ 670-101—670-1002). The Department, however, will continue to monitor these regulations for their effectiveness.

#### *Contact Person*

The contact person is Fred N. Starasinic, P.E., Contract Management Division, Bureau of Construction and Materials, 7th fl, Forum Place, 555 Walnut St., Harrisburg, PA 17120, (717) 787-3733.

#### *Authority*

These regulations hereby amended are amended under the authority contained in section 404.1 of the State Highway Law (36 P. S. § 670-401.1).

#### *Findings*

The Department finds that :

(1) Public notice of intention to amend the administrative regulations 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 .

(2) The amendment of the regulations of the Department in the manner provided in this order is 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, 67 Pa. Code Chapter 457, are amended by amending §§ 457.1—457.6, 457.8—457.16, by deleting § 457.7 and by adding § 457.17 to read as set forth in Annex A with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as to 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* with an effective compliance date of July 1, 1997.

BRADLEY L. MALLORY,  
*Secretary*

*(Editor's Note: The amendment of § 457.10 was not included in the proposal at 26 Pa.B. 895 (March 2, 1996).)*

**Fiscal Note:** Fiscal Note 18-318 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart B. NONVEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAYS

CHAPTER 457. PREQUALIFICATION OF BIDDERS

§ 457.1. Definitions.

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

*Act*—The State Highway Law (36 P. S. §§ 670-101—670-1002).

*Affiliates*—Business entities or individuals whose relationship is such that either directly or indirectly, one controls or can control the other; or a third controls or can control both; or a similar arrangement exists between business entities or individuals.

*Contractor*—An individual, firm, partnership, corporation, other entity or joint venture limited to three participants, unless indicated otherwise, submitting a proposal for the work contemplated and acting directly or through an authorized representative.

*Debarment*—Action taken by the Department to prohibit a contractor, subcontractor or individual from contracting with or participating in contracts with the Department for a specified period. The debarment will include all divisions or other organizational elements of a contractor or subcontractor unless limited by its terms to specific divisions or organizational elements. The debarment may apply to affiliates or other individual or entity associated with the contractor, subcontractor or individual if they are specifically named and given written notice of the debarment and an opportunity to appeal.

*Department*—The Department of Transportation of the Commonwealth.

*Department hearing officer*—The person designated by the Commonwealth to preside over appeals involving classification of prequalification codes or debarment.

*Highway project*—Work done by contract on or related to a State highway.

*Letting*—The day on which the bids for a highway project will be opened.

*Prequalification Officer*—The Department official who administers the regulations and procedures in this chapter.

*Secretary*—The Secretary of Transportation or a Deputy Secretary of Transportation.

*Subcontractor*—An individual, firm, partnership, corporation or other entity whose participation in the work contemplated is through a contract or other arrangement with a contractor.

*Suspension*—Action taken by the Department to temporarily prohibit a contractor, subcontractor or individual from contracting with or participating in contracts with the Department. It may be for a period of up to 3 months, pending the completion of an investigation which could lead to debarment or legal proceedings. The period of suspension may be extended for good cause. The suspension will include all divisions or other organizational elements of a contractor or subcontractor unless limited by its terms to specific divisions or organizational elements. The suspension may apply to any affiliates or

other individual or entity associated with the contractor, subcontractor or individual if they are specifically named and given written notice of the suspension.

§ 457.2. Purpose.

(a) This chapter is designed to implement section 404.1 of the act (36 P. S. § 670-404.1) by providing a method and manner, determined to be desirable by the Secretary, for the processing and evaluation of the capacity and qualifications of contractors and subcontractors to perform highway project work in this Commonwealth.

(b) The following basic policy governs the classification and prequalification of contractors and subcontractors:

(1) The institution of a system which will permit a more efficient operation of the contract program for highway projects.

(2) The minimization of delays in the awarding of contracts after bids have been opened.

(3) The assurance of the integrity, responsibility and competence of bidders.

§ 457.3. General requirements.

(a) *Proof of competence and responsibility.* Persons proposing to bid on work shall be required to establish proof of their competence and responsibility, as provided in this chapter, before being permitted to bid on the work, with the following exceptions:

(1) Miscellaneous work excluded under § 457.5(b) (relating to classification).

(2) Demolition work when the Department's estimate of costs for the same is less than \$25,000.

(b) *Submitting statements.* For the purpose of this section, each person shall submit statements, under oath, on the forms prescribed by the Department, which set forth the financial ability, adequacy of plant and equipment, organization, experience, equal employment opportunity, affirmative action program and related pertinent and material information necessary to establish competency and responsibility. The contractor may add the necessary extensions and supplementary information as attachments to the forms.

(c) *Application processing.* The Department will attempt to expedite the processing of an application if the applicant notifies the Prequalification Office in writing, at least 10 working days prior to the bid opening that the applicant is a prospective bidder on an advertised project.

(d) *Expiration.* Expiration shall be as follows:

(1) *Prime contractors.* A certificate will be issued to prime contractors who have been prequalified indicating the expiration date of their prequalification. The expiration date will be established in accordance with balance sheet date.

(i) *Form 4300, Part 1-Filed.* Prequalification unless withdrawn or suspended by the Department, expires 18 months from the date of the contractor's balance sheet contained in the prequalification application, when the balance sheet date is December 31, 1996, or earlier.

(ii) *Exception.* Prequalification, unless withdrawn or suspended by the Department, expires 30 months from the date of the contractor's balance sheet contained in the prequalification application when the balance sheet date is January 1, 1997, or thereafter, except that an 18 month expiration period will be assigned when required, to provide for an even year expiration date for those with a

certificate alpha prefix of A through K and an odd year expiration date for those with a certificate alpha prefix of L through Z.

(2) *Subcontractors.* A certificate will be issued to subcontractors who have been prequalified indicating the expiration date of their prequalification. The expiration date will be established in accordance with the date of issuance of the certificate.

(i) *Form 4300, Part 1-Not filed.* Prequalification expires 2 years from the date of issuance of the certificate of prequalification for applicants who elect to exercise the option specified in § 457.4(a)(5) (relating to statements to be furnished under oath).

(ii) *Part 1, Financial Statement.* After an applicant has been prequalified and elects to submit a Part 1, Financial Statement, either new or revised, the applicant shall submit a current Part 2 and Part 3.

(3) *Expiration date.* The expiration date will be indicated on the certificate of prequalification. The expiration date of a current certificate will be automatically extended 30 days if the renewal certificate is not issued prior to expiration, if the renewal application has been received by the Prequalification Officer at least 30 days prior to the current expiration date and the applicant has not been notified in writing otherwise for due cause.

(e) *Filing a statement.* The Department may request a contractor to file a new statement at any time deemed necessary, in which case the statement shall be filed within 30 days. Failure to comply may be grounds for disqualification or suspension.

(f) *Business through branch office.* Applicants who desire to do business in this Commonwealth through any of their branch offices shall indicate in the application forms the address of the branch office.

(g) *Contracting corporations.* Contracting corporations which are chartered in a state other than this Commonwealth and individuals or firms doing business under fictitious names shall register with and obtain a certificate from the Secretary of the Commonwealth authorizing them to do business in this Commonwealth, before an award of contract will be made.

(h) *Resident agent.* Out-of-State contractors and subcontractors as a part of prequalification shall designate a resident agent who is identified by name and address, and who is authorized by the contractor or subcontractor to accept service of complaints, subpoenas and other legal documents on behalf of the contractor or subcontractor, its officers, employes or owners. The contractor or subcontractor shall notify the Department immediately if there is a change in the name or address, or both, of the resident agent. Failure to do so could result in suspension of prequalification.

(i) *Records retention period.* The Prequalification Office will retain the contractor's or subcontractor's prequalification forms and related file at least 3 years from the expiration date of the certificate. If a certificate is not issued, the file shall be retained at least 3 years from the date the forms are received.

(j) *Subsidiaries.* Applicants who desire to bid through a wholly owned and controlled subsidiary may, as an alternative to separate and independent applications, apply for the prequalification of a parent organization and no more than three wholly owned construction related subsidiaries, under a single application with a combined financial statement. Identical certificates will be issued to the parent and each designated subsidiary,

the combined group being considered an entity for purposes of performance evaluation and workload assessment. The parent and each designated subsidiary, jointly and severally, shall meet the requirements and conditions specified in this chapter for person, bidder, contractor or applicant. A division or other operating unit within a parent organization will be considered in the same manner as a subsidiary. A suspension or debarment will apply to the entity being prequalified.

**§ 457.4. Statements to be furnished under oath.**

(a) *Generally.* The following procedures shall be followed in making a statement:

\* \* \* \* \*

(3) One set of each form shall be sent to each applicant which shall be returned to the Department.

(4) A complete set of application forms may be acquired from the Prequalification Office, Bureau of Construction and Materials, Contract Management Division, Department of Transportation, 7th fl, Forum Place, 555 Walnut Street, Harrisburg, Pennsylvania 17120. They shall be mailed or delivered to the Prequalification Office at this above address.

\* \* \* \* \*

(b) *Contractor's Financial Statement, Form 4300, Part 1.* This part will be reviewed by the Office of Comptroller. The following procedures shall be followed in completing Form 4300, Part 1:

(1) Each applicant, whether a corporation, copartnership or individual, shall complete the applicable parts of Form 4300, Part 1, Contractor's Financial Statement, and shall submit the statement as part of the application for prequalification. The form provides for balance sheet data with supporting schedules and follows closely the standard and accepted form generally used in presenting an adequate financial report, and shall show all assets and liabilities, including verification of lines of credit extended by banks. This form or statement shall include certification, rendered with an opinion, by a certified public accountant, public accountant or foreign accountant registered in accordance with The C.P.A. Law (63 P.S. §§ 9.1—9.16b) as to the financial condition of the prospective contractor. Financial statements prepared in states other than the Commonwealth will not be accepted unless they include certification by a certified public accountant.

\* \* \* \* \*

(3) An applicant shall provide an audited financial statement when the applicant's net working capital is in excess of \$50,000. A review type of financial statement is acceptable only when the applicant's net working capital does not exceed \$50,000. If the net working capital is negative, or if the maximum capacity rating as calculated in § 457.5(f) exceeds \$4 million, a review type of statement is not acceptable and an audited financial statement will be required. Financial statements shall be current. A financial statement which is received by the Prequalification Officer later than 9 months after the balance sheet date may not be accepted. Financial statements received more than 6 months after the balance sheet date shall include an assurance by the accountant that there are no material changes in the financial condition of the applicant since the balance sheet date. For significant changes in a contractor's financial status which occur subsequent to the balance sheet date and which adversely affect the contractor's financial condition, the Department has the right to reevaluate the contractor's financial statement and to adjust the assets, liabilities, line-of-credit and book

value of equipment, and consequently, the assigned maximum capacity rating, or to reject the statement outright.

(4) Financial statements shall be reviewed by the prequalification accountant in accordance with current accounting concepts as published by the American Institute of Certified Public Accountants. Accordingly, adjustments in the treatment of assets or liabilities may be made by the Department as deemed necessary. On major adjustments, the applicant shall receive advance written notice thereof.

(5) Line-of-credit statements, if submitted from banks for the purpose of establishing financial qualifications in determining rating, shall be furnished on Department forms included in Form 4300, Part 1. A line-of-credit statement is not required for prequalification. The line-of-credit shall be designated in the name of the firm applying for prequalification.

\* \* \* \* \*

(c) *Contractor's Organization and Experience Statement, Form 4300, Part 2.* This part will be reviewed by the Contractor Evaluation Engineer. The following procedures shall be followed in completing Form 4300, Part 2:

(1) The information and data to be submitted on Form 4300, Part 2, Contractor's Organization and Experience Statement is largely self-explanatory. Each applicant (contractor) shall be assigned a rating which will designate the classifications of work upon which he shall be eligible to bid. Thus the Department will establish the maximum amount of work which a qualified contractor may have under contract and incomplete at any one time and beyond which no further work will be awarded him. This total amount of work, or maximum capacity rating, shall be a flat sum determined in accordance with the formula in § 457.5.

\* \* \* \* \*

(3) Each contractor and subcontractor shall furnish, under oath, the following statements:

(i) A statement as to plant and equipment, which shall give complete details as to type, age and condition. If equipment is leased, the applicant shall list the owner by the name of the organization or individual from whom the equipment is leased at the time of balance sheet date.

\* \* \* \* \*

(iii) A statement as to prior and current experience of the contractor, his principal officers and key employees which shall show the number of years the contractor has been engaged in the contracting business and shall further disclose generally his experience over that period.

\* \* \* \* \*

(vi) A statement indicating how many years the organization has been in business as a contractor under its present business name.

(vii) A statement indicating the number of years of experience in highway construction work the organization has.

(viii) A statement indicating whether the organization ever failed to complete any work awarded to it.

(ix) A statement indicating whether any officer or partner of the organization has ever been an officer or partner of some other organization that failed to complete a construction contract.

(x) A statement indicating if any officer or partner of the organization has ever failed to complete a construction contract performed in his own name.

(xi) A statement indicating whether the organization has ever been denied prequalification in this Commonwealth or another state under its name or another name.

(xii) A statement indicating whether the organization has ever been disqualified or removed from a bidding list in this Commonwealth or another state under its name or another name.

(xiii) A listing indicating the construction experience of the officers and management personnel, including superintendents of the organization.

(xiv) A listing of affiliated or subsidiary organizations and companies.

(xv) A listing of organizations, individuals, or both, who have a financial interest of 10% or more in the company.

(xvi) A listing of the persons having a financial interest in the organization, and who also have a financial interest in another organization prequalified or eligible to bid in this Commonwealth or another state.

(xvii) A listing of other organizations or individuals who control or influence the bidding of the company.

(xviii) A statement indicating misdemeanor convictions involving moral turpitude, conviction of a bidding crime and other felony convictions of the contractor, as well as the contractor's directors, partners, principal officers and key employees.

(xix) A statement setting forth other relevant, pertinent and material facts that may justify the rating desired.

\* \* \* \* \*

(d) *Contractor's Affirmative Action Statement, Form 4300, Part 3.* This part will be reviewed by the Bureau of Equal Opportunity. The information requested in Form 4300, Part 3, shall be submitted in full to comply with 16 Pa. Code Chapter 49 (relating to contract compliance), the Federal Civil Rights Act of 1964, Presidential Executive Order No. 11246 as amended, and 41 CFR 60-60.4 (relating to confidentiality and relevency of information).

**§ 457.5. Classification.**

(a) The contractor or subcontractor shall be classified according to the type of work and amount of work for which his experience and financial capacity will qualify him to bid. The types of work, as described in Department of Transportation Specifications, Publication 408, are listed as follows:

WORK	CODE	SECT.	CLASSIFICATION
EARTHWORK	A	200	CLEARING & GRUBBING
	B	200	BUILDING DEMOLITION
	C	200	EXCAVATING & GRADING
BASE COURSE	D	300	RIGID BASE COURSE

WORK	CODE	SECT.	CLASSIFICATION
	E	300	FLEXIBLE BASE COURSE
PAVEMENT	F	400	BITUMINOUS PAVEMENT
	F1	400	BITUMINOUS PAVEMENT PATCHING AND REPAIR
	G	500	RIGID PAVEMENT
	G1	500	RIGID PAVEMENT PATCHING & REPAIR
INCIDENTAL CONSTRUCTION	H	600	DRAINAGE, WATER MAIN, STORM SEWER
	J	600	GUIDE RAIL, STEEL MEDIAN BARRIER, FENCES
	J1	600	CONCRETE MEDIAN BARRIER
	K	600	CURBS, SIDEWALKS, INLETS, MANHOLES, ETC.
	L	600	SLABJACKING-SUBSEALING
ROADSIDE DEVELOPMENT	M	800	LANDSCAPING
	N		REST AREA STRUCTURES, BUILDINGS
TRAFFIC ACCOMMODATIONS AND CONTROL	O	900	PAVEMENT MARKINGS
	P	900	HIGHWAY/SIGN LIGHTING, SIGNAL CONTROL
	Q	900	MAINTENANCE AND PROTECTION OF TRAFFIC
	R	900	SIGN PLACEMENT (POST/STRUCTURE MOUNTED)
	R1	900	SIGN STRUCTURES
STRUCTURES	S	1000	CEMENT CONCRETE STRUCTURES
	S1	1000	CULVERTS & SINGLE SPAN BRIDGES TO 80 FT
	S2	1000	REPAIR AND REHABILITATION OF STRUCTURES
	S3	1000	MODIFIED CONCRETE DECK OVERLAYS
	T	1050	ERECTION (STRUCTURAL MEMBERS)
	T1	1018	BRIDGE REMOVAL
	U	1005	PILE DRIVING
	V	1070	STEEL PAINTING (HIGH PERFORMANCE)
	V1	1071	STEEL PAINTING (CONVENTIONAL)
MISCELLANEOUS	Y		OTHERS

(b) Miscellaneous work as determined by the Chief Counsel, as not within the purview of the act, will be excluded by the Deputy Secretary for Highway Administration from the requirements of this chapter. When this is done, the bid proposal shall so state.

(c) The classifications of work listed in subsection (a) may be further defined by the Contract Management Division, if needed, to provide for additional types of specialties generated with expanded programs.

(d) Each prequalified contractor shall be eligible to bid on projects in which the types of work for which he is classified constitute at least 50% of the project.

(e) Each contractor or subcontractor shall be classified for one or more types of work in accordance with his adequacy of plant and equipment, organization, prior experience, record of construction and other pertinent,

relevant and material facts which may affect the classification. A contractor or subcontractor who has been assigned classifications of excavation and grading; bituminous pavement or rigid pavement; drainage, water mains, storm sewers; and cement concrete structures (all types) will be considered a general highway contractor. A proposal from a contractor with a general highway contractor designation need not be reviewed for the 50% classification requirement unless specialty items predominate. The contractor or subcontractor shall be assigned an ability factor and given a capacity rating which will designate the quantity of work upon which he will be eligible to bid. The Prequalification Office shall give notice of the classification and rating.

(f) The maximum capacity rating shall be a flat sum determined as follows:

(1) The formula,  $Q = F (C + 1/2L + 1/2E)$ , shall be used to determine the maximum capacity rating. A contractor whose maximum capacity exceeds \$100 million as determined by this formula, will be considered to have unlimited financial capacity.

(2) When the contractor elects to exercise the option as specified in § 457.4(a)(5), the contractor shall be assigned in lieu of the Contractor's Financial Statement, Form 4300, Part 1, a flat sum factor of \$50,000; and the formula  $Q = F (\$50,000)$  shall be used to determine the maximum capacity rating.

(3) The symbols used in the formula in paragraphs (1) and (2) shall have the following meaning:

- (i) Q = Maximum capacity rating.
- (ii) C = Net working capital.
- (iii) F = Assigned ability factor (1 to 15).
- (iv) L = Line-of-credit statements.
- (v) E = Book value of equipment.

(4) The following limitations apply to the terms in paragraph (3):

(i) Net working capital shall be current assets less current liabilities.

(ii) Current assets shall be easily negotiable assets that may readily be turned into cash.

(iii) Current liabilities shall be obligations due within a 1-year period.

(iv) A Line-of-Credit statement shall be the form, executed by a bank on page number 20 of the financial statement of the contractor.

(v) Book value of equipment shall be total cost less depreciation actually applied. This equipment factor shall include not only book value of company-owned equipment but also the book value of the contractor's share of equipment owned by a joint venture.

(5) If the maximum capacity rating (Q) is a positive number, a certificate as a prime contractor will be issued. If the contractor has had a negative working capital for 2 consecutive fiscal years, the Department will request additional documentation to support the contractor's financial capabilities even if the maximum capacity rating (Q) is a positive number as a result of a line of credit or book value of equipment, or both. If the Department still considers the contractor's financial status to be questionable, the Department will prequalify the contractor to perform work only as a subcontractor.

(6) If the net working capital (C) is a negative amount, the Department has the right to reduce the qualification amount or to reject the application.

(g) The qualification amount, determined by the applicable formula in subsection (f) shall establish the maximum capacity rating of the applicant. Award of contract shall be restricted to the assigned maximum capacity rating less monetary value of the uncompleted contract and subcontract work under § 457.16 (relating to sublettings).

**§ 457.6. Classification appeals procedure.**

The following procedures apply to classification appeals:

(1) *Informal meeting.* A contractor or subcontractor dissatisfied with his classification may submit, in writing, a request for an informal meeting to the Prequalification Office within 10 working days after receipt of notice of prequalification or denial thereof or other related action

of the Department. At the meeting, which shall be scheduled by the Department within 30 days after receipt of a request therefor the contractor or subcontractor may present further evidence with respect to financial responsibility, organization, plant and equipment or experience and other relevant facts, as might tend to justify a different classification or other determination by the Department.

(2) *Notification of determination/formal classification hearing.* After hearing the additional evidence, the Department will change or retain the classification within 10 working days after the meeting and will notify, in writing, the contractor or subcontractor, accordingly. A contractor or subcontractor, if dissatisfied with the determination of the Department following the informal meeting, may, within 10 working days of the mailing date of the determination, request in writing a formal classification hearing setting forth the reasons therefor.

(3) A contractor or subcontractor may forgo the informal meeting described at paragraph (1) and directly appeal the classification determination of the Department by requesting in writing a formal classification hearing setting forth the reasons therefor, within 10 working days after receipt of notice of prequalification or denial thereof or other related action of the Department.

(4) Classification hearings will be held in conformity with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) as supplemented by Chapter 491 (relating to administrative practice and procedure). As set forth in § 491.4 (relating to institution of proceedings), requests for classification hearings, and all other papers relating to the case, shall be filed with the Administrative Docket Clerk at the following address:

Secretary of Transportation, Administrative Docket Clerk, c/o Office of Chief Counsel, 9th floor, Forum Place, 555 Walnut Street, Harrisburg, Pennsylvania 17120

(5) Under § 491.5 (relating to filing fee), a filing fee in the required amount shall accompany a request for a classification hearing.

**§ 457.7. (Reserved).**

**§ 457.8. Certification of classification and capacity.**

(a) Bids will be accepted only from contractors who have a current prequalification certificate in accordance with this chapter. In those cases when either the bidder does not have adequate current prequalification capacity rating, as required by subsection (b) or the types of work on which the contractor has been classified and eligible to bid do not constitute over 50% of the total bid price, the bid will be excluded and rejected. Items noted in the proposal as specialty items may be excluded.

(b) So that the Department may have the necessary information to pass upon the ability of a contractor to satisfactorily complete a project, contractors shall submit with their proposal a certification of capacity to do the particular work. If the contractor desires credit for subcontracted items of work on the particular project, the contractor shall include the names of the subcontractors in the proposal. Subcontractors so named shall have the necessary capacity and classification. In making this certification, the contractor shall certify that the current qualification amount, less amount of all uncompleted work which includes subcontracts except as permitted by § 457.16 (relating to sublettings) the contractor has under contract is sufficient to cover the amount of the proposal. The making of a false certification shall constitute cause for rejection of the proposal of the contractor.

(c) The Department may reject a bid at any time prior to the actual awarding of a contract if, in its judgment, the best interest of the Commonwealth will be promoted thereby, or if there have been developments subsequent to prequalification, which, in the opinion of the Department would affect the responsibility of the contractor. In addition to the right of the Department to reject, a bid may be rejected if it appears that after the contractor was prequalified, the contractor was declared in default on a project, or prequalification was suspended or withdrawn by the Department, or a major change occurred in the management of the contractor's firm. Before taking the action, the Department will as soon as possible notify the contractor and give the contractor an opportunity to present additional information to the Department.

**§ 457.9. False certification with bid.**

If a contractor makes a false certification with regards to § 457.8(a) or (b), or both (relating to certification of classification and capacity), the contractor shall pay to the Department as liquidated damages an amount equal to 5% of the total amount of the bid or the contractor may be disqualified from bidding on future work for 90 days, or both, as deemed appropriate. If the contractor fails to make the payment within 30 days of notification, the contractor shall be disqualified for 1 year. An application for renewal of prequalification will not be considered by the Department until the contractor makes payment. In lieu of the assessment of liquidated damages or disqualification, or both, the Secretary may issue a warning to the contractor making a false certification when the infraction is the first offense of the contractor.

**§ 475.10. Past performance report.**

(a) The Secretary may require the District Engineer, the Inspector General or other designee to submit a confidential past performance report on a contractor performing work for the Department.

(b) This report, and reports received from outside entities, shall be used in conjunction with the other past performance information for determining the past performance rating of the contractor which rating shall be considered in determining the classification of the contractor and his responsibility as a contractor. The past performance report shall include evaluation of a contractor's attitude and cooperation, equipment, organization and management, scheduling and work performance. Poor or unsatisfactory ratings for specific work classifications shall constitute justification for revoking classifications previously granted. A contractor who has an overall unsatisfactory rating on performance reports will not be prequalified. Reports shall be confidential.

**§ 457.11. Audit of contractor or subcontractor records.**

The Department reserves the right, upon 10 days notice to the contractor or subcontractor, to review records of the contractor or subcontractor either as part of a random periodic review or as part of a specific inquiry. These records would include records that substantiate information in Parts 1, 2 and 3 of the prequalification application.

**§ 457.12. False statements in prequalification application or at hearing.**

A contractor, subcontractor or individual who knowingly makes or causes to be made, a false, deceptive or fraudulent statement on the prequalification application required to be submitted or in the course of a hearing held under this chapter may be temporarily suspended or

may be debarred for a set period or permanently from bidding on or participating in State supervised or funded highway construction work.

**§ 457.13. Suspension or debarment.**

(a) *Reasons for suspension or debarment.* The Department may temporarily suspend or may debar, for a set period or permanently, a contractor, subcontractor or individual from bidding on or participating in State supervised or funded highway construction work for any of the following reasons:

(1) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

(2) Commission of fraud or a criminal offense or other improper conduct or knowledge or approval of, or acquiescence in these activities by a contractor or an affiliate, officer, employe or other individual or entity associated with either obtaining, attempting to obtain or performing a public contract or subcontract. The contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of knowledge, approval or acquiescence.

(3) Violation of Federal or State antitrust statutes.

(4) Violation of a State or Federal law regulating campaign contributions.

(5) Violation of a State or Federal environmental law.

(6) Violation of a State or Federal law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

(7) Violation of the Workers' Compensation Act (77 P. S. §§ 1—2626).

(8) Violation of a State or Federal law prohibiting discrimination in employment.

(9) Suspension or debarment by the Commonwealth or an agency thereof or an agency of another state or by an agency or department of the Federal government.

(10) Three or more occurrences where a contractor has been declared ineligible for a contract.

(11) Unsatisfactory performance including failure to comply with the terms of a Commonwealth contract or subcontract including:

(i) Willful failure to perform in accordance with the terms of one or more contracts, or a history of failure to perform, or of unsatisfactory performance of one or more contracts, or offering unbalanced bids.

(ii) Failure to complete the work in the time frame specified in the contract.

(iii) Being declared in default on prior work or project.

(iv) Failure to submit documents, information or forms as required by contract.

(v) Making false statements or failing to provide information or otherwise to cooperate with the contracting agency, the Office of State Inspector General or other Commonwealth authorities.

(vi) Discrimination in violation of laws or regulations in the conduct of business as a contractor.

(12) Providing false or misleading information to the Office of State Inspector General, Office of the Budget, the Department of the Auditor General, the Office of Attorney General, the Treasury Department, the Board of Claims, or other tribunal or court, the Department, or a representative of an agency as part of any investigation,

audit, program review, prequalification statement of certification, contract bids or proposals, contractor applications or claims for payment. This information includes:

- (i) Financial statements.
- (ii) Nondiscrimination forms.
- (iii) Affidavits or statements of compliance with prevailing wage statutes.
- (iv) Product descriptive literature and documents submitted in connection with claims for payment made or litigation against Commonwealth agencies.

(13) Other acts or omissions indicating a lack of skill, ability, capacity, quality control, business integrity or business honesty that seriously and directly affect the present responsibility of a contractor or any basis for debarment or suspension in the Commonwealth's Contractor Responsibility Program, Management Directive 215.9.

(b) *Substantial evidence.* The filing of criminal charges or initiation of legal proceedings for any of the reasons in subsection (a)(1)—(8) may constitute substantial evidence for suspension.

(c) *Debarment based on criminal conduct.* Debarment solely on the basis of any of the reasons in subsection (a)(1)—(8) shall be based on a conviction or plea of guilty or no contest in a court of law or a finding, ruling or adjudication of guilt for noncompliance by a court of law, commission, board or administrative body. It is not required that the appeals process be completed or that a sentence or other penalty be imposed.

(d) *Effect of appeal.* The filing of an appeal does not constitute a basis for delay or postponement of a suspension/debarment action.

(e) *Suspension for criminal conduct.* If a contractor, subcontractor or individual is suspended because of the filing of criminal charges or initiation of legal proceedings for other applicable reasons in subsection (a)(1)—(8) and there has been no conviction or ruling sufficient to justify debarment within the suspension period, the Department may, if appropriate, based on all of the relevant facts, initiate debarment proceedings.

(f) *Denial or nonrenewal.* Denial of prequalification or refusal to renew prequalification for any of the reasons set forth in this section shall constitute a suspension or debarment for the purposes of this chapter. The Department will advise the contractor in writing accordingly.

(g) *Suspension procedure.* When a suspension is imposed against a contractor or an affiliate, the Department will immediately notify the contractor and any specifically named affiliate, officer, employe or other individual or entity associated with the contractor, by certified mail, return receipt requested and regular mail that it has been:

(1) Suspended for an initial period of up to 3 months accompanied by a concise statement of the reasons for the suspension.

(2) Declared ineligible for Department contracting and subcontracting pending the completion of investigation and ensuing legal proceedings. During the suspension period, the contractor shall make available all relevant documents, records and information to investigators.

(h) *Reply to suspension.* A contractor, subcontractor or individual suspended by the Department may, within 21 days after the suspension mailing date, submit, in person, in writing, or through a representative, information in

opposition to the suspension. Upon review of the information or the completion of an investigation, or both, the Department will notify the contractor, subcontractor or individual whether the suspension shall be continued or withdrawn or whether debarment proceedings will be initiated.

**§ 457.14. Debarment appeals procedure.**

(a) *General provisions.* A contractor, subcontractor or individual debarred by the Department under § 457.13 (relating to suspension or debarment) may appeal the debarment in writing within 10 working days after the mailing date of the notice of debarment. The appeal shall set forth the basis therefor.

(b) *Conformity with administrative practice and procedures; requests for hearing.* Debarment hearings will be in conformity with 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), as supplemented by Chapter 491 (relating to administrative practice and procedure). A filing fee is not required for a debarment hearing. In § 491.3 (relating to request for hearing), requests for debarment hearings and all other papers relating to the case shall be filed with the Department's Administrative Docket Clerk at the following address:

Secretary of Transportation, Administrative Docket Clerk, c/o Office of Chief Counsel, 9th fl., Forum Place, 555 Walnut Street, Harrisburg, Pennsylvania 17120.

(c) *Informal meeting.* A contractor, subcontractor or individual debarred by the Department may, after filing an appeal, request an informal meeting with the Department prior to the holding of a debarment hearing for the purpose of discussion of the debarment action or presentation of additional evidence which the contractor, subcontractor or individual may want the Department to take into consideration. Requests for informal meetings shall be made in writing to the Prequalification Office. The Department will issue, within 10 working days after an informal meeting, a written notification of whether it is withdrawing or modifying the debarment action. The contractor, subcontractor or individual may then, at his option, continue with, amend or withdraw the appeal.

(d) *Debarment by other agencies.* A contractor, subcontractor, supplier or individual debarred by the Commonwealth or an agency thereof under the Commonwealth's Contractor Responsibility Program as set forth in Management Directive 215.9 shall be subject to debarment by the Department without right of appeal.

**§ 457.15. Joint venture bids.**

(a) *Permissible combination.* A combination of contractors which combination shall be limited to three participants unless otherwise stated in the proposal, and each of whom is prequalified in accordance with this chapter, shall be permitted to bid jointly. Equal proportionate amounts of joint-bid shall be charged against the maximum capacity rating of each participant in a joint venture, unless otherwise indicated by the bidders in their proposal.

(b) *Joint and several responsibility.* If a joint venture proposal is submitted, it shall be considered to be a proposal by each of the joint participants, jointly and severally, for the performance of the entire contract as a joint venture in accordance with the terms and conditions of the proposal.

(c) *Minimum performance capability.* Each participant in a joint venture shall be capable of performing at least

50% of the original contract price of the participant's portion of the joint venture, or the bid will be rejected.

**§ 457.16. Sublettings.**

(a) *Credit.* The contractor shall be given credit for sublettings on Department and Pennsylvania Turnpike Commission projects to which he makes reference in his proposal form, providing the proposed subcontractors are currently prequalified with the Department. Additional sublettings by the prime contractor shall be permitted if prequalified subcontractors are proposed following the opening of bids; but the prime contractor may not be given credit in his total volume of work for additional sublettings.

(b) *Subletting to suspended, debarred or disqualified contractors or subcontractors prohibited.* Contractors or subcontractors engaged in State highway work under a contract with the Department, or otherwise participating in State supervised or funded highway construction work,

may not sublet any part of the construction work to be performed under the terms of that contract to any contractor or subcontractor who is suspended, debarred or otherwise disqualified from bidding on or participating in State highway construction work under § 457.13 (relating to suspension or debarment).

**§ 457.17. Notification.**

Contractors are required to notify in writing the Prequalification Office within 30 days when there is a corporate or affiliate change, or a reduction of more than 20% of their maximum capacity rating, or both, as well as changes of information required by § 457.4(b) and (c)(3)(xviii) (relating to statements to be furnished under oath). Failure to make the notification shall be cause for suspension of prequalification.

[Pa.B. Doc. No. 97-551. Filed for public inspection April 11, 1997, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF BANKING

[10 PA. CODE CHS. 61, 63, 65 AND 67]

### Pawnbrokers License

The Department of Banking (Department), under the Pawnbrokers License Act (act) (63 P.S. §§ 281-1—281-32), and the authority given to the Department to promulgate regulations in section 8 of the act (63 P.S. § 281-8), proposes to amend Chapters 61, 63, 65 and 67 to read as set forth in Annex A. The amendments will impose procedures for initial requirements, restrictions on the usage of the name "pawn" and "pawnbroker" in this Commonwealth, and assessment by licensees of a \$1 charge for governmental reporting costs and license changes of licensees' office location.

#### *Purpose*

The purpose of these proposed amendments is to implement the act of December 28, 1994 (P. L. 1402, No. 163) (Act 163) which amended sections 2, 4, 4.1, 5.1, 6, 8 and 12 of the act (63 P.S. §§ 281-2, 281-4, 281-4.1, 281-5.1, 281-6, 281-8 and 281-12). The Secretary of the Department is authorized by section 8 of the act to issue regulations that may be necessary for the protection of the public and to insure the proper conduct of the pawnbroker business and enforcement of the act. The purposes of the proposed amendments are consistent with the requirements of Act 163 and the authority of the Secretary of Banking to issue regulations.

#### *Explanation of Regulatory Requirements*

The proposed amendments to the existing regulations provide procedures for initial pawnbroker license applications, including posting a notice of initial application and hearing at the proposed pawnbroker location and publishing notice of the hearing in a newspaper of general circulation. The proposed amendments also require a newspaper notice of renewal application to be published in a newspaper of general circulation by an applicant for renewal of a pawnbroker license. A change of place of business by a licensed pawnbroker could not be implemented until a notice of proposed relocation had been posted at the proposed new office location. Use of the formal name or fictitious name "pawn" or "pawnbroker" would not be permissible unless the entity using the formal name or fictitious name was a licensed pawnbroker under the act. Use of the terms "pawn" or "pawnbroker" would not be permissible in any advertisement unless the person or entity using the name was a licensed pawnbroker. A \$1 charge per pledge could be assessed by a licensee to cover only governmental reporting costs pertaining to reports required to be issued by a licensee to the local or State police pertaining to a particular pledge, or as otherwise permitted by the Secretary of the Department. The minimum start-up and ongoing capital requirement applicable to an initial applicant or renewal applicant for a pawnbroker license would be \$10,000 per licensed pawnbroker office. The licensee would be required to report counterfeit pawn tickets to local police authorities. Interest and charges would be amended consistent with the statutory amendments to permit 3% per month aggregate interest and charges on the entire principal amount.

#### *Entities Affected*

The number of entities that will be affected by these proposed amendments are as follows:

(1) An estimated five to ten initial applicants for pawnbroker licenses per annum regarding the hearing requirements applicable to initial applicants.

(2) The approximately 77 licensed pawnbrokers in this Commonwealth regarding the minimum capital requirements.

(3) The approximately 77 licensed pawnbrokers regarding the \$1 charge per pledge that may be assessed by a licensee to cover governmental reporting costs.

(4) The approximately 77 licensed pawnbrokers regarding the newspaper notice of renewal application to be published in a newspaper of general circulation.

(5) An estimated one or two licensed pawnbrokers per annum who might seek to relocate their licensed offices would have to post at the proposed new office location a notice of proposed relocation.

(6) An estimated two or three unlicensed entities per annum would be restricted from utilizing the word "pawn" or "pawnbroker" in an advertisement or in their name or fictitious name unless licensed as pawnbrokers under the act.

#### *Cost and Paperwork Requirements*

These proposed amendments will impose paperwork requirements on the Department to process initial pawnbroker license application hearings, and the notices of license application applicable to initial applicants and renewal applicants respectively.

These proposed amendments will not impose paperwork requirements on any political subdivision and will not affect the costs of any political subdivision of the Commonwealth.

Costs of hearing shall be paid by the initial applicant, including costs for stenographer services, transcript printing costs and Department expenses for providing a designee of the Secretary of the Department to preside at the public hearing.

#### *Effectiveness/Sunset Date*

The anticipated effective date is 30 days after final adoption.

A sunset date is inapplicable as the statute imposes an ongoing requirement for the licensing and regulation of pawnbrokers.

#### *Contact Person*

Interested persons are invited to submit their written comments, if any, within 30 days of the date of this publication, to Reginald S. Evans, Chief Counsel, Department of Banking, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2290, (717) 787-1471.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 1, 1997, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee for Business and Economic Development and the Senate Committee on Banking and Insurance. In addition to submitting the

proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment 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 and comments including objections to the proposed amendments by IRRC, the General Assembly and the Office of Attorney General, prior to final publication and approval of the proposal.

RICHARD RISHEL,  
*Secretary*

**Fiscal Note:** 3-33. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 10. BANKS AND BANKING**  
**PART V. PAWNBROKERS**  
**CHAPTER 61. GENERAL PROVISIONS**

**§ 61.1. Definitions.**

The following words and terms, when used in this [ Part, shall ] part, have the following meanings, unless the context clearly indicates otherwise:

**Act**—The Pawnbrokers License Act (63 P. S. §§ 281-1—281-32).

**Capital**—Tangible net worth which shall be maintained at all times by the licensee.

\* \* \* \* \*

**Department**—The Department of Banking of the Commonwealth.

**Initial applicant**—An individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or a group of individuals however organized applying for a license under the act or a person appearing as owner, partner, officer, director, trustee or other official of a partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or a group of individuals however organized, on the application for license under the act. This application for license does not possess a license for the license term that expires immediately prior to the term being applied for regarding the proposed license location.

**License**—A license issued by the Secretary under the act that permits an initial applicant or renewal applicant to engage in the pawnbroker business at a particular business location to the extent provided in the license's terms.

\* \* \* \* \*

**Newspaper notice of renewal application**—The written notice in a form prescribed by the Department, which is to be advertised in a newspaper of general circulation by a renewal applicant for a pawnbroker's renewal license. The advertisement shall be in a form prescribed by the Department.

**Newspaper of general circulation**—A newspaper issued daily, or not less than once per week, intended for general distribution and circulation, sold at fixed prices per day or week, published in the English language, which satisfies the requirements of 45 Pa.C.S. §§ 301—310 (relating to Newspaper Advertising Act). The newspaper shall be one of the following:

(i) A newspaper which is one of general circulation in the county and is published in the city, borough or township in which the pawnbroker's office is to be located or already is located.

(ii) If there is no newspaper of the type described in subparagraph (i), a newspaper of general circulation in the county, published at the county seat.

(iii) If there is no newspaper of the type described in subparagraphs (i) and (ii), a newspaper of general circulation published in the county at the place nearest the city, borough or township.

(iv) If there is no newspaper of the type described in subparagraphs (i)—(iii), the newspaper of general circulation published at the place nearest the city, borough or township in an adjoining county.

Newspaper publications required by the act and this part shall be at the cost of the applicant for license.

**Newspaper notice of hearing**—The written notice in a form prescribed by the Department, which is to be published in a newspaper of general circulation by an initial applicant for a new pawnbroker's license.

**Notice of initial application and hearing**—The written notice in a form prescribed by the Department, which is to be posted by an initial applicant for a new pawnbroker's license at the proposed pawnbroker's business location, as further specified in this part.

**Renewal applicant**—The definition applies, except that the renewal applicant does possess a license for the license term that expires immediately prior to the renewal term being applied for regarding the licensed location.

**Resident**—A person as defined in section 2 of the act (63 P. S. § 281-2) residing or operating at an address within 500 feet of an initial applicant's proposed new pawnbroker's business location.

**Secretary**—The Secretary of the Department or a person designated by the Secretary. This definition contemplates, among other things, that a designee of the Secretary may preside over a hearing required by the act.

**§ 61.2. License applications, public notice, hearings and capital requirements.**

(a) Blank forms of application and bond will be supplied by the Department upon request. A license fee [ of \$100 ] is required.

(b) Licenses shall be issued on the basis of information [ set forth ] in the application for license. Changes in title, place of business, office manager, owner, partners or corporate officials occurring during a license year shall require prior written approval of the Department.

(c) Every initial applicant for a license shall post a notice of initial application and hearing for at least 30 days beginning with the day the application is accepted as filed with the Secretary, in a conspicuous place at the proposed location for which the initial applicant has applied for a license, unless another location for posting the notice of initial application and hearing is approved by the Secretary. The notice of initial application and hearing shall be in the form prescribed by the Secretary. The conspicuous place of posting the notice of initial application and hearing shall face to the outside of the proposed location for which the initial applicant is applying, so that persons observing the normal main window or facade of the proposed location may readily see and read the notice of initial application and hearing, unless otherwise permitted by the Secretary due to the circumstances of the proposed pawnbroker location. At the end of at least 30 days continual posting of the notice of initial application and hearing, the initial applicant shall deliver to the Department an affidavit in a completed form as prescribed by the Department certifying that the notice of initial application and hearing has been properly posted for the required 30 day time period. A photocopy of the completed notice of initial application and hearing also shall be provided by the initial applicant to the Department as part of the initial application.

(d) A public hearing shall be held regarding a pawnbroker's license application submitted by an initial applicant. The public hearing is a fact-gathering mechanism to assist the Department in its review of the initial applicant's pawnbroker's license application while providing an opportunity for interested residents to testify regarding matters relevant to the Secretary's consideration of whether to approve the initial applicant's license application for the proposed location.

(1) A hearing regarding an initial applicant's license application will not be held by the Department until after the Department has accepted as complete a license application from the initial applicant. The initial applicant shall provide the affidavit required in subsection (c) certifying to the posting of the notice of initial application and hearing for the requisite 30-day time period, and a proof of publication of a newspaper notice of hearing.

(2) The separate newspaper notice of hearing shall be published at least once in a newspaper of general circulation at least 10 days prior to the hearing date. The initial applicant shall cause proof of publication of the newspaper notice of hearing to be provided to the Department in a written form issued and executed by a representative of the newspaper.

(3) The hearing shall occur at a date, time and place deemed appropriate in the sole reasonable discretion of the Secretary.

(4) The Secretary will preside over the hearing. The hearing rules in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) and Chapter 3 (relating to hearings and conferences) do not apply to hearings regarding an initial applicant, as described in this section, because of the fact-gathering nature of these hear-

ings. Formal rules of evidence do not apply to these hearings. The Secretary has the authority to swear witnesses at a hearing. Procedural issues regarding a hearing will be determined by the Secretary.

(5) Witness testimony may be limited as to time by the Secretary. The initial applicant may testify once after all witnesses, if any, have testified. Residents attending the hearing and seeking to testify shall be permitted to testify. The number of witnesses including resident witnesses may be restricted in the sole discretion of the Secretary, including, but not limited to, circumstances in which the Secretary determines that witnesses seek to offer similar testimony or to facilitate completion of the hearing within a reasonable time. Witnesses other than residents may be permitted to testify at the hearing, in the sole discretion of the Secretary.

(6) Costs of the hearing shall be paid by the initial applicant, including the costs for stenographer services, transcript printing costs and Department expenses for providing a designee of the Secretary to preside at the public hearing. Two copies of the hearing transcript shall be provided to the Department. If there is no testimony at the hearing, the transcript requirement shall be waived by the Secretary.

[(c)] (e) Licenses shall expire on October 1 of each year. Applications for renewal shall be filed with the Department at least 30 days before the end of the license year. Applications for renewal shall be accompanied by a new bond and a check or money order [for \$100] payable to the Commonwealth of Pennsylvania. The renewal applicant shall cause a newspaper notice of renewal application to be published once, in a form prescribed by the Department at least 30 days prior to license renewal. The renewal applicant shall cause proof of publication to be provided to the Department in a written form issued and executed by a representative of the newspaper of general circulation. The Secretary will consider written comments timely received after publication of the newspaper notice of renewal application.

(f) The minimum start-up capital requirement applicable to an initial applicant for a license is \$10,000 per licensed pawnbroker office. The ongoing capital requirement applicable to a renewal applicant is \$10,000 per licensed pawnbroker office. If there are multiple licensed offices held by the same licensee, the maximum total capital requirement for all of the offices is \$100,000. The minimum capitalization shall be maintained as permanent capital which may not be distributed to a stockholder or owner of the licensee or be purchased by a licensee without the prior written approval of the Secretary. Licensees holding valid licenses on \_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal) shall meet the minimum capitalization requirements in this section by \_\_\_\_ (*Editor's Note:* The blank refers to a date 2 years after the effective date of adoption of this proposal).

(g) Applicants for a pawnbroker's license shall demonstrate that the proposed pawnbroker's location contains security measures and devices, such as a vault for the storage of pledge items, for the conduct of a pawnbroker's business under the cir-

cumstances of that location. The initial applicant shall demonstrate to the Department's reasonable satisfaction that the initial applicant has the requisite experience or knowledge, or both, to conduct the business of a pawnbroker under the act and this part. The knowledge or experience may include retaining an office manager with at least 1 year of knowledge and experience in the pawnbroker business or other business experience determined to be relevant in the Department's reasonable discretion. Renewal applicants shall demonstrate to the Department's reasonable satisfaction that the renewal applicant continues to have the requisite experience or knowledge to conduct the business of a pawnbroker under the act and this part.

[ (d) ] (h) \*\*\*

§ 61.3. Change of place of business.

(a) Any change of place of business of a pawnbroker shall require prior approval of the Department, which will not be provided until a notice of proposed relocation has been posted at the proposed new office location for at least 30 days. The notice of proposed relocation shall be in the form prescribed by the Secretary and shall contain language requesting public comment on the proposed relocation. The conspicuous place of posting the notice of proposed relocation shall face to the outside of the proposed new location, so that persons observing the normal main window or facade of the proposed new location may readily see and read the notice of proposed relocation, unless otherwise permitted by the Secretary due to the circumstances of the proposed new location. At the end of at least 30 days continual posting of the notice of proposed relocation, the licensee shall deliver to the Department an affidavit in a completed form as prescribed by the Department certifying that the notice of proposed relocation has been properly posted for the required 30-day time period. A photocopy of the completed notice of proposed relocation also shall be provided by the licensee to the Department as part of the request to change place of business.

\* \* \* \* \*

(c) Licensees who wish to change their place of business to a municipality other than that indicated on the current license shall obtain a new license by filing a new application and bond and paying the license fee [ of \$100 ].

\* \* \* \* \*

§ 61.4. Partnerships.

\* \* \* \* \*

(b) [ Any ] A change in a partnership occurring during a license year and requiring a new license shall require the payment of an additional license fee [ of \$100 ].

§ 61.5. Fictitious names and other name usage.

(a) The conduct of business by a licensee under [ any ] an assumed or fictitious trade name is prohibited unless the following conditions are met:

(1) [ the ] The licensee has complied with [ the Fictitious Corporate Name Act (15 P. S. § 51 et seq.) or the act of May 24, 1945, P. L. 967 (54 P. S. § 28.1 et seq.) ] 54 Pa.C.S. (relating to names), as applicable[ , and ].

\* \* \* \* \*

(c) A person or entity which is not a licensee under the act is prohibited from using in its name or fictitious name the words "pawn" or "pawnbroker" or any similar terms. Notwithstanding regulation under the act to the contrary, a person or entity may use its name or fictitious name legally in use on \_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposal).

(d) A person or entity which is not a licensee under the act is prohibited from advertising in any manner as a pawnbroker, and from using the words "pawn" or "pawnbroker" in a heading to or otherwise in any advertisement. Notwithstanding any regulation under the act to the contrary, advertisements in use on \_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposal) may be used but may not be renewed.

§ 61.6. Examinations.

\* \* \* \* \*

(c) In case of nonpayment, the Department is authorized to recover the cost of examination [ either ] from the following:

- (1) [ from the ] The surety on the bond [ ; or ].
(2) [ by the ] The institution of court action against the licensee.

CHAPTER 63. CHARGES, PAYMENT AND RECORDS
CHARGES

§ 63.1. Interest and charges.

The prescribed maximum total charges, including interest, shall be equivalent to an aggregate rate of [ 3.0 ] 3% per month on that part of the unpaid principle balance of any loan [ not in excess of \$150, and 2.0% per month on any remainder of such unpaid principal balance ].

§ 63.5. Charge for reports to police.

A charge of \$1 per pledge may be assessed and collected by a licensee to cover only those governmental reporting costs pertaining to reports required to be issued by a licensee to the local or State police pertaining to that pledge, or as otherwise permitted by the Secretary.

CHAPTER 65. PAWN TICKETS

§ 65.9. Counterfeit ticket.

Whenever a counterfeit pawn ticket is presented to a licensee, the licensee may seize and retain [ such ] the ticket. Upon seizure of a counterfeit pawn ticket, the licensee shall immediately notify the Department and local police authorities.

**CHAPTER 67. SALE OF PLEDGE  
GENERAL PROVISIONS**

**§ 67.2. Time.**

(a) Pledges [ **shall** ] may not be sold prior to the expiration of 90 days after the due [ **notice** ] date of the loan, except as otherwise provided in subsection (b) [ **of this section** ].

\* \* \* \* \*

[Pa.B. Doc. No. 97-552. Filed for public inspection April 11, 1997, 9:00 a.m.]

**[10 PA. CODE CHS. 11, 13, 17, 35 AND 41]  
Repeal of Various Provisions**

The Department of Banking (Department), under the authority contained in sections 201 and 202 of the Department of Banking Code (71 P.S. §§ 733-201 and 733-202), section 103 of the Banking Code of 1965 (7 P.S. § 103) and section 12 of the Consumer Discount Company Act (7 P.S. § 6212), proposes to eliminate the following regulations: §§ 11.1—11.5, 13.2(b) and (c), 13.3(a)(3), 17.1, 35.1—35.3 and 41.3.

*Purpose*

The proposed amendments targeted for elimination have been deemed by the Department to be obsolete, preempted or unnecessary for the conduct of the business of banking or the making of consumer loans.

*Explanation of Regulatory Requirements*

The Department is unable to articulate the purposes of or necessity for the provisions listed as follows. These provisions are not enforced by Department examiners and are deemed to be unnecessary for the safety and soundness of regulated institutions. Furthermore, the Department is unable to ascertain any consumer protection which is derived from these subsections.

*§ 13.2(b) and (c) (relating to participation in evidences of indebtedness and agreements for the payment of money).*

Department personnel are unable to articulate the purposes of or necessity for these provisions. These provisions are not enforced by Department examiners and are deemed by the Department to be unnecessary for the safe and sound conduct of the business of banking.

*§ 13.3(a)(3) (relating to participants in pools of evidences of indebtedness or agreements for the payment of money).*

Department personnel are unable to articulate the purposes of or necessity for these provisions. These provisions are not enforced by Department examiners and are deemed by the Department to be unnecessary for the safe and sound conduct of the business of banking. This section is substantially similar to another section proposed to be repealed, § 13.2(c).

*§ 13.3(b) (relating to participants in pools of evidences of indebtedness or agreements for the payment of money).*

This provision contributes little or nothing to the safety and soundness of State-chartered institutions. Additionally, this provision is not enforced by examiners and is deemed by the Department to be unnecessary for the safe and sound conduct of the business of banking.

*Chapter 11 (relating to reserves against deposits).*

Chapter 11 sets forth reserve requirements for State-chartered banking institutions. However, in light of more restrictive Federal regulations applicable to State-chartered banking institutions as found in regulation D, 12 CFR Part 204, this chapter is deemed to be obsolete.

*Chapter 17 (relating to audits and examinations).*

Chapter 17 sets forth the minimum standards for director's audits of State-chartered banking institutions. This chapter is redundant and essentially meaningless. It sets forth no requirements other than notifying State-chartered institutions that the Department maintains instructions with regard to minimum requirements for internal audits.

*Chapter 35 (relating to mortgage loans).*

Chapter 35 sets forth restrictions on service charges and premiums charged by savings associations with regard to mortgage loans. In light of broad Federal preemption with regard to mortgage lending found in the Depository Institution Deregulation and Monetary Control Act of 1980 (12 U.S.C.A. § 173f-7a) and in the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C.A. § 3801 *et seq.*), Chapter 35 is obsolete.

*§ 41.3(i) (relating to contracts with consumers).*

The second sentence in § 41.3(i) requires consumer discount companies which are licensed by the Department to obtain a license for places of business at which payments are received from borrowers. This section has been overridden by recent amendments to the Consumer Discount Company Act (7 P.S. §§ 6201—6219). The amendment which nullifies the second sentence of § 41.3(i) is found at section 8 of the Consumer Discount Company Act (7 P.S. § 6208).

*Entities Affected*

As the regulations targeted for elimination are largely obsolete, preempted and/or not enforced by the Department of Banking, the eliminations of these regulations will have no effect on the regulated community. Section 41.3(i) governs the extension of credit by the 620 licensed consumer discount companies in this Commonwealth. The rest of the regulations targeted for elimination are applicable to the 176 Pennsylvania-chartered banks, bank and trust companies and savings banks.

*Cost and Paperwork Requirement*

The regulations targeted for elimination are obsolete or preempted by other laws. Therefore, these regulations impose no cost or burdens to the regulated community and, thus, their elimination will have no effect on costs or paperwork requirements.

*Contact Person*

Interested persons are encouraged to submit their written comments, if any, within 30 days from the day of this publication to Valentino F. DiGiorgio III, Staff Attorney, Department of Banking, 333 Market Street, 16th Floor, Harrisburg, Pennsylvania 17101-2290, telephone number (717) 787-1471.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of this proposed regulation on April 1, 1997, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee for Business and Economic Development and the Senate Committee on Banking and Insurance. In addition to submitting the regulation, the

Department 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 Relations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulation, it will notify the Department within 30 days of the close of the public comment 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 and comments including objections to the proposed regulations by IRRC and the General Assembly prior to final publication and approval of the proposed regulation.

**Fiscal Note:** 3-32. No fiscal impact; (8) recommends adoption.

### Annex A

## TITLE 10. BANKS AND BANKING

### PART II. BUREAU OF BANKS

#### CHAPTER 11. [ RESERVES AGAINST DEPOSITS ] (Reserved)

##### [ LEGAL RESERVE FUNDS ]

#### § 11.1. [ Definition ] (Reserved).

[ The term "transaction account," as used in this chapter, means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instruments for the purpose of making payments or transfers to a third person; the term includes demand deposits, negotiable order of withdrawal accounts and savings deposits subject to automatic transfers. ]

#### § 11.2. [ General provisions ] (Reserved).

[ (a) The opening deposit figures for each business day shall be used as the base in computing the required legal reserve fund for such business day.

(b) The required reserve and the reserve held shall be computed daily and averaged for each 14-day period beginning January 6, 1966. The required reserve for nonbusiness days such as Saturdays, Sundays and holidays shall be that of the succeeding business day.

(c) If there is a deficiency in the reserve fund of a banking institution according to the average daily computation at the end of any 14-day period, that institution shall notify the Department in writing within three business days after the end of that 14-day period. The notice shall state the amount of the deficiency and the corrective action taken to prevent the recurrence of future deficiencies. ]

#### § 11.3. [ Reserves to be maintained by institutions ] (Reserved).

[ The amount of the reserve fund which shall be established and maintained against deposits is fixed at the following percentages:

- (1) 7.0% of the total of transaction accounts.
- (2) 3.0% of the total of all other deposit accounts. ]

#### § 11.4. [ Savings banks ] (Reserved).

[ The minimum amount of the reserve fund which a savings bank shall establish and maintain is 6.0% of the total of its deposits. ]

#### § 11.5. [ Component parts—legal reserve fund ] (Reserved).

[ (a) No less than 50% shall, and the total of the reserve fund may, consist of United States coin and currency kept on hand at the place of business of the institution or on deposit in a reserve agent subject to call without notice.

(b) To determine United States coin and currency kept on deposit in a reserve agent subject to call without notice, the balance due to the reserve agent shall be deducted from the balance due from the reserve agent, unless the balance due to the reserve agent is by contract or agreement separate and apart and not deductible.

(c) The remainder of the legal reserve fund, which shall be no more than 50% of the total, may consist of obligations of the following:

- (1) The United States or its instrumentality.
- (2) The Commonwealth.
- (3) A political subdivision of the Commonwealth.
- (4) A public body of the Commonwealth.
- (5) A public body of a political subdivision of the Commonwealth.
- (6) The following governmental agencies:
  - (i) Government National Mortgage Association.
  - (ii) Farmers Home Administration.
  - (iii) Export-Import Bank of the United States.
  - (iv) Student Loan Marketing Association.
  - (v) The Federal Home Loan Mortgage Corporation.
  - (vi) The Tennessee Valley Authority. ]

## CHAPTER 13. LOANS PARTICIPATIONS

#### § 13.2. Participations in evidences of indebtedness and agreements for the payment of money.

[ (a) ] \*\*\*

[ (b) Participations may not be acquired from or sold to individuals, partnerships or associations who do not have an interest other than an investment interest in such evidences of indebtedness or agreements.

(c) Institutions may not sell participations upon terms under which the institutions would be required, at the option of the purchaser, to repurchase the participations. ]

#### § 13.3. Participants in pools of evidences of indebtedness or agreements for the payment of money.

[ (a) ] Institutions may purchase from and sell to other institutions, [ national ] National banks or similar banking companies existing under the laws of any other [ State ] state, and may sell to other corporations,

participations or undivided interests in pools of evidences of indebtedness or agreements for the payment of money, if:

\* \* \* \* \*

[ (3) An institution which sells a participation in a pool, may be under no obligation to repurchase the participation. ]

\* \* \* \* \*

[ (b) No participations in a pool may be purchased from a person except an institution, national bank and similar banking company existing under the laws of another state. ]

CHAPTER 17. [ AUDITS AND EXAMINATIONS ] (Reserved)

[ DIRECTORS AUDITS ]

§ 17.1. [ Minimum standards for directors audits ] (Reserved).

[ (a) Instructions setting forth the minimum acceptable requirements for directors audits have been compiled by the Department and will be distributed to all State-chartered institutions. These instructions are available upon request from the Department.

(b) Institutions with internal audit programs which have been approved pursuant to section 1407(c) of the Banking Code (7 P. S. § 1407(c)) will not be subject to the minimum requirements set forth in the instructions referred to in subsection (a). ]

PART III. SAVINGS ASSOCIATION BUREAU

CHAPTER 35. [ MORTGAGE LOANS ] (Reserved)

§ 35.1. [ Premiums ] (Reserved).

[ An association may charge a premium on a mortgage loan of 1.0% per annum if paid in installments. If the premium is deducted in advance it shall not exceed 10% of the amount of the loan. An association shall be permitted to collect only one of these two alternative premiums on any one mortgage loan. ]

§ 35.2. [ Service charges ] (Reserved).

[ An association shall be permitted to collect a reasonable service charge on a mortgage loan, in addition to the customary closing costs. Such service charges shall be restricted to the following rates:

(1) Not more than 1.0% of the amount of the loan or mortgages secured by improved property.

(2) Not more than 2.0% of the amount of the loan on construction loans. ]

§ 35.3. [ Excessive premiums and service charges ] (Reserved).

[ Any premiums or service charges in excess of the rates authorized by §§ 35.1 and 35.2 (relating to premiums; service charges) shall be considered excessive, and the amount exceeding such rates shall be refunded to the borrower by the association. ]

PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

CHAPTER 41. CONSUMER DISCOUNT COMPANIES

§ 41.3. Contracts with consumers.

\* \* \* \* \*

(i) A licensee may not permit a person other than an employe of the licensee to accept payments on loan accounts at a place of business of the licensee other than a licensed office. [ An office, room, or building at which a practice is made of accepting payments shall be construed as a place of business of the licensee and shall be licensed. ] This subsection does not apply to the collection of a contract in default by an attorney at law, public official or a collection agent authorized by a licensee. This subsection does not apply to a payment system whereby payments are accepted at a bank, a savings and loan association or other depository institution, organized and existing under the statutes of the Commonwealth, or of other states or of Federal law, on behalf of the licensee, in an arrangement commonly known as a lock box arrangement. When a consumer elects to mail payments, a licensee may, except on final payments, require the consumer to furnish self-addressed stamped envelopes for the purpose of forwarding receipts. When the mailing of receipts is conditioned upon the furnishing of self-addressed stamped envelopes by a consumer, a statement to that effect shall be furnished to the consumer.

\* \* \* \* \*

[Pa.B. Doc. No. 97-553. Filed for public inspection April 11, 1997, 9:00 a.m.]

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 701, 709, 711 AND 713]

Repeal of Hotline and Drop-In Shelter Regulations

The Department of Health (Department) proposes to delete, in part, Part V (relating to drug and alcohol facilities and services) under the authority of the Pennsylvania Drug and Alcohol Abuse Control Act (act) (71 P. S. §§ 1690.101—1690.115), Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 of 1981 (71 P. S. § 751-31). The relevant portions of Part V set forth the activity matrix, provisions for licensure of shelter activities in free-standing and health care related facilities and the approval of drop-in activities and hotline activities.

Purpose

The Department was authorized by the General Assembly under Reorganization Plan No. 2 of 1977, Reorganization Plan No. 4 of 1981 and amendments to the act to assume the functions and responsibilities of the Governor's Council on Drug and Alcohol Abuse (Council). The Council's authority to regulate and promulgate rules and regulations was transferred to the Department through those reorganization plans. See Reorganization Plan No. 2 of 1977 (transferring duties under the Public Welfare Code with regard to regulation, supervision and licensing of drug and alcohol facilities to the Council), Reorganization Plan No. 4 of 1981 (transferring the functions of the Council to the Department and establishing it as an

advisory council) and the act of December 20, 1985 (P. L. 529, No. 119) (amending the act to reference the Pennsylvania Advisory Council on Drug and Alcohol Abuse (Advisory Council)).

The relevant regulations in Part V, address the matrix definitions and the activity matrix and three areas of licensure or approval: (1) the licensure of shelter activities in free-standing and health care related facilities; (2) the approval of drop-in activities; and (3) the approval of hotline activities. In addition, the definitions relating to the previously mentioned activities will be deleted.

The purpose of the rescission is to delete the matrix and the regulation of various activities so that Department staff and other resources may be directed toward oversight of entities providing substance abuse treatment services. This will reduce the workload and allow for more efficient regulatory oversight of the substance abuse treatment delivery system. This should result in the redirection of State government costs in ensuring safe and effective substance abuse treatment.

The Department is proposing to delete these regulations because regulation of the substance abuse service delivery system has changed significantly over the past few years. Even more changes are predicted in the coming years based on current plans to change the health care delivery system at both the State and Federal levels. In point of fact, the present proposal involving HealthChoices indeed proposes a new system of managed care on a pilot basis in five counties in southeast Pennsylvania on both physical health and behavioral health sides. To better address the needs of the substance abuse service delivery system and maximize existing resources, it will be necessary to modify the regulatory process beginning with the cessation of licensing shelter, drop-in and hotline activities. This will reduce the overload on survey staff resources and enable the Department's attention to focus on the oversight of activities which actually provide treatment to the substance abusing client.

The activities that the Department proposes to cease licensing do not provide treatment to clients. Shelters provide beds for individuals to stay while they make arrangements to receive treatment elsewhere. Drop-in centers, similarly, provide a place for individuals to gather and make arrangements for referral to treatment providers. Hotlines, even less so, only provide referral to treatment providers over the telephone. No assessment is done by any staff of any of these three activities. As indicated, the most that occurs is that the substance abuse client is referred to a facility where an assessment can occur. The referral system carried out through these activities will not be diminished as a result of these proposed actions. The Department's specific resources will be better focused on activities by which specific substance abuse treatment services are being provided. Currently, the Department licenses ten shelters, and approves 17 drop-in centers and 28 hotlines.

Further, the matrix and definitions have no practical purpose. Not all the activities that are in the matrix are being performed. They are not necessary for licensure since any activity that is licensed is already defined in § 701.1 (relating to definitions) and has accompanying standards within the remainder of Part V. The activity matrix is not appropriate for regulation but merely shows levels, activities and approaches.

### *Requirements of the Regulations*

#### *A. § 701.1. Definitions.*

The Department proposes to delete the definitions of "shelter," "drop-in center activity" and "hotline activity."

#### *B. Section 701.2. General Matrix Definitions.*

Section 701.2 sets forth definitions and a matrix which categorizes drug and alcohol services. The matrix has no practical purpose. Some activities which are listed are not licensed, for example, driving while intoxicated activities. Other activities which are licensed have specific regulations elsewhere in Part V. This matrix is not part of the licensing process, nor is it necessary for licensing. It simply identifies levels and activities and is not regulatory in nature.

#### *C. Sections 709.101, 709.102 and 711.101—711.106. Standards for Shelter Activities.*

These sections set forth licensing standards for current shelter activities in free-standing facilities and health care facilities. Shelter activities are the provision to the client of food, clothing, hygienic facilities, referral services and overnight housing in a supportive atmosphere.

Facilities licensed for these activities do not actually provide substance abuse prevention, intervention or treatment services, but serve persons with multiservice needs in addition to or in conjunction with substance abuse problems. A shelter provides no substance abuse treatment services, rather, it provides a place for individuals to stay and avail themselves of referrals for other services related to their individual needs.

#### *D. Sections 713.51—713.55. Standards for Drop-in Center Activities.*

These sections set forth standards for approval of drop-in center activities. Drop-in center activities are the provision of information, referral and crisis intervention as well as the opportunity to discuss personal problems in an informal setting.

Drop-in activities fall within the intervention level of care which is aimed at assisting the client in decision making and supporting the client until the client can cope independently. Referral is provided if the need for a structured treatment regimen or other services is indicated. The drop-in center provides information, referral and crisis intervention as well as the opportunity to discuss problems in an informal setting, which are not treatment activities. Client records are maintained only when crisis intervention, short term counseling or referral services are rendered.

#### *E. Sections 713.61—713.63. Standards for Hotline Activities.*

These sections set forth standards for approval of hot-line activities. Hotline activities are the provision of information, referral, advice and crisis intervention through telephone service. Again, these activities are not treatment activities. Records are maintained on standardized forms which indicate the nature of the telephone call and the disposition of the call. The maintenance of client specific records is optional as the project deems appropriate and feasible.

#### *Affected Persons*

Shelters, drop-in and hotline activities holding Department license or approval at the time of the publication of this proposal in final-form will remain licensed or approved until the expiration of that license or approval. These activities will be affected in that no new shelter,

drop-in or hotline activities will be licensed or approved as of the effective date of the adoption of this proposal. The lack of Department license or approval, however, will not prohibit the continuation of these activities. They will merely no longer be licensed or approved by the Department.

*Cost and Paperwork Estimate*

There will be neither additional costs nor additional paperwork to the Commonwealth, local governments or the private sector resulting from the proposed deletions of certain provisions of Part V.

*Effective Date/Sunset Date*

The proposed deletion of the relevant portions of Part V will be effective upon final publication in the *Pennsylvania Bulletin*. No sunset date is necessary.

*Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to John C. Hair, Director, Bureau of Community Program Standards, Quality Assurance and Health Planning, 132 Kline Plaza, Suite A, Harrisburg, PA 17104 (717) 783-8665, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Persons with a disability may submit comments, suggestions or objections regarding this proposal in alternative formats, such as by audio tape, braille or using TDD: (717) 783-6514. Persons with disabilities who require alternative formats of this document (such as, large print, audio tape, braille) should contact the Department so that necessary arrangements may be made.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of this proposal on March 18, 1997, 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 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.

If IRRC has objections to any portion of the proposal, it will notify the Department within 30 days of the close of the public comment 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

proposal, by the Department, the General Assembly and the Governor, of objections raised.

DANIEL F. HOFFMANN,  
*Secretary*

**Fiscal Note:** 10-147. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 28. HEALTH AND SAFETY  
PART V. DRUG AND ALCOHOL FACILITIES AND SERVICES**

**CHAPTER 701. GENERAL PROVISIONS**

**Subchapter A. DEFINITIONS**

**§ 701.1 General definitions.**

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

\* \* \* \* \*

[ **Drop-in center activity**—The provision of information, referral and crisis intervention as well as the opportunity to discuss personal problems in an informal setting. ]

\* \* \* \* \*

[ **Hotline activity**—The provision of information, referral, advice, and crisis intervention through a telephone service. ]

\* \* \* \* \*

[ **Shelter activity**—The provision to the client of food, clothing, hygienic facilities, referral services, and overnight housing in a supportive atmosphere. ]

\* \* \* \* \*

**§ 701.2. [ General matrix definitions ] (Reserved).**

[ (a) The Department has categorized its drug and alcohol services in a matrix outlined in subsection (b). This matrix outlines the four major levels and then lists the specific activities that are performed in each of these levels. These levels and activities are utilized for fiscal and data reporting and for licensing/approval purposes.

(1) **Level.** Categorization of drug and alcohol services into four major areas.

(2) **Activity.** The type of prevention or intervention service or the Treatment setting under which client services are provided.

(3) **Approach.** Principal method utilized in serving clients. Approaches are utilized for treatment activities.

(b) The drug and alcohol activity matrix is as follows:

<b>Levels</b>	<b>Activity</b>	<b>Approaches</b>
<b>Administration (SCA)</b>	<b>Administration Training Research Evaluation</b>	
<b>Prevention</b>	<b>Education/Information Alternative Activities</b>	
<b>Intervention</b>	<b>Drop—in Center Hotline</b>	

<i>Levels</i>	<i>Activity</i>	<i>Approaches</i>
Treatment	Driving While Intoxicated Occupational Program	
	Intake Referral Inpatient Nonhospital	Detoxification Drug Free Other Chemotherapy Experimental
	Inpatient Hospital	Detoxification Drug Free Other Chemotherapy Experimental
	Correctional Institution	Detoxification Drug Free Experimental
	Partial Hospitalization	Detoxification Drug Free Other Chemotherapy Experimental
	Outpatient	Detoxification Maintenance Drug Free Other Chemotherapy Experimental
	Shelter	Detoxification Drug Free Experimental ]

Subchapter J. [ STANDARDS FOR SHELTER  
ACTIVITIES ] (Reserved)

§ 709.101. [ Intake and admissions ] (Reserved).

[(a) A qualified staff member shall be available 24 hours a day to accept a client into the project.

(b) A client shall be observed upon intake for withdrawal symptoms from substances abused. If serious symptoms of drug/alcohol abuse or dependence or other physical problems are observed, prompt medical attention shall be obtained. Data obtained during the observation period shall be recorded.

(c) A client shall be provided with a shower or bath, food, clean clothing, and a clean bed with bedding.

(d) The shelter project shall have a written plan or description of its activities and services. The written plan shall include, but not be limited to the following:

- (1) Client admission criteria.
- (2) Documentation of services available, either through direct provision or agreement.
- (3) Involuntary discharge/termination criteria.
- (4) Client transportation to the selected referral agency/resource.

(e) The shelter project shall have written policies and procedures for communication with law enforcement authorities, local or State health, or welfare authorities, as appropriate, regarding clients whose condition or its cause is reportable; for example, persons having contagious diseases or victims of suspected criminal acts such as rape or gunshot wounds, 18 Pa.C.S. § 5106 (relating to failure to report injuries by firearm or criminal act)

and child abuse under the Child Protective Services Law (11 P. S. §§ 2201—2224).

(f) The shelter project shall have written policies and procedures to address special issues regarding treatment of clients. These policies and procedures shall include, but not be limited to:

- (1) Unconscious individuals.
- (2) Minors.
- (3) Individuals with communicable disease.
- (4) Individuals requiring transfer to a hospital or other treatment facility.
- (5) Individual being treated by another social service agency.
- (6) Individuals requiring detoxification. ]

§ 709.102. [ Client records ] (Reserved).

[(a) The shelter project shall maintain a client record on an individual receiving services which includes, but is not limited to:

- (1) Basic personal data.
- (2) Consent to treatment.
- (3) Other consent forms.
- (4) Progress notes.
- (5) Record of services provided for the client.
- (6) Discharge summary.
- (7) Client-related correspondence.
- (8) Follow-up information.

(b) The project shall develop and maintain client records on standardized project client record forms. ]

Subchapter I. [ STANDARDS FOR SHELTER  
ACTIVITIES ] (Reserved)

§ 711.101. [ Intake and admission ] (Reserved).

[ (a) A qualified staff member shall be available 24 hours a day to accept clients into the project.

(b) A client shall be observed upon intake for withdrawal symptoms from substances abused. If serious symptoms of drug/alcohol abuse, or dependence, or other physical problems are observed, prompt medical attention shall be obtained. Data obtained during the observation period shall be recorded.

(c) A client shall be provided with a shower or bath, food, clean clothing and a clean bed with bedding.

(d) The shelter project shall have a written plan or description of its activities and services. The written plan shall include, but not be limited to, the following:

(1) Client admission criteria.

(2) Services available, either through direct provision or agreement.

(3) Involuntary discharge/termination criteria.

(4) Client transportation to the selected referral agency/resource.

(e) The shelter project shall have written policies and procedures for communication with law enforcement authorities, local or State health or welfare authorities, as appropriate, regarding clients whose condition or its cause is reportable; for example, persons having contagious diseases or victims of suspected criminal acts such as rape or gunshot wounds; 18 Pa.C.S. § 5106 (relating to failure to report injuries by firearm or criminal act) and child abuse under the Child Protective Services Law (11 P. S. §§ 2201—2224).

(f) The shelter project shall have written policies and procedures to address special issues regarding treatment of clients. These policies and procedures shall include, but not be limited to:

(1) Unconscious individuals.

(2) Minors.

(3) Individuals with communicable diseases.

(4) Individuals requiring transfer to a hospital or other treatment facility.

(5) Individuals being treated by another social service agency.

(6) Individuals requiring detoxification.

(g) The project shall obtain written letters of agreement or understanding with primary referral sources. ]

§ 711.102. [ Client records ] (Reserved).

[ (a) *Record requirements.* In addition to the requirements in § 115.32 (relating to contents), the shelter project shall maintain a client record on an individual receiving services which shall include, but not be limited to:

(1) Basic personal data.

(2) Drug and alcohol consent forms.

(3) Progress notes.

(4) Record of services provided for the client.

(5) Follow-up information.

(b) *Client access to records.* A client has the right to inspect his own records. The project director may temporarily remove portions of the record, prior to the inspection by the client, if the director determines that the information may be detrimental if presented to the client. Reasons for removing sections shall be documented and kept on file.

(c) *Confidentiality.*

(1) A written procedure shall be developed by the project director which shall comply with 4 Pa. Code § 255.5 (relating to projects and coordinating bodies: disclosure of client-oriented information). The procedure shall include, but not be limited to:

(i) Confidentiality of client identity and records.

(ii) Staff access to client records.

(2) The project shall obtain an informed and voluntary consent from the client for the disclosure of information contained in the client record. The consent shall be in writing and shall include, but not be limited to:

(i) Name of the person, agency, or organization to whom disclosure is made.

(ii) Specific information disclosed.

(iii) Purpose of disclosure.

(iv) Dated signature of the client or guardian.

(v) Dated signature of a witness.

(vi) Expiration date of the consent.

(3) A copy of a client consent shall be offered to the client and a copy maintained in the client records.

(4) Where consent is not required, the project personnel shall:

(i) Fully document the disclosure in the client records.

(ii) Inform the client, as readily as possible, that the information was disclosed, for what purposes, and to whom. ]

§ 711.103. [ Uniform Data Collection System ] (Reserved).

[ (a) If a project utilizes Department funds, it shall comply with the Department's UDCS.

(b) A data collection system shall be developed that allows for the efficient retrieval of data needed to measure the project's performance. ]

§ 711.104. [ Notification of termination ] (Reserved).

[ (a) The project director shall notify the client, in writing, of a decision to involuntarily terminate the client's treatment at the project. The notice shall include the reason for termination.

(b) The client shall have the opportunity to request reconsideration of a decision terminating treatment. ]

## § 711.105. [ Medication control ] (Reserved).

[ When the drug and alcohol project is not physically located within the parent health care facility, it shall have a written policy regarding medications used by clients which shall include, but not be limited to:

- (1) Administration of medication.
- (2) Drug storage areas.
- (3) Inspection of storage areas.
- (4) Methods for control and accountability of drugs.
- (5) Security of drugs.
- (6) Inventories.
- (7) Medication errors and drug reactions. ]

## § 711.106. [ Physical plant ] (Reserved).

[ When the project is not physically located within a health care facility, it shall be site visited annually for the following requirements:

- (1) Counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Food service areas, if applicable.
- (8) Certificate of Occupancy from the Department of Labor and Industry or it equivalent.
- (9) Compliance with applicable local ordinances and regulations. ]

## CHAPTER 713. STANDARDS FOR APPROVAL OF PREVENTION AND INTERVENTION ACTIVITIES

## Subchapter E. [ STANDARDS FOR DROP—IN CENTER ACTIVITIES ] (Reserved)

## § 713.51. [ Services ] (Reserved).

[ The drop-in center shall provide the following services:

- (1) Crisis intervention.
- (2) Short-term counseling to provide guidance and advice to deal with the problems of the client.
- (3) Referral of the client to another agency if the project does not deliver the needed services. ]

## § 713.52. [ Location ] (Reserved).

[ The facility shall be located so as to be easily accessible to clients. ]

## § 713.53. [ Hours of operation ] (Reserved).

[ (a) The drop-in center shall be open an appropriate number of hours. A minimum of 25 of its operating hours per week shall be scheduled during evenings or weekends, or both.

(b) The hours of operation and location of the project shall be made known to the public. ]

## § 713.54. [ Client records ] (Reserved).

[ (a) *Recordkeeping system.* A recordkeeping system shall be utilized to record drop-in center activities which includes, but is not limited to:

- (1) The use of standardized recordkeeping forms.
- (2) Signature and dating requirements.

(b) *Record information required.* Client records shall be maintained when crisis intervention, short term counseling and referral services are rendered. These records shall include, but not be limited to:

- (1) Basic personal data.
- (2) Appraisal of client needs.
- (3) Progress/activity notes.
- (4) Disposition.
- (5) Follow-up.

(c) *Record accessibility.* If client specific records are maintained, the project shall comply with the following:

(1) A written policy statement shall be developed which includes, but is not limited to:

- (i) Confidentiality of client identity and records.
- (ii) Staff access to client records.
- (iii) Client access to records.

(2) The project shall obtain an informed and voluntary consent from the client for the disclosure of information to a service provider to which the client is referred. The consent shall be in writing and shall include, but not be limited to:

- (i) The name of the person, agency, or organization to whom disclosure is made.
- (ii) The specific information disclosed.
- (iii) The purpose of disclosure.
- (iv) The dated signature of client or guardian.
- (v) The dated signature of witness.
- (vi) The expiration date of the consent.

(3) The project shall secure client specific records within locked storage containers.

(d) *Retention of client records.*

(1) Client records, whether original, reproductions or microfilm, shall be kept on file for a minimum of 4 years following the discharge of a client.

(2) If a project discontinues operation, it shall inform the Department where its records are stored. ]

## § 713.55. [ Personnel management ] (Reserved).

[ Staff training and education shall be provided and include basic familiarization with:

- (1) Pharmacology.
- (2) Physical and behavioral aspects of substance abuse or dependence, or both.
- (3) Legal aspects of substance abuse or dependence, or both.
- (4) Crisis intervention techniques.
- (5) Referral sources.

**(6) Communication and counseling skills. ]**

Subchapter F. [ STANDARDS FOR HOTLINE ACTIVITIES ] (Reserved)

§ 713.61. [ Hours of operation. ] (Reserved).

[ The project's hours of operation and telephone numbers shall be made known to the public. ]

§ 713.62. [ Client records ] (Reserved).

[ (a) *Recordkeeping system.* A system for maintaining a record of calls shall be established and utilized which includes, but is not limited to:

- (1) Standardized recordkeeping forms.
- (2) Entries on the nature of calls.
- (3) Appraisal of client needs, if applicable.
- (4) Dispositions.
- (5) Signature and dating requirements.

(b) *Record information required.* If client specific records are maintained, the project shall comply with the following:

(1) A written policy statement shall be developed which includes, but is not limited to:

- (i) Confidentiality of client identity and records.
- (ii) Staff access to client records.
- (iii) Client access to records.

(2) The project shall obtain a voluntary verbal consent from the client for the disclosure of information to a service provider to which the client is referred.

(3) The project shall secure client specific records within locked storage containers.

(c) *Retention of client records.*

(1) Client records, whether original, reproductions or microfilm, shall be kept on file for 4 years following the discharge of a client.

(2) If a project discontinues operation, it shall inform the Department where the records are stored. ]

§ 713.63. [ Personnel management ] (Reserved).

[ Staff training and education shall be provided and include basic familiarization with:

- (1) Pharmacology.
- (2) Physical and behavioral aspects of substance abuse or dependence, or both.
- (3) Legal aspects of substance abuse or dependence, or both.
- (4) Crisis intervention techniques.
- (5) Referral sources.
- (6) Communication and counseling skills. ]

[Pa.B. Doc. No. 97-554. Filed for public inspection April 11, 1997, 9:00 a.m.]

**DEPARTMENT OF TRANSPORTATION**

[67 PA. CODE CH. 105]

**Mechanical, Electrical and Electronic Speed-Timing Devices**

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority contained in 75 Pa.C.S. §§ 3368 and 6103 (relating to speed timing devices; and promulgation of rules and regulations by department) proposes to amend § 105.15 (relating to calibration and testing procedure) to read as set forth in Annex A.

*Purpose of Chapter 105*

The purpose of this chapter is to provide rules concerning the calibrating and testing of mechanical, electrical and electronic speed-timing devices by stations appointed by the Department.

*Purpose of these Proposed Amendments*

The purpose of this proposed amendment is to prescribe the method for calibrating and testing electronic devices (radar) which operate in the Ka-Band frequency to assure their accuracy under 75 Pa.C.S. § 3368. Historically, the Department does not identify electronic devices (radar) by name in the regulations, but only the method of calibration for particular frequencies and that once the calibration method is approved in the regulations, the Department will list specific electronic devices (radar), by name, in its annual publication in the *Pennsylvania Bulletin* of approved devices and speed-timing calibration stations.

The most significant provisions of the proposed rule-making are the inclusion of the test frequencies for calibrating and testing Ka-Band electronic devices (radar) in § 105.15 (a)(3)(iii), (5)(v) and (7)(iii).

*Persons and Entities Affected*

This proposed amendment will affect drivers of motor vehicles, stations which calibrate and test speed-timing devices and the State Police.

*Fiscal Impact*

This proposed amendment will not impose increased costs on private persons, speed-timing device calibration and testing stations, or State or local governments. The State Police may incur cost if it elects to purchase an electronic device (radar) which operates in the Ka-Band frequency. There are a few manufacturers that make an electronic device (radar) which operates in the Ka-Band frequency. The cost of one these devices tested and approved for accuracy by the State Police is priced at approximately \$1,385.

This proposed amendment will not result in additional reports or other paperwork requirements.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 31, 1997, the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Transportation Committees. In addition to submitting this proposed amendment, 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 1982-2. "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of this proposed amendment, it will notify the Department within 30 days of the close of the public comment 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 these regulations, by the Department, the General Assembly and the Governor of objections raised.

Sunset Provisions

The Department is not establishing a sunset date for this final-form regulation, since this regulation is needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). This regulation will be continuously monitored for their effectiveness by the Department and the State Police.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed amendment to Mary E. Sheriff, Bureau of Motor Vehicles, Vehicle Inspection Division, Third Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, within 30 days of publication of this notice in the Pennsylvania Bulletin.

Contact Person

The contact person is John P. Munafo, Bureau of Motor Vehicles, Vehicle Inspection Division, Third Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104 (717) 787-2895.

BRADLEY L. MALLORY, Secretary

Fiscal Note: 18-340. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 105. MECHANICAL, ELECTRICAL AND ELECTRONIC-SPEED TIMING DEVICES

Subchapter B. ELECTRONIC DEVICES (RADAR)

§ 105.15. Calibration and testing procedure.

(a) General. An electronic device shall be calibrated and tested as follows:

\* \* \* \* \*

(3) Stability test. The stability test shall be conducted in the following manner:

\* \* \* \* \*

(iii) Adjust square wave output of function generator [ , ] to the switching level of the pin diode switch. While observing the frequency counter, adjust frequency of function generator to 1726 Hz (X-Band) [ or ], § 3961 Hz (K-Band) or 5692 Hz (Ka-Band).

\* \* \* \* \*

(5) Accuracy test. The accuracy test shall be conducted in the following manner:

\* \* \* \* \*

(v) While observing the frequency counter, adjust the function generator to each test frequency. Note and record the speed indicated on the electronic device display. Each test frequency shall produce the correct speed in mph within the limits of +0, -1 mph.

[ Test Frequencies in Hz K Band ]

Test Frequencies (in Hz)

X Band	K Band	Ka Band	Indicated Test Speed mph
628	1440	2070	20
785	1801	2588	25
942	2161	3105	30
1099	2521	3622	35
1256	2881	4140	40
1412	3241	4657	45
1569	3601	5175	50
1726	3961	5692	55
1883	4321	6210	60
2040	4681	6727	65
2197	5042	7246	70
2354	5402	7762	75
2511	5762	8281	80
2668	6122	8797	85
2825	6482	9316	90
2982	6842	9832	95
3139	7202	10351	100
3296	7562	10867	105
3453	7922	11385	110
3610	8283	11902	115
3767	8643	12420	120
3924	9003	12937	125
4081	9363	13455	130
4238	9723	13972	135
4394	10083	14490	140

\* \* \* \* \*

(7) Rejection of extraneous RF fields.

\* \* \* \* \*

(iii) Activate the 4 watt signal source, modulated at 100%, 1726 Hz (X-Band) or 3961 Hz (K-Band) [ or ], § 5692 Hz (Ka-Band).

\* \* \* \* \*

[Pa.B. Doc. No. 97-555. Filed for public inspection April 11, 1997, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121—123, 137 AND 139]

Air Quality-RBI 1

The Environmental Quality Board (Board) proposes to amend Chapters 121—123, 137 and 139 to read as set forth in Annex A.

The changes to § 121.1 (relating to definitions) conform the definitions related to coke ovens, "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions" to the Federal definitions of these terms. The changes to Chapter 122 (relating to National Standards of Performance for New Stationary

Sources) incorporate by reference the new source performance standard guidelines established under section 111(d) of the Clean Air Act. The changes to Chapter 123 (relating to standards for contaminants) make this chapter consistent with the maximum achievable control technology (MACT) standards for coke ovens promulgated by the Environmental Protection Agency (EPA) under the Clean Air Act. The change to Chapter 137 (relating to air pollution episodes) eliminates the mandatory requirement for submission of standby plans to address air pollution episodes. The changes to Chapter 139 (relating to sampling and testing) make the provisions for particulate matter testing and monitoring of coke oven emissions consistent with Federal requirements. The changes to Chapter 139 also establish consistent data availability requirements for all continuous emission monitoring systems (CEMS) sources and extend the monitoring provisions applicable to municipal waste incinerators to hospital waste incinerators.

This notice is given under Board order at its meeting of February 18, 1997.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Compliance and Enforcement, Bureau of Air Quality, 12th Floor Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468 (717) 787-1663, or M. Dukes Pepper, Jr., Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, 9th Floor Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060.

#### C. *Statutory Authority*

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

#### D. *Background of the Proposed Amendment*

The Regulatory Basics Initiative was announced in August 1995 as an overall review of the Department of Environmental Protection's (Department) regulations and policies. The Department solicited public comments in August of 1995 by giving the regulated community, local governments, environmental interests and the general public the opportunity to identify specific regulations which are either more stringent than Federal standards, serve as barriers to innovation, or are obsolete or unnecessary, or which impose costs beyond reasonable environmental benefits or serve as barriers to adopting new environmental technologies, recycling and pollution prevention.

In February 1996, the Governor executed Executive Order 1996-1 Regulatory Review and Promulgation establishing standards for the development and promulgation of regulations. This proposal meets the requirements of Executive Order 1996-1.

These proposed amendments are the first in a series of regulatory proposals implementing changes to the Department's air resource regulations resulting from the Regulatory Basics Initiative. In general, these proposed changes make the Department's regulations consistent

with Federal requirements, delete obsolete and unnecessary provisions and apply the Department's monitoring requirements in a consistent fashion for all affected sources.

The Department worked with the air subcommittee of the Air and Water Quality Technical Advisory Committee (AWQTAC) in the development of these regulations. At its December 11, 1996, meeting, the AWQTAC recommended adoption of the proposed amendments.

#### E. *Summary of Regulatory Revisions*

The Department is proposing modifications to the definitions of "coke oven battery," "coke oven gas collector main," "door area," "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions." In each case, the proposed changes make the definitions consistent with Federal definitions of these terms promulgated under the Clean Air Act. The definition of "major modification" does not include the Federal exclusion for combustion of municipal waste and is, therefore, more stringent than the Federal definition. Because of the public concern about municipal waste combustion, the Department proposes to retain authority to evaluate municipal waste combustion on a case-by-case basis.

The Department's regulations in § 122.3 (relating to adoption of standards) adopt by reference the Federal new source performance standards promulgated under section 111 of the Clean Air Act (42 U.S.C.A. § 7411). The Department is proposing to amend the regulations at § 122.3 to incorporate Federal standards established under section 111 of the Clean Air Act. The existing language does not incorporate by reference emission guidelines established under section 111(d). However, Chapter 121 already defines section 111(d) guidelines to be "applicable requirements." The Department's permitting regulations in §§ 127.12(a)(4) and 127.411(a)(5) (relating to content of applications) require permit applicants to demonstrate that they meet the applicable requirements. Consequently, the proposed regulatory modification will simply codify at § 122.3 the Department's existing regulatory requirement.

The changes to § 123.44 (relating to limitations of visible fugitive air contaminants from operation of any coke oven battery) make this section consistent with the MACT for coke ovens promulgated by the EPA under the Clean Air Act.

The changes to § 137.4 (relating to standby plans) change the provisions for standby plans to address air pollution episodes. Specifically, subsection (b) proposes that the Department classify each county as an area requiring a standby plan based on monitored exceedances of any National ambient air quality standard (NAAQS). The existing regulation lists each pollutant along with its ambient concentration. The Department proposes to reference the NAAQS as the reference point for determining counties subject to the standby plan requirements. In addition, subsection (c) is proposed to be modified to only require standby plans when requested by the Department. This provision will conform § 137.4 to the existing requirements in § 127.411(a)(8). Finally, subsection (f) is being modified to make clear that the standby plan shall be provided by an individual responsible for the entire facility to the Department.

Chapter 139 is being modified in five ways. First, § 139.12 (relating to emissions of particulate matter) proposes to delete a portion of the monitoring requirements for particulate matter sampling because the provi-

sion is more stringent than the applicable Federal requirement and provides little environmental benefit. Second, §§ 139.61 and 139.62 (relating to requirements; and waiver of certain monitoring requirements) are proposed for deletion. These provisions establish monitoring standards for coke ovens which have been superseded by the promulgation of the coke oven MACT standard by the EPA. This change will make the Commonwealth's regulations consistent with Federal requirements. Third, § 139.101 (relating to general requirements) changes the requirements related to data availability for data captured by a CEM. A general data availability requirement in § 139.101 was adopted in 1990, and CEMs covered in § 139.104 (relating to sulfur dioxide and nitrogen oxides monitoring requirements for combustion sources) were grandfathered. With deletion of § 139.104, the general data availability standard in § 139.101 would apply. CEMS would be required to meet the following minimum data availability requirements: (1) in each calendar month, at least 90% of the time periods for which an emission standard or an operational parameter applies shall be valid; or (2) in each calendar quarter, at least 95% of the hours during which the monitored source is operating shall be valid. Fourth, the Department is proposing to delete the requirements of § 139.104 related to sulfur dioxide and nitrogen oxide monitoring for combustion sources and establish these monitoring requirements under the general provisions of § 139.101. Finally, the Department is proposing to modify § 139.111 (relating to waste incinerator monitoring requirements) to apply to hospital waste incinerators as well as municipal waste incinerators. These incinerators, generally, are similar in nature and the monitoring requirements are applicable to both. Section 139.111 also changes the data availability requirements to be consistent with the other proposed changes for CEMs described previously.

#### F. *Benefits, Costs and Compliance*

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

##### *Benefits*

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they make the Department's air quality program consistent with Federal requirements and apply monitoring provisions for affected sources in a consistent manner. These provisions reduce unnecessary paperwork while continuing to provide the appropriate level of air quality protection.

The proposed revisions to the data availability requirements will result in an estimated savings in penalties to the regulated community of approximately \$70,000 per year (1996 data were used). This would be the result of sources under § 139.104 complying with § 139.101. Data from 3rd quarter 1995 through 2nd quarter 1996 were used to estimate savings in penalties.

The proposed revisions to Chapter 122 National standards of performance for new stationary sources provisions are anticipated to result in no additional costs for the regulated community. Savings estimated to be \$150,000 to \$250,000/year can be expected after Chapter 122 is revised.

The additional annual cost to coke oven battery operators for providing daily readings to satisfy both current State and Federal regulations is approximately \$190,000. The proposed revisions to the coke oven requirements in §§ 123.44, 139.61 and 139.62 are anticipated to reduce costs to coke oven operators by approximately \$190,000 annually.

The proposed revisions of the particulate sampling requirements in § 139.12 are anticipated to result in annual savings to the regulated community of approximately \$345,000.

The proposed revisions to the air pollution episode requirements in Chapter 137 are estimated to reduce costs to the regulated community by approximately \$250,000 annually.

No additional costs or cost savings are predicted to result from the proposed revision of § 121.1.

#### *Compliance Costs*

These proposed amendments will, in general, reduce compliance costs by deleting unnecessary monitoring, recordkeeping and permitting requirements.

#### *Compliance Assistance Plan*

The Department plans to educate and assist the public with understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing regional compliance assistance program.

#### *Paperwork Requirements*

The regulatory revisions delete unnecessary paperwork requirements related to permitting standby plans and monitoring.

#### G. *Sunset Review*

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

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 1, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment 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 the Department, the Governor and the General Assembly to review these objections before final publication of this proposal.

#### I. *Public Comment and EQB Public Hearings*

##### *Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on the proposed amendments. The hearings will be held on the following dates and at the following locations: at 10 a.m.

May 13, 1997 DEP Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA

May 15, 1997 DEP 1st Fl. Conference Room, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA

May 19, 1997 Upper Merion Township Building, 175 West Valley Forge Road, King of Prussia, PA

Persons wishing to present testimony at the hearings must contact Sharon Freeman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and three written copies of the oral testimony must be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodations in order to participate, should contact Sharon Freeman at (717) 787-4526 or through the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

*Written Comments*

In lieu of or in addition to presenting oral testimony at the hearings, interested persons may submit written comments, suggestions or objections regarding the proposed amendments to the Board, 15th Floor Rachel Carson State Office Building, P. O. Box 8477, Harrisburg, PA 17105-8477. Comments received by facsimile will not be accepted. Comments must be received by June 18, 1997. In addition to the written comments, interested persons may also submit a summary of their comments to the Board. This summary may not exceed one page in length and must be received by June 18, 1997. The summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

*Electronic Comments*

Comments may be submitted electronically to the Board at Regcomments@a1.dep.state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by June 18, 1997.

JAMES M. SEIF,  
*Chairperson*

**Fiscal Note:** 7-313. (1) Clean Air Fund; (2) Implementing Year 1997-98 is \$70,000; (3) 1st Succeeding Year 1998-99 is \$70,000; 2nd Succeeding Year 1999-00 is \$70,000; 3rd Succeeding Year 2000-01 is \$70,000; 4th Succeeding Year 2001-02 is \$70,000; 5th Succeeding Year 2002-03 is \$70,000; (4) FY 1996-97 \$26,119,000; FY 1995-96 \$25,770,000; FY 1994-95 \$19,045,000; (7) Fines and Penalties; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart C. PROTECTION OF NATURAL RESOURCES**  
**ARTICLE III. AIR RESOURCES**  
**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

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

\* \* \* \* \*

*Coke oven battery*—A **process consisting of a** jointly operated group of slot-type coke ovens, the operation of which results in the destructive distillation of coal by the indirect application of heat to separate the gaseous and liquid distillates from the carbon residue and includes coal preparation, coal charging, coking, separation and cleaning of the distillate, coke pushing, hot coke transfer and coke quenching. A coke oven battery is a single source for the purpose of this article and shall include, but not be limited to, the following, when present: the ovens; coal preheaters; underfiring systems; waste heat stack; offtake piping; flues; closed charging systems; door hoods; and operating equipment including larry cars, jumper pipes, pusher machines, door machines, mud trucks and quench cars associated with the operation of a battery. Existing batteries are identified as follows:

<i>Operator</i>	<i>Plant</i>	<i>Identifying Symbol</i>
Bethlehem Steel	Bethlehem	[ #2, #3, #5, ] "2A" (includes Batteries #2 and #3), "A"
[ Crucible Steel ]	[ Franklin ] [ Midland ]	[ #18 ] [ "A" ]
[ Jones & Laughlin Steel ]	[ Aliquippa ]	[ A-1, A-4, A-5 ]
[ Keystone Coke Company ]	[ Conshohocken ]	[ #3, #4 ]
[ Koppers Company ] Erie Erie Coke Corporation	Erie	#1
[ United States Steel ]	[ Fairless ]	[ #1, #2 ]
[ Wheeling-Pittsburgh Steel ] Koppers Industries	Monessen	[ #1 ] #1B, #2 (operated as one battery for purposes of meeting the charging standard)

*Coke oven gas collector main*—The [ pipe ] pipes or [ duct ] ducts by which the gaseous byproducts of coking are transported from the offtake piping of coke ovens to the byproduct plant.

\* \* \* \* \*

*Door area*—The vertical face of a coke oven between the bench and the top of the battery and between two adjacent [ backstays ] buckstays.

\* \* \* \* \*

*Major modification*—

(i) A physical change or change in the method of operation of a major facility that would result in [ an increase in emissions equal to or exceeding an emission rate threshold or significance level specified in § 127.203 ] a significant net emissions increase of any pollutant subject to regulation under the Clean Air Act.

(ii) Net emissions increase that is significant for VOCs will be considered significant for ozone. A

physical change or change in the method of operation does not include [ routine repairs and maintenance, a change in the hours of operation or an increase in the rate of production, unless prohibited by a permit condition. ]:

(A) Routine maintenance, repair and replacement.

(B) The use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the energy supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C.A. § 792(a) and (b)) (or any superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act.

(C) The use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act (42 U.S.C.A. § 7425).

(D) The use of an alternative fuel or raw material by a stationary source which meets one of the following conditions:

(I) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under an operating permit condition.

(II) The source is approved to use under an operating permit.

(E) An increase in the hours of operation or in the production rate, unless the change would be prohibited under the conditions of an operating permit.

(F) Any change in ownership at a stationary source.

(G) The addition, replacement or use of a pollution control project at an existing source, unless the Department determines that the addition, replacement or use renders the source less environmentally beneficial, or except when the following apply:

(I) The Department has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emission of any criteria pollutant over levels used for that facility in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any (42 U.S.C.A. §§ 7401—7515).

(II) The Department determines that the increase will cause or contribute to a violation of any National ambient air quality standard or PSD increment, or visibility limitation.

(H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, if the project complies with the following:

(-a-) The SIP.

(-b-) Other requirements necessary to attain and maintain the National ambient air quality standards during the project and after it is terminated.

(I) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the source. This exemption applies on a pollutant-by-pollutant basis.

(J) The reactivation of a very clean coal-fired electric utility steam generating source.

\* \* \* \* \*

Modification—A physical change in a source or a change in the method of operation of a source which would increase the amount of an air contaminant emitted by the source or which would result in the emission of an air contaminant not previously emitted, except that routine maintenance, repair and replacement are not considered physical changes. An increase in the hours of operation is not considered a modification unless the hours of operation have been limited in a way that is Federally enforceable or legally and practicably enforceable by an operating permit condition.

\* \* \* \* \*

Potential to emit—The maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of the design if the limitation or the effect it would have on emissions is Federally enforceable or legally and practicably enforceable by an operating permit condition.

\* \* \* \* \*

Responsible official—An individual who is:

(i) For a corporation: a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or another person who performs similar policy or decision making functions for the corporation, or an authorized representative of the person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for, or subject to, a permit and one of the following applies:

\* \* \* \* \*

(B) The delegation of authority to the representative is approved, in advance, in writing, by the Department.

\* \* \* \* \*

(iv) For affected sources:

\* \* \* \* \*

(B) The designated representative or a person meeting provisions of subparagraphs (i), (ii) and (iii) for any other [ purposes ] purpose under 40 CFR Part 70 (relating to operating permit programs) or Chapter 127 (relating to construction, modification, reactivation and operation of sources).

\* \* \* \* \*

Secondary emissions—Emissions which occur as a result of the construction or operation of a major stationary source or major modification of a major stationary source, but do not come from the major stationary source or major modification itself. The secondary emissions shall be specific, well defined, quantifiable and impact the same general area as the stationary source or modification which causes secondary emissions. The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. The term does not include emissions which

come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521—7589).

\* \* \* \* \*

**CHAPTER 122. NATIONAL STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

**§ 122.3. Adoption of standards.**

Standards of Performance for New Stationary Sources, promulgated in 40 CFR Part 60 (relating to standards of performance for new stationary sources) by the Administrator of the [ **United States Environmental Protection Agency** ] EPA under section 111[ **(b)** ] of the Clean Air Act (42 U.S.C.A. § 7411) are [ **hereby** ] adopted in their entirety by the Department and incorporated herein by reference.

**CHAPTER 123. STANDARDS FOR CONTAMINANTS VISIBLE EMISSIONS**

**§ 123.44. Limitations of visible fugitive air contaminants from operation of any coke oven battery.**

(a) [ **No** ] A person may **not** permit the operation of a coke oven battery in a manner that visible fugitive air contaminants are emitted in excess of the emissions allowed by the following limitations:

(1) The following open charging limitation applies to existing batteries listed in § 121.1 (relating to definitions) [ **except Jones and Laughlin's A-5 battery at Aliquippa** ]. The following closed charging limitation [ **shall apply** ] applies to [ **the A-5 battery at Aliquippa and** ] any [ **other** ] existing battery on which a closed charging system is installed:

\* \* \* \* \*

**CHAPTER 137. AIR POLLUTION EPISODES GENERAL**

**§ 137.4. Standby plans.**

\* \* \* \* \*

(b) The Department will annually classify each county as an area requiring a standby plan based on monitored exceedance of [ **the following criteria:** ] any of the NAAQS.

[ **SO<sub>2</sub>—0.02 p.p.m., annual arithmetic mean; 0.1 p.p.m., 24 hour maximum; 0.5 p.p.m., maximum 3-hour average.**

**PM<sub>10</sub>—60 µg/m<sup>3</sup>, annual geometric mean; 150 µg/m<sup>3</sup>, 24-hour maximum.**

**CO—48 p.p.m., 1-hour maximum; 12 p.p.m., 8-hour maximum.**

**NO<sub>2</sub>—0.06 p.p.m., annual arithmetic mean. ]**

**Ozone—0.10 p.p.m., 1-hour maximum.**

(c) [ **A** ] Any person responsible for the operation of a [ **source** ] facility [ **identified** ] in subsection (a) and located in a county classified in subsection (b) as requiring a standby plan shall [ **prepare** ] submit standby plans for reducing the emission of air contaminants from that [ **source** ] facility during alert, warning and emergency levels to the Department within 90 days of the Department's request. The plans shall be designed to reduce or eliminate the emissions of air contaminants in accordance with the objectives in §§ 137.11—137.14 (re-

lating to level actions). The plans shall be in writing on forms published and distributed by the Department and shall identify the approximate amount of reduction of various air contaminants and a description of the manner in which the reductions will be achieved.

\* \* \* \* \*

(f) [ **During** ] For facilities required to submit standby plans under subsection (c), during a forecast, alert, warning or emergency level, the standby plan shall be made available by the person responsible for the [ **source** ] facility to employees of the Department on the premises of the source.

**CHAPTER 139. SAMPLING AND TESTING**

**Subchapter A. SAMPLING AND TESTING METHODS AND PROCEDURES**

**STATIONARY SOURCES**

**§ 139.12. Emissions of particulate matter.**

Tests for determining emissions of particulate matter from stationary sources shall conform with the following:

(1) Test methods for particulate emissions shall include [ **both** ] dry filters [ **and wet impingers** ] and provide for at least a 95% collection efficiency of particulate matter.

(2) Isokinetic sampling procedures shall be used in sampling for particulate matter emissions and the [ **weights of soluble and insoluble particulate** ] weight determined gravimetrically after the removal of uncombined water.

\* \* \* \* \*

(5) Results shall be calculated based upon sample train component weights specified in § 139.4(5) [ **and insoluble weights in the impinger solution and on sample-exposed surfaces subsequent to the final filtration media. Insoluble weights shall be determined by .22µ membrane filtration** ] Results shall be reported as pounds of particulate matter per hour and in accordance with the units specified in §§ 123.11—123.13 (relating to particulate matter emissions).

**[ SOURCES ]**

**§ 139.61. [ Requirements ] (Reserved).**

[ (a) Persons responsible for the operation of a source included in a class of sources listed in the first column of Table I shall do the following:

(1) Conduct source tests, air sampling, and analyses or perform visual observations of the air contaminants specified by name or by reference to an applicable emission standard in the second column of Table I.

(2) Conduct the required tests, sampling, analyses, or observations at the frequency required by the third column of Table I.

(3) Submit monitoring reports in accordance with the requirements of § 139.53 (relating to filing monitoring reports) at the frequency specified in the fourth column of Table I.

(b) Table I follows:

TABLE I

<i>Class of Sources</i>	<i>Air Contaminants to be Monitored</i>	<i>Frequency of Testing Sampling, or Observations</i>	<i>Frequency of Filing Monitoring Reports</i>
Coke oven batteries	§ 123.44(a)(1), (3)—(7)	Daily during daylight	Quarterly
Pushing	§ 123.13(b)	Annual	Annual ]

§ 139.62. [Waiver of certain monitoring requirements ] (Reserved).

[ (a) The requirements of § 139.61(b) (relating to requirements), Table I, which relate to the frequency of visible emissions observations for the purpose of monitoring compliance at a coke oven battery with the provisions of § 123.44(a) (relating to limitations of visible fugitive air contaminants from operation of any coke oven battery) may be waived by the Department, provided the Department finds, upon a showing by the battery operator and after inspection, all of the following:

(1) The battery operator has complied with this section and §§ 139.51—139.53 and 139.61 (relating to general; and requirements) during the previous calendar quarter.

(2) Visible emission observations performed in accordance with § 123.44(b) by the operator and the Department during the preceding calendar quarter demonstrate that the calculated mean visible emission performance for the quarter is within the limits for visible emissions allowed by each paragraph of § 123.44(a).

(3) Visible emission observations performed in accordance with § 123.44(b) by the operator and the Department during the calendar quarter demonstrate full compliance with each paragraph of § 123.44(a) during at least one period of 5 consecutive days.

(4) Visible emission observations performed in accordance with § 123.44(b) during an inspection conducted by the Department after receipt of a request for a waiver under this section from the battery operator demonstrate full compliance with each paragraph of § 123.44(a).

(b) A waiver granted by the Department under this section will be in writing, will identify the data relied upon for the findings required by subsection (a), and will notify the battery operator of his obligation to comply with conditions established under subsection (c).

(c) Visible emission observations for the purpose of monitoring compliance with § 123.44(a) at a coke oven battery after the issuance of a waiver under subsection (a) shall be conducted in accordance with § 123.44 during each calendar quarter excepting holidays recognized by union contract. The observations shall commence the first day of the quarter which is not a holiday and shall continue until a period of 5 consecutive days has been completed during which all observations demonstrate compliance with each paragraph of § 123.44(a) on each of the 5 days. Upon the completion of observations demonstrating at least 5 con-

secutive days of compliance in any quarter or additional number of consecutive days of compliance that the Department may require by notice issued under subsection (b), there may be no further obligation to perform daily observations of visible emissions for the remainder of the quarter; provided that each of the conditions established by the notice issued under subsection (b) are met. The conditions shall include, but not be limited to the following:

(1) Submission of the records, summary and report of quarterly visible emission observations as may be required by the Department within 14 days after completion of 5 consecutive days of observation showing compliance in any quarter.

(2) Specification of a number of consecutive days, which shall be 5 or more at the discretion of the Department, during which compliance shall be demonstrated.

(3) Maintenance of compliance with each paragraph of § 123.44(a).

(d) A waiver granted under this section shall terminate at any time the Department finds a violation of a standard contained in § 123.44(a). The coke oven battery operator shall resume recording and reporting visible emission observations in accordance with the requirements of §§ 139.51—139.53 and 139.61 within 10 days of receipt of a notice of violation with respect to any standard contained in § 123.44(a). ]

**Subchapter C. REQUIREMENTS FOR SOURCE MONITORING FOR STATIONARY SOURCES**

**§ 139.101. General requirements.**

This section applies to monitoring systems as defined in the manual referenced at § 139.102(3) (relating to references), installations required or approved under Chapters 122, 124, 127 and 129 or in an order issued under section 4 of the act (35 P. S. § 4004).

\* \* \* \* \*

(12) Required monitoring shall meet at least one of the following minimum data availability requirements unless other data availability requirements are stipulated elsewhere in this title, in a plan approval or permit condition under Chapter 127 (relating to construction, modification, reactivation and operation of sources), or in an order issued under section 4 of the act. For purposes of calculating data availability, "process down" time, as specified in the manual referenced in § 139.102(3), shall be considered valid time.

\* \* \* \* \*

(ii) In each calendar quarter, at least 95% of the hours [ during which the monitored source is operating ]

shall be valid as set forth in the quality assurance section of the manual referenced in § 139.102(3).

\* \* \* \* \*

§ 139.104. [ Sulfur dioxide and nitrogen oxides monitoring requirements for combustion sources ] (Reserved).

[ This section applies to combustion sources monitoring sulfur dioxide or NO<sub>x</sub>.

(1) In addition to sulfur dioxide or to NO<sub>x</sub>, either oxygen or carbon dioxide shall be monitored to provide data to permit conversion of monitoring system data, when applicable, to the standard of pounds of sulfur dioxide per million Btus of heat input or to the standard of pounds of NO<sub>x</sub>, expressed as nitrogen dioxide, per million Btus of heat input. These conversions shall be performed by using the "F Factor" as specified in the manual referenced in § 139.102(3) (relating to references). The Department may approve other methods of conversion to units of pounds pollutant per million Btus of heat input.

(2) Continuous monitoring systems installed under the requirements of this section shall meet the following minimum data availability requirements:

(i) At least 23 days during each running 30-day period shall be valid days as set forth in the quality assurance section of the manual referenced in § 139.102(3).

(ii) At least 50% of the hours during each running 30-day period shall be valid hours as set forth in the quality assurance section of the manual referenced in § 139.102(3). ]

§ 139.111. [ Municipal waste ] Waste incinerator monitoring requirements.

This section applies to monitoring systems installed on municipal and hospital waste incinerators [ (MWIs) ].

(1) Carbon monoxide, combustion efficiency and temperature monitoring systems shall meet the following minimum data availability requirements:

(i) One hundred percent of the data hours [ during which the incinerator is operating ] shall be valid hours as set forth in the quality assurance section of the manual referenced in § 139.102(3) (relating to references).

\* \* \* \* \*

(2) Opacity monitoring systems shall meet the following minimum data availability requirement: At least 95% of the data hours [ during which the incinerator is operating ] each day shall be valid hours as set forth in the quality assurance section of the manual referenced in § 139.102(3).

(3) Hydrogen chloride, sulfur dioxide and nitrogen oxide monitoring systems shall meet the following minimum data availability requirement: At least 90% of the data hours [ during which the incinerator is operating ]

each month shall be valid hours as set forth in the quality assurance section of the manual referenced in § 139.102(3).

[Pa.B. Doc. No. 97-556. Filed for public inspection April 11, 1997, 9:00 a.m.]

[25 PA. CODE CHS. 121 AND 123] Nitrogen Oxides Allowance Program

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 123 (relating to general provisions; and standards for contaminants) to read as set forth in Annex A. The proposed amendments establish a program to limit the emission of nitrogen oxides (NO<sub>x</sub>) from fossil fired combustion units with rated heat input capacity of 250 MMBtu/hour or more and electric generating facilities of 15 megawatts or greater.

The Board approved the proposed amendments at its February 18, 1997 meeting.

A. Effective Date

These proposed amendments will go into effect upon publication in the Pennsylvania Bulletin as final rule-making.

B. Contact Persons

For further information, contact J. Wick Havens, Chief, Division of Air Resources Management, Bureau of Air Quality, 12th Floor Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468 (717) 787-4310, or M. Dukes Pepper, Jr., Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, 9th Floor Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department's) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. Background of the Amendment

In the 1990 amendments to the Federal Clean Air Act, Congress recognized that ground level ozone (smog) is a regional problem not confined to state boundaries. Section 184 of the Clean Air Act, 42 U.S.C.A. § 7511c, establishes the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate ozone air pollution.

Ozone is not directly emitted by pollution sources but is created as a result of the chemical reaction of NO<sub>x</sub> and volatile organic compounds (VOC), in the presence of light and heat, to form ozone in the air masses traveling over long distances. Exposure to ozone causes decreased lung capacity, particularly in children and elderly individuals. Decreased lung capacity from ozone exposure can frequently last several hours after the initial exposure. States in the Northeast Ozone Transport Region, except for Vermont, have experienced since 1990 levels of ozone

during the months of May through September in excess of the National Ambient Air Quality Standard (NAAQS).

Because NO<sub>x</sub> from large fossil fired combustion units is a major contributor to regional ozone pollution, the OTC member states, including this Commonwealth, proposed development of a regional approach to address NO<sub>x</sub> emissions. Beginning in 1993, the Northeast States for Coordinated Air Use Management (NESCAUM), the Mid-Atlantic Regional Air Management Association (MARAMA) and the United States Environmental Protection Agency (EPA) began working with the OTC to study the feasibility of implementing regional NO<sub>x</sub> emission reductions utilizing an emission budget program in the northeast. Regional airshed modeling was used to identify the appropriate level of emission reductions that would contribute to a significant improvement in air quality.

As a result of these evaluations, the OTC proposed two additional phases of NO<sub>x</sub> emissions reduction beyond that already achieved by the Reasonably Available Control Technology (RACT) program. This recommendation was formally adopted by the OTC in a Memorandum of Understanding (OTC MOU) in September of 1994. The OTC states, in the MOU of September 27, 1994, agreed to propose regulations for the control of NO<sub>x</sub> emissions in accordance with the following guidelines:

1. The level of NO<sub>x</sub> required would be established from a 1990 baseline emissions level.

2. The reduction would vary by location, or zone, and would be implemented in two phases utilizing a regionwide trading program.

3. The reduction would be determined based on the less stringent of the following:

- a. By May 1, 1999, the affected facilities in the inner zone shall reduce their rate of NO<sub>x</sub> emissions by 65%, or emit NO<sub>x</sub> at a rate no greater than 0.20 pounds per million Btus.

- b. By May 1, 1999, the affected facilities in the outer zone shall reduce the rate of NO<sub>x</sub> emissions by 55% from baseline, or shall emit NO<sub>x</sub> at a rate no greater than 0.20 pounds per million Btu.

- c. By May 1, 2003, the affected facilities in the inner and outer zones shall reduce their rate of NO<sub>x</sub> emissions by 75% from baseline, or shall emit NO<sub>x</sub> at a rate no greater than 0.15 pounds per million Btu.

- d. By May 1, 2003, the affected facilities in the northern zone shall reduce their rate of NO<sub>x</sub> emissions by 55% from baseline, or shall emit NO<sub>x</sub> at a rate no greater than 0.20 pounds per million Btu.

In this Commonwealth, the counties of Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia are in the inner zone; the remaining counties in this Commonwealth are in the outer zone.

Under section 7.4 of the Commonwealth Air Pollution Control Act (35 P.S. § 4007.4) the control strategies approved by the OTC and by the Commonwealth's representatives set forth in the OTC MOU are commitments by the Department to pursue regulatory actions under State law to implement the control strategies. In order to provide for the optimal degree of flexibility and to minimize compliance costs, the Department joined with the member states of the OTC to develop a regionwide market-based cap and trade program. A cap and trade program sets a regulatory limit on mass emissions from a discreet group of sources, allocates allowances to the sources authorizing emissions up to the regulatory limit,

and permits trading of allowances in order to effect cost efficient compliance with the cap.

To ensure that OTC states included common elements in the rules implementing the OTC MOU, the states worked through the NESCAUM, the MARAMA and the EPA to develop a model rule containing the common program elements. In addition to the state and Federal representatives, the NESCAUM, MARAMA NO<sub>x</sub> budget task force was joined by an ad hoc committee comprised of representatives from industry, utilities and environmental groups to ensure broad-based participation and consensus in the model rule.

The task force and ad hoc committee recognized that state program consistency is critical to the overall success of the NO<sub>x</sub> allowance program. State programs that are substantively identical in key areas will ensure that a ton of emissions reduced in one state is equivalent to a ton reduced in another state. Since states desire to promote cost effective compliance through intrastate and interstate emission trading, this level of consistency is essential to an effective trading program. The NESCAUM/MARAMA Model Rule meets these objectives and represents substantial consensus among the state and Federal governmental representatives and the ad hoc committee members on key regulatory elements of a NO<sub>x</sub> allowance program to implement the OTC MOU. The Model Rule applies to fossil-fired combustion units with rated capacity of 250 MMBtu/hour or more and electric generating facilities of 15 megawatts or greater. Under the program, the OTC MOU emission reductions are applied to a 1990 baseline for NO<sub>x</sub> emissions in the ozone transport region to create a cap on the emissions budget for each of the two target years: 1999 and 2003. The 1990 baseline was established through extensive work of the OTC, the EPA and industry to refine and quality assure the data available on actual NO<sub>x</sub> emissions for 1990. The 1990 emissions and budget for the OTC region has been disaggregated to a state level and the states are allocating allowances to the facilities in the program. Beginning in 1999, the sum of NO<sub>x</sub> emissions from NO<sub>x</sub> affected sources during the May 1 through September 30 control period cannot exceed the equivalent number of allowances allocated in the region. An allowance is equal to one ton of NO<sub>x</sub> emissions. NO<sub>x</sub> affected sources must hold allowances for all NO<sub>x</sub> emitted during the ozone season months of May through September and NO<sub>x</sub> affected sources are allowed to buy, sell or trade allowances as needed.

These proposed amendments are part of the Commonwealth's State Implementation Plan (SIP) to meet the reasonable further progress requirements of the Clean Air Act. In addition, the amendments are proposed as being comparable with and in lieu of implementation of Stage II vapor recovery system requirements throughout the State. As a comparable measure, it will satisfy the requirements under Section 184(b)(2) of the Clean Air Act (42 U.S.C.A. § 7511c(b)(2)). Finally, as part of the considerations and current assumptions as outlined in the *Operating Agreements for Stakeholder Deliberations*, Southwestern and Southeastern Pennsylvania Ozone Stakeholder Groups recognized that the Phase II of the Northeast Ozone Transport Commission's "Memorandum of Understanding" (NO<sub>x</sub> MOU) would be adopted by the Commonwealth as a NO<sub>x</sub> reduction strategy. Therefore, the 55% and 65% reductions in NO<sub>x</sub> from utility, IPP and other large industrial boilers (that are subject to Phase II of the NO<sub>x</sub> MOU) have been understood to be one of the precursor reduction options in the attainment strategy modeled for the Pittsburgh-Beaver Valley and Philadelphia Ozone Nonattainment Areas.

This proposal is part of the ozone attainment strategy for the OTC states. The Commonwealth plans to finalize this proposal when a consistent program is developed for the states of New York, New Jersey, Connecticut and Maryland.

The AWQTAC has been intimately involved in the allocation of allowances to budgeted sources and the development of both the model rule and this regulatory proposal. On December 11, 1996, AWQTAC concurred in a recommendation from the Air Subcommittee that the Department proceed with the proposed amendments including the allocation methodology for individual sources.

#### E. *Summary of the Proposal*

The proposed amendments establish definitions for the following terms: "account," "account number," "acquiring account," "electric generating facility," "fossil fuel," "fossil fuel fired," "general account," "heat input," "indirect heat exchange combustion unit," "maximum heat input capacity," "NO<sub>x</sub> affected source," "NO<sub>x</sub> allocation," "NO<sub>x</sub> allowance," "NO<sub>x</sub> allowance deduction," "NO<sub>x</sub> Allowance Continuous Emissions Monitoring System (NO<sub>x</sub> allowance CEMS)," "NO<sub>x</sub> allowance control period," "NO<sub>x</sub> allowance curtailment," "NO<sub>x</sub> allowance Tracking System (NATS)," "NO<sub>x</sub> allowance transfer," "NO<sub>x</sub> allowance transfer deadline," "NO<sub>x</sub> budget," "NO<sub>x</sub> Budget Administrator," "NO<sub>x</sub> Emissions Tracking System (NETS)," "OTC MOU NO<sub>x</sub> budget," "Ozone Transport Commission Memorandum of Understanding (OTC MOU)," and "replacement source."

These defined terms are used in the substantive provisions contained in Chapter 123.

This regulatory proposal implements the NO<sub>x</sub> MOU in a manner consistent with the NESCAUM/MARAMA Model Rule. The proposal identifies each known facility and each source within the facility subject to the rule along with the annual allowance allocation for the May 1 through September 30 control period in Appendix A. The rule also describes the process and procedure for transferring allowances between NO<sub>x</sub> affected sources in §§ 123.106 and 123.107 (relating to NO<sub>x</sub> allowance transfer protocol; and NO<sub>x</sub> allowance transfer procedures). The compliance requirements for sources and the remedy in the event the sources fail to comply is described in §§ 123.110 and 123.111 (relating to source compliance requirements; and failure to meet source compliance requirements).

Because this proposal is dependent upon accurate tracking of NO<sub>x</sub> emissions, the interstate NO<sub>x</sub> Allowance Tracking System (NATS) is established along with procedures for tracking emissions in §§ 123.104 and 123.105 (relating to source authorized account representative requirements; and NO<sub>x</sub> Allowance Tracking Systems Provisions). The source monitoring, recordkeeping and reporting requirements contained in §§ 123.108, 123.109 and 123.113 (relating to source emissions monitoring requirements; source emissions reporting requirements; and source recordkeeping requirements) detail the methodology that NO<sub>x</sub> affected sources must follow to accurately characterize and report NO<sub>x</sub> emissions during the control period.

Sections 123.116 and 123.117 (relating to source opt-in provisions; and new NO<sub>x</sub> affected source provisions) describe the mechanism for including additional sources in the NO<sub>x</sub> allowance program. Section 123.116 describes the procedure for sources to opt into the program and obtain an allowance allocation. Section 123.117 describes the process for both new sources meeting the thresholds for regulation and newly identified sources.

There were concerns expressed by independent power producers that were not operational in 1990 related to obtaining NO<sub>x</sub> allowances. Since NO<sub>x</sub> allowances are based on 1990 emissions, these facilities did not have a baseline to establish NO<sub>x</sub> allowances. The proposal provides allowances to these sources in Appendix A by allocating a portion of the Pennsylvania budget to the independent power producers. In addition, § 123.121 (relating to additional requirements for independent power producers) establishes additional requirements for independent power producers which describe the methodology for use of allocations by this class of NO<sub>x</sub> affected sources.

Because the NO<sub>x</sub> affected sources are all "major sources" for purposes of the new source review program contained at Chapter 127, Subchapter E (relating to new source review), modifications of these sources that increase their potential to emit above new source review thresholds or the addition of a new source above the new source review threshold will require both emission reduction credits and NO<sub>x</sub> allowances. Section 123.118 (relating to emission reduction credit provisions) describes the relationship between the emission reduction credit provisions and the NO<sub>x</sub> allowance program provisions.

Finally, § 123.120 (relating to audit) establishes an audit program to evaluate the effectiveness of the emission reductions achieved under the NO<sub>x</sub> allowance program. This evaluation occurs on an ongoing basis with a more complete review at least every 3 years. Section 123.120 authorizes the Department to condition, limit, suspend or terminate any NO<sub>x</sub> allowances or authorization to emit which such allowances represent under specifically identified circumstances. Subsection (d) describes the procedure the Department will follow in order to make such a modification to the allowance allocation.

Because some sources may be willing to make reductions in emissions prior to the time the rule becomes finalized, § 123.119 (relating to bonus NO<sub>x</sub> allowance awards) allows those sources to receive bonus NO<sub>x</sub> allowances. This will encourage early control and increased environmental benefits.

#### F. *Benefits, Cost and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments. Overall, the citizens of this Commonwealth will benefit from the proposed amendments because they will provide appropriate protection of air quality both in this Commonwealth and the entire Northeastern United States. In addition to reducing ozone pollution, this program will assist the Commonwealth in meeting its requirements for reasonable further progress and Stage II comparability under the Clean Air Act.

These proposed amendments are expected to result in public health cost savings of \$35-730 million per year from ozone reductions and \$120 million per year resulting from reductions in particulate matter emissions.

Worker health care costs and productivity should yield cost savings, as well as the welfare benefits, and decreased structural deterioration of concrete, paints and metals for instance should also result in benefits.

A control technology cost analysis of the public electric utility industry was conducted by the Department. Over 95% of the affected sources are electric generating utilities. Using the worst case \$42 million per year estimate, the cost of generation is expected to increase by approximately 1.2% using 1995 technology cost data. Recent developments in control technology have demonstrated large cost reductions on the order of 50% for this level of

emission reduction since this estimate was completed. The total cost without trading based on 1995 data was \$60 million per year and trading will reduce this by one third to \$42 million per year. Substantiating this estimate, the OTAG completed cost studies in October of 1996 showing that the cost of reducing emissions to a much lower standard, 0.15 lb/mmBTU or by 75% would cost \$73 million per year. Overall, these proposed amendments will have negligible impact on costs in comparison to the normal variations in other costs such as fuel and other operating and maintenance items.

By implementing the required emission reductions through a trading program, cost savings are estimated to be over 30% of what would otherwise be incurred. This level of savings has been realized in similar trading programs implemented by the EPA.

Some of the electric generating facilities and some of the remaining 5% of the nonutility sources which cannot cost effectively control emissions to comply with these proposed amendments will be able to comply by acquiring allowances from other sources on the open market, through mechanisms such as trade agreements, contracts and purchases. Allowances will be available both from electric generating companies with which many of these sources are owned or with which they do business and from the interstate market. It is anticipated that the market will provide for the least cost sources to control and minimize costs for all affected sources.

Since most of the affected sources already have the monitoring and reporting systems installed to comply with existing Federal requirements, only small changes will have to be made and reports will be consolidated with those existing requirements. On the whole, costs should be minimal for the majority of affected sources.

A few unmonitored sources may require additional reporting; however, the costs should also be small since the monitoring guidance allows for minimized and streamlined procedures which do not require new equipment. Common desktop personal computer based spreadsheet software and data entry would be required. Since most sources already maintain this data, reformatting and submission is likely to be the most that is required for these sources.

#### *Compliance Costs*

It is expected that a number of Commonwealth facilities will be required to install emission controls to meet the emissions cap established by these proposed amendments. The open market approach which allows trading of emission reductions between sources will encourage the installation of the most cost-effective controls and trading of emission reductions between sources. This open market approach will significantly reduce compliance costs in comparison to a command and control approach. In addition to the control costs imposed, some of the sources covered by the program will be required to install additional monitoring equipment to accurately characterize NO<sub>x</sub> emissions from the facility.

#### *Compliance Assistance Plan*

The Department plans to educate and assist the regulated community and the public with understanding the NO<sub>x</sub> budget program.

#### *Paperwork Requirements*

This regulatory program will have paperwork impact on the Commonwealth and the regulated entities. In addition to monitoring, recordkeeping and reporting at the

source level, the NO<sub>x</sub> allowance tracking system and NO<sub>x</sub> emissions tracking system require extensive multistate management.

#### *G. Pollution Prevention*

While this regulatory proposal does not directly include pollution prevention provisions, it may encourage some affected parties to switch from more polluting to less polluting fossil fuel sources.

#### *H. Sunset Review*

These proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 1, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment 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 the Department, the Governor and the General Assembly to review these objections before final publication of this proposal.

#### *J. Public Comment and Board Public Hearings*

The Department is specifically requesting comments on two sections of the proposal. First, § 123.121 establishes additional requirements for independent power producers. Subsection (a) would take 90% of the unused allowances from each control period and place them into an account administered by the Department for economic growth and prosperity in the Commonwealth. The Department specifically seeks comment on:

1) How this fund should be managed including the mechanism to prioritize projects, whether to limit the amount of allowances allocated to any single source or project and what happens to the account in the event that additional reductions are necessary to achieve air quality goals.

2) Should the fund be used to both support growth and to assist in providing allowances to entities where the cost of control is disproportionate to the emissions from that facility.

3) If revenues are received from the operation of the fund, how should those revenues be managed by the Department.

The Department is also seeking comment on § 123.117 related to new NO<sub>x</sub> affected source provisions. Specifically, the Department is proposing that sources not identified in this section as an initial allocation source must acquire NO<sub>x</sub> allowances from those available in the NO<sub>x</sub> allowance tracking system. The only exception to this requirement would be for affected sources which emitted NO<sub>x</sub> in 1990 and notify the Department within 6 months following the date of final promulgation of this proposal that they are subject to the provisions. In that

case, the Department will petition the OTC to include emissions from those sources in the NO<sub>x</sub> MOU budget and will provide NO<sub>x</sub> allowances to the sources in the event that the budget is modified. The Department specifically requests comments on this approach.

*Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on the proposed amendments. The hearings will be held at 1 p.m. on the following dates and at the following locations:

May 13, 1996, DEP Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA

May 15, 1997, DEP, 1st Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

May 19, 1997, Upper Merion Township Building, 175 West Valley Forge Road, King of Prussia, PA

Persons wishing to present testimony at the hearings must contact Sharon Freeman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and three written copies of the oral testimony must be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodations in order to participate, should contact Sharon Freeman at (717) 787-4526 or through the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

*Written Comments*

In lieu or in addition to presenting oral testimony at the hearings, interested persons may submit written comments, suggestions or objections regarding the proposed amendments to the Board, 15th Floor Rachel Carson State Office Building, P. O. Box 8477, Harrisburg, PA 17105-8477. Comments received by facsimile will not be accepted. Comments must be received by June 18, 1997. In addition to the written comments, interested persons may also submit a summary of their comments to the Board. This summary may not exceed one page in length and must be received by June 18, 1997. The summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

*Electronic Comments*

Comments may be submitted electronically to the Board at Regcomments@a1.dep.state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by June 18, 1997.

JAMES M. SEIF,  
*Chairperson*

**Fiscal Note:** 7-314. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. DEFINITIONS.**

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

\* \* \* \* \*

**Account**—The place in the NO<sub>x</sub> allowance tracking system where allowances are recorded including allowances held by a NO<sub>x</sub> affected source.

**Account number**—The identification number given by the NO<sub>x</sub> budget administrator to an account in which NO<sub>x</sub> allowances are held in the NO<sub>x</sub> allowance tracking system.

**Acquiring account**—The party in a NO<sub>x</sub> allowance transfer who obtains NO<sub>x</sub> allowances through purchase, trade, auction, gift or any other lawful means.

\* \* \* \* \*

**Electric generating facility**—For the purposes of NO<sub>x</sub> allowance requirements, any fossil fuel fired combustion facility of 15 MW or greater electrical generating capacity.

\* \* \* \* \*

**Fossil fuel**—Natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from this material.

\* \* \* \* \*

**Fossil fuel fired**—The combustion of fossil fuel or, if in combination with any other fuel, fossil fuel comprises 51% or greater of the annual heat input on a BTU basis.

\* \* \* \* \*

**General account**—An account in the NATS that is not a compliance account.

\* \* \* \* \*

**Heat input**—Heat derived from the combustion of fuel in a NO<sub>x</sub> affected source. The term does not include the heat derived from preheated combustion air, recirculated flue gas or exhaust from any other source or combination of sources.

\* \* \* \* \*

**Indirect heat exchange combustion unit**—Combustion equipment in which the flame or products of combustion, or both, are separated from any contact with the principal material in the process by metallic or refractory walls, including, but not limited to, steam boilers, vaporizers, melting pots, heat exchangers, column reboilers, fractioning column feed preheaters, reactor feed preheaters, fuel-fired reactors such as steam hydrocarbon reformer heaters and pyrolysis heaters.

\* \* \* \* \*

**Maximum heat input capacity**—The maximum steady state heat input under which a source may be operated as determined by its physical design and characteristics. Maximum heat input capacity is expressed in millions of British Thermal Units (MMBtu) per unit of time.

\* \* \* \* \*

**NATS—NO<sub>x</sub> allowance tracking system**—The computerized system used to track the number of NO<sub>x</sub> allowances held and used by any person.

**NETS—NO<sub>x</sub> emissions tracking system**—The computerized system used to track NO<sub>x</sub> emissions from NO<sub>x</sub> affected sources.

**NO<sub>x</sub> affected source**—Fossil fuel fired indirect heat exchange combustion units with a maximum rated heat input capacity of 250 MMBtu/hour or more and all fossil fuel fired electric generating facilities rated at 15 megawatts or greater or any other source that voluntarily opts to become a NO<sub>x</sub> affected source.

**NO<sub>x</sub> allocation**—Assignment by the Department of NO<sub>x</sub> allowances to a NO<sub>x</sub> affected source and recorded by the NO<sub>x</sub> budget administrator to a NO<sub>x</sub> allowance tracking system account.

**NO<sub>x</sub> allowance**—The limited authorization to emit 1 ton of NO<sub>x</sub> during a specified NO<sub>x</sub> allowance control period.

**NO<sub>x</sub> allowance CEMS—NO<sub>x</sub> allowance continuous emissions monitoring system**—For the purposes of the NO<sub>x</sub> allowance requirements, an emission monitoring system which continuously measures and records NO<sub>x</sub> emissions.

**NO<sub>x</sub> allowance control period**—The period beginning May 1 of each year and ending on September 30 of the same year, inclusive.

**NO<sub>x</sub> allowance curtailment**—For the purposes of NO<sub>x</sub> allowance requirements, a reduction in the hours of operation or in the rate of production.

**NO<sub>x</sub> allowance deduction**—The withdrawal of NO<sub>x</sub> allowances for permanent retirement by the NO<sub>x</sub> budget administrator from a NATS account.

**NO<sub>x</sub> allowance transfer**—The conveyance to another NATS account of one or more NO<sub>x</sub> allowances from one person to another by whatever means, including, but not limited to, purchase, trade, auction or gift.

**NO<sub>x</sub> allowance transfer deadline**—The deadline by which NO<sub>x</sub> allowances may be submitted for recording in a NO<sub>x</sub> affected source's compliance account for purposes of meeting NO<sub>x</sub> allowance requirements.

**NO<sub>x</sub> budget**—The total tons of NO<sub>x</sub> emissions which may be released from NO<sub>x</sub> affected sources.

**NO<sub>x</sub> budget administrator**—The person or agency designated by the Department as the NO<sub>x</sub> budget administrator of the NATS and the NETS.

**OTC MOU NO<sub>x</sub> budget**—The NO<sub>x</sub> budget is 93,392 tons during the 5-month period of May through September.

\* \* \* \* \*

**Ozone Transport Commission Memorandum of Understanding (OTC MOU)**—The memorandum of understanding (MOU) signed by representatives of ten

states and the District of Columbia as members of the Ozone Transport Commission (OTC) on September 27, 1994.

\* \* \* \* \*

**Replacement source**—A new source which is replacing a NO<sub>x</sub> affected source where both sources are under common ownership located within this Commonwealth. The NO<sub>x</sub> affected source shall be deactivated or permitted only as an emergency standby unit to the replacement source with operation limited to a maximum of 500 hours per year following commencement of operation of the replacement source.

\* \* \* \* \*

**CHAPTER 123. STANDARDS FOR CONTAMINANTS**

*(Editor's Note: The following §§ 123.101—123.121 are new and are printed in regular type to enhance readability.)*

**NO<sub>x</sub> ALLOWANCE REQUIREMENTS**

**§ 123.101. Purpose.**

These §§ 123.102—123.121 and this section establish a NO<sub>x</sub> budget and an NO<sub>x</sub> allowance trading program for NO<sub>x</sub> affected sources for the purpose of achieving the health based ozone ambient air quality standard.

**§ 123.102. Source NO<sub>x</sub> allowance requirements and NO<sub>x</sub> allowance control period.**

(a) The owner or operator of each NO<sub>x</sub> affected source shall, not later than December 31 of each calendar year, hold a quantity of NO<sub>x</sub> allowances in the source's current year NATS account that is equal to or greater than the total NO<sub>x</sub> emitted from that source during that year's NO<sub>x</sub> allowance control period.

(b) The initial NO<sub>x</sub> allowance control period begins on May 1, 1999.

**§ 123.103. General NO<sub>x</sub> allowance provisions.**

(a) All NO<sub>x</sub> allowances shall be allocated, transferred or used as whole NO<sub>x</sub> allowances. To determine the number of whole NO<sub>x</sub> allowances, the number of NO<sub>x</sub> allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(b) A NO<sub>x</sub> allowance does not constitute a security or other form of property.

(c) Allowances may not be used to meet the requirements of this subchapter prior to the year for which they are allocated.

(d) For the purposes of account reconciliation, NO<sub>x</sub> allowances allocated for the NO<sub>x</sub> allowance control period shall be deducted first, and remaining allowances if not otherwise designated by the source shall be deducted on a first-in, first-out basis.

**§ 123.104. Source authorized account representative requirements.**

(a) The owner or operator of an NO<sub>x</sub> affected source shall designate for each source account, one authorized account representative and one alternate. Initial designations shall be completed 30 days after \_\_\_\_\_ *(Editor's Note: The blank refers to the effective date 30 days after adoption of this proposal.)* An authorized account representative may be replaced or, for a new NO<sub>x</sub> affected source, designated with the submittal of a new "Account Certificate of Representation."

(b) The "Account Certificate of Representation" shall be signed by the authorized account representative for the NO<sub>x</sub> affected source and contain, at a minimum, the following:

(1) Identification of the NO<sub>x</sub> affected source by plant name, state and fossil fired indirect heat transfer combustion unit number for which the certification of representation is submitted.

(2) The name, address, telephone and facsimile number of the authorized account representative and any alternate.

(3) A list of owners and operators of the NO<sub>x</sub> affected source.

(4) The verbatim statement, "I certify that I, \_\_\_\_\_, (name) was selected as the Authorized Account Representative by an agreement binding on the owners and operators of the NO<sub>x</sub> affected source legally designated as \_\_\_\_\_." (name of facility)

(c) The alternate authorized account representative shall have the same authority as the authorized account representative. Correspondence from the NATS NO<sub>x</sub> budget administrator shall be directed to the authorized account representative.

(d) Only an authorized account representative or the designated alternate may request transfers of NO<sub>x</sub> allowances in a NATS account. The authorized account representative shall be responsible for all transactions and reports submitted to the NATS.

(e) Authorized account representative designation or changes become effective upon the logged date of receipt of a complete application by the NO<sub>x</sub> budget administrator from the Department. The NATS NO<sub>x</sub> budget administrator will acknowledge receipt and the effective date of the changes by written correspondence to the authorized account representative.

#### § 123.105. NATS provisions.

(a) The NATS account records shall constitute an NO<sub>x</sub> affected source's NO<sub>x</sub> allowance holdings.

(b) Transfer, use and NO<sub>x</sub> allowance deduction of NO<sub>x</sub> allowances become effective only after entry in the tracking system account records.

#### § 123.106. NO<sub>x</sub> allowance transfer protocol.

(a) NO<sub>x</sub> allowances may be transferred at any time between January 31 and December 31 in accordance with § 123.107 (relating to NO<sub>x</sub> allowance transfer procedures).

(b) NO<sub>x</sub> allowances shall be held by the originating account at the time of the transfer request.

(c) A transfer request shall be filed by the person named as the authorized account representative for the originating account.

(d) The transfer is effective as of the date the NO<sub>x</sub> budget administrator completes certification of the transfer.

#### § 123.107. NO<sub>x</sub> allowance transfer procedures.

NO<sub>x</sub> allowances may be transferred under the following conditions:

(1) The transfer request shall be documented on a form, or electronic media, approved by the Department. The following information, at a minimum, shall be provided:

(i) The account number identifying both the originating account and the acquiring account.

(ii) The name and address associated with the owners of the originating account and the acquiring account.

(iii) The identification of the serial numbers for each NO<sub>x</sub> allowance being transferred.

(2) The transfer request shall be authorized and certified by the authorized account representative for the originating account. To be considered correctly submitted, the request for transfer shall include the following statement of certification:

"I am authorized to make this submission on behalf of the owners and operators of the NO<sub>x</sub> affected source and I hereby certify under the penalty provisions contained in the Air Pollution Control Act, that I have personally examined the foregoing and am familiar with the information contained in this document, and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

The authorized account representative for the originating account shall provide a copy of the transfer request to each owner or operator of the NO<sub>x</sub> affected source.

#### § 123.108. Source emissions monitoring requirements.

The owner and operator of each NO<sub>x</sub> affected source shall comply with the following requirements:

(1) NO<sub>x</sub> emissions from each NO<sub>x</sub> affected source shall be monitored as specified by this section and in accordance with the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(2) The owner or operator of each NO<sub>x</sub> affected source shall submit to the Department and the NO<sub>x</sub> Budget Administrator a monitoring plan in accordance with the procedures outlined in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(3) New and existing unit emission monitoring systems, as required and specified by this section, shall be installed and be operational and shall have met all of the certification testing requirements in accordance with the procedures and deadlines specified in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(4) Monitoring systems are subject to initial performance testing and periodic calibration, accuracy testing and quality assurance/quality control testing as specified in the document titled "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program." Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO<sub>x</sub> CEMS reporting in accordance with § 139.101 (relating to general requirements) in units of pounds of NO<sub>x</sub> per hour shall complete the periodic self-audits listed in the quality assurance section of § 139.102(3) (relating to references) at least annually and no sooner than 6 months following the previous periodic self-audit. If practicable, the audit shall be conducted between April 1 and May 31.

(5) During a period when valid data is not being recorded by devices approved for use to demonstrate

compliance with this subchapter, missing or invalid data shall be replaced with representative default data in accordance with 40 CFR Part 75 (relating to continuous emission monitoring) and the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program." Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO<sub>x</sub> CEMS reporting in accordance with § 139.101 in units of pounds of NO<sub>x</sub> per hour shall report this data to the NETS and shall continue report submissions as required under Chapter 139 (relating to sampling and testing) to the Department.

(6) Sources subject to 40 CFR Part 75 shall demonstrate compliance with this section with a certified Part 75 monitoring system.

(i) If the source has a flow monitor certified under Part 75, NO<sub>x</sub> in pounds per hour shall be determined using the Part 75 NO<sub>x</sub> CEMS and the flow monitor. The NO<sub>x</sub> emission rate in pounds per million Btu shall be determined using the procedure in 40 CFR Part 75 Appendix F, Section 3 (relating to procedures for NO<sub>x</sub> emission rate). The hourly heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix F, Section 5 (relating to procedures for heat input). NO<sub>x</sub> in pounds per hour shall be determined by multiplying the NO<sub>x</sub> per million Btu by the Btus per hour.

(ii) If a Part 75 source does not have a certified flow monitor, but does have a certified NO<sub>x</sub> CEMS, NO<sub>x</sub> emissions in pounds per hour emissions shall be determined by using the NO<sub>x</sub> CEMS to determine the NO<sub>x</sub> emission rate in pounds per million BTU and the heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix D (relating to optional SO<sub>2</sub> emissions data protocol for gas-fired and oil-fired units). NO<sub>x</sub> in pounds per hour shall be determined by multiplying the NO<sub>x</sub> per million Btu and Btus per hour.

(iii) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Appendix E (relating to option NO<sub>x</sub> emissions estimation protocol for gas-fired peaking units and oil-fired peaking units) to determine the NO<sub>x</sub> emission rate, NO<sub>x</sub> emissions in pounds per hour shall be determined by multiplying the NO<sub>x</sub> emission rate determined by using the Appendix E procedures times the heat input determined using the procedures in 40 CFR Part 75, Appendix D.

(iv) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Appendix E to determine NO<sub>x</sub> emission rate, NO<sub>x</sub> emissions in pounds per hour shall be determined using the alternative monitoring method approved under 40 CFR Part 75 Subpart E (relating to alternative monitoring systems) and the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(v) If the source emits to common or multiple stacks, or both, the source shall monitor emissions according to the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(7) Sources not subject to 40 CFR Part 75 and not meeting the requirements of paragraph (11) shall meet the monitoring requirements of this section by:

(i) Preparing and obtaining approval of a monitoring plan as specified in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(ii) Determining NO<sub>x</sub> emission rate and heat input using a methodology specified in paragraphs (8) and (9) respectively or determining NO<sub>x</sub> concentration and flow using a methodology specified in paragraphs (8) and (9) respectively.

(iii) Calculate NO<sub>x</sub> emissions in pounds per hour using the procedure described in paragraph (11).

(8) The owner or operator of any NO<sub>x</sub> affected source which is not subject to 40 CFR Part 75, may implement an alternative emission rate monitoring method. The NO<sub>x</sub> emission rate in pounds per million Btu or NO<sub>x</sub> concentration in ppm shall be determined using one of the following methods:

(i) The owner or operator of any NO<sub>x</sub> affected source that has a maximum rated heat input capacity of 250 MMBtu/hr or greater which is not a peaking unit as defined in 40 CFR 72.2 (relating to definitions), which combusts any solid fuel or is required to or has installed a NO<sub>x</sub> CEMS for the purposes of meeting either the requirements of 40 CFR Part 60 (relating to standards of performance for new stationary sources) or any other Department or Federal requirement, shall use that NO<sub>x</sub> CEMS to meet the requirements of this section. If the owner or operator of the unit monitors flow according to the provisions of paragraph (9) the owner or operator may use the NO<sub>x</sub> CEMS to measure NO<sub>x</sub> in ppm, otherwise the NO<sub>x</sub> CEMS shall be used to measure the emission rate in lb/MMBtu. The owner or operator shall install, certify, operate and maintain this monitor in accordance with the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program." Any time an NO<sub>x</sub> CEMS cannot be used to report data for this program because it does not meet the requirements of the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program," missing data shall be substituted using the procedures in that document. In addition, the NO<sub>x</sub> CEMS shall meet the initial certification requirements contained in the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(ii) The owner or operator of a source that is not required to have a NO<sub>x</sub> CEMS, may request approval from the Department to use any of the following appropriate methodologies to determine the NO<sub>x</sub> emission rate:

(A) Boilers or turbines may use the procedures contained in 40 CFR Part 75 Appendix E to measure NO<sub>x</sub> emission rate in pounds/MMBtu, consistent with the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(B) Owners and operators of combustion turbines that are subject to this section and §§ 123.101—123.107 and 123.109—123.121 may also meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.121 by using default emission factors to determine NO<sub>x</sub> emissions in pounds per hour as follows:

(I) For gas-fired turbines, the default emission factor is 0.7 pounds NO<sub>x</sub> per MMBtu.

(II) For oil-fired turbines, the default factor is 1.2 pounds NO<sub>x</sub> per MMBtu.

(III) Owners and operators of gas turbines or oil-fired turbines may perform testing, consistent with the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program," to determine unit specific maximum potential NO<sub>x</sub> emission rates.

(C) Owners and operators of boilers that are subject to this section and §§ 123.101—123.107 and 123.109—

123.121 may meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.121 by using a default emission factor of 2.0 pounds per MMBtu if they burn oil and 1.5 lb/MMBtu if they burn natural gas to determine NO<sub>x</sub> emissions in pounds per hour, or may perform testing consistent with the provisions in the “Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program,” to determine a unit specific maximum potential emission rate.

(9) The owner or operator of a source which is not subject to 40 CFR Part 75, and not meeting the requirements of paragraph (11), shall determine heat input in MMBtu or flow in standard cubic feet per hour using one of the following methods:

(i) The owner or operator of a source may install and operate a flow monitor according to the provisions of 40 CFR Part 75.

(A) The owner or operator may either use the flow CEMS to monitor stack flow in standard cubic feet per hour and a NO<sub>x</sub> CEMS to monitor NO<sub>x</sub> in ppm.

(B) In the alternative, the owner or operator may use the flow CEMS and a diluent CEMS to determine heat input in MMBtu and a NO<sub>x</sub> CEMS to monitor NO<sub>x</sub> in lbs/MMBtu.

(ii) The owner or operator of a source that does not have a flow CEMS may request approval from the Department to use any of the following methodologies to determine their heat input rate:

(A) The owner or operator of a source may determine heat input using a flow monitor and a diluent monitor meeting the requirements of 40 CFR Part 75 and the procedures in 40 CFR Part 75, Appendix F Section 5.

(B) The owner or operator of a source that combusts only oil or natural gas may determine heat input using a fuel flow monitor meeting the requirements of 40 CFR Part 75 Appendix D and the procedures of 40 CFR Part 75, Appendix F Section 5.

(C) The owner or operator of a source that combusts only oil or natural gas which uses a unit specific or generic default NO<sub>x</sub> emission rate, may determine heat input by measuring the fuel usage for a specified frequency of longer than an hour. This fuel usage shall then be reported on an hourly basis by apportioning the fuel based on electrical load in accordance with the following formula:

Hourly  
fuel usage = 
$$\frac{\text{Hourly electrical load} \times \text{total fuel usage}}{\text{Total electrical load}}$$

(D) The owner or operator of a source that combusts any fuel other than oil or natural gas, may request permission from the Department to use an alternative method of determining heat input. Alternative methods include:

(I) Conducting fuel sampling and analysis and monitoring fuel usage.

(II) Using boiler efficiency curves and other monitored information such as boiler steam output.

(III) Any other methods approved by the Department and which meet the requirements contained in the “Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program.”

(E) Alternative methods for determining heat input are subject to both initial and periodic relative accuracy, and quality assurance testing as prescribed by “Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program.”

(10) If the owner or operator determines NO<sub>x</sub> emission rate in pounds per million Btu in accordance with paragraph (6)(iii) and heat input rate in MMBtu per hour in accordance with paragraph (7), the two values shall be multiplied to result in NO<sub>x</sub> emissions in pounds per hour. If the owner or operator determines NO<sub>x</sub> emissions in ppm and flow in standard cubic feet per hour, they may use the procedures in “Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program” to determine NO<sub>x</sub> emissions of this rule in pounds per hour. This value shall be reported to the NETS.

(11) Non-Part 75 sources which have Department approved NO<sub>x</sub> CEMS reporting in accordance with § 139.101 (relating to general requirements) in units of pounds of NO<sub>x</sub> per hour may meet the monitoring requirements of paragraph (7); or shall comply with the following:

(i) Calibration standards used shall be in accordance with both 40 CFR Part 75, Appendix A, Section 5.2 (relating to concentrations) and with § 139.102(3) (relating to references).

(ii) Testing listed in 40 CFR Part 75, Appendix A, Section 6.4 (relating to cycle time/response time test) not already conducted as part of the response time testing listed in § 139.102(3) shall be conducted.

(iii) Bias testing of the relative accuracy test data in accordance with the procedures in 40 CFR Part 75, Appendix A, Section 6.5 (relating to relative accuracy and bias tests) shall be conducted. Data from previously conducted relative accuracy testing may be used to meet this requirement.

(iv) Adjustment of data due to failure of bias test (in accordance with the procedures in 40 CFR Part 75, Appendix A, Section 7.6.5 (relating to bias adjustment) and Appendix B, Section 2.3.3 (relating to bias adjustment factor)) or relative accuracy greater than 10% but less than or equal to 20% (by multiplying the NO<sub>x</sub> emissions rate by 1.1), or both, is to be conducted only for reporting to the NETS NO<sub>x</sub> budget administrator for purposes of this section.

(v) A Data Acquisition Handling System (DAHS) verification demonstrating that both the missing data procedures and formulas as applicable to this section shall be conducted.

**§ 123.109. Source emissions reporting requirements.**

(a) The authorized account representative for each NO<sub>x</sub> affected source shall submit to the NETS NO<sub>x</sub> Budget NO<sub>x</sub> budget administrator, electronically in a format which meets the requirements of the EPA’s Electronic Data Reporting (EDR) convention, emissions and operations information for the second and third calendar quarters of each year in accordance with the document titled, “Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program.”

(b) Upon permanent shutdown, NO<sub>x</sub> affected sources may be exempted from the requirements of this section after receiving written Department approval of a request filed by the authorized account representative for the NO<sub>x</sub> affected source which identifies the source and date of shutdown.

**§ 123.110. Source compliance requirements.**

(a) Each year during the period November 1 through December 31, inclusive, the authorized account representative shall request the NO<sub>x</sub> budget administrator to deduct, consistent with § 123.104 (d) (relating to source authorized account representative requirements) a designated amount of NO<sub>x</sub> allowances by serial number, from the NO<sub>x</sub> affected source's compliance account in an amount equivalent to the NO<sub>x</sub> emitted from the NO<sub>x</sub> affected source during that year's NO<sub>x</sub> allowance control period in accordance with the following:

(1) Allowances allocated for the current NO<sub>x</sub> control period may be used without restriction.

(2) Allowances allocated for future NO<sub>x</sub> control periods may not be used.

(3) NO<sub>x</sub> allowances which were allocated for any preceding NO<sub>x</sub> allowance control period which were not used (banked) may be used in the current control period even if this may result in an unlimited exceedance of the NO<sub>x</sub> budget. Banked allowances shall be deducted against emissions in accordance with a ratio of NO<sub>x</sub> allowances to emissions as specified by the NO<sub>x</sub> budget administrator as follows:

(i) If the total NO<sub>x</sub> allowances remaining in the NATS for all sources in the OTR NO<sub>x</sub> budget for preceding NO<sub>x</sub> allowance control periods are less than 110% of the total NO<sub>x</sub> allowances allocated for that NO<sub>x</sub> allowance control period, the ratio is 1:1.

(ii) If the total NO<sub>x</sub> allowances remaining in the NATS for all sources in the OTR NO<sub>x</sub> budget for preceding NO<sub>x</sub> allowance control periods are 110% or greater than the NO<sub>x</sub> allowances allocated for that NO<sub>x</sub> allowance control period, the ratio is 2:1 for the portion of banked allowances in an account which are in excess of the amount calculated by multiplying the total allowances banked in the account times the PFC:

where

$$PFC = 0.1 \times (\text{OTC MOU Budget})$$

Account banked allowances

(b) If, by the December 31 compliance deadline, the authorized account representative either makes no NO<sub>x</sub> allowance deduction request, or a NO<sub>x</sub> allowance deduction request insufficient to meet the requirements of subsection (a), the NO<sub>x</sub> budget administrator may deduct the necessary number of NO<sub>x</sub> allowances from the NO<sub>x</sub> affected source's compliance account. The NO<sub>x</sub> budget administrator shall provide written notice to the authorized account representative that NO<sub>x</sub> allowances were deducted from the source's account. If the necessary number of NO<sub>x</sub> allowances is available, the source will be in compliance after the NO<sub>x</sub> allowance deduction is completed. If there is an insufficient number of NO<sub>x</sub> allowances available for NO<sub>x</sub> allowance deduction, § 123.111 (relating to failure to meet source compliance requirements) applies.

(c) For each NO<sub>x</sub> allowance control period, the authorized account representative for the NO<sub>x</sub> affected source shall submit an annual compliance certification to the Department.

(d) The compliance certification shall be submitted no later than the NO<sub>x</sub> allowance transfer deadline (December 31) of each year.

(e) The compliance certification shall contain, at a minimum, the following:

(1) An identification of the NO<sub>x</sub> affected source, including the name, address, the name of the authorized account representative and the NATS account number.

(2) A statement indicating whether or not emissions data has been submitted to the NETS in accordance with § 123.108 (relating to source emissions monitoring requirements).

(3) A statement indicating whether or not the NO<sub>x</sub> affected source held sufficient NO<sub>x</sub> allowances, as determined in subsection (a), in its compliance account for the NO<sub>x</sub> allowance control period, as of the NO<sub>x</sub> allowance transfer deadline, to equal or exceed the NO<sub>x</sub> affected source's actual emissions and the emissions reported to the NETS for the NO<sub>x</sub> allowance control period.

(4) A statement indicating whether or not the monitoring plan which governs the NO<sub>x</sub> affected source was operated to measure actual operation of the NO<sub>x</sub> affected source.

(5) A statement indicating that all emissions from the NO<sub>x</sub> affected source were accounted for, either through the applicable monitoring or through application of the appropriate missing data procedures.

(6) A statement indicating whether there were any changes in the method of operation of the NO<sub>x</sub> affected source or the method of monitoring of the NO<sub>x</sub> affected source during the current year.

(f) The Department may verify compliance by whatever means necessary, including one or more of the following:

(1) Inspection of facility operating records.

(2) Obtaining information on NO<sub>x</sub> allowance deduction and transfers from the NATS.

(3) Obtaining information on emissions from the NETS.

(4) Testing emission monitoring devices.

(5) Requiring the NO<sub>x</sub> affected source to conduct emissions testing in accordance with Chapter 139 (relating to sampling and testing).

**§ 123.111. Failure to meet source compliance requirements.**

(a) Failure by the NO<sub>x</sub> affected source to hold in its compliance account, for any NO<sub>x</sub> allowance control period, as of the NO<sub>x</sub> allowance transfer deadline, sufficient NO<sub>x</sub> allowances equal to or exceeding actual emissions for the NO<sub>x</sub> allowance control period as specified under § 123.102 (relating to source allowance requirements and NO<sub>x</sub> allowance control period) shall result in NO<sub>x</sub> allowance deduction from the NO<sub>x</sub> affected source's compliance account at the rate of 3 NO<sub>x</sub> allowances for every 1 ton of excess emissions. If sufficient allowances meeting the requirements of § 123.110(a)(2) (relating to source compliance requirements) are not available, the source shall provide other sufficient allowances which shall be deducted prior to the beginning of the next NO<sub>x</sub> allowance control period, otherwise the source may not operate during subsequent control periods.

(b) In addition to the NO<sub>x</sub> allowance deduction required by subsection (a), the Department may enforce the provisions of this section and §§ 123.101—123.110 and 123.112—123.121 under the act and the Clean Air Act.

(1) For purposes of determining the number of days of violation, any excess emissions for the NO<sub>x</sub> allowance control period shall presume that each day in the NO<sub>x</sub> allowance control period constitutes a day in violation (153 days) unless the NO<sub>x</sub> affected source can demon-

strate, to the satisfaction of the Department, that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

**§ 123.112. Source operating permit provision requirements.**

The operating permit required under Chapter 127 (relating to construction, modification, reactivation and operation of sources) shall prohibit the source from emitting NO<sub>x</sub> during each NO<sub>x</sub> allowance control period in excess of the amount of NO<sub>x</sub> allowances held in the source's compliance account for the NO<sub>x</sub> allowance control period as of the NO<sub>x</sub> allowance transfer deadline. The NATS compliance account number and the authorized account representative shall be listed on the permit.

**§ 123.113. Source recordkeeping requirements.**

The owner or operator of a NO<sub>x</sub> affected source shall maintain for each NO<sub>x</sub> affected source and for 5 years, or any other period consistent with the terms of the NO<sub>x</sub> affected source's operating permit, the measurements, data, reports and other information required by §§ 123.101—123.112, 123.114—123.121 and this section.

**§ 123.114. General NO<sub>x</sub> allocation provisions.**

(a) NO<sub>x</sub> allocations to NO<sub>x</sub> affected sources may only be made by the Department.

(b) Except as provided in § 123.116 (relating to source opt-in provisions), for NO<sub>x</sub> affected sources which shut-down after an allocation has been made to the source, the source account will continue to receive NO<sub>x</sub> allowances for each NO<sub>x</sub> allowance control period.

**§ 123.115. Initial NO<sub>x</sub> allowance NO<sub>x</sub> allocations.**

The sources contained in Appendix A are subject to the requirements of this subchapter. These sources are allocated NO<sub>x</sub> allowances for the 1999—2002 NO<sub>x</sub> allowance control periods as listed in the Appendix. Except as provided in § 123.120 (relating to audit), if no allocation is specified for the control periods beyond 2002, the current allocations continue indefinitely.

**§ 123.116. Source opt-in provisions.**

(a) A person who owns, operates, leases or controls a non-NO<sub>x</sub> affected source located in this Commonwealth may apply to the Department to opt-in that source to become a NO<sub>x</sub> affected source. For replacement sources, all sources to which production may be shifted to shall be opted-in together.

(b) A source which began operations without emission reduction credits transferred from a NO<sub>x</sub> affected source may become a NO<sub>x</sub> affected source under the following conditions:

(1) Submission of an opt-in application to the Department, including:

(i) Documentation of baseline NO<sub>x</sub> allowance control period emissions which shall be the average of the actual emissions for the preceding two consecutive NO<sub>x</sub> allowance control periods. The Department may approve selection of an alternative two consecutive NO<sub>x</sub> allowance control periods within the 5 years preceding the opt-in application if the preceding two control periods are not representative of normal operations. The baseline may not exceed applicable emission limits.

(ii) Evidence that the requirements of § 123.101—123.115, 123.117—123.121 and this section can be complied with, including, submission of an emission monitoring plan, designation of an authorized account

representative, and that the source is not on the compliance docket established under section 7.1 of the act (35 P. S. § 4005).

(2) Submission of NO<sub>x</sub> allowances established under paragraph (1)(i) or subsection (c) by the Department to the NO<sub>x</sub> budget administrator.

(c) A source which began operations with emission reduction credits from an NO<sub>x</sub> affected source may become an NO<sub>x</sub> affected source by complying with subsection (b)(1). To operate the source, NO<sub>x</sub> allowances shall be acquired by the owner or operator from those available in the NATS.

(d) Opt-in sources which opted-in under subsection (b) and which shutdown or curtail operations during any NO<sub>x</sub> allowance control period within the 5-calendar years after opting-in shall, prior to January 31 following the shutdown or curtailment, surrender to the Department NO<sub>x</sub> allowances for the current NO<sub>x</sub> allowance control period equivalent to the difference between the NO<sub>x</sub> allowance control period allowance allocation and the emissions reported in accordance with § 123.109 (relating to source emissions reporting requirements). NO<sub>x</sub> allocations for future NO<sub>x</sub> allocation control periods shall also be surrendered. NO<sub>x</sub> allowances which were allocated for any preceding NO<sub>x</sub> allowance control period which were not used (banked) may not be surrendered. Surrendered NO<sub>x</sub> allowances shall be retired from the NATS and NO<sub>x</sub> MOU NO<sub>x</sub> budget except that upon request by the source owner or operator, the Department may reallocate the NO<sub>x</sub> allowances to a qualifying replacement source.

(e) Opt-in sources which remain in operation for 5-calendar years from the date of opt-in shall have a new baseline and allowance allocation set in accordance with the procedure in subsection (b)(1)(i). This baseline may not exceed the opt-in baseline. Thereafter, the source is not subject to this section.

(f) Once electing to opt-in, a source may not revert to a non-NO<sub>x</sub> affected source unless it is shut down.

**§ 123.117. New NO<sub>x</sub> affected source provisions.**

(a) NO<sub>x</sub> allowances may not be created for new NO<sub>x</sub> affected sources. New NO<sub>x</sub> affected sources are sources which are not listed in § 123.115 (relating to initial NO<sub>x</sub> allowance NO<sub>x</sub> allocations). The owner or operator of a new NO<sub>x</sub> affected source shall establish a compliance account prior to the commencement of operations and is responsible to acquire any required NO<sub>x</sub> allowances from those available in the NATS.

(b) Newly discovered NO<sub>x</sub> affected sources not included in Appendix A which operated at any time between May 1 and September 30, 1990, shall comply with § 123.101—123.116, 123.118—123.121 and this section within 1-calendar year from the date of discovery. For those sources which notify the Department by \_\_\_\_\_ (*Editor's Note:* The blank refers to a date 6 months after the effective date of adoption of this proposal), the Department will petition the OTC to include the emissions in the NO<sub>x</sub> MOU Budget and provide NO<sub>x</sub> allowances to the source using the historical May 1 to September 30, 1990, emissions reduced as specified in § 123.116(b)(2)(i) (relating to source opt-in provisions).

**§ 123.118. Emission reduction credit provisions.**

(a) NO<sub>x</sub> affected sources may create, transfer and use emission reduction credits in accordance with Chapter 127 (relating to construction, modification, reactivation and operation of sources) and this section.

(b) Emission reductions made through overcontrol, curtailment or shutdown for which allowances are banked are not surplus and may not be used to create ERCs.

(c) A NO<sub>x</sub> affected source may transfer NO<sub>x</sub> ERCs to a NO<sub>x</sub> affected source if the new or modified NO<sub>x</sub> affected source's ozone season allowable emissions do not exceed the ozone season portion of the baseline emissions which were used to generate the NO<sub>x</sub> ERCs.

(d) A NO<sub>x</sub> affected source may transfer NO<sub>x</sub> ERCs to a non-NO<sub>x</sub> affected source under the following conditions:

(1) The non-NO<sub>x</sub> affected source's ozone season allowable emissions may not exceed the ozone season portion of the baseline emissions which were used to generate the NO<sub>x</sub> ERCs.

(2) The NATS account for NO<sub>x</sub> affected sources which generated ERCs transferred to non-NO<sub>x</sub> affected sources shall be reduced to reflect the transfer of emissions regulated under §§ 123.101—123.117, 123.119—123.121 and this section to the NO<sub>x</sub> nonaffected sources. The amount of annual NO<sub>x</sub> allowances deducted shall be equivalent to that portion of the nonaffected source's NO<sub>x</sub> control period allowable emissions which were provided for by the NO<sub>x</sub> ERCs from the affected source.

(3) Allocations for NO<sub>x</sub> allowance control periods following 2002 to the NO<sub>x</sub> ERC generating source may not include the allowances identified in paragraph (2).

#### § 123.119. Bonus NO<sub>x</sub> allowance awards.

(a) The Department may, upon receipt of a complete application by October 1, 1998, award a NO<sub>x</sub> affected source with bonus NO<sub>x</sub> allowances for certain emission reductions which are in excess of the OTC MOU reduction requirements and any applicable emission limits including RACT, and MACT, made during the 1997 and 1998 ozone seasons (May 1—September 30).

(b) Bonus NO<sub>x</sub> allowances shall be calculated by multiplying the actual total heat input for the entire ozone season times the difference between the following:

(1) The after-control emission rate calculated using the average rate occurring during the 1997 or 1998 NO<sub>x</sub> allowance control.

(2) The lower of the source's applicable emission rate for NO<sub>x</sub> expressed in pounds of NO<sub>x</sub> per MMBtu, or the baseline emission rate established in Appendix A after applying the following reduction, as applicable. The reduction for sources located in the outer zone is 55% or 0.2 lbs/MMBtu whichever is less, and for sources located in the inner zone, 65%, or 0.2 lbs/MMBtu whichever is less. The inner zone includes Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia counties, and the outer zone includes the remaining counties within this Commonwealth.

(c) Applications shall include all information necessary to determine that the reductions meet the requirements of this section.

(d) On or before May 1, 1999, the Department will publish a report in the *Pennsylvania Bulletin* which documents the number of bonus NO<sub>x</sub> allowances awarded.

#### § 123.120. Audit.

(a) The Department will complete an audit of the program established by §§ 123.101—123.119, 123.121 and this section (relating to NO<sub>x</sub> allowance requirements) prior to May 1, 2002, and at a minimum every 3 years thereafter. The audit shall include the following:

(1) The resulting geographic distribution of emissions as well as the hourly, daily and running average emission totals shall be examined in the context of ozone control requirements. This analysis shall be used in making a determination as to whether the zonal, seasonal and interseasonal trading and banking provisions of the rule require modification to ensure the reductions are as effective as daily emission limits on all sources would be at reducing ozone. If they are not, the NO<sub>x</sub> allocations in § 123.115 (relating to initial NO<sub>x</sub> allowance NO<sub>x</sub> allocations) may be modified to provide for this level of effectiveness.

(2) Confirmation of emissions reporting accuracy through validation of NO<sub>x</sub> allowance CEMS and data acquisition systems at the NO<sub>x</sub> affected source.

(3) If emissions in excess of the NO<sub>x</sub> allowances allocated occurred in any NO<sub>x</sub> allowance control period, as a result of banking provisions, a determination whether or not the NO<sub>x</sub> allowance banking provisions require modification or deletion.

(4) NO<sub>x</sub> allowance banking privileges will be examined to determine whether they adversely influenced market availability and price of NO<sub>x</sub> allowances or created unfair competitive advantages and if so, recommend amendments to rectify these problems.

(5) An assessment of whether the program is providing the level of emission reductions included in the current State Implementation Plan (SIP).

(b) In addition to the Department audit, the Department may seek a third party audit of the program. The third party audit can be implemented on a state by state basis or can be performed on a region-wide basis under the supervision of the Ozone Transport Commission.

(c) The operation of the program will be continuously monitored by the Department. The Department may, after notice in the *Pennsylvania Bulletin* and providing for a 60-day period of public comment, condition, limit, suspend or terminate any NO<sub>x</sub> allowances or authorization to emit which the NO<sub>x</sub> allowance represents if the following apply:

(1) Emissions in excess of the NO<sub>x</sub> allowances allocated for a NO<sub>x</sub> allowance control period occur.

(2) NO<sub>x</sub> allowance banking privileges have adversely influenced factors including, but not limited to, market availability, or price of NO<sub>x</sub> allowances, or created unfair competitive advantages.

(3) The program is not providing the level of emission reductions included in the SIP.

(d) The Department may modify the allowance allocation as provided in this section through the following procedure:

(1) The Department will provide written notice to the affected source.

(2) The Department will publish a notice in the *Pennsylvania Bulletin* providing for an opportunity for public comment. The notice will describe the proposed revisions and provide the name, address and telephone number of the person from whom the text of the proposed revisions can be obtained.

(3) The comment period will be at least 30 days from the date of the publication of the notice in paragraph (2).

(4) After the public comment period, the Department will evaluate the comments and finalize the proposed revisions to the allocations.

**§ 123.121. Additional requirements for independent power producers.**

(a) An independent power producer identified in Appendix A that emits NO<sub>x</sub>, during any NO<sub>x</sub> allowance control period at a level less than the allowances allocated to the independent power producer for the NO<sub>x</sub> allowance control period shall retain 10% of the unused allowances from the current NO<sub>x</sub> allowance control period allocation in the independent power producer's NATS compliance account for any present or future use. The remaining 90% of the unused allowances from the current NO<sub>x</sub> allowance control period allocation shall be transferred on or before December 31 preceding the NO<sub>x</sub>

allowance control period to an account administered by the Department for economic growth and prosperity in this Commonwealth.

(b) Notwithstanding the provisions of subsection (a), an independent power producer identified in Appendix A that, after February 18, 1997, installs or installed an additional control device that reduces emissions of NO<sub>x</sub> shall retain, in the independent producers' NATS compliance account for any present or future use, all of the unused allowances allocated to the independent power producer during any NO<sub>x</sub> control period resulting from operation of the additional control device.

**Appendix A**

<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allow- ance</i>	<i>Baseline NO<sub>x</sub> lb/MMBtu</i>	<i>Baseline MMBtu</i>
Adams	Met Edison Hamilton		031	4	0.59	18,716
Adams	Met Edison Ortanna		031	3	0.59	13,130
Adams	Metropolitan Edison Company	G.E. N Frame Turbine #1	031	17	0.45	89,908
Adams	Metropolitan Edison Company	G.E. N Frame Turbine #2	032	6	0.45	29,243
Adams	Metropolitan Edison Company	G.E. N Frame Turbine #3	033	14	0.45	74,249
Allegheny	Duquesne Light Company, Brunot	Boiler	001	0	0.48	2,492
Allegheny	Duquesne Light Company, Brunot	Boiler	002	1	0.48	3,136
Allegheny	Duquesne Light Company, Brunot	Boiler	003	1	0.49	2,674
Allegheny	Duquesne Light Company, Brunot	Boiler	004	0	0.48	2,156
Allegheny	Duquesne Light Company, Brunot	Boiler	006	1	0.48	6,818
Allegheny	Duquesne Light Company, Brunot	Boiler	008	2	0.48	9,380
Allegheny	Duquesne Light Company, Cheswick	Boiler	001	2,116	0.61	15,025,580
Armstrong	Penelec - Keystone	Boiler No. 1	031	4,101	0.80	25,149,236
Armstrong	Penelec - Keystone	Boiler No. 2	032	3,694	0.70	22,657,898
Armstrong	West Penn Power Co.	Foster Wheeler	031	1,141	0.95	5,355,101
Armstrong	West Penn Power Co.	Foster Wheeler	032	1,066	1.02	5,007,467
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	032	314	0.83	1,747,462
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	033	257	0.83	1,431,342
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	034	297	0.83	1,655,847
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	035	123	0.81	683,951
Beaver	Penn Power Co. - Bruce Mansfield	Boiler Unit 1	031	2,996	0.90	16,618,929
Beaver	Penn Power Co. - Bruce Mansfield	Foster Wheeler Unit No. 2	032	3,870	0.90	21,464,786
Beaver	Penn Power Co. - Bruce Mansfield	Foster Wheeler Unit 3	033	3,507	0.70	19,455,843
Beaver	Zinc Corporation Of America	Coal Boiler 1	034	241	0.80	1,380,627
Beaver	Zinc Corporation Of America	Coal Boiler 2	035	204	0.80	1,168,776
Berks	Metropolitan Edison Co. - Titus	Unit 1	031	205	0.65	1,836,587
Berks	Metropolitan Edison Co. - Titus	Unit 2	032	183	0.68	1,632,072
Berks	Metropolitan Edison Co. - Titus	Unit 3	033	202	0.66	1,805,003

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<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allow- ance</i>	<i>Baseline NO<sub>x</sub> lb/MMBtu</i>	<i>Baseline MMBtu</i>
Berks	Metropolitan Edison Co. - Titus	No. 4 Combustion Turbine	034	2	0.44	20,010
Berks	Metropolitan Edison Co. - Titus	No. 5 Combustion Turbine	035	2	0.44	15,484
Blair	Penelec - Williamsburg	No. 11 Boiler - Rily	031	38	0.87	200,874
Bucks	PECO Energy - Croyden	Croyden - Turbine #11	031	11	0.70	42,451
Bucks	PECO Energy - Croyden	Croyden - Turbine #12	032	7	0.70	26,382
Bucks	PECO Energy - Croyden	Croyden - Turbine #21	033	44	0.70	175,640
Bucks	PECO Energy - Croyden	Croyden - Turbine #22	034	20	0.70	81,649
Bucks	PECO Energy - Croyden	Croyden - Turbine #31	035	11	0.70	42,534
Bucks	PECO Energy - Croyden	Croyden - Turbine #32	036	14	0.70	54,905
Bucks	PECO Energy - Croyden	Croyden - Turbine #41	037	8	0.70	30,191
Bucks	PECO Energy - Croyden	Croyden - Turbine #42	038	37	0.70	152,094
Bucks	United States Steel Corp., The	Power House Boiler No. 3	043	63	0.26	655,625
Bucks	United States Steel Corp., The	Power House Boiler No. 4	044	14	0.27	147,330
Bucks	United States Steel Corp., The	Power House Boiler No. 5	045	73	0.26	756,980
Bucks	United States Steel Corp., The	Power House Boiler No. 6	046	85	0.26	871,810
Cambria	Cambria CoGen Company	A Boiler	031	200	0.24	2,003,177
Cambria	Cambria CoGen Company	B Boiler	032	212	0.23	2,116,233
Cambria	Colver Power Project			411	0.20	4,112,640
Cambria	Ebensburg Power Company	CFB Boiler		206	0.08	2,058,858
Cambria	Ebensburg Power Company	Aux Boiler		1	0.13	5,236
Carbon	Panther Creek Energy Facility	Boiler 1		116	0.12	1,543,574
Carbon	Panther Creek Energy Facility	Boiler 2		117	0.12	1,553,778
Chester	PECO Energy - Cromby	Boiler No 1	031	247	0.82	1,660,770
Chester	PECO Energy - Cromby	Boiler No 2	032	187	0.28	1,257,120
Clarion	Piney Creek Project	CFB Boiler		122	0.18	1,217,989
Clearfield	Penelec - Shawville	Babcock Wilcox Boiler	031	832	1.22	3,737,976
Clearfield	Penelec - Shawville	Babcock Wilcox Boiler	032	807	1.21	3,624,416
Clearfield	Penelec - Shawville	Combustion Engineering	033	1,015	0.86	4,558,942
Clearfield	Penelec - Shawville	Combustion Engineering	034	823	0.87	3,697,889
Clinton	International Paper Co.	1 Riley Stoker Vo-Sp	033	143	0.55	1,220,703
Clinton	International Paper Co.	2 Riley Stoker Vo-Sp	034	142	0.55	1,218,878
Clinton	International Paper Co.		037	33	0.32	283,298
Columbia	Penelec - Benton		002	2	2.33	2,661
Columbia	Penelec - Benton		003	1	2.93	2,330
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine #1	031	9	0.45	46,665
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine #1	032	11	0.45	55,480
Delaware	BP Oil, Inc.	7 Boiler	032	35	0.37	331,917
Delaware	BP Oil, Inc.	8 Boiler	033	58	0.48	535,337
Delaware	BP Oil, Inc.		038	191	0.55	1,789,455
Delaware	PECO Energy - Eddystone	No. 1 Boiler	031	664	0.54	5,571,014
Delaware	PECO Energy - Eddystone	No. 2 Boiler	032	432	0.55	3,629,294
Delaware	PECO Energy - Eddystone	No. 3 Boiler	033	256	0.28	2,153,713
Delaware	PECO Energy - Eddystone	No. 10 Gas Turbine	037	1	0.49	9,464
Delaware	PECO Energy - Eddystone	No. 20 Gas Turbine	038	1	0.48	7,560
Delaware	PECO Energy - Eddystone	No. 30 Gas Turbine	039	2	0.48	19,502
Delaware	PECO Energy - Eddystone	No. 40 Gas Turbine	040	1	0.49	9,450
Delaware	PECO Energy - Eddystone	No. 4 Boiler	041	249	0.28	2,089,539
Delaware	Scott Paper Co.	Boiler No. 9	034	12	0.52	264,600
Delaware	Scott Paper Co.	10 Culm Cogen. Fbc Plant	035	75	0.08	1,602,169
Delaware	Sun Refining & Marketing		089	46	0.09	1,211,002
Delaware	Sun Refining & Marketing		090	185	0.08	4,927,837
Elk	Penntech Papers, Inc.	B&W Model Pm106 Boiler #6	038	0	0.00	0
Elk	Penntech Papers, Inc.	B & W #81 Boiler	040	103	0.83	570,989
Elk	Penntech Papers, Inc.	B&W #82 Boiler	041	109	0.83	603,471
Erie	General Electric Co.	B & W Boiler No. 2	032	26	1.01	587,180
Erie	International Paper Company	Coal Fired Boiler No. 21	037	40	0.58	321,958

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County	Facility	Combustion Source Name	Point ID	Allow- ance	Baseline	
					NO <sub>x</sub> lb/MMBtu	Baseline MMBtu
Erie	International Paper Company	Recovery Boiler No.22	040	32	0.55	262,300
Erie	Norcon Power Partners	Turbine 1	001	50	0.07	1,483,488
Erie	Norcon Power Partners	Turbine 2	002	50	0.07	1,483,488
Erie	Penelec - Front Street	Erie City Iron Works No.7	031	5	0.92	38,964
Erie	Penelec - Front Street	Erie City Iron Works No.8	032	5	0.90	39,881
Erie	Penelec - Front Street	Comb. Eng. Boiler No.9	033	134	0.57	1,033,388
Erie	Penelec - Front Street	Comb. Eng. Boiler No.10	034	134	0.57	1,033,528
Greene	West Penn Power - Hatfield's Ferry	Babcock & Wilcox	031	3,981	1.04	15,502,912
Greene	West Penn Power - Hatfield's Ferry	Babcock & Wilcox	032	3,705	1.04	14,429,251
Greene	West Penn Power - Hatfield's Ferry	Babcock & Wilcox	033	2,162	1.04	8,416,290
Indiana	Penelec - Conemaugh	Boiler No. 1	031	3,305	0.76	20,130,686
Indiana	Penelec - Conemaugh	Boiler No. 2	032	4,194	0.76	25,543,024
Indiana	Penelec - Homer City	Boiler No. 1-Foster Wheelr	031	2,349	1.20	11,325,278
Indiana	Penelec - Homer City	Boiler No. 2-Foster Wheelr	032	3,191	1.20	15,382,211
Indiana	Penelec - Homer City	Boiler No. 3- B. & W.	033	4,554	0.62	21,951,003
Indiana	Penelec - Seward	Boiler No. 12 (B&W)	032	141	0.79	849,307
Indiana	Penelec - Seward	Boiler No. 14 (B&W)	033	134	0.83	809,011
Indiana	Penelec - Seward	Boiler No. 15 (Comb.Eng.)	931	689	0.75	4,155,275
Lackawanna	Archbald Power Corporation	Cogen		82	0.05	818,013
Lancaster	PP&L - Holtwood	Unit 17 Foster Wheeler	934	808	1.05	3,553,318
Lawrence	Penn Power Co. - New Castle	Foster Wheeler	031	108	0.91	553,994
Lawrence	Penn Power Co. - New Castle	B.W. Boiler	032	97	0.91	498,559
Lawrence	Penn Power Co. - New Castle	Babcock And Wilcox	033	185	0.91	947,292
Lawrence	Penn Power Co. - New Castle	Babcock And Wilcox	034	340	0.91	1,737,996
Lawrence	Penn Power Co. - New Castle	Babcock And Wilcox	035	623	0.91	3,183,091
Luzerne	Continental Energy Associates	Turbine		269	0.13	2,687,577
Luzerne	Continental Energy Associates	HRSG		129	0.20	1,288,248
Luzerne	UGI Corp. - Hunlock Power	Foster Wheeler	031	375	0.95	1,821,127
Monroe	Met Edison Shawnee		031	3	0.59	15,285
Montgomery	Merck Sharp & Dohme	Cogen II Gas Turbine	039	79	0.16	1,028,875
Montour	PP&L - Montour	Montour No. 1	031	3,586	0.77	18,669,673
Montour	PP&L - Montour	Montour No. 2	032	4,704	0.98	24,489,052
Montour	PP&L - Montour	Aux.Start-Up Boiler No. 1	033	9	0.17	44,436
Montour	PP&L - Montour	Aux.Start-Up Boiler No. 2	034	7	0.17	34,076
Northampton	Bethlehem Steel Corp.	Boiler 1 Boiler House 2	041	92	0.23	Confidential
Northampton	Bethlehem Steel Corp.	Boiler 2 Boiler House 2	042	92	0.23	Confidential
Northampton	Bethlehem Steel Corp.	Boiler 3 Boiler House 2	067	93	0.23	Confidential
Northampton	Met Edison Co. - Portland	Unit No. 1	031	494	0.59	3,593,611
Northampton	Met Edison Co. - Portland	Unit No. 2	032	629	0.66	4,578,297
Northampton	Met Edison Co. - Portland	Combustion Turbine No. 3	033	1	0.53	9,795
Northampton	Met Edison Co. - Portland	Combustion Turbine No. 4	034	6	0.53	40,931
Northampton	Northampton Generating Company	Boiler	001	210	0.10	4,208,112
Northampton	PP&L - Martins Creek	Foster-Wheeler Unit No. 1	031	409	1.19	2,825,705
Northampton	PP&L - Martins Creek	Foster-Wheeler Unit No. 2	032	449	0.91	3,102,923
Northampton	PP&L - Martins Creek	C-E Unit No. 3	033	825	0.51	5,696,956
Northampton	PP&L - Martins Creek	C-E Unit No. 4	034	743	0.50	5,132,553
Northampton	PP&L - Martins Creek	No. 3a Auxiliary Boiler	035	1	0.17	4,592
Northampton	PP&L - Martins Creek	No. 4b Auxiliary Boiler	036	1	0.17	2,394
Northampton	PP&L - Martins Creek	Combustion Turbine No. 1	037	30	0.02	206,640
Northampton	PP&L - Martins Creek	Combustion Turbine No. 2	038	30	0.02	206,640
Northampton	PP&L - Martins Creek	Combustion Turbine No. 3	039	30	0.02	206,640
Northampton	PP&L - Martins Creek	Combustion Turbine No. 4	040	30	0.02	206,640
Northumberland	Foster Wheeler Mt. Carmel Cogen	Cogen	031	181	0.10	1,814,911
Philadelphia	Allied Chemical Corp	Boiler	050	9	0.44	90,250
Philadelphia	Allied Chemical Corp	Boiler	051	12	0.63	125,819
Philadelphia	Allied Chemical Corp	Boiler	052	56	0.50	565,480
Philadelphia	Container Corporation Of America	Boiler	001	201	0.10	4,344,433
Philadelphia	PECO Energy		037	28	0.60	117,455

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County	Facility	Combustion Source Name	Point ID	Allow- ance	Baseline	Baseline
					NO <sub>x</sub> lb/MMBtu	MMBtu
Philadelphia	PECO Energy		038	37	0.60	156,375
Philadelphia	PECO Energy - Delaware		013	111	0.45	918,037
Philadelphia	PECO Energy - Delaware		014	129	0.45	1,066,091
Philadelphia	PECO Energy - Delaware		015	1	0.67	7,089
Philadelphia	PECO Energy - Delaware		016	1	0.67	9,452
Philadelphia	PECO Energy - Delaware		017	1	0.67	11,259
Philadelphia	PECO Energy - Delaware		018	2	0.67	15,012
Philadelphia	PECO Energy - Schuylkill		003	175	0.28	1,459,923
Philadelphia	PECO Energy - Schuylkill		007	1	0.67	9,285
Philadelphia	PECO Energy - Schuylkill		008	0	0.67	1,946
Philadelphia	Phila Thermal - Sansom		001	31	0.45	318,459
Philadelphia	Phila Thermal - Sansom		002	27	0.45	280,748
Philadelphia	Phila Thermal - Sansom		003	12	0.45	126,824
Philadelphia	Phila Thermal - Sansom		004	15	0.45	155,123
Philadelphia	Phila Thermal - Schuylkill		001	49	0.28	511,191
Philadelphia	Phila Thermal - Schuylkill		002	22	0.28	228,162
Philadelphia	Phila Thermal - Schuylkill		005	24	0.45	248,138
Philadelphia	Sun Refining And Marketing 1 Of 2		006	49	0.45	513,255
Philadelphia	Sun Refining And Marketing 1 Of 2		007	81	0.44	837,798
Philadelphia	Sun Refining And Marketing 1 Of 2		038	57	0.41	589,265
Philadelphia	Sun Refining And Marketing 1 Of 2		039	57	0.41	589,265
Philadelphia	U. S. Naval Base		098	1	0.14	14,294
Philadelphia	U. S. Naval Base		099	0	0.14	1,960
Schuylkill	Gilberton Power Company	Boiler		335	0.17	3,352,372
Schuylkill	Northeastern Power Company	CFB Boiler		202	0.06	2,022,148
Schuylkill	Northeastern Power Company	Aux Boiler		0	0.27	1,396
Schuylkill	Schuylkill Energy Resources	Boiler	031	435	0.20	4,349,117
Schuylkill	Westwood Energy Properties	Boiler		135	0.17	1,351,408
Schuylkill	Wheelabrator Frackville Energy Co	Boiler		205	0.14	2,046,694
Snyder	PP&L - Sunbury	Sunbury SES Unit 1a	031	310	0.85	1,679,317
Snyder	PP&L - Sunbury	Sunbury SES Unit 1b	032	310	0.85	1,679,317
Snyder	PP&L - Sunbury	Sunbury SES Unit 2a	033	309	0.72	1,679,197
Snyder	PP&L - Sunbury	Sunbury SES Boiler 2b	034	309	0.72	1,679,197
Snyder	PP&L - Sunbury	Sunbury SES Unit No. 3	035	653	0.88	3,542,301
Snyder	PP&L - Sunbury	Sunbury SES Unit No. 4	036	795	0.93	4,312,439
Snyder	PP&L - Sunbury	Diesel Generator 1	037	0	3.39	709
Snyder	PP&L - Sunbury	Diesel Generator 2	038	0	3.23	806
Snyder	PP&L - Sunbury	Combustion Turbine 1	039	3	0.49	14,581
Snyder	PP&L - Sunbury	Combustion Turbine 2	040	3	0.49	14,581
Tioga	Penelec - Tioga		031	3	0.48	30,267
Vernango	Scrubgrass Power Plant	Unit 1	031	182	0.14	1,816,817
Venango	Scrubgrass Power Plant	Unit 2	032	179	0.15	1,790,997
Warren	Penelec - Warren	Boiler No. 1	031	76	0.62	569,825
Warren	Penelec - Warren	Boiler No. 2	032	73	0.64	546,534
Warren	Penelec - Warren	Boiler No. 3	033	77	0.61	572,007
Warren	Penelec - Warren	Boiler No. 4	034	80	0.61	596,377
Warren	Penelec - Warren		001	11	0.69	77,943
Washington	Duquesne Light Co. - Elrama	No. 1 Boiler	031	334	0.87	1,116,538
Washington	Duquesne Light Co. - Elrama	No. 2 Boiler	032	333	0.90	1,114,175
Washington	Duquesne Light Co. - Elrama	No. 3 Boiler	033	446	0.87	1,490,615
Washington	Duquesne Light Co. - Elrama	No. 4 Boiler	034	1,017	0.89	3,398,150
Washington	McGraw-Edison Co.	Foster-Wheeler	032	0	0.00	0
Washington	Washington Power Co.	Boiler 1		155	0.15	2,068,438
Washington	Washington Power Co.	Boiler 2		155	0.15	2,068,438
Washington	West Penn Power Co. - Mitchell	Combustion Eng Coal Unit	034	932	0.72	5,968,482
Wayne	Penelec - Wayne		031	11	0.84	62,736
Westmoreland	Monessen Inc.	Boiler House	031	42	0.15	587,980

County	Facility	Combustion Source Name	Point ID	Allow- ance	Baseline	Baseline
					NO <sub>x</sub> lb/MMBtu	MMBtu
Wyoming	Procter & Gamble Paper Products Co.	Westinghouse 251B10	035	246	0.68	1,654,800
York	Glatfelter, P. H. Co.	1 Recovery Boiler & Dce	031	82	0.17	663,631
York	Glatfelter, P. H. Co.	Number 4 Power Boiler	034	122	0.80	978,985
York	Glatfelter, P. H. Co.	Number 1 Power Boiler	035	62	0.80	500,276
York	Glatfelter, P. H. Co.	Number 5 Power Boiler	036	199	0.29	1,602,840
York	Met Edison Tolna		031	4	0.59	20,492
York	Met Edison Tolna		032	4	0.59	19,306
York	PP&L - Brunner Island	Brunner Island 2	032	1,476	0.63	10,260,211
York	PP&L - Brunner Island	Brunner Island Unit 1	931	1,300	0.61	9,037,867
York	PP&L - Brunner Island	Brunner Island Unit 3	933	2,910	0.71	20,238,806

[Pa.B. Doc. No. 97-557. Filed for public inspection April 11, 1997. 9:00 a.m.]

## INSURANCE DEPARTMENT

### [31 PA. CODE CH. 117] Anti-Arson Application

The Insurance Department (Department) proposes to delete Chapter 117 (relating to anti-arson application) to read as set forth in Annex A. The Department proposes the deletions under sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), The Insurance Department Act of 1921 (40 P. S. §§ 1—321), The Insurance Company Law of 1921 (40 P. S. §§ 341—991) and the Anti-Arson Application Law (act) (40 P. S. §§ 1615.1—1615.11). The Department is publishing the deletion of the regulations as proposed rulemaking to allow for public comment. The regulations require an insurance company issuing a commercial monoline fire policy insuring property located in this Commonwealth against the peril of fire to secure a completed anti-arson application and specify the required content of the anti-arson application. The regulations further require an insured to update the information contained in the application and requires the company to retain the application for 5 years.

#### Purpose

The purpose of this rulemaking is to delete Chapter 117, to eliminate outdated regulations which do not serve any compelling public purpose. The regulations were promulgated in 1987 to implement the regulatory provisions of the act. Section 4 of the act (40 P. S. § 1615.4) mandates the use of the anti-arson application for commercial monoline fire policies, designated types of occupancies and designated geographic areas if, after public hearing, the Insurance Commissioner (Commissioner) designates the class as subject to an abnormally high number of claims resulting from arson. In 1986, the Commissioner designated the commercial monoline fire policy as particularly prone to arson and the Department promulgated the subject regulations to clarify the requirements relating to the anti-arson application. See 17 Pa.B. 20 (January 3, 1987).

Following careful review, the Department proposes the deletion of these regulations for the following reasons. First, under the regulations, only companies issuing commercial monoline fire policies need to secure anti-arson application information. Commercial fire insurance is usually sold as a package along with liability and other business lines of insurance; it is generally not issued as a single or monoline policy. Therefore, the regulations have

limited practical application. Second, subsequent to the adoption of the regulations, no issues relating to arson affecting commercial monoline fire policies have been raised before the Commissioner. The lack of activity over a 10-year period indicates that the regulatory requirements in this area do not serve any compelling public interest. Third, because no method to accurately measure the effect of the anti-arson application requirement was ever implemented, the appropriateness and necessity of the requirement cannot be demonstrated at this time.

Under the act, the Commissioner retains the authority to require anti-arson applications at a future time if it is found that commercial monoline policies have become subject to an abnormally high number of claims resulting from arson.

#### Fiscal Impact

Property owned and insured by the Commonwealth or its political subdivisions is excluded from the purview of these regulations. Consequently, the Department has determined that the proposed deletion will have no fiscal impact on the Commonwealth or local government entities.

The deletion of the regulations will remove costs placed upon insurance companies, insurance agents and brokers and applicants for commercial fire insurance due to the elimination of the requirement that companies collect and maintain information on the anti-arson application. The impact is nevertheless expected to be unremarkable because commercial monoline policies insuring against the peril of fire are seldom issued.

#### Persons Regulated

The regulations apply to all insurance companies issuing policies of property insurance where coverage includes the peril of fire. Only companies issuing commercial monoline fire policies need to secure anti-arson application information under these regulations. Comments were received from the Insurance Federation of Pennsylvania, Inc. recommending the deletion of these regulations as outmoded and unnecessary.

#### Paperwork

The deletion of these regulations will not impose additional paperwork requirements on the Department, insurance companies, insurance agents or brokers, the Commonwealth or the general public. To the extent that commercial monoline fire insurance policies are issued insuring property in this Commonwealth, the deletion of these regulations will reduce paperwork for insurance companies, agents and brokers and applicants.

*Effective/Sunset Date*

The Department plans to adopt the date of final publication in the *Pennsylvania Bulletin* as the effective date. Because the rulemaking proposes the deletion of obsolete regulations, no sunset date has been assigned.

*Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Victor DiCicco, Chief, Field Investigations Division, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, PA 17120, (717) 783-2627, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 28, 1997, the Department submitted a copy of this proposal to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. In addition to submitting this 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. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposal, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

LINDA S. KAISER,  
*Insurance Commissioner*

**Fiscal Note:** 11-150. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 31. INSURANCE****PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE****CHAPTER 117. [ ANTI-ARSON APPLICATION ]  
(Reserved)****§ 117.1. [ Purpose and scope ] (Reserved).**

**[(a) Purpose.** This chapter interprets and implements the Anti-Arson Application Law (40 P. S. §§ 1615.1—1615.11), by providing the method by which insurance companies are to obtain the disclosure of information to control the incidence of arson fraud and designating the instances in which the use of anti-arson application is mandatory.

**(b) Scope.** This chapter applies to insurance companies issuing policies of property insurance in which coverage includes the peril of fire. ]

**§ 117.2. [ Definitions ] (Reserved).**

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

**Act**—The Anti-Arson Application Law (40 P. S. §§ 1615.1—1615.11).

**Anti-arson application**—An application for insurance covering the peril of fire that elicits the disclosure of information required by this chapter.

**Commercial Monoline Fire Policy**—An insurance policy on a commercial or industrial premise in which coverage is limited to the perils of fire, lightning and removal. The term also includes an insurance policy on a commercial or industrial premise in which coverage is limited to the perils of fire, lightning, removal and extended coverage—including windstorm or hail, smoke, explosion, riot or civil commotion, aircraft and vehicle, vandalism or malicious mischief.

**Commissioner**—The Insurance Commissioner of the Commonwealth.

**Department**—The Insurance Department of the Commonwealth.

**Designated area**—A geographic area designated in this chapter as having an abnormally high incidence of arson.

**Designated occupancy**—An occupancy designated in this chapter as having an abnormally high incidence of arson.

**Insurance policy**—Written evidence of new insurance, including a contract of insurance, providing coverage from the peril of fire. Except for the assignment of an existing insurance policy because of the transfer of a financial interest of 25% or more in the insured property, the renewal of an existing insurance policy does not constitute evidence of new insurance.

**Insurance company**—An insurer authorized to transact the business of insurance in this Commonwealth and empowered to issue policies of insurance against loss by the peril of fire, including the Pennsylvania Fair Plan created under The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.101—1600.502).

**Occupancy**—The use of a property or the type of structure on a property.

**Peril of fire**—A peril characterized by burning including the peril of explosion.

**Property**—Real property and the buildings and improvements thereon. ]

**§ 117.3. [ Anti-arson application—designation ] (Reserved).**

**[(a)** An insurance company issuing a Commercial Monoline Fire Policy to insure property against peril of fire after January 2, 1987 shall first secure from the insured a completed anti-arson application.

**(b)** The necessity of securing an anti-arson application from an insured does not preclude an insurance company from issuing a binder prior to acceptance of the risk. ]

**§ 117.4. [ Anti-arson application—content ] (Reserved).**

[ An anti-arson application shall comply with the following requirements:

**(1)** The anti-arson application shall be signed and affirmed by the insured and shall contain the following language:

I (we) certify that all information contained herein is true and correct to the best of my (our) knowledge and belief. I (we) acknowledge that this statement is signed under the pains and penalties of perjury and any material false statement contained herein is punishable pursuant to 18 Pa.C.S. § 4904(b). I (we) acknowledge that this application shall constitute a part of any policy issued whether attached or not and that any willful concealment or misrepresentation of a material fact or circumstance shall be deemed grounds to void any policy issued. I (we) acknowledge that I (we) must notify the insurer in writing of any change in the information contained in this application within 60 days.

(2) The anti-arson application shall secure, at a minimum, the disclosure of the following information:

- (i) The name and address of the applicant.
- (ii) The applicant's relationship to the property.
- (iii) The location of the property and type of occupancy.
- (iv) If the applicant is other than an individual or sole proprietor, the name, address, position and percentage of interest of the following:
  - (A) Shareholders possessing an ownership interest of 25% or more, except for closed corporations in which case all owners shall be listed.
  - (B) Partners, including limited partners, possessing an ownership interest of 25% or more.
  - (C) Trustees and beneficiaries.
- (v) The name and address of a mortgagee or a party who has an ownership interest in the property, other than ownership interests disclosed under subparagraph (iv), and the degree of interest of the party.
- (vi) Mortgage payments on the property which are overdue by 3 months or more, the name of the mortgagee, the amount owed and the date due.
- (vii) Other encumbrances against the property.
- (viii) Tax liens against the property or business, and the nature, extent and due date of taxes which are unpaid or overdue for a period of 1 year or more.
- (ix) Current fire, safety, health, building or construction code violations on the property to be insured and the nature of the violations.
- (x) The existence of a conviction against anyone with a financial interest in the property under subparagraphs (iv) and (v) for arson, fraud or another crime which resulted in a loss on property owned now or during the last 5 years.
- (xi) Losses during the past 5 years which exceeded \$1,000 in damage to the property to be insured or to property in which anyone with a financial interest in the property to be insured under subparagraphs (iv) and (v) had an equity interest or held a mortgage—except mortgages procured through Federal or State chartered lending institutions—and the nature, location, date and extent of the losses.

(xii) An existing or expected vacancy in the occupation of the property to be insured; the date, degree and nature of the vacancy; and the existence of protection from unauthorized entry in or on to the property. The applicant need not report the specific units subject to routine and temporary vacancies in apartment buildings, hotels or other residential facilities, but shall report the overall vacancy rate and vacancies of specific units for a period of more than a 3 month duration.

(xiii) A governmental order issued to vacate or destroy the property, or the classification of the property as uninhabitable or structurally unsafe.

(xiv) Damage to the property in excess of \$1,000.

(xv) A disruption in the service of water, sewage, electricity or heat to the property which exceeds a period of 60 days.

(xvi) The refusal to write coverage on the property, or the cancellation or nonrenewal of coverage on the property within the past 3 years.

(xvii) The existence of other insurance covering, or which will cover, this property, including the name of the other insurance company, the date, status and number of the policy and the amount of insurance.

(xviii) The dates and sale prices in real estate transactions involving the property in the past 3 years.

(xix) The amount of insurance requested, the method of valuation used to establish the amount of insurance and the name and address of the person who determined the value.

(xx) The estimated replacement cost and fair market value—exclusive of land—of the property.

(3) A recommended anti-arson application which satisfies the disclosure requirements in paragraph (2) and which may be used without the prior approval of the Commissioner is provided in Appendix A. A company electing to use this preapproved form shall notify the Department in writing of its election to do so within 30 days of its use. Use of an anti-arson application other than that provided in Appendix A requires the prior filing with and approval of the Commissioner prior to use. ]

§ 117.5. [ Notice of change in the information contained in the anti-arson application ] (Reserved).

[ (a) An insured shall notify the insurance company in writing of a change in the information contained in the anti-arson application within 60 days from the date of the change.

(b) Failure by the insured to notify the insurance company of a material change in information contained in the anti-arson application, or a material misrepresentation in notification, constitutes grounds to void the insurance policy. ]

§ 117.6. [ Required record retention ] (Reserved).

[ (a) An anti-arson application secured by an insurance company under this chapter shall be retained in the files of the company for a period of 5 years from the date the policy is issued.

(b) Upon written request of the Commissioner, the company shall, within 30 days from the date of

**the Commissioner's request, provide a written report of those applications for which coverage under the policy was denied due to a loss by fire. The company shall also provide the Commissioner copies of the applications, if requested.**

**(c) Upon written request of the State Police Fire Marshall, another appropriate law enforcement agency or the Fire Commissioner or Fire Chief of first, second, second class A and third class cities, the company shall provide copies of anti-arson applications relevant to the conduct of a fire investigation. ]**

§ 117.7. [ Exclusions ] (Reserved).

**[ This chapter does not apply to an insurance policy insuring against the peril of fire issued to cover any of the following:**

- (1) One- to four-family owner-occupied dwellings.**
- (2) Property owned and insured by the Commonwealth or its political subdivisions. ]**

§ 117.8. [ Penalties ] (Reserved).

**[ The Commissioner may impose a penalty of not more than \$10,000 against an insurance company for a willful violation of the act. ]**

*(Editor's Note: As part of this proposal, the Department is proposing to delete the text of Appendix A (relating to Anti-Arson Application) which appears at 31 Pa. Code pages 117-6—117-9, serial pages (115154) to 115156) and (155075).)*

#### **Appendix A. (Reserved)**

[Pa.B. Doc. No. 97-558. Filed for public inspection April 11, 1997, 9:00 a.m.]

### **[31 PA. CODE CH. 113]**

#### **Mass Merchandising of Property and Casualty Insurance**

The Insurance Department (Department) proposes to delete Chapter 113, Subchapter D (relating to mass merchandising of property and casualty insurance) to read as set forth in Annex A, under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); sections 601 and 621 of The Insurance Department Act of 1921 (40 P. S. §§ 231 and 251); section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b); The Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. §§ 1221—1238); and The Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199).

#### *Purpose*

The purpose of this rulemaking is to delete Subchapter D to eliminate redundant regulations. Adopted in 1971, the regulations were prescribed to prevent abuses in the mass merchandising of property and casualty insurance. The regulations imposed requirements on insurance companies licensed to do business in this Commonwealth, and on their agents, where mass merchandising is used as a method of selling. The regulations require the Department's approval of rates and policies prior to the sale of the insurance policies, and requires the licensure of agents who sell the policies. The regulations also prohibit

specific sales practices. In addition, the regulations require the insurer to give notice to the insured prior to cancellation for nonpayment of premiums, to provide assistance in obtaining other insurance to individuals who are denied insurance under the mass merchandising plan and require the maintenance of statistics. The regulations are no longer necessary because their requirements merely repeat or duplicate present statutory requirements, are unduly burdensome or are no longer used.

Specifically, these regulations duplicate existing authorities governing the filing of insurance rates and policy forms. The Department has statutory authority to review property and casualty policy rates prior to use under The Fire, Marine and Inland Marine Rate Regulatory Act and The Casualty and Surety Rate Regulatory Act. The Department also has the existing authority to review property and casualty policy forms prior to use under section 354 of The Insurance Company Law of 1921. These regulations also repeat the requirement of agent licensure provided under sections 601 and 621 of the Insurance Department Act.

Further, the attempt to prevent specific abuses in the mass merchandising of property and casualty insurance is no longer necessary since the statutory authority to regulate unfair practices in the business of insurance exists under the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) (UIPA). The requirement of providing written notice to the insured prior to cancellation for nonpayment of premiums exists under the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11) known as Act 78, and relating to the cancellation and nonrenewal of private passenger automobile insurance, the act of July 3, 1986 (P. L. 396, No. 86) (40 P. S. §§ 3401—3409) known as Act 86, and relating to commercial property and casualty risks, and in particular, section 5(a)(9) of the UIPA (40 P. S. § 1171.5(a)(9)) relating to owner occupied residential properties and personal property of individuals. Finally, the sections requiring the rendering of assistance to individuals in obtaining insurance is unduly burdensome and the report of statistics is no longer used by the Department.

Comments regarding the deletion of these regulations were solicited from the various trade associations representing the insurance industry. Comments were received from the Insurance Federation of Pennsylvania, Inc. This organization's comments were in agreement with the Department that the regulations are redundant to the authorizing statutes.

#### *Fiscal Impact*

The deletion of these sections will have no fiscal impact. Because of the redundancy of the regulatory provisions to authorizing statutes, the provisions of the regulations remain in effect under the statutes.

#### *Paperwork*

The deletion of these sections will have no effect on paperwork requirements.

#### *Affected Parties*

The deletion of these sections will affect insurers who are licensed to sell insurance in this Commonwealth.

#### *Effectiveness/Sunset Date*

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete redundant regulations, no sunset date has been assigned.

*Contact Person*

Questions and comments concerning this proposed rulemaking may be addressed to Randolph L. Rohrbaugh, Director, Property and Casualty Bureau, 1311 Strawberry Square, Harrisburg, PA 17120 (717) 787-4192, within 30 days of its publication in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 28, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to submitting the proposed rulemaking, 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. A copy of the material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the agency, the Governor and the General Assembly to review these objections before final publication of the proposal.

LINDA S. KAISER,  
*Insurance Commissioner*

**Fiscal Note:** 11-144. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE**

**CHAPTER 113. MISCELLANEOUS PROVISIONS**

**Subchapter E. [ MASS MERCHANDISING OF PROPERTY AND CASUALTY INSURANCE ]  
(Reserved)**

§ 113.51. [ **Definitions** ] (Reserved).

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

**Mass merchandising plan**—A method of selling property and casualty insurance wherein the insurance is offered to employees of particular employers or to members of particular associations, or organizations or to persons grouped in other ways; the insurer maintains its right to underwrite each individual risk; and the employer, association or organization has agreed to, or otherwise affiliated itself with, the sale of the insurance to those employees or members.

**Property and casualty insurance**—Forms of fire, casualty and inland marine insurance. ]

§ 113.52. [ **Applicability** ] (Reserved).

[ This subchapter shall apply only to insurance policies issued or renewed in this Commonwealth after its effective date, and may not apply to meth-

ods of merchandising other than “mass merchandising plans,” as defined in § 113.51 (relating to definitions). ]

§ 113.53. [ **Purpose** ] (Reserved).

[ The purpose of this subchapter is to prescribe rules to prevent abuses in connection with the sale of property and casualty insurance in this Commonwealth under mass merchandising plans, while preserving for consumers the potential benefits of this form of merchandising. ]

§ 113.54. [ **Approval prior to sale or use** ] (Reserved).

[ Prior to the sale or use of a mass merchandising plan in this Commonwealth, the form and rates of the plan shall first be filed with and approved by the Insurance Commissioner under the provisions of section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b) and the applicable rate regulatory act referred to in § 113.55 (relating to premium rates). ]

§ 113.55. [ **Premium rates** ] (Reserved).

[ Premium rates under a mass merchandising plan shall comply with the filing requirements and standards set forth in the insurance laws and regulations of the Commonwealth, particularly as set forth in The Casualty and Surety Rate Regulatory Act (40 P. S. § 1181—1199) and the Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. § 1221—1238). Rates will not be deemed to be unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, provided the rates reflect the differences with reasonable accuracy. Rates may not be deemed to be unfairly discriminatory if they are averaged broadly among persons insured under a mass merchandising plan. ]

§ 113.56. [ **Premium payments.** ] (Reserved).

[ Premiums for policies issued under mass merchandising plans may be paid by any of the following methods:

(1) By the sponsoring employer, association or organization, wholly from its own funds.

(2) Wholly from funds supplied by the insured employes or group participants through payroll deductions or other appropriate means.

(3) Partly from funds supplied by the sponsoring employer, association, organization or other group and partly by the insured employes or group participants. ]

§ 113.57. [ **Insurance agents or brokers** ] (Reserved).

[ (a) No person, sponsoring employer, association, organization or other group shall act as an insurance agent or insurance broker in connection with a mass merchandising plan for a kind of insurance, unless the person is licensed as an agent or broker for that kind of insurance, under sections 601 or 621 of The Insurance Department Act of 1921 (40 P. S. §§ 231 or and 251).

(b) For the purposes of this subchapter, none of the following activities engaged in by a sponsoring employer, association, organization or other group shall require the licensing of the entity as an insurance agent or broker:

(1) Uncompensated endorsement or recommendation of the mass merchandising program to its employes or members.

(2) Distribution, by mail or otherwise, to its employes or members of information pertaining to the mass merchandising program.

(3) Collection of premiums through payroll deductions or other appropriate means, and remittance of such to an insurer.

(4) Receipt of compensation from an insurer for administrative services in connection with the mass merchandising program, provided the compensation bears a reasonable relationship to the services actually performed. The amount of the compensation may not be based solely upon the amount of premiums paid or the number of employes or members participating in the program.

(5) Other activities as may, from time to time, be approved by the Insurance Commissioner. ]

§ 113.58. [ Prohibited practices ] (Reserved).

[ (a) *Compulsory participation.* No insurer may sell insurance under a mass merchandising plan if it is a condition of employment or of membership in an association, organization or other group that an employe or member purchase insurance under the plan, or if an employe, member or person will be subject to any penalty by reason of nonparticipation in the insurance program. A contribution by an employer or other group entity may not be deemed a penalty against a nonparticipant.

(b) *Tie-in sales.* No insurer may sell insurance under a mass merchandising plan which makes the purchase of insurance available under the plan contingent upon the purchase of another insurance, product or service, or the purchase of another insurance, product or service contingent upon the purchase of insurance available under the plan. This subsection may not be considered to prohibit the reasonable requirement of safety devices, such as heat detectors, lightning rods, theft prevention equipment and the like. ]

§ 113.59. [ Underwriting standards ] (Reserved).

[ No insurer may use underwriting standards for individual risk selection in a mass merchandising plan which are, on the whole, more restrictive than the standards used by the insurer for individual risk selection in the sale of the same kind of insurance in this Commonwealth other than under mass merchandising plans. If the insurer does not sell the kind of insurance in this Commonwealth other than under mass merchandising plans, its underwriting standards for individual risk selection in the plans shall, on the whole, be no more restrictive than the standards used by its principal affiliate, if any, for individual risk selection in the scale of the kind of insurance in this Commonwealth other than under mass merchandising plans. The insurer shall be willing to educate members through seminars, bulletins, safety programs and the like. ]

§ 113.60. [ Failure to remit premiums ] (Reserved).

[ The failure of an employer, association, organization or other group to remit premiums when due for any reason may not be regarded as nonpayment of premium by an insured under a plan providing for remittance of premium by the employer, association, organization or other group, until the insured shall have been given not less than 15 days written notice. The 15-day notice shall be calculated from the date of the receipt of the same by the insured. ]

§ 113.61. [ Other insurance plans ] (Reserved).

[ An insurer, agent or broker selling insurance under a mass merchandising plan shall, with respect to an employe or member who applies for but is denied insurance under the plan, assist the person in obtaining insurance through another appropriate existing voluntary or mandatory insurance plan, such as the Pennsylvania Assigned Risk Plan or the Pennsylvania Fair Plan. ]

§ 113.62. [ Statistics to be maintained ] (Reserved).

[ An insurer selling insurance under mass merchandising plans shall maintain separate statistics as to exposures, premiums, losses and expense experience pertinent thereto. The statistics shall be compiled in accordance with the company's statistical plans and reported annually in summary form to the Insurance Department by July 15 of each year, starting in 1974. ]

[Pa.B. Doc. No. 97-559. Filed for public inspection April 11, 1997, 9:00 a.m.]

### [31 PA. CODE CH. 137]

#### Miscellaneous

The Insurance Department (Department) proposes to delete Chapter 137 (relating to miscellaneous) to read as set forth in Annex A, under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). Chapter 137 was previously promulgated under sections 213, 214 and 216 of The Insurance Department Act of 1921 (40 P. S. §§ 51, 52 and 54) (now repealed); the act of June 5, 1947 (P. L. 445, No. 202) (40 P. S. §§ 1151—1162) (now repealed); and The Casualty and Surety Rate Act (40 P. S. §§ 1181—1199).

#### *Purpose*

The purpose of this rulemaking is to delete Chapter 137 to eliminate obsolete regulations. The regulations, adopted in 1971, imposed several requirements on insurance companies licensed to do business in this Commonwealth. The regulations required companies to provide the Department with reports on unsafe products, to provide notification of internal consumer affairs programs and to practice honest advertising of insurance products. What follows is a description of the three sections of Chapter 137 and the reasons for the deletion of this chapter in its entirety.

Section 137.1 is presently a reserved section and will remain the same.

Section 137.2 (relating to report on unsafe products) requires insurers to report to the Department every 6

months on unsafe products as revealed by their claims data. The Department has determined that this information is not essential, the requirement has not been enforced and statutory authority already exists to request this information, if necessary. See 40 P. S. §§ 323.1—324.13. In addition, the requirement regarding unsafe products duplicates information required to be supplied by manufacturers, retailers and distributors to the Consumer Products Safety Commission of the Federal Government and, thus, need not be routinely collected by an insurance regulator.

Section 137.3 (relating to consumer affairs programs) requires insurance companies to establish a program to handle consumer complaints and to notify the Department of the corporate officer in charge. Further, the section requires that the program be structured to provide policyholders with access to a high level executive who reports directly to the board of directors of the company. The Department already monitors insurers' handling of consumer complaints through its market conduct examinations and requires compliance with the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) (UIPA) and companion regulations, in Chapter 146 (relating to unfair insurance practices).

Section 137.4 (relating to advertising practices) requires insurers to advertise in an honest manner. This is already a requirement of, and is enforced through, section 5 of the UIPA (40 P. S. § 1171.5). Further, advertising is the subject of Chapter 51 (relating to advertising provisions).

Comments regarding the deletion of these regulations were solicited from the various trade associations representing the insurance industry. Comments were received from the American Insurance Association and the Insurance Federation of Pennsylvania, Inc. Both of these organizations were in agreement with the Department that the regulations are obsolete and serve no purpose. Comments were also received from Pennsylvania Blue Shield recommending that the sections of Chapter 137 be editorially amended if the chapter is not deleted.

#### *Fiscal Impact*

The Department estimates that 4 to 5 million claims are reviewed by Pennsylvania insurers annually. The cost of reviewing these claims for the purpose of identifying unsafe products, as well as the cost of developing a system for retrieving and reporting this information, would exceed \$5 million annually. Therefore, the approximate savings of this deletion is estimated to be \$5 million on an annual basis.

#### *Paperwork*

The deletion of these sections will decrease paperwork requirements for the affected parties in that the deletion eliminates unnecessary reporting requirements for the insurance industry.

#### *Affected Parties*

The deletion of these sections will affect insurers who are licensed to sell insurance in this Commonwealth.

#### *Effectiveness/Sunset Date*

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete obsolete regulations, no sunset date has been assigned.

#### *Contact Person*

Questions or comments regarding this proposed rulemaking may be addressed in writing to Diana Donovan, Special Assistant, Office of Special Projects, Insurance

Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 28, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to submitting this 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. A copy of the material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the proposal.

LINDA S. KAISER,  
*Insurance Commissioner*

**Fiscal Note:** 11-141. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 31. INSURANCE

#### PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

#### CHAPTER 137. [ MISCELLANEOUS ] (Reserved).

#### § 137.2. [ Report on unsafe products ] (Reserved).

**[ The insurance industry's extensive data on unsafe and hazardous products shall be made available for analysis and disclosure to the public. Each insurer shall therefore submit to the Insurance Department, prior to January 31 and July 31 of each year, a report on unsafe products and products unreasonably prone to damage, as revealed by the claims and underwriting files of the company, and any other related files or studies undertaken during the 6 months previous to the reporting date. The reports should set forth relevant information including the brand names of the products in question. ]**

#### § 137.3. [ Consumer affairs programs ] (Reserved).

**[ The prompt and equitable handling of consumer complaints and claims is an essential duty of insurance companies. Insurers which have not already undertaken the formation of a special department or designated a corporate officer for this purpose should do so prior to December 31, 1971. Each program should be structured to provide policyholders with access to a high level executive in the company who reports directly to the board of directors. The Insurance Department should be notified promptly upon the implementation of this program and advised in detail of the manner in which it is intended to function. ]**

## § 137.4. [ Advertising practices ] (Reserved).

**[ The advertising programs of many insurers do not reflect their actual underwriting policies. Advertising which gives the impression that a company is soliciting and serving a broad spectrum of policyholders at preferred rates, if the company is in fact accepting business only from a small and select segment of the insurance market or on a restricted basis, is misleading. The advertising practices of an insurer shall therefore be consistent with its actual underwriting practices and the Insurance Department will exert every effort to protect the insurance-buying public from misinformation. ]**

[Pa.B. Doc. No. 97-560. Filed for public inspection April 11, 1997, 9:00 a.m.]

## LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 3, 5, 7, 9, 11, 13 AND 15]  
Numerous Revisions

The Liquor Control Board (Board) under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend §§ 3.6, 3.31—3.33, 3.35—3.37, 3.51, 5.15, 5.16, 5.22, 5.23, 5.31, 7.1, 7.3—7.5, 7.7, 7.31, 7.32, 7.43, 7.51—7.54, 9.11, 9.13, 9.23, 9.24, 9.27—9.30, 11.21, 11.23, 11.42, 11.51, 11.62, 11.72, 11.172, 11.176, 11.181, 13.72 and 15.62.

### *Purpose*

In accordance with Executive Order 1996-1, the Board has reviewed its licensing requirements and determined that these proposed amendments are necessary to alleviate some of the burdensome and unnecessary requirements which have been placed on licensees of the Board and applicants for various licenses and permits. Obsolete regulations which are no longer part of the Board's practice or procedure have also been amended or deleted.

### *Summary of Amendments*

*Chapter 3 (relating to applications).* The application process has been amended relating to financial disclosure affidavit, photographs, fingerprints and interior connection to licensed premises.

*Chapter 5 (relating to duties and rights of licensees).* The requirement for possession of birth certificates of minors by employers has been deleted. The appointment of managers, and outside employment by retail licensees, has been liberalized. Amusement permits have been extended to coincide with multiple year licensing.

*Chapter 7 (relating to transfer, extension, surrender and exchange of licenses).* The proposed rulemaking seeks to amend the license application process as it relates to the number of applications required, abolishes the requirement that applicants be open and in operation before the license transfer is approved from one location to another, extends the reporting time upon the death of a licensee, reflects the fact that liquor licensees are issued two wholesale purchase permit cards, extends the time period a license (except a club license) may be held in escrow, replaces vehicle identification cards with emblems for Distributors and Importing Distributors and deletes Subchapter E (relating to suspension of licenses notice of suspension) in its entirety since suspension of licenses as

it relates to agency practice and procedure is governed by the more recently enacted Chapter 15 (relating to special rules of administrative practice and procedure regarding matters before the Office of Administrative Law Judge).

*Chapter 9 (relating to transportation, importation, disposition and storage).* Vehicle identification windshield emblems will replace vehicle identification cards, transporter-for-hire licensees will no longer be required to file monthly reports with the Bureau of Liquor Control Enforcement and reference to the Federal Interstate Commerce Commission was deleted as this agency no longer exists.

*Chapter 11 (relating to purchases and sales).* The following permits will be issued for a 4-year term rather than annually as presently required: Wholesale Alcohol Purchase Permits, Wholesale Liquor Purchase Permits for registered pharmacists, hospitals, State-owned institutions, chemists and manufacturing pharmacists. Bulk purchase permits will also be issued for a 4-year term to nonbeverage manufacturers. The requirement for certification of Sunday sales figures by a public accountant or CPA has been deleted. The licensee will provide information in the application for or renewal of Sunday sales permit which supports 30% food and nonalcoholic beverage sales.

*Chapter 13 (relating to promotion).* The requirement for fingerprinting agents of liquor vendors has been eliminated inasmuch as this has not been a practice of the agency.

*Chapter 15.* Language relative to violation of a suspension order previously in Subchapter E was added to § 15.62 (relating to suspensions and revocations).

### *Affected Parties*

This proposal affects the Board's licensees and permit holders as well as applicants for licenses and permits.

### *Paperwork Requirements*

This proposal will not increase paperwork for the Board or for the licensees affected by the regulations. Paperwork will be reduced for license applicants, for permit applicants and for transporters-for-hire as well as for the Board.

### *Fiscal Impact*

This proposal will have no adverse fiscal impact on the regulated community, the Commonwealth or local governments. Multiyear permit renewals represent a convenience to permit holders and a savings to the Board.

### *Effective Date/Sunset Date*

This proposal will become effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

### *Public Comment/Contact Person*

Written comments, suggestions or objections will be accepted for 30 days of publication of this proposal in the *Pennsylvania Bulletin*. Comments should be addressed to Jerry Danyluk, Regulatory Coordinator, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 24, 1997, the Board submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and

the Senate Committee on Law and Justice. In addition to submitting the proposal, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Board, the Governor and the General Assembly prior to final publication of the regulations.

JOHN E. JONES, III,  
*Chairperson*

**Fiscal Note:** 54-50. No fiscal impact; (8) recommends adoption.

**Annex A  
TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD  
CHAPTER 3. LICENSE APPLICATIONS  
Subchapter A. GENERAL PROVISIONS**

**§ 3.6. Individual financial disclosure affidavit.**

\* \* \* \* \*

**[(b) Financing agreements identified in the report shall be attached to the report.]**

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

**Subchapter D. PHOTOGRAPHS [ , ] AND CRIMINAL HISTORY RECORD INFORMATION CHECKS [ AND FINGERPRINTS ]  
PHOTOGRAPHS**

**§ 3.31. Personal photographs.**

**(a) [ Two photographs ] A photograph shall be furnished to the Board's representative by the following:**

\* \* \* \* \*

**(3) Applicants for registration as promotional/sales agents. (Two photographs are required.)**

**(b) [ Photographs ] The photograph shall:**

**(1) Be 1 1/2 inches square and unmounted with a matte finish.**

\* \* \* \* \*

**§ 3.32. Photographs of premises.**

**(a) Applications for new Retail Liquor or Retail Dispenser Malt Beverage Licenses and applications for transfer thereof, except Public Service Licenses, shall be accompanied by [ four ] two photographs of the premises proposed to be licensed.**

**(b) [ Two photographs ] One photograph shall be a view of the exterior of the building, showing the street number, if any.**

**(c) [ Two photographs ] One photograph shall be a view of the main serving room.**

**(d) Applications for new Distributor and Importing Distributor Licenses and applications for transfer thereof shall be accompanied by [ two photographs ] one pho-**

**tograph** each of the exterior of the principal place of business and additional storage warehouses, showing the street number, if any.

**(e) Photographs shall:**

**(1) Be at least [ 5 ] 4 by [ 7 ] 6 inches in size with a matte finish.**

\* \* \* \* \*

**§ 3.33. Renewal of photographs of registered agents.**

**[(a) Personal photographs of licensees, principal officers of a corporation, except public service and club licensees, and managers of licensed establishments shall be renewed every 3 years. The new photographs shall be filed with the application for renewal of license at regular 3-year intervals.]**

**(b) ] Personal photographs of registered agents shall be renewed every year. New photographs as required in § 3.31 (relating to personal photographs), shall be filed with each application for renewal of the registration of agents.**

**CRIMINAL HISTORY RECORD INFORMATION CHECKS [ FINGERPRINTS ]**

**§ 3.35. Persons from whom [ a ] criminal history record information [ check and fingerprints ] checks are required.**

\* \* \* \* \*

**[(c) The Board may request the fingerprints of a person from whom a criminal history record information check is required.]**

**(d) The request for fingerprints will be in writing. The person from whom fingerprints are requested shall comply within 15 days. ]**

**§ 3.36. [ By whom taken ] (Reserved).**

**[ Fingerprints required by § 3.35 (relating to persons from whom a criminal history record information check and fingerprints are required) will be taken by or in the presence of Board enforcement officers, or may be taken by the Pennsylvania State Police, the police of a municipality, county sheriffs, or county detectives or constabulary bureau, or both, of a municipality in this Commonwealth authorized and equipped to take fingerprints, which agency shall certify as follows:**

**I hereby certify that the fingerprints of \_\_\_\_\_ as portrayed on the attached fingerprint card were taken by the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.**

\_\_\_\_\_  
**Name**  
\_\_\_\_\_  
**Title ]**

**§ 3.37. Failure to comply.**

**Failure to comply with [ § ] § 3.35 [ and 3.36 ] (relating to persons from whom [ a ] criminal history record information [ check and fingerprints ] checks are required[; and by whom taken ]) will be sufficient cause for refusal to grant, transfer or renew a license or for the issuance of a citation to show cause why a license may not be suspended or revoked.**

Subchapter E. LICENSING HEARINGS

Subchapter F. PREMISES

EMPLOYMENT OF MINORS

§ 3.51. Connection with residence.

Licensed premises may not have an inside passage or communication to or with a residence other than the residence of the licensee, **corporate officer** or manager.

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter B. EMPLOYES OF LICENSEES

§ 5.15. [ Possession of birth certificates of minors by employer ] (Reserved).

[ For the purposes of this subchapter, it shall be the duty of the employer to have in his possession on the licensed premises, and to produce on demand, a certified copy of the birth certificate, of any employe under the age of 21 years. ]

§ 5.16. Appointment of managers.

(a) The operation of a licensed business requires the full time and attention of a manager. A licensee holding one or more licenses shall appoint an individual as manager for each licensed establishment and the manager shall devote full time and attention to the licensed business. If the licensee is an individual, he may designate himself as manager of one licensed establishment, except in the case of distributors or importing distributors. If a license is held by more than one individual, the manager may be one of the individuals or another person the licensee may designate, except in the case of distributors and importing distributors.

(b) The manager appointed by a licensee shall be a reputable person. The licensee shall notify the Board in writing of the name and home address of the manager and the date and place of birth. If there is a change of manager, the licensee shall [ immediately give to the Board written notice ] give the Board written notice within 15 days of the change together with full information for the new individual who is appointed as manager. Each notice of the appointment of a manager or notice of a change of manager shall be accompanied by a fee of \$60 [ , except if a licensee or a corporate officer of a licensee is named manager ].

(c) When a background investigation shall be conducted to obtain or verify information regarding an individual appointed as manager, an additional fee of \$75, for a total fee of \$135, will be assessed. An individual may not act in the capacity of manager after the licensee has been notified that the individual has been disapproved by the Board. The designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior written approval is obtained from the Board.

EMPLOYMENT OF OTHERS

§ 5.22. Employment of licensees.

\* \* \* \* \*

[ (b) An individual holding a retail license in his own name is not permitted to be employed at, or engaged in another business, except the associated

business as permitted under § 3.52 (relating to connection with other business). If the license is issued in the name of a partnership, it is permissible for the partners, except one, to have outside employment.

(c) ] (b) An individual holding a Distributor or Importing Distributor License may not be employed in other work, [ nor ] or, as provided in section 492(12) of the Liquor Code (47 P.S. § 4-492(12)), engage in another business, on or off the licensed premises, without Board approval. If the license is issued in the name of a partnership, the Board may permit the partners, except one, to have outside employment. The partnership shall first secure written permission from the Board before its members may be employed in an occupation or enterprise other than the licensed business.

§ 5.23. Appointment of managers.

\* \* \* \* \*

[ (b) An individual may not act in the capacity of manager in a licensed establishment until the licensee has received approval from the Board. The following rules apply:

(1) The manager shall be a reputable resident of the United States, and the licensee shall immediately notify the Board in writing of his desire to appoint a manager, giving the name and home address of the manager and the date and place of birth.

(2) If there is a change of manager, the licensee shall immediately give to the Board written notice of the change, together with full information for the new individual desired to be appointed.

(3) ] (b) \*\*\*

[ (4) ] (c) \*\*\*

[ (c) ] (d) In the event of the illness or extended vacation of a licensee, the Board may approve the appointment of a manager for a period not to exceed 30 days. In case of emergency, the approval may be extended upon written request of the licensee. [ The Board may waive the fee as prescribed in § 5.16 (relating to appointment of managers) for the temporary appointment of a manager.

(d) ] (e) \*\*\*

[ (e) ] (f) \*\*\*

\* \* \* \* \*

Subchapter C. AMUSEMENT AND ENTERTAINMENT

§ 5.31. Amusement permit.

(a) Requirements.

\* \* \* \* \*

(2) An application for an amusement permit may be filed with the Board at any time during the license [ year ] period. If issued, the permit will expire with the license [ of the licensee ] and may be extended at the time of validation unless revoked or otherwise subject to suspension.

\* \* \* \* \*

CHAPTER 7. TRANSFER, EXTENSION, SURRENDER[, ] AND EXCHANGE [ AND SUSPENSION ] OF LICENSES

Subchapter A. TRANSFER OF LICENSES

§ 7.1. Filing of applications for transfer.

Licenses issued by the Board, under Article IV of the Liquor Code (47 P. S. §§ 4-401—4-498), may be transferred in accordance with this subchapter. Applications for transfer of licenses may be filed at any time, but when filed within 30 days of the expiration date of the license term, the transfer shall apply to the renewal license only, except in the case of death. Applications for transfer shall be made on the regular transfer form, which shall be accompanied by [ two copies of ] the application for license, proper bond and remittance of proper fees in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

§ 7.3. Transfers of location.

(a) Retail liquor or retail dispenser licenses. If a retail liquor or retail dispenser licensee moves his place of business from one address to another, the new establishment shall be [ open for business and in ] ready for operation before the license transfer will be approved. [ A liquor ] Liquor or malt or brewed beverages may not be sold or served at the new establishment until formal approval of the transfer is given by the Board.

\* \* \* \* \*

§ 7.4. Transfers of ownership and location.

[ Where ] When a transfer involves a change of both location and ownership, the new establishment, if retail liquor or retail dispenser, shall be [ open for business and in full ] ready for operation, [ except as to the sale of alcoholic beverages, ] before the license transfer will be approved. The new applicant shall satisfy the Board that he is the owner or lessee of the premises, the fixtures and equipment therein. [ A liquor ] Liquor or malt or brewed beverages may not be sold by the applicant until the transfer of the license has been approved. The transferor, provided his fixtures and equipment are not involved in the transfer, may continue to operate at his original place of business until notified that the transfer of the license to the applicant has been approved, at which time the license and Wholesale Purchase Permit Card, if any, shall be surrendered by the transferor to the Board.

§ 7.5. Transfers on death of the licensee.

On the death of the licensee, the license may be transferred immediately to the surviving spouse or to the administrator or executor of the estate of the licensee, upon presentation of the transfer form, application, bond transfer or filing fee, and short form certificate from the registrar of wills. [ Where ] If it is desired to transfer the license to a person designated by and acting for the administrator or executor, the transfer form application and the bond and fee, or both, with written evidence of the designation, shall be submitted by the administrator or executor. The Board will be notified in writing within [ 5 ] 30 days of the death of a licensee.

§ 7.7. Approval of a transfer of license.

\* \* \* \* \*

(b) During the interim, the original license and Wholesale Purchase Permit [ Card ] Cards shall be returned to the Board.

Subchapter C. SURRENDER OF LICENSES

§ 7.31. Surrender of licenses in certain cases.

(a) A licensee whose licensed establishment is not in operation for [ a period of ] 15-consecutive days shall return his license and, if a liquor [ license ] licensee, his Wholesale Purchase Permit [ Card ] Cards, to the Board not later than the expiration of the 15-day period. The return of the license and [ card ] cards will not invalidate the license, which will be held in safekeeping for the benefit of the licensee and be available for his use when operations are resumed at the licensed premises, or for transfer.

\* \* \* \* \*

(c) If the license and Wholesale Liquor Purchase Permit [ Card ] Cards are not surrendered and returned voluntarily by the licensee, [ enforcement officers ] authorized representatives of the Board will lift and return the license and card to the Board.

(d) A license surrendered to the Board, or a renewal thereof in possession of the Board, will not be held for the benefit of the licensee for a period exceeding [ 1 year ] 2 years from the date of surrender, except when, in the opinion of the Board, circumstances beyond the control of the licensee prevent reactivation and except as provided in section 474 of the Liquor Code (47 P. S. § 4-474) with regard to club licenses. Failure of the licensee to reactivate the license and resume operation of the licensed business or to effect a transfer of the license within the [ 1 ] 2-year period shall be sufficient cause for revocation of the license.

\* \* \* \* \*

§ 7.32. Surrender of licenses for cancellations or transfer.

\* \* \* \* \*

(c) [ Where ] Except as provided by section 461(f) of the Liquor Code (47 P. S. § 4-461(f)), when an application for transfer of a retail license of a different type to premises already licensed is approved, the license then in effect in the name of the applicant for that establishment shall be surrendered to the Board before the issuance of the transferred license in the name of the applicant. In [ such ] this case, the license surrendered to the Board, or a renewal thereof in possession of the Board, will be held available for the benefit of the licensee solely for transfer for [ a period of ] up to [ 1 year ] 2 years from the date of surrender. When a transfer is not effected within the [ 1 ] 2-year period, the license will automatically be cancelled with no refund of the license fee, or a portion thereof. A transfer application pending at the expiration of the [ 1 ] 2-year period may be processed to conclusion.

Subchapter D. EXCHANGE OF LICENSES DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES

§ 7.43. Fees.

(a) When an application for the exchange of a Distributor License for an Importing Distributor License is filed for a full license year, it shall be accompanied by a license fee, and a renewal filing fee as required for a malt beverage Importing Distributor by section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14), and the applicable vehicle [ card ] emblem fee, if any.

(b) When an application for the exchange of a Distributor License for an Importing Distributor License is filed for the last 6 months of a license year, it shall be accompanied by a filing fee, and one-half the license fee required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle [ card ] emblem fee, if any.

(c) When an application for the exchange of an Importing Distributor License for a Distributor License is filed for a full license year, it shall be accompanied by a license fee, and a renewal filing fee as required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle [ card ] emblem fee, if any.

(d) When an application for the exchange of an Importing Distributor License for a Distributor License is filed for the last 6 months of a license year, it shall be accompanied by a filing fee as required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle [ card ] emblem fee, if any. In this type of exchange, a refund equal to one-half the difference between the Distributor and Importing Distributor License Fees required by section 614-A of The Administrative Code of 1929, will be granted to the licensee upon approval by the Board of the exchange and the claim for refund. The refund shall be requested by the licensee on standard forms furnished by the Board.

Subchapter E. [ SUSPENSION OF LICENSES ]  
(Reserved)

[ NOTICE OF SUSPENSION ]

§ 7.51. [ Posting of notice ] (Reserved).

[ On the suspension of the license of a licensee, the Board will, on the date the suspension becomes effective, cause to be posted in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises, a notice of the suspension, in the form and size, and containing the provisions, as the Board may require. The notice shall remain posted during the entire period of suspension. ]

§ 7.52. [ Other closing notices ] (Reserved).

[ During the suspension period, a licensee, his servants, agents or employes, may not cause to be advertised in any manner, or place in, on or about the premises, notice of any kind stating that the licensed establishment is closed for any reason other than the suspension of the license. ]

§ 7.53. [ Removal of notice ] (Reserved).

[ A licensee, his servants, agents or employes, may not cover, remove, alter, deface or disturb the notice of suspension until after the period of suspension has expired. The notice may not be removed until the license is returned to the licensee or until the licensee receives confirmation from the Board that the suspension period has terminated. ]

§ 7.54. [ Violations ] (Reserved).

[ A violation of this subchapter constitutes sufficient cause for the issuance of a citation to show cause why the license should not be suspended or revoked. ]

CHAPTER 9. TRANSPORTATION, IMPORTATION,  
DISPOSITION AND STORAGE

Subchapter A. TRANSPORTATION OF LIQUOR,  
MALT OR BREWED BEVERAGES OR ALCOHOL  
LICENSES

§ 9.11. Transportation for hire

\* \* \* \* \*

(b) Liquor, malt or brewed beverages or alcohol, may be transported for hire without a transporter-for-hire license under the following conditions:

\* \* \* \* \*

(4) If transportation is by licensees of the Board whose licenses or permits authorize the transportation of liquor, malt or brewed beverages or alcohol in the regular operation of their licensed business if the licensees have secured vehicle identification [ cards ] emblems in accordance with § 9.23 (relating to vehicle identification [ cards ] emblems).

(5) If transportation is by persons who transport liquor, malt or brewed beverages or alcohol, through [ the ] this Commonwealth commercially [ under ICC authority, ] and not for delivery therein [ ; provided the operator ]:

(i) Operator of the vehicle [ has ] shall have in his possession at all times while in this Commonwealth, an invoice and a bill of lading or waybill (showing the brand name, size and number of containers of liquor, malt or brewed beverages or alcohol so transported), which shall be produced for inspection upon the request of an authorized police or enforcement officer of this Commonwealth [ ; and further provided the ]

(ii) The cargo [ remains ] shall remain intact and upon the same vehicle or conveyance while in this Commonwealth, unless prevented by an accident or other similarly uncontrollable circumstance.

§ 9.13. Records and reports.

\* \* \* \* \*

[ (b) Reports. Transporter-for-hire licensees shall, on or before the 15th day of each month, file with the State Police, Bureau of Liquor Control Enforcement, reports as prescribed by the Board covering the operation of their licensed business for the preceding month. A copy of each report shall be retained by the licensee for a period of 2 years from the date of filing.

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

VEHICLES

§ 9.23. Vehicle identification [ cards ] emblems.

A licensee whose license authorizes the transportation of liquor, malt or brewed beverages, or alcohol in the regular operation of his licensed business and who desires to transport liquor, malt or brewed beverages, or alcohol shall obtain a vehicle identification [ card ] emblem from the Board for each vehicle used. Each vehicle shall be lettered in accordance with § 9.22 (relating to identification of vehicles). A vehicle identification [ card ] emblem is not required of a retail licensee, or his authorized agent named on his Wholesale Purchase Permit [ Card ] Cards, for the transportation of liquor purchased at a State Liquor Store for use in the licensed

business, [ nor ] or the transportation of alcohol purchased at a State Store by an alcohol permittee; [ nor ] or the transportation of liquor purchased at a State Store by holders of Pharmacy Permits, Hospital Pharmacy Permits, or Chemists and Manufacturing Pharmacists Permits [ ; nor the transportation by a Transporter-for-Hire Licensee ].

§ 9.24. Application for vehicle identification [ card or ] emblem.

(a) Application for [ vehicle identification cards or ] self-adhering vehicle identification emblems shall be made on forms furnished by the Board and filed with the original or renewal application for licenses required by statute and when additional vehicles are intended to be used in connection with the license.

(b) A charge of \$10 will be made for each vehicle identification [ card or ] emblem.

§ 9.27. [ Issuance and replacement of cards ] (Reserved).

[ (a) Vehicle identification cards will be issued only for vehicles which are properly lettered in accordance with § 9.22 (relating to identification of vehicles), and which are used for the delivery of liquor, malt or brewed beverages or alcohol, and are either owned by the licensee or permittee, or possessed under lease or agreement which contains the following conditions:

(1) That the vehicle is in the possession of and under exclusive control of the licensee.

(2) That the vehicle is operated by the licensee or by a paid employe of the licensee.

(3) That the licensee shall pay expenses incurred in the operation of the hired vehicle, including gas, oil, repairs and so forth.

(4) That the vehicle is lettered in accordance with § 9.22.

(b) Vehicle identification cards shall be carried with all vehicles for which cards have been issued.

(c) If the vehicle identification card becomes marred, defaced, damaged or lost, application for a new card shall be made immediately, accompanied by a fee of \$10 and filed with the Board. ]

§ 9.28. Use of vehicles.

(a) A licensee engaged in the purchase or sale of liquor, malt or brewed beverages, or alcohol may not use or permit to be used a vehicle bearing his vehicle identification [ card or ] emblem for the transportation of a liquor, malt or brewed beverages, or alcohol other than that used in the operation of his licensed business. Holders of transporter-for-hire licenses may, however, subject to the limitations of their respective licenses, transport, for a person, liquor, malt or brewed beverages, or alcohol in vehicles owned or possessed by the licensees or operated by them under lease or agreement.

\* \* \* \* \*

(c) A licensee may not sell, lease or permit the use by another of a vehicle for which a vehicle identification [ card or ] emblem has been issued without first defacing the lettering on the vehicle as described in § 9.22 (relating to identification of vehicles), and [ removing the card and returning it to the Board or ] removing

and destroying the vehicle identification emblem affixed thereto and notifying the Board of the sale, lease or disposition of the vehicle.

§ 9.29. Expiration and termination.

Vehicle identification [ cards or ] emblems shall expire on the date indicated by the Board unless the license of the licensee has been previously revoked or terminated by the Board, which action automatically terminates the validity of the vehicle identification [ card or ] emblem issued to the licensee. [ In the event of suspension of ] If the license is suspended by the Board, the use of the identification [ card or ] emblem shall be suspended for a like period.

§ 9.30. Temporary use of vehicles.

When a licensee of the Board whose license or permit authorizes the transportation of liquor, malt or brewed beverages, or alcohol in the regular operation of his licensed business desires to use a vehicle not registered with the Board for [ a period of ] less than 10 days, the licensee may, upon application and the payment of a fee of \$10, be issued a temporary [ vehicle identification card or other ] authorization for the nonregistered vehicle. The [ card or other ] authorization will include a description of the vehicle and the period of time during which the [ card ] authorization is valid. [ The card shall be surrendered to the Board upon its expiration. ] While the vehicle is in operation, there shall be affixed to each side a temporary sign containing the name, address and license number of the licensee, in letters no smaller than 4 inches in height. Transporter-for-Hire Licensees desiring to use a vehicle not registered with the Board for a period of less than 10 days shall apply for the temporary authorization the Board may deem appropriate for the particular class of transporter-for-hire. An application for temporary vehicle authorization shall be accompanied by a fee of \$10. The authorization will include a description of the vehicle and the period of time during which the authorization is valid. [ The authorization shall be surrendered to the Board upon its expiration. ]

CHAPTER 11. PURCHASES AND SALES

Subchapter A. GENERAL PROVISIONS

WHOLESALE ALCOHOL PURCHASE PERMITS

§ 11.21. Classification, fees and requirements.

\* \* \* \* \*

(b) Duration. [ Three classes are issued by the Board for the calendar year. ] Permits issued in calendar year 1997 expire December 31, 1997. Permits issued in calendar years 1998, 1999 and 2000 expire December 31, 2000. Thereafter, 4-year terms shall be established whereby all permits issued within a term expire December 31, of the fourth year.

(c) Fees. Fees shall be charged in accordance with the following:

(1) AB and AN permits are issued for a nonrefundable fee of \$10 for each calendar year or part thereof.

\* \* \* \* \*

§ 11.23. Issuance of card.

\* \* \* \* \*

(c) When a change in agents is desired, a new Wholesale Alcohol Purchase Permit Card shall be obtained by applying to the Board on forms provided by the Board. A **nonrefundable** fee of \$10 for each calendar year or part thereof is required with each application. Forms may be obtained at a State Liquor Store.

**TRANSFER, RENEWAL, REVOCATION OR SUSPENSION**

**§ 11.42. Renewal of permits.**

[ An alcohol permit issued under this subchapter shall expire December 31 of the calendar year for which issued. The permits may be renewed by filing an application and the required fee at least 30 days prior to the expiration date of the current permit. ] Permits shall be renewed in accordance with § 11.21(b) (relating to classification, fees and requirements).

**Subchapter B. SPECIAL PURCHASES OF LIQUOR PHARMACISTS, HOSPITALS AND STATE INSTITUTIONS**

**§ 11.51. Applications and permits.**

(a) A registered pharmacist operating a drug store or pharmacy who desires to purchase liquor from a State Liquor Store at wholesale, and sell or dispense the liquor or prescription, or use the liquor in compounding of prescriptions, shall apply to the Board for a Wholesale Liquor Purchase Permit, on the form provided by the Board, and shall include a **nonrefundable** fee of \$10 for each calendar year or part thereof.

\* \* \* \* \*

(d) Wholesale Purchase Permits issued to pharmacists, hospitals and State-owned institutions [ shall expire on December 31 of the year in which issued, and may be renewed upon filing, by December 1, of an application ] in calendar year 1997 expire December 31, 1997. Permits issued in calendar years 1998, 1999 and 2000 expire December 31, 2000. Thereafter, 4-year terms shall be established whereby all permits issued within a term expire December 31, of the fourth year, and in the case of pharmacists only, payment of [ the prescribed ] a fee of \$10 for each calendar year or part thereof will be required.

\* \* \* \* \*

**CHEMISTS AND MANUFACTURING PHARMACISTS**

**§ 11.62. Applications for permits.**

\* \* \* \* \*

(b) Application for the permit shall be made by and in the name of the owner, if a natural person; by an authorized partner, if a partnership; or by a principal officer, if a corporation. An application shall be accompanied by a permit fee of \$10 for each calendar year or part thereof and shall include the following:

\* \* \* \* \*

(g) [ Permits expire on December 31 of the year in which issued, and may be renewed upon the filing by December 1 of an application for renewal, accompanied by a permit fee of \$10. ] Permits issued in calendar year 1997 expire December 31, 1997. Permits issued in calendar years 1998, 1999 and 2000 expire December 31, 2000. Thereafter 4-year terms shall be established whereby all permits

issued within a term expire December 31, of the fourth year. Permits may be renewed by filing an application with a **nonrefundable** fee of \$10 for each calendar year or part thereof.

**NONBEVERAGE MANUFACTURERS**

**§ 11.72. Applications for permits.**

(a) Application for a bulk purchase permit shall be made by and in the name of the owner, if a natural person; by an authorized partner, if a partnership; or by a principal officer, if a corporation. An application shall be accompanied by a **nonrefundable** permit fee of \$20 for each calendar year or part thereof and shall contain the information specified in § 11.62(b) (relating to applications for permits).

\* \* \* \* \*

(c) Upon receipt of the application in proper form, the Board may issue a bulk purchase permit authorizing the purchase of the required types of liquor. [ Permits shall expire on December 31 of the year in which issued and may be renewed upon the filing by December 1 of an application for renewal, accompanied by a permit fee of \$20. ] Permits issued in calendar year 1997 expire December 31, 1997. Permits issued in calendar years 1998, 1999 and 2000 expire December 31, 2000. Thereafter, 4-year terms shall be established whereby all permits issued within a term expire December 31, of the fourth year.

**Subchapter I. SALE OF ALCOHOLIC BEVERAGES ON SUNDAY**

**§ 11.172. Application for Sunday sales permit.**

(a) A licensee who wishes to make Sunday sales of alcoholic beverages shall file an application in the form as may be prescribed by the Board for a Sunday sales permit. The application for a Sunday sales permit shall contain [ all of the following ]:

\* \* \* \* \*

(4) [ A certification by a certified public accountant or public accountant ] Information to support the applicant's assertion that for [ a period of not less than ] at least 90-consecutive days during the 12 months immediately preceding the date of application, sales of food and nonalcoholic beverages by the applicant at the licensed premises were equal to or exceed 30% of the combined gross sale of both food and alcoholic beverages. [ The form of the certification shall be as the Board may from time to time determine. ]

(b) [ The accuracy of the application shall be verified by affidavit of the applicant. ] The licensee shall be strictly liable for the accuracy of the information contained in the application and any inaccuracy shall be cause to show why the license should not be suspended or revoked or a fine imposed.

**§ 11.176. Renewal.**

Renewals of Sunday sales permits shall be accomplished [ in the manner ] as set forth in § 11.172 (relating to application for Sunday sales permit), except that the [ certification ] information required by [ subsection ] § 11.172(a)(4) shall be for the 12-month period or portion thereof immediately preceding the date of the application for renewal.

**Subchapter J. REPORTING OF DISHONORED INSTRUMENTS.**

**§ 11.181. Notification of the Board.**

(a) A person licensed by the Board under Article IV of the Liquor Code (47 P. S. §§ 4-401—4-497) who receives in payment for malt or brewed beverages any check, draft or similar order for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company[, ] or other depository upon which drawn, for any reason, shall so notify the Board within 20 days of dishonor, by letter, through the United States mail, addressed to the [ **Chief of Enforcement Examining, Bureau of Enforcement** ] Investigative Unit, Liquor Control Board, Harrisburg, Pennsylvania 17124.

\* \* \* \* \*

**CHAPTER 13. PROMOTION**

**Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS**

**§ 13.72. Registration of agents.**

\* \* \* \* \*

(b) *Applications.*

\* \* \* \* \*

[ (4) The prospective agent shall present himself for fingerprinting at one of the enforcement offices of the Board, located at Allentown, Altoona, Erie, Harrisburg, Philadelphia, Pittsburgh, Punxsutawney, Wilkes-Barre and Williamsport. The Statement of Agent and photographs shall be submitted by the agent at this time. If the agent to be registered has been previously registered and fingerprinted, the provisions of this paragraph may be

waived and the application and photographs submitted directly to the Board. ]

\* \* \* \* \*

**CHAPTER 15. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE REGARDING MATTERS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGE**

**Subchapter E. PENALTIES**

**§ 15.62. Suspensions and revocations.**

(a) In the case of a suspension of a license, the Order of the Administrative Law Judge shall direct the licensee to post in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises, a notice of the suspension in the form and size and containing the provisions the Office of Administrative Law Judge may require. The notice shall remain posted during the entire period of suspension.

(b) During the suspension period, a licensee, its servants, agents or employes, may not cause to be advertised in any manner, or place in, or about the premises, notice of any kind stating that the licensed establishment is closed for any reason other than the suspension of the license.

(c) Suspensions or revocations of permits or licenses shall be carried out as directed in the adjudication. Failure to adhere to the adjudication is sufficient cause for the issuance of a citation to show cause why the license should not be suspended or revoked or a fine imposed.

[Pa.B. Doc. No. 97-561. Filed for public inspection April 11, 1997, 9:00 a.m.]

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# 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 April 1, 1997.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
3-26-97	Keystone Financial, Inc., Harrisburg, to acquire 100% of the voting shares of Financial Trust Corp., Carlisle	Harrisburg	Approved

##### Conversions

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
4-1-97	Wilbur Savings and Loan Association Bethlehem Northampton County	Bethlehem	Effective

*To:*

Wilbur Savings Bank  
Bethlehem  
Northampton County

Represents conversion from a State-chartered mutual savings association to a State-chartered mutual savings bank.

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-1-97	Ambassador Bank of the Commonwealth, Allentown, and Wilbur Savings Bank, Bethlehem surviving institution— Ambassador Bank of the Commonwealth, Allentown	Allentown	Filed

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-20-97	First Republic Bank Philadelphia Philadelphia County	Philadelphia College Of Osteopathic Medicine 4190 City Line Avenue Philadelphia Philadelphia County	Opened
3-27-97	Prime Bank, a savings bank Philadelphia Philadelphia County	7111 Valley Green Rd. Fort Washington Montgomery County	Filed
3-29-97	Berks County Bank Reading Berks County	4453 Fifth St. Highway Muhlenberg Township Berks County	Opened
4-1-97	Orrstown Bank Orrstown Franklin County	625 Norland Avenue Chambersburg Franklin County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-31-97	Summit Bank Bethlehem Northampton County	Valmont Plaza 270 Susquehanna Blvd. West Hazleton Luzerne County	Filed
3-31-97	Summit Bank Bethlehem Northampton County	640 Hamilton Mall Allentown Lehigh County	Filed

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS****Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-1-97	Diamond Federal Credit Union Pottstown Montgomery County	Pottstown	Effective

*To:*

Diamond Credit Union  
Pottstown  
Montgomery County

Represents conversion from a Federally-chartered credit union to a State-chartered credit union.

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
3-31-97	Philadelphia Telco Credit Union, Trevose, Pennsylvania, and FMC Princeton Federal Credit Union, Princeton, NJ surviving institution— Philadelphia Telco Credit Union, Trevose, PA	Trevose, PA	Approved and Effective

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-562. Filed for public inspection April 11, 1997, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION****Applications, Actions and Special Notices****APPLICATIONS****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 proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

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

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

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Richard Adams at (717) 327-3666. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

*Northcentral Region: Environmental Program Manager, Water Management, 200 Pine Street, Williamsport, PA 17701-6510, telephone (717) 327-3666.*

**PA 0111546.** Sewerage, SIC: 4952, **Stroehmann Bakeries Limited Partnership**, 3375 Lycoming Creek Road, Williamsport, PA 17701.

This proposed action is for renewal of an NPDES permit for an existing discharge of sewage and noncontact cooling water to Lycoming Creek in Old Lycoming Township, **Lycoming County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is at Milton located on the Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of 0.007 mgd from the sewage treatment plant, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Total Chlorine Residual	2.0	4.6
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 at all times	

The proposed effluent limits for Outfall 002, based on a design flow of 0.029 mgd consisting of noncontact cooling water, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6.0—9.0 at all times	

*Other Conditions:* none.

The EPA waiver is in effect.

**PA 0031453.** Sewerage, SIC: 4952, **Southern Columbia Area School District**, R. R. 2, Box 372B, Catawissa, PA 17820-9798.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to Roaring Creek in Franklin Township, **Columbia County**.

The receiving stream is classified for the following uses: trout stocking, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Borough Water Company located at Danville.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0227 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
TSS	30		60
Total Cl <sub>2</sub> Residual			
1st month—36th month	report		report
37th month—permit expiration date	1.0		2.3
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0033502.** Sewerage, SIC: 4952, **Bradford County**, Bradford County Court House, Towanda, PA 18848.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to Sugar Creek in West Burlington Township, **Bradford County**.

The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Borough Water Company located at Danville.

The proposed effluent limits for Outfall 001, based on a design flow of 0.06 mgd are:

Parameter	Average		Instantaneous Maximum (mg/l)
	Monthly (mg/l)	Weekly (mg/l)	
CBOD <sub>5</sub>	25	40	50
TSS	30	45	60
Ammonia-N (6-1 to 10-31)	14	21	28
Total Cl <sub>2</sub> Residual	1.0		2.3
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

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

**PA 0222267.** Sewage, **M. Elaine Lovett**, 411 Waterford Street, Apt. 117, Edinboro, PA 16412.

This application is for issuance of a sewage NPDES permit to discharge treated sewage from Lovett's Manufactured Home Park to Darrow's Creek in Washington Township, **Erie County**. This is a new discharge.

The receiving water is classified for warm water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is the City of Meadville, approximately 26 miles downstream below the point of discharge.

The proposed effluent limits for Outfall 001, based on average design flow of 0.0075 mgd, are:

Parameter	Effluent Concentration (mg/l)	
	Average Monthly	Instantaneous Maximum
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	3.5	7
(11-1 to 4-30)	10.5	21
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
Total Residual Chlorine	0.5	1.2
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.

**PA 0034738.** Sewage, **Howard Johnson Motor Lodge McClelland-Jervis, Inc.**, 835 Perry Highway, Mercer, PA 16137.

This application is for renewal of an NPDES permit, to discharge treated sewage to unnamed tributary to Neshannock Creek in East Lackawannock Township, **Mercer County**. This is a minor discharge.

The receiving water is classified for the following uses: trout stocking fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Municipal Authority of the Township of North Sewickley on the Beaver River located at River Mile 7.6 which is 39 miles downstream.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.019 600 mgd, are:

Parameter	Average	Maximum	Instantaneous Maximum (mg/l)
	Monthly (mg/l)	Daily (mg/l)	
CBOD <sub>5</sub>	25		50
TSS	30		60
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		
Total Residual Chlorine	1.5		3.2

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
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 0101192.** Industrial waste, SIC: 4941. **Borough of Falls Creek Water.**

This application is for renewal of an NPDES permit, to discharge treated I. W. to an UNT of Falls Creek in Falls Creek Borough, **Jefferson County**. This is an existing discharge.

The receiving water is classified for the following uses: HW-CWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Hawthorn Water Company on Redbank Creek located at Hawthorn, approximately 39 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of .022 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)			
Total Suspended Solids	10	20	25
Iron	2	4	5
Manganese	1	2	2.5
Aluminum	.2	.4	.5
Total Residual Chlorine	.5		1.6
pH	6.0—9.0 at all times		

**PA 0222241.** Sewage, **James McCosby**, 120 Schar Road, Evans City, PA 16033.

This application is for a new NPDES permit, to discharge sewage to an unnamed tributary to Breakneck Creek in Forward Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Connoquenessing Creek and is used by the Zelenople Municipal Waterworks located at Forward Township, Elk County, approximately 7.8 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.000800 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10		20
TSS	20		40
Fecal Coliform (10-1 to 4-30)	200/100 ml as a geometric average		
(5-1 to 9-30)	2,000/100 ml as a geometric average		
Total Residual Chlorine	0.8		1.9
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0102938.** Sewage. **Buffalo Elementary School**, Freeport Area School District, P. O. Drawer C, Freeport, PA 16229.

This application is for renewal of an NPDES permit, to discharge treated sewage to unnamed tributary to Sarver Run in Buffalo Township, **Butler County**. This is a minor discharge.

The receiving water is classified for the following uses: high-quality cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Clearview Water Supply Company on the Allegheny River located at River Mile 24.27, approximately 8.30 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.010900 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
TSS	30		60
Ammonia-Nitrogen (5-1 to 10-31)	6		12
(11-1 to 4-30)	18		36

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (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 19/400 ml as a geometric average		
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 022232.** Industrial waste, **Albion Borough Municipal Authority**, 15 Smock Avenue, Albion, PA 16401.

This application is an NPDES permit to discharge treated filter backwash from the Gage Road water treatment facility to the east branch of Conneaut Creek in Conneaut Township, **Erie County**. This is a new discharge.

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

The proposed effluent limits for Outfall 001, based on average design flow of 0.002 mgd, are:

*Effluent Limits*

<i>Parameter</i>	<i>Mass Units (lbs./day)</i>		<i>Concentrations (mg/l)</i>	
	<i>Average Monthly</i>	<i>Average Monthly</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	6.0	30		60
Aluminum (total)	0.32	1.6		3.2
Iron (total)	0.4	2		4
Manganese (total)	0.2	1		2
Phosphorus as "P"	0.2	1		2
Total Residual Chlorine		0.50		1.2
pH	6.0—9.0 standard units at all times			

The EPA waiver is in effect.

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

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

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

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

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	60	75
Ammonia (as N) (5-1 to 10-31)	2.0	3.0	4.0
(11-1 to 4-30)	6.0	9.0	12.0
Total Residual Chlorine	0.5		1.3
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 2.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		
Diazinon	0.00091		0.0023
Lindane	0.00006		0.00015
4,4'-DDD	0.000001		
Malathion	0.0022		0.0055
Copper (interim)	0.045		0.11
(final)	0.013		0.033
Zinc (interim)	0.40		1.0
(final)	0.081		0.20

The EPA waiver is in effect.

*Other Conditions:*

Requirement to submit a toxics reduction evaluation.  
Special Test Methods for certain pollutants.

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

**PA 0003450.** Industrial waste, SIC: 5171, **Amoco Oil Company**, East Carson Street Ext., Pittsburgh, PA 15207.

This application is for renewal of an NPDES permit to discharge treated stormwater from the Pittsburgh Terminal in Pittsburgh, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation.

Outfall 001: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total recoverable petroleum hydrocarbons			monitor and report		

*Other Conditions:* Product contaminated stormwater runoff. Hydrostatic testing.

The EPA waiver is in effect.

**PA 0204013.** Industrial waste, SIC: 5171, **Ashland Petroleum Company**, P. O. Box 391, Ashland, KY 41114.

This application is for renewal of an NPDES permit to discharge treated stormwater and hydrostatic test water from the Midland Terminal in Industry Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ohio River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation.

Outfall 001: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total recoverable petroleum hydrocarbons			monitor and report		

*Other Conditions:* Product-contaminated stormwater runoff. Hydrostatic testing.

The EPA waiver is in effect.

**PA 0217395.** Industrial waste, SIC: 2435, **Interforest Corporation**, 119 A.I.D. Drive, P. O. Box 444, Darlington, PA 16115.

This application is for reissuance of an NPDES permit to discharge untreated log spray water, reverse osmosis reject water, boiler blowdown and stormwater from the Darlington Plant in Darlington Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, North Fork of Little Beaver Creek, classified as a high quality-cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation.

Outfall 001: new discharge, design flow of 0.284 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	monitor and report				
Total Suspended Solids			10		20
pH	not less than 6.0 nor greater than 9.0				

Outfall 002: new discharge, design flow of varies mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
	The discharge from this outfall shall only consist of uncontaminated stormwater runoff.				

The EPA waiver is in effect.

**PA 0217573.** Industrial waste, SIC: 5311, **Oxford Development Company**, One Oxford Centre, Suite 4500, Pittsburgh, PA 15219-1489.

This application is for issuance of an NPDES permit to discharge untreated cooling water from Penn Avenue Place in City of Pittsburgh, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, of Allegheny River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is West View Municipal Authority, located at Neville Island, 5.33 miles below the discharge point.

Outfall 001: new discharge, design flow of 1.728 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
Temperature (°F)					
pH	6.0—9.0				

The EPA waiver is in effect.

**PA 0092487.** Sewage, **Nino Barsotti**, Star Route Box 351, Mt. Pleasant, PA 15666.

This application is for renewal of an NPDES permit to discharge treated sewage from the Nino Barsotti Restaurant STP in Bullskin Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Jacobs Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Works.

Outfall 001: existing discharge, design flow of .007 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	10			20
(11-1 to 4-30)	20			40
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	10,000/100 ml as a geometric mean			
Total Residual Chlorine 1st month—36th month	monitor and report			
37th month—expiration	1.4			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0095907.** Sewage, **Albert Gallatin Area School District**, 10 West Church Street, Masontown, PA 15461.

This application is for renewal of an NPDES permit to discharge treated sewage from the George J. Plava Elementary School Sewage Treatment Plant (formerly known as German Central Elementary School Sewage Treatment Plant) in German Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of North Branch Browns Run, 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 Carmichaels Municipal Water Authority located on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.009 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub> Day	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2			4
(11-1 to 4-30)	5			10

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine 1st month—36th month	monitor and report			
37th month—expiration	0.10			0.25
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0217565.** Sewage, **John and Lynae Williams**, 308 North Main Street, Punxsutawney, PA 15767.

This application is for issuance of an NPDES permit to discharge treated sewage from the Maple Valley Personal Care Home Sewage Treatment Plant in Armstrong Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Anthony Run, which are classified as a cold 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 Buffalo Township Municipal Authority in Freeport along the Allegheny River.

Outfall 001: new discharge, design flow of 0.006 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	21			42
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	10,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA 0040614.** Industrial waste, **Bethlehem Steel Corp.**, Eighth and Eaton Avenue, Bethlehem, PA 18016.

This proposed action is for renewal of an NPDES permit to discharge treated cooling water into Monocacy Creek in City of Bethlehem, **Lehigh County**.

The receiving stream is classified for the following uses: high quality cold water.

Effluent requirements were evaluated at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .038 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	6—9 standard units at all times		

The EPA waiver is in effect.

**PA 0041009.** Industrial waste, SIC: 5171, **Pipeline Petroleum, Inc.**, Shippers Road, Macungie, PA 18067.

This proposed action is for renewal of an NPDES permit to discharge treated oil/water separation effluent into unnamed tributary to Little Lehigh Creek in Lower Macungie Township, **Lehigh County**.

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

Effluent requirements were evaluated at the point of discharge for phenolics, the existing/proposed.

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

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Hydrocarbons	monitor and report

Outfall 002:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Hydrocarbons	monitor and report

The EPA waiver is in effect.

**PA 0033529.** Sewerage, **The Pennsylvania State University (Wilkes-Barre Campus)**, Office of Physical Plant Building, University Park, PA 16802.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into East Fork Harvey's Creek in Lehman Township, **Luzerne 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Danville Public Water Supply.

The proposed effluent limits for Outfall 001 based on a design flow of .05 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N		
(5-1 to 10-31)	2.5	5
(11-1 to 4-30)	7.5	15
Phosphorus as "P"		
Dissolved Oxygen	a minimum of 5 mg/l at all times	
Fecal Coliforms		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine	1.2	2.8

The EPA waiver is in effect.

**PA 0062791.** Industrial waste, SIC: 2064, **Just Born, Inc.**, c/o Eric Yaindl, Engineering Manager, 1300 Stefko Boulevard, P. O. Box 1158, Bethlehem, PA 18016.

This proposed action is for renewal of an NPDES permit to discharge noncontact cooling water into City of Bethlehem storm sewers to the Lehigh River in the City of Bethlehem, **Northampton County**.

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 a design flow of 0.216 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>
Oil and Grease	15.0	30.0
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0029874.** Sewerage, **Skytop Lodges, Inc.**, Route 390, Skytop, PA 18357.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Leavitt Branch in Barrett Township, **Monroe County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Stroudsburg Municipal Authority on Brodhead Creek.

The proposed effluent limits for Outfall 001 based on a design flow of .075 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	9	18
Dissolved Oxygen	a minimum of 6 mg/l at all times	
Fecal Coliforms (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	1.2	2.8

The EPA waiver is in effect.

**PA 0061701.** Sewerage, **Greenview Nursing and Convalescent Home**, R. D. 1, Schuylkill Haven, PA 17972.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Mahoney Creek in North Manheim Township, **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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Pottstown Water Authority on Schuylkill River at latitude 40°14'28" and longitude 75°41'45".

The proposed effluent limits for Outfall 001 based on a design flow of .004 mgd are:

<i>Parameter</i>	<i>Monthly Average mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Dissolved Oxygen	a minimum of 5 mg/l at all times	
Fecal Coliforms (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	1.2	2.8

The EPA waiver is in effect.

**PA 0030619.** Sewerage, **Commonwealth of Pennsylvania, Fairview State Hospital**, P. O. Box 128, Waymart, PA 18472.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into unnamed tributary to Middle Creek in Canaan Township, **Wayne 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.

Effluent requirements and phenolics were evaluated at point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.5 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31) (11-1 to 4-30)	2.5 7.5	5 15
Dissolved Oxygen	a minimum of 5.0 mg/l at all times	
Fecal Coliforms (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	1	2.3

The EPA waiver is in effect.

<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 0035629	Department of Transportation Bureau of Design 7th Floor, Forum Place 555 Walnut Street Harrisburg, PA 17101	Luzerne Foster Township	Linesville Creek	TRC
PA 0061182	Big Boulder Corp. Gary A. Smith P. O. Box 707 Blakeslee, PA 18610-0707	Carbon Kidder Township	Unnamed Tributary to 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.

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the name, address and telephone number of the protester, identification 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 protest or protests. Each protester will be notified in writing of the time and place of any scheduled hearing or conference concerning the plan or action or application to which the protest relates. To insure consideration by the Department prior to final action on permit application 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, telephone (717) 826-2511.*

**A. 3597401.** Sewerage. **Jefferson Township Sewer Authority**, R. R. 3, Box 287, Lake Ariel, PA 18436. Application to construct and operate sewers, force mains, pumping stations and a wastewater treatment plant, located in Jefferson Township, **Lackawanna County**. Application received in the Regional Office—January 31, 1997.

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

**WQM Permit No. 6297402.** Sewage. **Andrew L. Confer**, R. D. 2, Box 79, Pittsfield, PA 16340. This project is

for the construction and operation of a small flow treatment facility to replace a malfunctioning on-lot system in Deerfield Township, **Warren County**.

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

**A. 464819.** Amendment No. 1. Sewerage. **Chartiers Township**, 2 Buccaneer Drive, Houston, PA 15342. Application for the repair and operation of an inverted siphon crossing located in Chartiers Township, **Washington 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 the Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

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

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

The application and related documents, including the erosion and sedimentation control plan for the construc-

tion activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above the application.

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

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

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

*Southeast Regional Office: Regional Water Management Program Manager, Ste. 6010, Lee Park, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6131.*

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

**NPDES Permit PAS10E061.** Stormwater. **Thomas O'Donohue**, 16 Angle Way, Pittsburgh, PA 15223 has applied to discharge stormwater from a construction activity located in Cranberry Township, **Butler County**, to Wolfe Run.

*Cumberland County Conservation District, District Manager, 43 Brookwood Ave., Ste. 4, Carlisle, PA 17103, telephone (717) 240-7812.*

**NPDES Permit PAS10H068.** Stormwater. **Real Source Development**, 619 S. Market Street, Mechanicsburg, PA 17055 has applied to discharge stormwater from a construction activity located in Upper Allen Township, **Cumberland County**, to Cedar Run.

**NPDES Permit PAS10H067.** Stormwater. **Costopoulos, Billmar & Mallios**, 850 N. Hanover Street, Carlisle, PA 17013 has applied to discharge stormwater from a construction activity located in Carlisle Borough and South Middleton Township, **Cumberland County**, to Letort Spring.

*Delaware County Conservation District, District Manager, 1521 N. Providence Road, Media, PA 19063, telephone (610) 892-9484.*

**NPDES Permit PAS10J037.** Stormwater. **Trilogy Development**, 1541 E. Strasburg Road, West Chester, PA 19380 has applied to discharge stormwater from a construction activity located in Concord Township, **Delaware County**, to UNT to Chester Creek.

**NPDES Permit PAS10J038.** Stormwater. **Conchester Joint Venture**, 717 Constitution Drive, Exton, PA 19341 has applied to discharge stormwater from a construction activity located in Concord Township, **Delaware County**, to the west branch of Chester Creek.

*Fulton County Conservation District, District Manager, 216 N. 2nd Street, McConnellsburg, PA 1723, telephone (717) 485-3547.*

**NPDES Permit PAS102803.** Stormwater. **Texas Eastern Transmission Corporation**, P. O. Box 1642, Houston, TX 77251 has applied to discharge stormwater from a construction activity located in Brush Creek, Belfast and Ayr Townships, **Fulton County**, to UNT to Licking, Tonoloway and Foster Creeks, Licking, Tonoloway and Foster Creeks, UNT to and including Joes, Roaring and Sawmill Runs.

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

**NPDES Permit PAS10L015.** Stormwater. **Fay Industrial Fund**, P. O. Box 2101, Uniontown, PA 15401 has applied to discharge stormwater from a construction activity located in Georges Township, **Fayette County**, to Georges Creek.

## SAFE DRINKING WATER

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

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

**A. 1697501.** Public water supply. **Fryburg Water Company**, Sportman's Club Road, Fryburg, PA 16326, (P. O. Box 397, Reno, PA 16343-0397). This proposal involves the installation of chemical feed systems for corrosion control and pH adjustment in Washington Township, **Clarion County**.

**A. 6197501.** Public water supply. **Sugarcreek Water Company**, Sugarcreek Drive, Sugarcreek, PA 16323, (P. O. Box 397, Reno, PA 16343-0397). This proposal involves the installation of chemical feed systems for corrosion control and pH adjustment in Sugarcreek Borough, **Venango County**.

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

**A. 0387501-T1-A1. Creekside Mushrooms, LTD.** One Moonlight Drive, Worthington, PA 16292. Replacing the original lime and alum chemical feed process with a SternPAC and caustic soda chemical treatment, serving West Franklin Township, **Armstrong County**.

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

**6495502.** Public water supply. **Himalayan Institute**, Linda Blanchard, Chairperson, R. D. 1, Box 400, Honesdale, PA 18431. This proposal involves permitting of the existing PWS system which includes three wells, associated pressure tanks and distribution system, with the addition of UV disinfection.

*Engineer; RKR Hess Associates, Catherine N. Price, P. O. Box 268, E. Stroudsburg, PA 18301-0268.*

## HAZARDOUS SITES CLEAN-UP

### Under the Act of October 18, 1988

#### Notice of Interim Response under the Hazardous Sites Cleanup Act

Industrial Solvents and Chemical Company  
Newberry Township, York County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), is considering initiating an interim action to provide an alternate drinking water supply to certain properties in the vicinity of the Industrial Solvents & Chemical Company (ISCC) site. Under the Department's proposed action a water line will be extended on the east side of Interstate 83 to private water supplies contaminated

above health-based risk levels by the ground water contamination originating from the ISCC site.

The ISCC site is a 9-acre parcel of land in Newberry Township, York County, adjacent to Interstate 83. The surrounding area is primarily rural, although residential, commercial and industrial developments are located within a close vicinity of the site. A number of private water supply wells have been contaminated by hazardous substances migrating from the ISCC site.

ISCC was involved in the reprocessing of used solvents. Because of violations of hazardous waste requirements, the Department on July 6, 1989, terminated ISCC's authority to operate a hazardous waste treatment and storage facility. The site was abandoned in 1990 when ISCC declared bankruptcy. A total of 996 parties potentially responsible for the hazardous substances located at the ISCC site were identified by the Department.

Because of the threat to human health and the environment posed by the ISCC site, the site was placed on the Pennsylvania Priority List for Remedial Response on October 26, 1991. The Department and a group of approximately 136 cooperating potentially responsible parties have conducted a number of interim actions at the site to address the release or threat of release of hazardous substances.

The Department considered two alternatives: (1) continuing with the point-of-entry carbon treatment systems and monitoring program already in place; and (2) extending public water service to supplies contaminated above health-based risk levels. The Department prefers the second alternative for the following reasons. A water line extension is protective of human health and provides a permanent remedy. Also a water line extension is more cost effective than the long term maintenance and monitoring program required with the carbon treatment systems.

This notice is provided under section 506(b) of HSCA (35 P. S. § 6020.506(b)), and publication of this notice starts the administrative record period under HSCA. The administrative record which contains information about this site and which supports the Department's decision to perform this action is available for public review and comment. The administrative record can be examined from 8 a.m. to 4 p.m. at the Department's office at One Ararat Boulevard, Harrisburg, PA 17110, by contacting Barbara Faletti at (717) 657-4592.

The administrative record will be open for comment from the date of publication of this notice in the *Pennsylvania Bulletin* and will remain open for 90 days. Persons may submit written comments regarding this action to the Department before July 14, 1997 by mailing them to Barbara Faletti at the above address.

The public will have an opportunity to present oral comments regarding the proposed action at a public hearing. The hearing has been scheduled for May 28, 1997, at 7 p.m. at the Newberry Township Administration Building, 1915 Old Trail Road, Etters, PA. Persons wishing to present formal oral comments at that hearing should register by 4 p.m. May 15, 1997 by calling Mary Ann Fischer at (717) 541-7969.

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 Mary Ann Fischer at the above number or through the Pennsylvania Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 1

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

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (the act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

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

**Azar Residence**, New Britain Township, **Bucks County**. Kevin P. Van Kuren, All Phase Environmental Services, Inc., 131 Technology Dr., Bethlehem, PA 18015, has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standards.

### 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 a solid waste processing or disposal area or site.**

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

**A. 100277. Westmoreland Waste Corp.**, R. D. 3, Box 60, Monongahela, PA 15063. Sanitary Landfill, Tyrol Boulevard (SR-3003), Monessen, PA 15062. Application for a Change in Ownership of a municipal waste landfill in Rostraver Township, **Westmoreland County** was received in the Regional Office on March 27, 1997.

*Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.*

**A. 301194. PRC Residual Waste Landfill**, Process Recovery Corp., (2909 Windmill Road, Sinking Spring, PA 19608). Application for repermitting of a residual waste landfill site in Cumru Township, **Berks County**. Application determined to be administratively complete in the Regional Office March 26, 1997.

*Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6848.*

**A. 300858. GPU-Generation, Inc.**, 1001 Broad St., Johnstown, PA 15907 located in Conewango Township, **Warren County**. An application to close the South Ash Disposal Site at the GPU-Genco (formerly Penelec) Warren Generating Station was determined to be administratively complete by the Regional Office on February 24, 1997.

## AIR POLLUTION OPERATING PERMITS

### Construct, modify or activate air contaminant sources

#### 25 Pa. Code § 129.1

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

*Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335.*

**10-309-055.** The Department intends to issue an Air Quality operating permit to **Superior Adsorbents, Inc.** (R. D. 3, P. O. Box 566, Emlenton, PA 16373) for the operation of two rotary kilns in Allegheny Township, **Butler County**.

**37-399-004A.** The Department intends to issue an Air Quality operating permit to **New Castle Industries, Inc.** (P. O. Box 7359, New Castle, PA 16107) for the operation of chrome plating tanks in New Castle, **Lawrence County**.

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**06-1007A.** The Department intends to issue an Air Quality Operating Permit to **Carpenter Technology Corporation** (P. O. Box 14662, Reading, PA 19612-4662) for a specialty steel manufacturing facility in Reading/Muhlenberg Township, **Berks County**. One boiler is subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources. One arc furnace and one AOD is subject to 40 CFR 60, Subpart AAa, Standards of Performance for New Stationary Sources and the sludge dryer at the facility is subject to 40 CFR 63, Subpart E, National Emission Standards for Hazardous Air Pollutants.

**28-03001.** The Department intends to issue an Air Quality Operating Permit to **G. S. Electric** (P. O. Box

400, Carlisle, PA 17013) for four electric motor armature coating lines in Chambersburg, **Franklin County**.

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

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

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

Permit: **15-302-083A**

Source: One Boiler

Company: **Sartomer Company, Inc.**

Location: West Chester

County: **Chester**

Permit: **23-399-026**

Source: Four Emergency Gas Turbine Generators

Company: **Boeing Defense & Space Group**

Location: Ridley

County: **Delaware**

Permit: **46-399-103**

Source: Granulating Process

Company: **Novartis Consumer Health, Inc.**  
formerly, **Ciba-Self Medication**

Location: Upper Dublin

County: **Montgomery**

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### Notice of Intent to Issue Title V Operating Permit 08-00001

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Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (DEP) intends to issue a Title V Operating Permit to the Tennessee Gas Pipeline Corporation for the 319 Wyalusing compressor station. The Wyalusing (319) compressor station is located in Wyalusing Township, Bradford County. The Tennessee Gas Pipeline Corporation representative to contact regarding the application is Nasir Ghani, Environmental Scientist, 1010 Milam Street, P. O. Box 2511, Houston, TX 77252-2511.

The Wyalusing (319) compressor station is primarily used for the distribution of natural gas. As a result of the nitrogen oxides emitted, Wyalusing (319) is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Persons wishing to provide the Department of Environmental Protection with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department of Environmental Protection at the address shown in the preceding paragraph. A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit (specify Permit No. 08-00001).

Concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department of Environmental Protection determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Title V Facilities Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-0512.

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**Notice of Intent to Issue  
Title V Operating Permit 49-00006**

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Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (DEP) intends to issue a Title V Operating Permit to Viking Energy of Northumberland for its steam/electric cogeneration facility located in Point Township, Northumberland County. The Viking Energy of Northumberland representative to contact regarding this application is David Beaudoin, Plant Manager, P. O. Box 482, R. D. 2, Northumberland, PA 17857.

The Viking Energy of Northumberland cogeneration facility produces a maximum electrical output of 16.2 MW. Viking Energy of Northumberland is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. The facility is therefore subject to the Title V permitting requirements in 25 Pa. Code Chapter 127, Subchapter G.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Persons wishing to provide the Department of Environmental Protection with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department of Environmental Protection at the address shown in the preceding paragraph. A 30-day comment period from the date of this publication will exist for the submission of comments. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit (specify Permit No. 49-00006).

Concise statements regarding the relevancy of the information or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department of Environmental Protection determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Title V Facilities Section, Department of Environ-

mental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-0512.

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**Notice of Intent to Issue  
Title V Operating Permit 25-00783**

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Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to Haysite Reinforced Plastics (Haysite) for their Erie facility. Haysite's facility is located in the City of Erie, Erie County. Haysite's representative to contact concerning this application is Randy Wiler, Environmental Compliance Engineer, 5599 New Perry Highway, Erie, PA 16509, (814) 868-3691.

Haysite's Erie facility is primarily used for the production of fiberglass reinforced plastics. The facility's air emission sources include two small boilers and various molding and pultrusion presses. The facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments due to the facility's potential to emit of Styrene. The facility is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335.

Persons wishing to provide the Department of Environmental Protection with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the Department at the address shown above. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following information:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit (specify Permit No. TV 25-00783).

Concise statements regarding the relevancy of the information in the proposed permit or objections to issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Larry W. Wonders, Regional Air Quality Program Manager, Department of Environmental Protection, Northwest Region, 230 Chestnut Street, Meadville, PA 16335. For additional information concerning the permit or the issuance procedure, contact Eric A. Gustafson, Facilities Section Chief, Air Quality Program, at the same address or phone at (814) 332-6940.

**PLAN APPROVALS**

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**Applications under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources.**

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*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**06-1007F.** Modification of five existing boilers by **Carpenter Technology Corporation** (P. O. Box 14662, Reading, PA 19612-4662) in Reading/Muhlenberg Township, **Berks County**. One boiler is subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

**06-302-050A.** Construction of a boiler by **Bally Ribbon Mills** (23 North 7th Street, Bally, PA 19503) in Bally, **Berks County**. The boiler is subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

**06-319-020A.** Installation of a fabric collector to control fugitive emissions from a secondary lead smelter by **General Battery Corporation** (P. O. Box 14294, Reading, PA 19612-4294) in Laureldale, **Berks County**. The source is subject to 40 CFR 63, Subpart X, National Emission Standards for Hazardous Air Pollutants.

**06-319-020B.** Installation of a fabric collector by **General Battery Corporation** (P. O. Box 14294, Reading, PA 19612-4294) for two secondary lead furnaces at the Reading Smelter Plant in Laureldale, **Berks County**.

**31-310-030.** Construction of a portable limestone crushing plant by **New Enterprise Stone & Lime Company, Inc.** (P. O. Box 77, New Enterprise, PA 16664) at the Union Furnace Quarry in Spruce Creek Township, **Huntingdon County**.

**36-308-055H.** Replacement of an existing fabric filter controlling two reverberatory furnaces by **U. S. Aluminum Corporation** (P. O. Box 8, Marietta, PA 17547) in Marietta, **Lancaster County**.

#### **Notice of Plan Approval Application Minor Source**

The following stationary sources have filed a request for a plan approval with the Department of Environmental Protection (DEP), Bureau of Air Quality. Persons wishing to file protests or comments on the proposed plan approval have 30 days to submit the protest or comments to the Regional Office at the address listed below. Interested persons may also request that a hearing be held concerning the plan approval application by filing a request with the Regional Office stating the reason for the request.

The Department will evaluate and consider all protests and comments received. The Department will, where appropriate, modify the proposed plan approval based on the protests and comments received.

The final plan approval will contain terms and conditions to ensure that the source is constructed and operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121 through 143 and the requirements of the Federal Clean Air Act. A notice of the Department's final decision on the proposed plan approval will be published in the *Pennsylvania Bulletin*. Air contaminants emitted from these sources are less than the amounts that would trigger major new source review requirements. For additional information on the following applications, contact Devendra Verma, Engineering Services Chief, (814) 332-6940.

*Northwest Regional Office: Bureau of Air Quality Control, 230 Chestnut Street, Meadville, PA 16335.*

**PA-61-185A.** The Department received a plan approval application for the construction of a petroleum refinery

(1,500 barrels/day) by **Heath Oil Company** (P. O. Box 941, Oil City, PA 16301) in Barkeyville, **Venango County**. This facility is subject to 40 CFR Part 60, Subparts j, and GGG.

**PA-25-095A.** The Department received a plan approval application for the replacement of two water wash spray booths with two new dry filter spray booths by **Lord Corp** (1635 West 12th St., P. O. Box 10039, Erie, PA 16514) in Erie, **Erie County**.

**PA-43-301A.** The Department received a plan approval application for the construction of an 810 hp lean burn compressor engine, a dehydrator, and installation of a flare to control dehydrator emissions by **Atlas Resources, Inc.** (P. O. Box 611, Moon Township, PA 15108) at the Jackson Center Compressor Facility (103 Hosack Rd.) in Jackson Center Township, **Mercer County**.

**25-322-003A.** The Department received a plan approval application for the construction of a third gen set which will result in a 9 MW gas-energy plant at the facility by **Waste Management of Pennsylvania, Inc.—Lake View Landfill** (815 Robison Road East, Erie, PA 16509) in Summit Township, **Erie County**.

## **MINING**

### **CONDUCT COAL AND NONCOAL ACTIVITIES**

#### **MINING ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. 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 such 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. Such 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, manga-

nese, 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 Chs. 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.

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

#### *Coal Applications Received*

**11970101. E. P. Bender Coal Company, Inc.** (P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip mine in Reade Township, **Cambria County**, affecting 93.0 acres, receiving stream Powell Run and unnamed tributary to Powell Run, application received March 17, 1997.

**56960107. Godin Brothers, Inc.** (R. D. 3, Box 61R, Boswell, PA 15530), application for a stream encroachment permit for topsoil storage and a stream crossing of an unnamed tributary to Quemahoning Creek for receiving streams Quemahoning Creek, application received March 21, 1997.

*Bureau of District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.*

**65910106R. Derry International, Ltd.** (P. O. Box 529, New Alexandria, PA 15670). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**. Receiving streams unnamed tributaries to Boatyard Run. Renewal application received March 24, 1997.

**03950114. Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Application received for commencement, operation and reclamation of a bituminous surface auger mine located in South Bend Township, **Armstrong County**, proposed to affect 221.6 acres. Receiving streams unnamed tributary to Sugar Run to Crooked Creek. Application received March 21, 1997.

**26970102. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application received for commencement, operation and reclamation of a bituminous surface mine located in Saltlick Township, **Fayette County**, proposed to affect 93.5 acres. Receiving streams unnamed tributaries to Indian Creek; unnamed tributaries to Poplar Run; Poplar Run; Indian Creek; Youghiogheny River. Application received March 26, 1997.

**65840103. M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701). Application received to revise the permit to include a stream relocation on an existing surface

mining operation located in Derry Township, **Westmoreland County**, affecting 133.5 acres. Receiving streams Stony Run. Application received March 31, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**10920103. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Renewal of an existing bituminous surface strip operation in Marion Township, **Butler County** affecting 102.0 acres. Receiving streams unnamed tributary to north branch of Slippery Rock Creek. Application for reclamation only. Application received March 24, 1997.

**33920102. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838). Renewal of an existing bituminous surface strip operation in Snyder Township, **Jefferson County** affecting 195.0 acres. Receiving streams 4 UNT of Millcreek to Millcreek to Sandy Lick Creek to Redbank Creek to the Allegheny River. Application received March 27, 1997.

*Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.*

**32733708. Greenwich Collieries** (P. O. Box 367, Ebensburg, PA 15931), to renew the permit for the No. 1 Coal Refuse Disposal area in Green Township, **Indiana County** to add 8 acres and add a relocated discharge point, receiving stream unnamed tributary of Douglas Run. Application received January 13, 1997.

**11860701. Cooney Brothers Coal Company** (Box 246, Cresson, PA 16630), to renew the permit for the Sonman Refuse Disposal area in Portage Township, **Cambria County**, no additional discharge. Application received March 5, 1997.

**56841604. Genesis, Inc. dba Meadow Run Genesis, Inc.** (P. O. Box 317, Stoystown, PA 15563), to renew the permit for the Jenner Preparation Plant in Jenner Township, **Somerset County** and to transfer the permit from Solar Fuel Company, Inc., no additional discharge. Application received February 20, 1997.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54920201R. Northeastern Power Company** (P. O. Box 7, McAdoo, PA 18237), renewal of an existing coal refuse reprocessing operation in Kline and Packer Townships, **Schuylkill** and **Carbon Counties**, affecting 876.0 acres, receiving stream none. Application received March 20, 1997.

**49860201R2. Rosini Coal Company, Inc.** (Box 226, Gilberton, PA 17934), renewal of a coal refuse reprocessing operation in Coal Township, **Northumberland County** affecting 60.0 acres, receiving stream none. Application received March 20, 1997.

**49920201R. White Pine Coal Co., Inc.** (P. O. Box 59, Ashland, PA 17921-0059), renewal of an existing coal refuse reprocessing operation in West Cameron, Jackson and Little Mahanoy Townships, **Northumberland County** affecting 1,830.0 acres, receiving stream none. Application received March 21, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

#### *Applications Received Noncoal*

**25970304. Erie Aggregates, Inc.** (P. O. Box 10801, Erie, PA 16514-0801). Commencement, operation and restoration of a sand and gravel operation in Fairview

and McKean Townships, **Erie County** affecting 20.4 acres. Receiving streams Elk Creek. Application received March 18, 1997.

**302432-25970304-E-1. Erie Aggregates, Inc.** (P. O. Box 10801, Erie, PA 16514-0801). Application for a stream encroachment to construct a topsoil storage/retention berm within 100 feet but no closer than 50 feet of an unnamed tributary to Elk Creek in Fairview and McKean Townships, **Erie County**. Application received March 18, 1997.

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

### ENCROACHMENTS

The following Dam Safety and Encroachment permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department).

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW 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 Bureau or Field Office indicated as the responsible office.

### 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 requests for certification under section 401 of the Federal Water Pollution Control Act.

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

**E01-176.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove a structure and to construct and maintain a precast concrete box culvert with a normal span of 20 feet and a minimum underclearance of 4 feet over an unnamed tributary to Tom's Creek on SR 0116, Segment 0040, Offset 1686 (Iron Springs, PA Quadrangle N: 1.85 inches; W: 0.85 inch) in Carroll Valley Borough, **Adams County**.

**E01-177.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a precast concrete box culvert having a normal span of 18 feet and a

minimum underclearance of 5 feet on SR 0094, Segment 0300, Offset 2629 over an unnamed tributary to Latimore Creek (Mount Holly Springs, PA Quadrangle N: 4.9 inches; W: 1.1 inches) in Huntingdon Township, **Adams County**.

**E01-178.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a precast concrete box culvert having a clear span of 16 feet normal and a minimum underclearance of 6 feet, 6 inches on S. R. 0094, Segment 0320, Offset 0081 over an unnamed tributary to Latimore Creek (Mount Holly Springs, PA Quadrangle N: 5.8 inches; W: 1.9 inches) in Huntingdon Township, **Adams County**.

**E07-278.** Encroachment. **Robert McCutcheon**, 314 Washington Avenue, Tyrone, PA 16686. To place fill in 0.39 acre of wetlands for the purpose of developing a 1.84 acre parcel of commercial property located along the west side of old Route 220 about 2.0 miles north of the City of Altoona (Bellwood, PA Quadrangle N: 10.0 inches; W: 13.0 inches) in Antis Township, **Blair County**.

**E21-263.** Encroachment. **East Pennsboro Township**, Robert Gill, 98 S. Enola Drive, Enola, PA 17025. To place fill in 3.14 acres of wetland in order to construct the relocation of Center Street (SR 1015, Section 004) located about 1,500 feet south of PA 944 (Harrisburg, PA Quadrangle N: 6.1 inches; W: 9.6 inches) in East Pennsboro Township, **Cumberland County**. The applicant will provide 3.14 acres of replacement wetlands.

**E67-585.** Encroachment. **Fish and Boat Commission**, Thomas Snyder, 450 Robinson Lane, Bellefonte, PA 16823. To construct and maintain (2) 12 feet wide by 30 feet long concrete launching ramps, an 18 feet wide by 168 feet long precast concrete block loading area and a 175 feet by 320 feet parking area within the floodway of the Susquehanna River adjacent to an existing access facility located 0.25 mile north of Broadway Street on River Street (Middletown, PA Quadrangle N: 6.2 inches; W: 17.2 inches) in Newberry Township, **York County**.

**E67-588.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a reinforced concrete frame culvert having a normal span of 18 feet and a minimum underclearance of 4 feet, 5 inches at a 65 degree skew over an unnamed tributary to the Susquehanna River on SR 0262, Segment 0230, Offset 0000 (Steelton, PA Quadrangle N: 3.0 inches; W: 0.1 inch) in Newberry Township, **York County**.

**E67-589.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a prestressed concrete spread box beam bridge with a normal span of 36 feet, 3.5 inches and a minimum underclearance of 9 feet, 2 inches over Fishing Creek on SR 0262, Segment 0220, Offset 0000 (Middletown, PA Quadrangle N: 4.5 inches; W: 17.4 inches) in the Borough of Goldsboro, **York County**.

**E21-261.** Encroachment. **Remington Development Corporation**, Alton Hughes, 129 Old Ford Drive, Camp Hill, PA 17011. To place fill in a 0.02 acre of deminimus wetland in order to construct a home in development called Middleton Estates located in the east side of PA 34 about 1,300 feet north of the PA 34 bridge. (Carlisle, PA Quadrangle N: 21.2 inches; W: 7.6 inches) in North Middleton Township, **Cumberland County**.

**E31-138.** Encroachment. **Chris Foster**, HRC 61, P. O. Box 380, Mill Creek, PA 17060. To maintain a previously constructed concrete bridge over Mill Creek having a span of about 20 feet and an underclearance of about 7.0 feet located along SR 1005 about 0.7 mile north of its intersection with SR 0655 (Mount Union, PA Quadrangle N: 6.25 inches; W: 4.9 inches) in Brady Township, **Huntingdon County**.

**E67-586.** Encroachment. **North Codorus Township**, David Clouser, R. D. 1, Box 1102, Spring Grove, PA 17362. To remove an existing structure and to construct and maintain two 58-inch by 91-inch reinforced concrete elliptical pipes in the Stoverstown Branch of Codorus Creek over Martin Road (T-495) (West York Quadrangle N: 2.5 inches; W: 11.5 inches) in North Codorus Township, **York County**.

**E67-587.** Encroachment. **John Rautzahn**, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a 43 foot long 16 feet by 4 feet precast box culvert over Tributary No. 1 to Barshinger Creek over SR 2085 (SEG 0030, Offset 0008) for highway improvements (Glen Rock, PA Quadrangle N: 21.87 inches; W: 1.07 inches) in North Hopewell and York Townships, **York County**.

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

**E08-313.** Encroachment. **Department of Transportation**, P. O. Box 218, Montoursville, PA 17754. To remove an existing structure and to construct and maintain a 15 foot by 5 foot precast concrete box culvert with one foot depression in the streambed, with an overall length of 30 feet with a cartway width of 24 feet on a 90 degree skew in an unnamed tributary to Roaring Run Creek on SR 4034 approximately 400 feet east of RT. 834 (Gillett, PA Quadrangle N: 19.7 inches; W: 8.0 inches) in South Creek Township, **Bradford County**. Estimated stream disturbance is approximately 40 linear feet with no wetland impact; stream classification is Cold Water Fishery.

**E49-205.** Encroachment. **Northumberland County Commissioners**, 201 Market St., Sunbury, PA 17801. To remove the existing structure and to construct and maintain a single cell concrete box culvert with a 20 foot clear span and a 10 foot rise under fill with the associated precast reinforced concrete inlet and outlet end sections in Millers Run located approximately 100 feet southwest of the intersection of SR 2016 and T-764 (Shamokin, PA Quadrangle N: 16.2 inches; W: 11.7 inches) in Ralpho Township, **Northumberland County**. Estimated stream disturbance is 80 linear feet; stream classification is CWF.

**E55-143.** Encroachment. **PG Energy**, 39 Public Square, Wilkes-Barre, PA 18711. To construct and maintain a 12 inch steel gas main under Penns Creek. This project is located 290 feet west of SR 522 (Sunbury, PA Quadrangle N: 11.7 inches; W: 14.7 inches) in Monroe and Penn Townships, **Snyder County**. Estimated stream disturbance is 1 foot with no wetland impacts; stream classification is WWF.

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

**E09-745.** Encroachment. **Quakertown Borough**, 15-35 N. Second Street, P. O. Box 727, Quakertown, PA 18951. To re-construct, operate and maintain wellhouse No. 18 at the location of existing wellhouse No. 15, which will be demolished and debris removed from floodplain.

The site is located along Beaver Run at the south side dead end of Second Street (Quakertown USGS Quadrangle N: 10.90 inches; W: 11.60 inches) in Richland Township, **Bucks County**.

**E09-746.** Encroachment. **Perkasie Borough**, 311 S. 9th Street, Perkasie, PA 18944-0275. To construct and maintain a 6-foot wide 60-foot long pedestrian bridge crossing of the east branch of Perkiomen Creek (TSF) located approximately 100 feet downstream of Callowhill Street. Also to construct and maintain approximately 3,850 linear feet of bike path in and along the 100-year floodway and 100-year floodplain of the east branch of Perkiomen Creek between Walnut Street and Callowhill Street as part of the Perkasie Borough Bike Path Project (Telford USGS Quadrangle N: 21.9 inches; W: 5.3 inches) in Perkasie Borough, **Bucks County**.

**E15-542.** Encroachment. **Tattersall Development Co.**, 920 Drovers Lane, Chester Springs, PA 19425. To construct and maintain six (6) golf cart bridges over Broad Run (EV) and adjacent wetlands. Each stream crossing will also include below ground utility piping to provide irrigation at the golf course. These bridges are associated with the proposed Tattersall Golf Course development and will provide access to various golf holes, a clubhouse and maintenance of facilities. The project also includes installation and maintenance of a 400-foot long, 18-inch diameter R.C.P. stream enclosure in and along an unnamed tributary to Broad Run, and is associated with a stormwater management facility. A de minimus amount of wetland will be impacted as a result of this project. The site is located along the north and south sides of Strasburg Road (SR 3062), at its intersection with Broad Run Road (Unionville, PA Quadrangle N: 14.0 inches; W: 11.5 inches) in West Bradford Township, **Chester County**.

**E46-764.** Encroachment. **Whitemarsh Township**, 616 Germantown Pike, Lafayette Hill, PA 19444-1498. To perform the following activities associated with the Pine Tree Road Drainage Improvements Project along an unnamed tributary to the Wissahickon Creek (TSF):

1. To remove approximately 140 linear feet of existing 65-inch by 40-inch corrugated metal pipe-arch storm sewer pipe;
2. To construct and maintain approximately 24 linear feet of timber retaining wall;
3. To construct and maintain a reinforced concrete endwall to an existing twin 7-foot by 2-foot reinforced concrete box culvert and to remove existing siltation and debris within the culvert;
4. To enlarge the cross-section of approximately 203 linear feet of existing drainage channel;
5. To remove approximately 144 linear feet of timber retaining wall;
6. To construct and maintain approximately 36 linear feet of timber/gabion retaining wall;
7. To remove an existing reinforced concrete endwall and replace it with a new reinforced concrete endwall to accommodate the revised channel cross-section;
8. To remove and replace an existing wood fence located within the assumed 100-year floodway as a result of proposed outlet channel excavation and regrading.

The site is located approximately 200 feet north of the intersection of Pine Tree Road and Fields Drive (Germantown, PA USGS Quadrangle N: 16.4 inches; W: 16.0 inches) in Whitemarsh Township, **Montgomery County**.

### DAM SAFETY

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

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

**D09-173A.** Dam. **Riverwoods Associates, LP** (3326 Old York Road, Suite B, Furlong, PA 18925). To modify the Village II at New Hope Dam located across a Tributary to the Delaware River Division Canal (TSF) in New Hope Borough, **Bucks County**. Proposed work will include general repairs, modifying the embankment, and placing fill in a 0.7 acre area of the impoundment in order to reduce the maximum water depth and remove the structure from the scope of the Dam Safety and Encroachments Act.

### ENVIRONMENTAL ASSESSMENT

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

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

**EA32-001C0.** Environmental assessment. **Doverspike Bros. Coal Company** (R. D. 4, Box 271, Punxsutawney, PA 15767). To construct and maintain a nonjurisdictional dam across a tributary to Little Mahoning Creek (HG-CWF) impacting approximately 0.27 acre of wetlands (PEM) for the purpose of recreation located approximately 4,000 feet southeast of the confluence of Little Mahoning Creek. The applicant has proposed making a contribution to the Pennsylvania Wetland Replacement Project as compensatory mitigation for wetland impacts (Dayton, PA Quadrangle N: 2.10 inches; W: 8.75 inches) in West Mahoning Township, **Indiana 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

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

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

mental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

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

**WQM Permit No. 4397401.** Sewerage, **Gerald C. Fleet SRSTP**, 1066 Jackson Center Polk, Rd., Stoneboro, PA 16153. Construction of Gerald C. Fleet SRSTP located in Worth Township, **Mercer County**.

**WQM Permit No. 4397402.** Sewerage, **Alan and Carol Kumrow SRSTP**, Jackson Rd., West Middlesex, PA 16159. Construction of Alan and Carol Kumrow SRSTP located in Shenango Township, **Mercer County**.

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

**NPDES Permit No. PA0022306.** Sewerage, **Brownsville Municipal Authority**, P. O. Box 330, Brownsville, PA 15417 is authorized to discharge from a facility located at Shady Avenue STP, Brownsville Borough, **Fayette County** to Dunlap Creek.

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

**NPDES Permit No. PA0054721.** Sewerage, **Joseph and Sondra McGeever**, 2390 North Feathering Road, Media, PA 19063 is authorized to discharge from a facility located in Upper Providence Township, **Delaware County** into an unnamed tributary of Ridley Creek.

**NPDES Permit No. PA0054208.** Sewerage, **Dennis J. Burns**, 311 Sumneytown Pike, North Wales, PA 19454 is authorized to discharge from a facility located in Upper Hanover Township, **Montgomery County** into Macoby Creek Branch.

**NPDES Permit No. PA0030571.** Sewerage, **New Life Youth and Family Services**, P. O. Box 203, Harleysville, PA 19428 is authorized to discharge from a facility located in Lower Salford Township, **Montgomery County** into an unnamed tributary to the east branch Perkiomen Creek.

**Permit No. 1597404.** Sewerage, **East Marlborough Township** (721 Unionville Road, Kennett Square, PA 19348). Modifications to an existing STP located in East Marlborough Township, **Chester County** to serve Baltimore Pike WWTP Reed Beds.

**Permit No. 2396408.** Sewerage, **Helen Pepe** (5 Dudie Drive, Newtown Square, PA 19073). Construction of a

small flow sewage treatment plant located in Newtown Township, **Delaware County** to serve Pepe residence.

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

**NPDES Permit No. PA-0062120.** Industrial waste. **Pennsylvania-American Water Company**, 20 East Union Street, Wilkes-Barre, PA 18701-1397 is authorized to discharge from a facility located in South Abington Township (Chinchilla Water Treatment Plant), **Lackawanna County**, to Leggett's Creek.

**NPDES Permit No. PA-0062588.** Industrial waste. **Pennsylvania-American Water Company**, 20 East Union Street, Wilkes-Barre, PA 18701-1397 is authorized to discharge from a facility located in Jackson Township (Ceasetown Water Treatment Plant), **Luzerne County** to Pikes Creek.

**NPDES Permit No. PA-0062898.** Industrial waste. **Pennsylvania-American Water Company**, 20 East

Union Street, Wilkes-Barre, PA 18701-1397 is authorized to discharge from a facility located in Plains Township (Watres Water Treatment Plant), **Luzerne County** to Deep Creek.

**NPDES Permit No. PA-0020435.** Sewerage. **White Haven Municipal Authority**, 50 East Woodhaven Drive, White Haven, PA 18661 is authorized to discharge from a facility located in White Haven Borough (White Haven Sewage Treatment Plant), **Luzerne County** to the Lehigh River.

**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, telephone (610) 832-6130.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-T075	Vesterra Corporation 585 Skippack Pike Suite 200 Blue Bell, PA 19422	Whitpain Township Montgomery County	Wissahickon Creek

**INDIVIDUAL PERMITS  
(PAR)**

**Approvals to Use NPDES General Permits**

The following parties have submitted Notices of Intent (NOI) for Coverage under General NPDES Permits to discharge wastewater into the surface waters of the Commonwealth of Pennsylvania. The Department of Environmental Protection approves the following coverages under the specified General Permit. This approval is subject to applicable effluent limitations, monitoring and reporting requirements and other conditions set forth in the respective 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 and special conditions, and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES General Permits issued by Department of Environmental Protection:

*NPDES 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

<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>
Centre Co. College Twp.	PAR404802	Centre County Solid Waste Authority Dale Summit Transfer Station R. D. 1, Box 501 Bellefonte, PA 16823	Unnamed tributary to Logan Branch	(717) 327-3664 Northcentral
Centre Co. Rush Twp.	PAR404803	Centre County Solid Waste Authority Moshannon Valley Sanitary Landfill R. D. 1, Box 501 Bellefonte, PA 16823	Unnamed tributary to Moshannon Creek	
Bradford Co. Rome Twp.	PAR224829	Mountain Hardwoods Inc. R. R. 3, Box 3130 Rome, PA 18837	Wysox Creek	
Northumberland Co. Delaware Twp.	PAR204808	Hoeganaes Corporation P. O. Box 37, Yuris Road Watsontown, PA 17777	West Branch of Susquehanna River	Northcentral Region (717) 327-3664
Lycoming Co. Williamsport	PAR144805	Stone Container Corporation P. O. Box 3097 Reach Road Industrial Park Williamsport, PA 17701	Susquehanna River	
Northumberland Co. West Chillisquaqua	PAR804817	Milton Transportation Inc. P. O. Box 355 Milton, PA 17847	Susquehanna River	Northcentral Region (717) 327-3664
Erie County Erie City	PAR208353	Kaiser Aluminum & Chemical Corp. Erie Forging Plant 1015 East 12th St. Erie, PA 16503	Presque Isle Bay & Outer Erie Harbor-Lake Erie	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Beaver County New Sewickley Twp.	PAR126102	Jack Pflueger—Alliant Food Service 2500 Lovi Road Freedom, PA 15042-9394	Unnamed tributary of Big Sewickley Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Columbia Co. Mifflin	PAG044930	H. Cecil & Rebecca Turberville R. D. 2, Box 2553 Nescopeck, PA 16835	Tenmile River	Northcentral (717) 327-3664
Columbia Co. Sugarloaf Twp.	PAG044931	Ray M. Dreisbach R. R. 1, Box 330B Benton, PA 17814	Unnamed tributary of Raven Creek	
Potter Co. Hector Twp.	PAG044934	Merrill Godshall 432 Lower Road Souderton, PA 18964	Teed Hollow	Northcentral (717) 327-3664
Potter Co. Hector Twp.	PAG044933	Perry and Randy Godshall 830 Kulp Road Perkiomenville, PA 18074	Button Hollow	Northcentral
Centre Co. Huston Twp.	PAG044929	Mr. and Mrs. Clark Reese 801 Silverdale Road Julian, PA 16844	Unnamed tributary Mudlick Run	Northcentral (717) 327-3664

<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>
Lycoming Co. Jordan Twp.	PAG044928	Frank Bomboy R. D. 1, Box 178 Unityville, PA 17774	Unnamed tributary to Little Muncy Creek	Northcentral (717) 327-3664
Northumberland Co. Rockerfeller Twp.	PAG044932	Jeffrey R. Martin R. R. 3, Box 151A Sunbury, PA 17801	Little Shamokin Creek	Northcentral (717) 327-3664
Erie County LeBoeuf Twp.	PAG048429	Mr. and Mrs. Winfield S. McGahen 13031 McGahen Rd. Waterford, PA 16441	Unnamed tributary of French Creek	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Mercer County Shenango Twp.	PAG048428	Alan and Carol Kumrow Jackson Rd. West Middlesex, PA 16159	Unnamed tributary of Turkey Run	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Mercer County Worth Twp.	PAG048427	Gerald C. Fleet 1066 Jackson Center Polk Rd. Stoneboro, PA 16153	Unnamed tributary South Sandy Creek	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Clarion County Knox Twp.	PAG048430	Carl J. Ochs R. R. 1, Box 126 Lucinda, PA 16235	Step Creek	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Warren County Pine Grove Twp.	PAG048431	Dennis L. Thompson R. D. 2, Box 2134 Russell, PA 16345	Johnny Run	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942

**SEWAGE FACILITIES ACT  
PLAN APPROVAL**

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

*Water Management Program Manager, Southcentral Re-  
gion, One Ararat Boulevard, Harrisburg, PA 17110.*

*Location: **Conewago Township, York County,** 490  
Copenhaffer Road, York, PA 17404.*

The approved plan is the third of three plans address-  
ing the Township. It proposes the continued use of on-lot  
sewage disposal development in the Township and pro-  
vided for adoption of a "Well Drillers Ordinance," a  
"Holding Tank Ordinance," and a modification of the

existing Subdivision and Land Development Ordinance.  
The ordinance modifications address procedures required  
for new land development proposed in areas identified as  
having elevated levels of nitrates in the groundwater. The  
Department's review of the sewage facilities update re-  
vision has not identified any significant environmental  
impacts resulting from this proposal.

*Location: **Monroe Township, Juniata County,** HCR  
63, Box 18, Richfield, PA 17086.*

The approved plan provided for construction of a mu-  
nicipal sewage collection and treatment system to serve  
the **Village of Richfield** and adjoining portions of **West  
Perry Township, Snyder County**. The treatment plant  
will consist of a .085 mgd facility discharging to the west  
branch Mahantango Creek. The Department's review of

the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Location:* **Greenfield Township, Blair County**, R. D. 1, Box 948, Claysburg, PA 16625.

The approved plan provided for expanding a previously approved wastewater treatment plant from a 1.0 mgd capacity to a 1.5 mgd capacity. The larger treatment plant is due to the change in original project scope to provide sanitary sewer service to the Blue Knob area sooner than originally proposed in a plan approved by the Department September 8, 1994. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Location:* **South Londonderry Township, Lebanon County**, Center and Market Street, Cambelltown, PA 17010.

The approved plan provided for construction of a .210 mgd wastewater treatment plant and interceptor to replace the existing Cambelltown East treatment plant. Another interceptor and collection system will serve the Weaber Subdivision and Route 117 areas. The existing collection system for the Lawn sewer system will be extended to provide service to the Route 341 and Lawn Road intersection area. The Mt. Wilson area, Upper Lawn area east of the proposed sewer extension, and Lawn Road/Lyndel Drive areas will be placed in an onlot management program. The Township's Subdivision and Land Development Ordinance will be modified to address hydrogeologic concerns in areas identified as having elevated levels of nitrates in groundwater supplies. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Location:* **Woodbury Township and Woodbury Borough, Bedford County**, P. O. Box 280 and P. O. Box 246, Woodbury, PA 16695.

The approved plan provided for construction of a sanitary sewer collection and transport system to provide sewer service to Woodbury Borough and portions of southern Woodbury Township. The system will connect to the previously approved South Woodbury Township sewer system. The South Woodbury Township wastewater treatment plant will be expanded to .25 mgd. The remainder of Woodbury Township will be placed under an onlot sewage disposal management program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Location:* **Bratton Township, Mifflin County**, R. D. 2, Box 221, McVeytown, PA 17051-9802.

The approved plan provided for construction of a sewer collection and conveyance system to provide sewer service to the Township's Mattawana area. Treatment is to be provided by the McVeytown treatment plant. A second collection, conveyance and treatment system is proposed to serve the Longfellow/Pine Glen/Stoney Road areas. A .072 mgd treatment plant, discharging to the Juniata

River, is proposed for this area. The remainder of the Township will continue use of onlot sewage disposal under an onlot management program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Location:* **Delta Borough, York County**, R. D. 3, Box 470, Delta, PA 17314.

The approved plan provided for construction of a wastewater treatment facility with a capacity of .240 mgd. The expanded facility replaces the previously approved .012 mgd treatment plant planning and now includes portions of Cardif, MD in the service area. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

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

*Location:* **McKean Township, Erie County. McKean Township**, 9231 Edinboro Road, P. O. Box 62, McKean, PA 16426.

*Project Description:* The approved plan provides for construction of sewers and a treatment facility to eliminate seven privately-owned sewage treatment plants, most of which are experiencing significant operational problems. The new 0.213 mgd plant will discharge to Elk Creek and be constructed on land owned by McKean Township in Fairview Township, just west of the Village of Sterrettania.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

*Location:* Falls Creek Borough, **Jefferson County. Falls Creek Borough Council**, 171 Taylor Avenue, Falls Creek, PA 15840.

*Project Description:* The approved plan provides for construction of a conventional gravity collection system to serve the Borough of Falls Creek, and the Smithtown and industrial park areas of Washington Township. The approximate 129,000 gpd of wastewater will then be conveyed by a force main to the City of DuBois STP for treatment.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

## **SAFE DRINKING WATER**

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

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

**Permit No. 1197501.** Public water supply. **East Taylor Municipal Authority**, 403 Donruth Lane, Johnstown, PA 15909.

*Type of Facility:* Water improvements.

*Permit to Construct Issued:* March 25, 1997.

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

**Permit No. 4088528.** Public water supply. **Country Estates Mobile Court**, c/o Oley F. Bowman, R. D. 4, Box 4270, Berwick, PA 18603. This proposal involves the permitting of an existing water supply system serving the Country Estates Mobile Home Park in Salem Township, **Luzerne County**. The application contains an existing well, chlorinator, and distribution system to 16 mobile home pads and a proposed 432 gallon storage tank. Permit issued March 24, 1997.

**Permit No. 4089530.** Public water supply. **Pellam Terrace Mobile Home Park**, c/o David Pellam, R. D. 2, Box 270, Harvey's Lake, PA 18618. This proposal involves the modification of an existing public water supply serving a mobile home park. The system includes one well, storage, chlorination and distribution system. It is located in Dallas Township, **Luzerne County**. Permit issued March 24, 1997.

**Permit No. 5289519.** Public water supply. **Paupack Water Company-Tanglewood Lake Golf Course**, c/o Harold Gumble, Manager, P. O. Box 257, Hawley, PA 18428. This proposal involves the permitting of an existing public water supply system consisting of four wells, disinfection facilities, distribution storage and a distribution system which serves the Tanglewood Golf Course Area. It is located in Palmyra Township, **Pike County**. Permit issued March 20, 1997.

**Permit No. 5889504.** Public water supply. **Shady Lane Mobile Home Park**, c/o Calvin Smales, P. O. Box 71, South Montrose, PA 18843. This proposal involves the permitting of a previously unpermitted public water supply serving 49 people. The existing system consists of one well, four pressure tanks and a distribution system. Proposed additions include a hypochlorination system and 500 gallon chlorine detention tank with the associated appurtenances. It is located in South Montrose, **Susquehanna County**. Permit issued March 20, 1997.

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

**Permit No. 8821W-A1.** Public water supply. **Heinz USA**, Pittsburgh Factory, P. O. Box 57, 1062 Progress Street, Pittsburgh, PA 15230-0057.

*Type of Facility:* Modifications to the existing water treatment plant.

*Permit to Operate Issued:* March 20, 1997.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### Under Act 2, 1995

#### Preamble 3

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (the act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to

document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

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

The Department has received the following final report:

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

**Tri-Lite Plastics Inc.**, Falls Township, **Bucks County**. Cliff Harper, P. G., Environmental Strategies and Management Inc., 65D Hale Hollow Road, Bridgewater Corners, VT, 05035, has submitted a Final Report concerning remediation of site soils and groundwater contaminated with petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Statewide health standard.

**PP&L Former Pennsburg SES**, Pennsburg Borough, **Montgomery County**. Walter M. Novitsky, Sr. Scientist-Consulting, Pennsylvania Power & Light Co., Two N. Ninth St., Allentown, PA 18101-1179, has submitted a Final Report concerning remediation of site soils contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

## SOLID AND HAZARDOUS WASTE

### BENEFICIAL USE DETERMINATIONS

**Request for determination of applicability received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

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

Received a request from **Leroy Z. Zimmerman**, 327 Stackstown Road, Marietta, PA 15547, for a determination of applicability under general permit no. **WMGR017** for the use of drinking water treatment sludge generated by a water supply treatment facility as a soil additive on agricultural lands. The Department accepted the request as administratively complete on March 27, 1997.

### RESIDUAL WASTE PROCESSING FACILITIES

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

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

**Permit ID No. 300491. Homer City Station Ash Disposal Site**, GPU Generation, Inc., 1001 Broad Street, Johnstown, PA 15901. Major modification to satisfy the repermitting requirements of 25 Pa. Code § 287.115 for the operation of a residual waste landfill in Center and Black Lick Townships, **Indiana County**. Permit issued in the Regional Office on March 26, 1997.

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

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

*Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.*

**A. PAD009439662. Gem Chem, Inc.** (P. O. Box 384, Lititz, PA 17543). Application for operation of a recycling and processing hazardous waste site in Lititz Borough, **Lancaster County**. Application withdrawn in the Regional Office March 25, 1997.

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

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

**Permit No. 603285. Borkey Farms (BE5-1, BE5-2), Bio Gro Division**, (180 Admiral Cochrane Drive, Annapolis, MD 21401). Application for modification to add additional acreages to two sites in Upper Bern Township, **Berks County**. Permit issued in the Regional Office March 24, 1997.

**Permit No. 603308. Milton Mowrer Farm and Wayne Stauffer Farm, Columbia Municipal Authority** (308 Locust Street, Columbia, PA 17512). Application for agricultural utilization of sewage sludge at two sites in East Donegal Township, **Lancaster County**. Permit issued in the Regional Office March 26, 1997.

**Permit No. 603148. Mary S. Keesey Farm, Springettsbury Township** (3501 N. Sherman Street, York, PA 17402). Application for operation of an agricultural utilization of sewage sludge site in Hellam Township, **York County**. Permit issued in the Regional Office March 26, 1997.

#### Springettsbury Township Wastewater Treatment Facility Agricultural Utilization Justification

Hellam Township has opposed the issuance of this permit and has cited two primary reasons: 1) their 537 plan states efforts will be made by the Township to resist additional permits for sludge applications within the Township and 2) documented compliance problems.

The Township's basis for concern in the 537 plan is the existing nitrate contamination of the groundwater and the future potential for nitrates getting into the groundwater. The Department contends that agricultural utilization sites are required to calculate nutrient loading rates based on analysis of the sewage sludge and crop nutrient requirements. In addition, the regulations have further stipulations to help in the management of nutrients and soils on agricultural utilization sites. With these requirements in place, the use of sewage sludge as a fertilizer source will be protective of the environment.

The Department has met with Springettsbury Township to discuss compliance related issues. As a result of these discussions, Springettsbury Township has agreed to voluntarily take the steps needed to bring them into compliance regarding the cited issued. Therefore, the Department is satisfied that Springettsbury Township is in compliance with all applicable rules and regulations of the Department.

### AIR POLLUTION

#### OPERATING PERMITS

#### Construct, modify or activate air contaminant sources

**25 Pa. Code § 129.1**

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

*Northwest Regional Office: Air Quality Program, 230 Chestnut St., Meadville, PA 16335.*

**10-309-052A.** The Department has issued an air quality operating permit to **Minteq International, Inc.** (395 Grove City Rd., Slippery Rock, PA 16057) for the operation of six mixers in Slippery Rock, **Butler County**.

#### PLAN APPROVALS

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

*Southcentral Regional Office: Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**01-310-009G.** On March 25, 1997, the Department issued a Plan Approval to **ISP Minerals, Inc.** (P. O. Box O, Blue Ridge Summit, PA 17214) for the modification of an intermediate crushing, drying and screening plant in Hamiltonban Township, **Adams County**.

**22-307-034B.** On February 19, 1997, the Department issued a Plan Approval to **Bethlehem Steel Corporation** (215 South Front Street, Steelton, PA 17113) for the modification of a steel production facility controlled by fabric filters and a scrubber in Steelton Borough, **Dauphin County**. The source is subject to 40 CFR 60, Subpart AAa, Standards of Performance for New Stationary Sources, and 40 CFR 60, Standards of Performance for Steel Plants.

**31-310-004B.** On March 21, 1997, the Department issued a Plan Approval to **New Enterprise Stone & Lime Company, Inc.** (New Enterprise, PA 16664) for the construction of a limestone crushing plant controlled by water sprays and fabric filters at their Orbisonia Quarry in Cromwell Township, **Huntingdon County**. The source

is subject to 40 CFR 60, Subpart 000, Standards of Performance for New Stationary Sources.

**36-310-006A.** On March 25, 1997, the Department issued a Plan Approval to **Binkley and Ober, Inc.** (P. O. Box 7, East Petersburg, PA 17520) for the installation of a primary jaw crusher controlled with a wet suppression system in East Hempfield Township, **Lancaster County**. The source is subject to 40 CFR 60, Subpart 000, Standards of Performance for New Stationary Sources.

**36-318-001B.** On March 25, 1997, the Department issued a Plan Approval to **Armstrong World Industries, Inc.** (P. O. Box 3001, Lancaster, PA 17604) for the modification of their No. 4 finishing line in Building 409 of their Lancaster Floor Plant A in the City of Lancaster, **Lancaster County**.

**50-310-001C.** On March 24, 1997, the Department issued a Plan Approval to **Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105) for the installation of a limestone crushing plant at their Newport Plant in Oliver Township, **Perry County**. The source is subject to 40 CFR 60, Subpart 000, Standards of Performance for New Stationary Sources.

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

**PA-10-220A.** On March 24, 1997, a Plan Approval was issued to **ESM, II, Inc.** (130 Myoma Rd., Mars, PA 16046) for the construction of a magnesium processing line at Adams Township, **Butler County**.

**20-313-021.** On March 5, 1997, a Plan Approval was issued to **Lord Corporation** (Saegertown) (P. O. Box 556, Saegertown, PA 16433) for the construction of a rotary filter and installation of a vacuum pump at Saegertown, **Crawford County**.

**25-327-004.** On March 14, 1997, a Plan Approval was issued to **Spectrum Control, Inc.** (8061 Avonia Rd., Fairview, PA 16415) for the operation of open top vapor degreasers at Fairview Township, **Erie County**.

**25-327-005.** On March 14, 1997, a Plan Approval was issued to **Spectrum Control, Inc.** (6000 W. Ridge Rd., Erie, PA 16506) for the operation of open top vapor degreasers at Fairview Township, **Erie County**.

**37-318-023.** On March 12, 1997, a Plan Approval was issued to **East Manufacturing Corp.** (40 Furnace St., New Castle, PA 16101) for the construction of a paint spray booth at New Castle, **Lawrence County**.

**37-399-004A.** On March 11, 1997, a Plan Approval was issued to **New Castle Industries, Inc.** (P. O. Box 359, New Castle, PA 16107) for the installation of control and ventilation equipment at New Castle, **Lawrence County**.

## MINING

### CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY ACTIONS

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 such 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).

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

#### Coal Applications Issued

**32860103.** Permit renewal, **Kraynak Coal Company** (R. D. 1, Mahaffey, PA 15757), commencement, operation and restoration of a bituminous strip-auger mine, valid for reclamation, only in Green and Rayne Townships, **Indiana County**, affecting 122.2 acres, receiving stream unnamed tributaries of Dixon Run, application received March 21, 1997, permit issued March 25, 1997.

*Bureau of District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.*

**26910110R.** **Patterson Coal Company** (R. D. 2, Box 335, Smithfield, PA 15478). Permit renewal issued for continued operation and reclamation of a bituminous surface mining operation located in Georges Township, **Fayette County**, affecting 46.0 acres. Receiving streams unnamed tributaries to York Run, to York Run. Application received January 17, 1997. Renewal issued March 20, 1997.

**02860102R.** **Pantersis Coal Company** (165 Old McKee Road, Oakdale, PA 15071). Permit renewal issued for continued operation and reclamation of a bituminous surface mining operation located in North Fayette Township, **Allegheny County**, affecting 220.0 acres. Receiving streams unnamed tributaries to Robinson Run. Application received January 29, 1997. Renewal issued March 20, 1997.

**03960105.** **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision issued approving two ponds to be built in UNT #3, to mine through UNT 3, remediate by stream reconstruction, two ponds to be left for wetlands/wildlife habitat and to add 15.0 acres to an existing bituminous surface auger mine located in Cowanshannock Township, **Armstrong County**, now affecting 485.0 acres. Receiving streams Huskins Run and nine unnamed tributaries to Huskins Run. Revision received January 15, 1997. Revision issued March 21, 1997.

**03930103T.** **General Mining, Inc.** (R. D. 2, Box 194, Avonmore, PA 15618). Transfer from Thomas J. Smith, Inc. to General Mining, Inc. of an existing bituminous surface auger mine located in Plumcreek and Washington Townships, **Armstrong and Indiana Counties**, affecting 73.0 acres. Receiving streams one unnamed tributary to Dutch Run, Dutch Run. Transfer application received November 20, 1996. Transfer issued March 26, 1997.

**03910108R.** **Stitt Coal Company, Inc.** (R. R. 1, Box 197A, Ford City, PA 16226). Renewal issued for continued operation and reclamation of a bituminous surface/auger mining operation located in Kittanning Township, **Armstrong County**, affecting 81.0 acres. Receiving streams Garretts Run. Application received December 11, 1996. Renewal issued March 27, 1997.

**03960102.** **Walter L. Houser Coal Co., Inc.** (R. D. 1, Box 434, Kittanning, PA 16201). Permit issued for commencement, operation and restoration of a bituminous surface/auger mine located in Sugarcreek Township, **Armstrong County**, affecting 278.8 acres. Receiving streams unnamed tributaries of Snyders Run and

Snyders Run to the Allegheny River. Application received February 22, 1996. Permit issued April 1, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**33900111. P & N Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Renewal of an existing bituminous strip and auger operation in Gaskill Township, **Jefferson County** affecting 168.6 acres. Receiving streams Lost Run to Clover Run, and two unnamed tributaries to east branch Mahoning Creek. Application received January 24, 1997. Permit issued March 12, 1997.

**10910107. Big "B" Mining Company** (R. D. 1, West Sunbury, PA 16061). Renewal of an existing bituminous strip operation in Center Township, **Butler County** affecting 193.6 acres. This renewal is issued for reclamation only. Receiving streams three unnamed tributaries to Stony Run and one unnamed tributary to Pine Run. Application received December 3, 1996. Permit issued March 12, 1997.

**16860114. Terry Coal Sales, Inc.** (P. O. Box 58, Distant, PA 16223). Renewal of an existing bituminous strip operation in Porter Township, **Clarion County** affecting 295.0 acres. This renewal is issued for reclamation only. Receiving streams unnamed tributary to Long Run, unnamed tributary to Jack Run and unnamed tributary to Leatherwood Creek. Application received January 29, 1997. Permit issued March 19, 1997.

**16960109. Milestone Crushed, Inc.** (521 South Street, Clarion, PA 16214). Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Clarion County** affecting 41.0 acres. Receiving streams unnamed tributary to Dunlap Creek. Application received December 12, 1996. Permit issued March 17, 1997.

**102896-16960109-E-1. Milestone Crushed, Inc.** (521 South Street, Clarion, PA 16214). Application for a stream encroachment to conduct mining activities within 100 feet of unnamed tributaries 3 and 4 to Dunlap Creek to construct and maintain a haul road crossing in Perry Township, **Clarion County**. Receiving streams unnamed tributaries to Dunlap Creek. Application received December 12, 1996. Permit issued March 17, 1997.

**10900109. Rosebud Mining Company** (R. D. 1, Box 379A, Kittanning, PA 16201). Renewal of an existing bituminous strip and auger operation in Fairview Township, **Butler County** affecting 120.3 acres. Receiving streams two unnamed tributaries to south branch Bear Creek. Application received January 17, 1997. Permit issued March 27, 1997.

*Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.*

**30841309. Dunkard Mining Company** (P. O. Box 8, Dilliner, PA 15327), to renew the permit for the Dunkard No. 2 bituminous deep mine in Dunkard Township, **Greene County**, no additional discharge. Permit issued March 27, 1997.

**30841316. Consol Pennsylvania Coal Company** (Waynesburg Operations, P. O. Box 174, Graysville, PA 15337), to revise the permit for the Bailey bituminous deep mine in Richhill Township, **Greene County** to add new Crabapple Portal, receiving stream Crabapple Creek. Permit issued March 27, 1997.

**56743705. BethEnergy Mines, Inc.** (P. O. Box 29, Ebensburg, PA 15931), to renew the permit for the Windber No. 78 Coal Refuse Disposal area in Paint

Township, **Somerset County** for reclamation only, no additional discharge. Permit issued March 27, 1997.

**37891601. Shamrock Minerals Corporation** (R. D. 2, Box 2139, Wampum, PA 16157), to renew the permit for the Shamrock Preparation Plant in New Beaver Borough, **Lawrence County**, no additional discharge. Permit issued March 27, 1997.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54960202. City of Philadelphia Trustee, Acting by the Board of Directors of City Trusts for Girard Estates** (21 South 12th Street, Philadelphia, PA 19107-3684), Butler, West Mahanoy and Union Townships, **Schuylkill County** affecting 1,071.0 acres, receiving stream none. Permit issued March 28, 1997.

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

#### *Noncoal Permits Issued*

**04860301T. Beaver Valley Aggregates, Inc.** (1150 Brodhead Road, Monaca, PA 15061). Transfer of large noncoal surface mining permit currently issued to Lafarge Corporation for an existing operation located in Center and Hopewell Townships, **Beaver County**, affecting 47 acres. Receiving streams Ohio River. Application received October 8, 1996. Transfer permit issued March 27, 1997.

**65950301. Tasman Development Company, Ltd.** (1301 Fox Chapel Road, Pittsburgh, PA 15238). Permit issued for commencement, operation and reclamation of a large noncoal (foundry sand removal) operation located in Latrobe Borough, **Westmoreland County**, affecting 8.63 acres. Receiving streams Loyalhanna Creek and unnamed tributary to Loyalhanna Creek. Application received April 3, 1995. This application was inappropriately returned on October 22, 1996. It was redelivered for final processing on November 14, 1996. Permit issued March 20, 1997.

**2969BSM24. Department of Conservation and Natural Resources** (Rachel Carson State Office Building, P. O. Box 8767, Harrisburg, PA 17105-8767). Permit previously issued to Harbison Walker Refractories Company is reissued to show the Department of Conservation and Natural Resources as permittee for a large noncoal surface mine located in Stewart Township, **Fayette County**. Mining activities are limited to treatment of acid mine drainage and no further overburden or mineral removal is authorized. Receiving streams Laurel Run to Meadow Run to the Ohio River. Application received January 31, 1996. Permit issued March 27, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**10960304. North Washington Limestone, Inc.** (P. O. Box 305, West Sunbury, PA 16061). Commencement, operation and restoration of a limestone operation in Washington Township, **Butler County** affecting 186.0 acres. Unnamed tributary to south branch Slippery Rock Creek. Application received April 11, 1996. Permit issued March 12, 1997.

**37950303. Medusa Aggregates Company** (3008 Monticello Blvd., Cleveland Heights, OH 44118). Commencement, operation and restoration of a limestone operation in Shenango and Taylor Townships, **Lawrence County** affecting 176.0 acres. Receiving streams unnamed tributaries to McKee Run and McKee Run. Application received November 15, 1995. Permit issued March 26, 1997.

**302731-37950303-E-1. Medusa Aggregates Company** (3008 Monticello Blvd., Cleveland Heights, OH 44118). Application for a stream encroachment to conduct mining activities within 100 feet of McKee Run and unnamed tributary No. 1 to McKee Run to construct and maintain a haul road crossing. Receiving streams unnamed tributaries to McKee Run and McKee Run. Application received November 15, 1995. Permit issued March 26, 1997.

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

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, 400 Market Street, Second Floor, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute proves a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board 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.

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**Actions on applications filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and sections 5 and 402 of the act of June 22, 1937 (P.L. 1987, No. 394) (35 P.S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).**

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### *Permits Issued and Actions on 401 Certification*

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

**Permit No. E18-225.** Water obstruction and encroachment. **DCNR**, Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552. To remove an existing structure and to construct and maintain a single cell box culvert with a 14 foot normal span and an underclearance of 7 feet 9 inches across Mudlick Run on the left branch of Young Womans Creek Road about 1.5 miles north of T-579 and to place about 50 linear feet of R-7 riprap on the upstream channel bank (Young Womans Creek, PA Quadrangle N: 2.4 inches; W: 11.11 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.

**Permit No. E18-226.** Encroachment. **DCNR**, Bureau of Forestry, P. O. Box 8451, Harrisburg, PA 17105. To remove the existing structure and to construct and maintain a single span prestressed concrete box beam bridge with a normal span of 29.2 feet, minimum underclearance of 5.2 feet and a clear roadway width of 18.0 feet across Shingle Branch Run. This project impacts 150 feet of stream and about 0.05 acres of wetlands and is located on left branch Young Womans Creek Road about 400 feet upstream of the confluence with left branch Young Womans Creek (Young Womans Creek, PA Quadrangle N: 4.7 inches; W: 11.3 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.

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

**Permit No. E15-508.** Encroachment. **Malvern Summerfield Associates**, 8100 East 22nd Street North, Building 500, Wichita, KS 67226. To remove a twin deteriorated 48-inch diameter pipe culvert in and along an unnamed tributary to Little Valley Creek (EV), which conveys the flow beneath an access road to the Summerfield Hotel. Also to construct, operate and maintain a 43-foot long, 12-foot wide, and 5-foot high, reinforced concrete box culvert with concrete endwalls. The box culvert will be recessed 1 foot below the existing downstream channel invert and approximately 3 feet below the existing upstream invert to allow for fish passage. The project also includes the modification of the stream channel consisting of regrading for 30 feet upstream, and channel modifications to a point approximately 50 feet downstream from the culvert. Work includes placement and maintenance of 18-inch thick riprap erosion protection at the culvert outlet. The proposed site is located approximately 300 feet north of the intersection of US Route 30 and Morehall Road (SR 29) (Malvern, PA Quadrangle N: 8.2 inches; W: 3.3 inches) in East Whiteland Township, **Chester County**.

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

**Permit No. E02-494.** Encroachment. **Russell Industries, Inc.**, 3025 Washington Road, McMurray, PA 15317. To renew Permit E02-494 to perform commercial sand and gravel dredging in the Allegheny River in Pool 2 from Mile Point 13.5 to Mile Point 14.3, in Pool 3 from Mile Point 17.75 to Mile Point 18.75, from Mile Point 19.5 to Mile Point 21.75, from Mile Point 23.75 to Mile Point 24.0, and in Pool 4 from Mile Point 24.9 to Mile Point 28.5 in the Cities of Arnold, Lower Burrell, and New Kensington, and Allegheny Township in **Westmoreland County** and in the Boroughs of Plum and Tarentum, and the Townships of East Deer, Harmar, Harrison and Springdale in **Allegheny County**.

**E02-1171.** Encroachment. **Township of Wilkins**, 110 Peffer Street, Turtle Creek, PA 15145. To remove the existing structure (Russell Lane Bridge) and to construct and maintain a CMP arch culvert approximately 50 feet in length having a span of 16.5 feet with an underclearance of 10.0 feet (culvert invert depressed 1.0 foot) in Saw Mill Run (WWF) for the purpose of improving Russell Lane. The bridge is located on Russell Lane, just east of the intersection of Brown Avenue (SR 130) and Russell Lane (Braddock, PA Quadrangle N: 8.6 inches; W: 11.7 inches) in Wilkins Township, **Allegheny County**. This

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

**Permit No. E03-174.** Encroachment. **Russell Industries, Inc.**, 3025 Washington Road, McMurray, PA 15317. To renew Permit E03-184 to perform commercial sand and gravel dredging in the Allegheny River in Pool 5 from Mile Point 30.6 to MP 32.3 and from MP 32.9 to MP 33.7 in the Townships of Gilpin and South Buffalo in **Armstrong County**.

**Permit No. E65-661.** Encroachment. **Department of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove the existing bridge and to construct and maintain a new bridge having a normal span of 28.0 feet with an underclearance of 5.6 feet across an unnamed tributary to Sewickley Creek (HQ-CSF). The bridge is located on SR 0130, Section N01, Segment 0230, Offset 2821 (Mammoth, PA Quadrangle N: 22.1 inches; W: 13.1 inches) in Unity Township, **Westmoreland County**. This permit also authorizes the construction of a temporary stream crossing. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E67-580.** Encroachment. **Department of Transportation**, Engineering District 8-0, John Rautzahn, 2140 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a two span prestressed concrete box beam bridge resting on concrete abutments and to relocate 128 feet of an unnamed tributary to Yellow Breeches Creek 10 feet north of its current location northeast of the existing structure. Proposed structure will be at a 75 degree right skew with two clear spans of 55.95 feet each and a 3 foot wide pier. Minimum underclearance will be 4.6 feet. Proposed structure will be located 7 feet downstream of existing structure located at SR 0114, Section 003 over Yellow Breeches Creek (Lemoyne, PA Quadrangle N: 7.7 inches; W: 4.3 inches) in Lower Allen Township, **Cumberland County** and Fairview Township, **York County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

#### ENVIRONMENTAL ASSESSMENT

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

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

**EA23-007C0.** Environmental assessment. **Trilogy Development Company** (1541 East Strasburg Road, West Chester, PA 19380-6380). To construct and maintain a nonjurisdictional dam across a tributary to west branch Chester Creek (TSF) for the purpose of stormwater management at the proposed Concord Woods II subdivision located approximately 3,600 feet west of the intersec-

tion of Ivy Mills Road and Pole Cat Road (Media, PA Quadrangle N: 2.05 inches; W: 17.25 inches) in Concord Township, **Delaware County**.

[Pa.B. Doc. No. 97-563. Filed for public inspection April 11, 1997, 9:00 a.m.]

#### Mining and Reclamation Advisory Board; Meeting Notice

The Mining and Reclamation Advisory Board (MRAB) will meet on Thursday, April 24, 1997, at 12:30 p.m. in the 6th floor conference room, Rachel Carson State Office Building, 400 Market St., Harrisburg. The Regulation, Legislation and Technical Sub-committee will also meet on April 24 in the 6th floor conference room at 9 a.m.

Questions concerning the agenda can be directed to Rod Kelley at (717) 783-5338 or e-mail to Kelley.Rodney@a1.dep.state.pa.us. The agenda for this meeting will also be 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 Rod Kelley directly at (717) 783-5338 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. 97-564. Filed for public inspection April 11, 1997, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Solicitation of Bids

Under the provisions of section 2405 of The Administrative Code of 1929 (71 P. S. § 635), the Department of General Services, State Surplus Property Program is seeking contractors to purchase and remove all Commonwealth tire casings. The tires will be available throughout the Commonwealth at various State Police, Department of Transportation, Department of Environmental Protection and the Department of Conservation and Natural Resources locations. The subject tires will include: Passenger, light truck, medium and heavy duty, off-road equipment and farm equipment. Contracts will be awarded by district to the highest bidder. For more information, please contact the Department of General Services, Bureau of Supplies and Surplus Operations, P. O. Box 1365, 2221 Forster Street, Harrisburg, PA 17105, or call (717) 787-4085. All inquiries must be received prior to the bid opening on April 30, 1997.

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 97-565. Filed for public inspection April 11, 1997, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee is scheduled to hold a meeting on April 17, 1997, from 10 a.m. to 1 p.m. in room 812 of the Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA. Anyone wishing to attend the meeting or having questions regarding the meeting should contact Kathleen Galop at (717) 787-6436.

Persons who require reasonable accommodations or who have special needs in accordance with the Americans Disabilities Act of 1990 should contact Kathleen Galop at (717) 787-6436 at least 10 days prior to the meeting.

This meeting is subject to cancellation without notice.

DANIEL F. HOFFMANN, FACHE,  
*Secretary*

[Pa.B. Doc. No. 97-566. Filed for public inspection April 11, 1997, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Income Limits for the Categorically Needy; Nonmoney Payment Medical Assistance Program

The Department of Public Welfare increased the income limits codified at 55 Pa. Code § 181.1(f)(1), (2) and (4) effective January 1, 1997.

The regulations at 55 Pa. Code § 181.1(f)(1), (2) and (4) establish that income limits for the Categorically Needy Nonmoney Payment (NMP) Medical Assistance (MA) Program for aged, blind and disabled persons are based on the Federal benefit rate payable under Title XVI of the Social Security Act (42 U.S.C.A. §§ 1381—1383c). Effective January 1, 1997, the Federal benefit rate was increased due to the Federal cost-of-living increase. Appendix A is the Federal benefit rate plus the State supplement payable under Title XVI. Appendix B is 300% of the Federal benefit rate payable under Title XVI. Appendix D is the Federal benefit rate payable under Title XVI. Item 1 of Appendix D is 1/2 of the Federal benefit rate for one person. Item 2 of Appendix D is 1/2 of the Federal benefit rate for two persons.

Under 55 Pa. Code § 181.1(f), the Department of Public Welfare revised the income limits for the Categorically Needy Nonmoney Payment Medical Assistance Program for aged, blind and disabled persons effective January 1, 1997. Those limits are set forth in Appendices A, B and D, which are recommended for codification in 55 Pa. Code Chapter 181.

Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800)

654-5988 (Voice users). Persons who require another alternative format should contact Thomas Vracarich at (717) 783-2209.

FEATHER O. HOUSTOUN,  
*Secretary*

### Appendix A

Categorically Needy Nonmoney Payment Monthly Income Limits for the Aged, Blind and Disabled Categories Effective January 1, 1997

1 Person	\$511.40
2 Persons	\$769.70

### Appendix B

Categorically Needy Nonmoney Payment Monthly Income Limits for the Aged, Blind, and Disabled Categories Receiving Skilled Care, Heavy Care/Intermediate Services or Intermediate Care Effective January 1, 1997

1 Person	\$1,452
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### Appendix X D

Monthly Federal Benefit Rate Effective January 1, 1997

1 Person	\$484
2 Persons	\$726

Percentages of Monthly Federal Benefit Rate Effective January 1, 1997

Item 1) 50% of Federal Benefit Rate for 1 person = \$242

Item 2) 50% of Federal Benefit Rate for 2 persons = \$363

**Fiscal Note:** 14-NOT-140. (1) General Fund; (2) Implementing Year 1996-97 is \$ See Following; (3) 1st Succeeding Year 1997-98 is \$; 2nd Succeeding Year 1998-99 is \$; 3rd Succeeding Year 1999-00 is \$; 4th Succeeding Year 2000-01 is \$; 5th Succeeding Year 2001-02 is \$; (4) FY 1995-96 is \$2,554,054,000; FY 1994-95 is \$2,366,145,000; FY 1993-94 is \$2,433,389,000; (7) Medical Assistance; (8) recommends adoption. The increased costs cannot be calculated separately. The increase is annually mandated by Federal regulations and has been included in the 1996-97 General Appropriations Act and the Governor's 1997-98 Executive Budget.

[Pa.B. Doc. No. 97-567. Filed for public inspection April 11, 1997, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding

#### Adams County

Under the provisions of section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to improve S. R. 0116, Section 004 in Adams County.

The project consists of roadway resurfacing, shoulder paving, replacing a bridge over a tributary to Tom's Creek, widening for a bypass lane at Sanders Road, drainage and guiderail.

The project requires the acquisition of 0.13567 acre of land from Caroll Commons Public Park.

The following mitigation measures will be included in the design and will be implemented during the construction of this project.

1. Four trees will be removed and replaced with smaller flowering trees in the same general vicinity outside the clear zone.

2. An existing split rail fence north of the structure will be removed and relocated.

The environmental, economic and other effects of the project have been considered as enumerated in section 2002, subsection 18(b) of The Administrative Code of 1929, and it is concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from the reconstruction of this section of highway.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-568. Filed for public inspection April 11, 1997, 9:00 a.m.]

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### Finding

#### Centre County

Under the provisions of section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to reconstruct State Route 0026, Section C02 in Centre County.

The project consists of constructing a new four-lane, limited access highway from the Park Avenue Interchange of US 322 to a new interchange at the Bellefonte Bypass.

The project requires the acquisition of land (172 acres) from The Western Penitentiary/The State Correctional Institution at Rockview Historic District. The project design for new ramps and bridges will be compatible with the historical and architectural qualities of the building and structures which are contributing components of The Western Penitentiary/The State Correctional Institution at Rockview Historic District in terms of materials, color and the incorporation of Neo-Classical design elements.

The environmental, economic and other effects of the project have been considered as enumerated in section 2002, subsection 18(b) of The Administrative Code of 1929, and it is concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from the construction of this section of highway.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-569. Filed for public inspection April 11, 1997, 9:00 a.m.]

### Finding

#### Chester County

Under the provisions of section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department plans to improve S. R. 3016, Section 39S in Chester County.

The proposed project consists of replacing two bridges which span Tweed Creek and a tributary to Tweed Creek on approximately the same alignment.

The project involves the use of 0.16 acre of land from the Hopewell Historic District.

Mitigation to the Hopewell Historic District will be accomplished through use of appropriate materials on the two bridges. Form liners and weathering steel guide rail will be used to add texture to the bridge. The natural setting will be revegetated as soon as possible if there is any destruction caused during construction. The treatment of the bridges and the revegetation will maintain the pastoral setting of the District.

The environmental, economic and other effects of the project have been considered as enumerated in section 2002, subsection 18(b) of The Administrative Code of 1929, and it is concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-570. Filed for public inspection April 11, 1997, 9:00 a.m.]

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### Finding

#### Erie County

Under the provisions of section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department plans to construct State Route 4034, Section A40 in Erie County.

The project consists of the construction of a new four-lane controlled access highway between Interstate 90 in the southern part of the study area to the City of Erie Bayfront in the northwestern portion of the study area. The project also consists of Transportation System Management (TSM) improvements, major roadway and intersection improvements, and improvements to the Erie Metropolitan Transit Authority System.

The environmental, economic and other effects of the project have been considered as enumerated in section 2002, subsection 18(b) of The Administrative Code of 1929 and it is concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from the construction of this section of highway.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-571. Filed for public inspection April 11, 1997, 9:00 a.m.]

## HUMAN RELATIONS COMMISSION

### Public Hearing Opinions

The Human Relations Commission, under section 7(o) of the Pennsylvania Human Relations Act (P. L. 744, No. 222) hereby announces the publication of the Stipulations of Fact, Findings of Fact, Conclusions of Law, Final Decision and Order, made after a Public Hearing under Section 9(e)—(g) of the Act, in the following cases:

*Estate of Salvatore Sylvester v. Arlington Industries, Inc.*; Doc. No. E55702A; (Pennsylvania Human Relations Commission, March 25, 1997), Age-based lay-off; Ruling for Complainant, 110-0 decision; 32 pages.

*Herman L. Harris II v. Loretta Cupani and Joseph Tomalonis*; Doc. No. H6571; (Pennsylvania Human Relations Commission, March 25, 1997); Supplemental Final Order awarding attorney's fees; 11-0 decision; 2 pages.

The final orders in the above-listed cases are subject to appeal to Commonwealth Court, and if appealed are subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinions listed in this notice may be obtained by mailing a request indicating the opinions desired, accompanied by a check or money order in the amount of 10 cents per page (the number of pages in the opinion is set forth at the end of the case listing), to Laura J. Treaster, Information Director, Human Relations Commission, 101 South Second Street, Suite 300, Harrisburg, PA 17101. The check or money order should be made payable to the "Commonwealth of Pennsylvania."

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 97-572. Filed for public inspection April 11, 1997, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the date indicated, the following final-form regulations for review. The regulations will be considered within 30 days of its receipt at a public meeting of the Commission. To obtain the date and time of the meeting, interested persons may contact the office of the Commission at (717) 783-5417. To obtain a copy of a regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
7-291	State Conservation Commission Nutrient Management	4/1/97
7-297	Environmental Quality Board Hazardous Waste Management	4/1/97

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 97-573. Filed for public inspection April 11, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Deregulation of Accident and Health Forms

The Insurance Commissioner hereby deregulates certain group policy forms for commercial products offered by Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs), as authorized by Sections 3(A) and 3(B) of the Accident and Health Filing Reform Act, Act 159 of 1996 (Act 159), as set forth in Annex A.

#### *Statutory Authority*

Section 3(A) of Act 159, the Accident and Health Filing Reform Act, requires that each insurer (including PPOs) and HMO file with the Pennsylvania Insurance Department (the Department) any policy form which it proposes to issue in the Commonwealth, except forms of a type or kind which, in the opinion of the Commissioner, do not require filing. Section 3(B) of Act 159 expressly authorizes and describes the method for the Commissioner to exempt forms from the filing process. Accordingly, the Commissioner hereby exempts from filing the forms for the lines of business listed in Annex A.

#### *HMOs and Insurers Eligible for Exemption*

This deregulation applies only to the following entities that offer group insurance policies and products in the Commonwealth:

- Licensed HMOs organized and operating under the HMO Act, 40 P. S. §§ 1551 *et seq.*
- Licensed PPOs organized and operating under section 630 of the Act of May 17, 1921, P. L. 682, No. 284, as amended, known as the Insurance Company Law of 1921, 40 P. S. § 764a.

#### *Forms Which are Not Deregulated*

The Commissioner's action extends to group policy forms used by HMOs and PPOs. The Commissioner has not deregulated policy forms used in the individual HMO and PPO markets. Thus, individual policies offered by HMOs and PPOs are not deregulated hereunder.

Policy forms which are required to be submitted by an HMO or PPO during the application process to obtain a Certificate of Authority are not exempted from filing requirements by this notice.

This deregulation shall not apply to any filing required by the Department of Health.

This notice does not extend to group policy forms used by insurance companies, associations and exchanges, as defined by section 101 of the Insurance Company Law (40 P. S. § 361). Policy forms for those insurers were deregulated by separate notice. See 26 Pa.B. 1453 (March 30, 1996).

*Continuing Authority of the Commissioner*

Notwithstanding the implementation of this proposal, the Commissioner will retain complete authority to request and be provided a copy of any form being issued in this Commonwealth, as provided by section 10 of Act 159.

Under section 3(B) of Act 159, the Commissioner also will retain complete authority to reassume regulatory authority over the types of forms deregulated hereunder at her discretion. Notice of intent to resume regulatory authority shall be published in the *Pennsylvania Bulletin*.

Notwithstanding the deregulation of the forms specified herein, all such forms must continue to comply with applicable Pennsylvania law including, but not limited to:

Childhood Immunization Insurance, Act 35 of 1992 (40 P. S. §§ 3501 *et seq*)

Coverage for Mammographic Examinations (40 P. S. § 764c)

Women's Preventative Health Services Act (40 P. S. §§ 1571 *et seq*)

*Effective Date*

This deregulation action is effective upon its publication in the *Pennsylvania Bulletin*.

*Questions*

Questions concerning this notice may be directed to Gregory S. Martino, Deputy Insurance Commissioner, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 783-5079.

**Annex A****Insurance Department****Deregulated HMO and PPO Forms**

The Insurance Commissioner, by this notice, hereby deregulates the following lines of business under the authority of Sections 3(A) and 3(B) of Act 159 of 1996, effective upon its publication in the *Pennsylvania Bulletin*.

1) Group HMO policy forms issued by HMOs under the Health Maintenance Organization Act, 40 P. S. §§ 1551 *et seq*. Regulations: 31 Pa. Code Chapter 301.

2) Group PPO policy forms issued under section 630 the Insurance Company Law of 1921, P. L. 682, No. 284, 40 P. S. § 764a. Regulations: 31 Pa. Code Chapter 152.

3) Riders, amendments and endorsements used with the above lines of business.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-574. Filed for public inspection April 11, 1997, 9:00 a.m.]

**Review Procedure Hearings; Cancellation or Refusal of Insurance**

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

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

Appeal of Clapsadl, Connie; file no. 97-407-90349; Erie Insurance Company; doc. no. E97-03-057; May 27, 1997, at 1 p.m.;

Appeal of Mosesso, David; file no. 97-223-30865; First General Insurance Company; doc. no. PH97-03-058; May 28, 1997, at 2 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) 787-4289.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-575. Filed for public inspection April 11, 1997, 9:00 a.m.]

**Review Procedure Hearings under The Unfair Insurance Practices Act**

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

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

Appeal of Sawyer, Frederick; file no. 97-265-30277; Prudential Property & Casualty; doc. no. PH97-03-056; May 28, 1997, at 11 a.m.;

Appeal of Minford, Richard; file no. 97-280-30692; Donegal Mutual Insurance Company; doc. no. PH97-03-054; May 8, 1997, at 1 p.m.

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

ance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

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

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

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-576. Filed for public inspection April 11, 1997, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Northampton County, Wine & Spirits Shoppe #4804, Stefko Shopping Center, 1844-A Stefko Boulevard, Bethlehem, PA 18017-6293.

*Lease Expiration Date:* January 31, 1998

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 6,200 to 6,000 net useable square feet of new or existing retail commercial space along Stefko Boulevard between Easton Avenue to the north and the Lehigh River to the south.

*Proposals due:* April 25, 1997, 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

The Liquor Control Board seeks the following new site:

Chester County, Wine & Spirits Shoppe #1521.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in an area north of Route 30, south of Route 401, east of Route 10, and west of Route 29.

*Proposals due:* May 9, 1997, at 12 noon

**Department:** Pennsylvania Liquor Control Board

**Location:** Bureau of Real Estate, 4501 Kelly Drive, Philadelphia, PA 19129-1794

**Contact:** Robert Jolly, (215) 560-5310

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-577. Filed for public inspection April 11, 1997, 9:00 a.m.]

## PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

### Application Cut-Off Dates; Board Meeting Dates

The Fiscal Year 1997-98 application cut-off dates and regular meetings of the Pennsylvania Infrastructure Investment Authority (PENNVEST) Board of Directors have been scheduled. Funding applications must be received by 5 p.m. on the stated cut-off dates at the PENNVEST office, located in the Keystone Building, 22 South Third Street, Harrisburg, PA 17101. All meetings of the PENNVEST Board of Directors will begin at 10 a.m. on the stated meeting dates at the Governor's Residence, 2035 North Front Street, Harrisburg, PA 17102.

<i>Application Cut-Off Dates</i>	<i>Board Meeting Dates</i>
May 14, 1997	July 16, 1997
September 10, 1997	November 19, 1997
January 21, 1998	March 25, 1998

PAUL K. MARCHETTI,  
*Executive Director*

[Pa.B. Doc. No. 97-578. Filed for public inspection April 11, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### 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 May 5, 1997, 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-00113824. Charlotte's Tours, Inc.** (28 Monroe Lake Shores, East Stroudsburg, Monroe County, PA 18301), a corporation of the Commonwealth of Pennsylvania—persons, in group and party service, between points in the counties of Monroe and Pike, and within an airline distance of 5 statute miles of the limits of said counties, and from points in said territory, to points in Pennsylvania and return. *Attorney:* Robert P. Haynes, III, 3401 North Front Street, P. O. Box 5950, Harrisburg, PA 17110-0950.

**A-00113748. (Corrected). Tri-Star Enterprises, Inc., t/d/b/a Supershuttle** (333 Jenkintown Commons, Old York Road and Wyncote Road, Jenkintown, Montgomery County, PA 19046), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in the city and county of Philadelphia and those portions of the counties of Montgomery and Delaware bounded by a line beginning on the north of the Delaware River at the Philadelphia County Line; thence northwardly, westwardly and southwardly along the Philadelphia County Line to Philmont Avenue; thence southwestwardly along Philmont Avenue, Welsh Road, Valley Road, Washington Lane, Township Line to Glenside Avenue (excluding any portion of the borough of Jenkintown), Easton Road, Church Road and Paper Mill Road to the Philadelphia County Line (Stenton Avenue); thence westwardly along the Philadelphia County Line and the Blue Bell Road to Joshua Road; thence southwestwardly along Joshua Road to Cedar Grove Road; thence southwestwardly along Cedar Grove Road and the Schuylkill River, joining the Philadelphia County Line, and continuing to Port Royal Avenue, thence across the Schuylkill River to Mill Creek Road, Montgomery County; thence southwestwardly along Mill Creek Road, Lancaster Avenue, Ardmore Avenue into Delaware County and continuing along Ardmore Avenue, Elise Road, Lawrence Road and Darby Creek Road to Darby Creek; thence southwardly along Darby Creek to State Road; thence southwardly along State Road, Springfield Avenue, Saxer Avenue, Baltimore Avenue, Woodland Avenue and Kedron Avenue to MacDade Boulevard; thence northeastwardly along MacDade Boulevard to Winona Avenue; thence southwardly along Winona Avenue, continuing in a straight line to the Delaware River; thence northwardly along the Delaware River to the place of beginning; subject to the following condition: that the vehicles used to render the above described service, will be separate and distinct from the vehicles used to render service under the certificate holder's authority at Folders 1, 2 and 3; which is to be a transfer of the rights authorized under the certificate issued at A-00094986, F. 3, Am-A to Liberty Cab & Limousine Co., Inc., a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions. Application for temporary authority has been filed at A-00113748. *Attorney:* Alan I. Moldoff, Suite 1900, Two Penn Center Plaza, Philadelphia, PA 19102-1799.

**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-00112970, Folder 2, Am-A. Regency Transportation Group, Ltd.** (30 Prager Street, Pittsburgh, Allegheny County, PA 15215)—persons in limousine service, between points in Westmoreland County, and from points in said county, to points in Pennsylvania and return; with the above right subject to the following conditions: (1) that no right, power or privilege is granted to transport

train crews; and (2) that no right, power or privilege is granted to transport persons to or from the Greater Pittsburgh International Airport in the township of Moon, Allegheny County: *so as to permit* the removal of Condition (2) as follows: (2) that no right, power or privilege is granted to transport persons to or from the Greater Pittsburgh International Airport in the township of Moon, Allegheny County. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

**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-00113816. Gregory Joseph Paulson, t/d/b/a Paulson Tours** (27 Garrahan Street, Wilkes-Barre, Luzerne County, PA 18702) for a 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 and their baggage between points in Pennsylvania.

**A-00113817. Strawberry Patch Gifts, Inc., t/d/b/a Rainbow Custom Tours** (46 Lochwood Lane, West Chester, Chester County, PA 19380), a corporation of the Commonwealth of Pennsylvania—for a 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 and their baggage between points in Pennsylvania.

#### 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 28, 1997.

- A-00113819 George W. Hudock, t/d/b/a Hudock Trucking  
R. D. 1, Box 469-H, McClellantown, PA 15458
- A-00113820 Mark E. Kurutz, t/d/b/a Mark E. Kurutz Trucking  
R. D. 1, Box 167, Vanderbilt, PA 15486
- A-00113821 Wolf Creek Drayage, Inc.  
50 Brinkley Road, Grove City, PA 16127
- A-00113822 William B. Benson, III, t/d/b/a Benson Trucking  
R. D. 1, Box 14, Punxsutawney, PA 15767; Dwight L. Koerber, Jr., Esquire, Kriner, Koerber & Kirk, P. C., 110 North Second Street, P. O. Box 1320, Clearfield, PA 16830
- A-00113823 Dale E. Weigle, t/d/b/a WST Trucking  
615 Sunset Drive, Dillsburg, PA 17019
- A-00113827 Partners Trucking, Inc.  
2440 Edison Boulevard, Twinsburg, PA 44087; Keith A. Vandenburg, 6100 Rockside Woods Boulevard, Suite 345, Cleveland, OH 44131
- A-00113828 Green Arrow Motor Express Co.  
P. O. Box 1645, Tacoma, WA 98401
- A-00113829 Paul James Hannon  
28 South Eighth Street, Perkaspie, PA 18944

- A-00113830 Lyden Hauling Company  
P. O. Box 1854, Youngstown, OH 44501-  
1854: Patricia A. Lyden, 5580 Monroe  
Street, Sylvania, OH 43560
- A-00113831 Dean L. Kennedy  
R. D. 3, Box 171A, Brookville, PA 15825
- A-00113832 Joseph H. Peretti, Jr.  
Box 725 Hillcrest Court, Friedens, PA  
15541: Fred Coffroth, 374 West Race  
Street, Somerset, PA 15501

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 97-579. Filed for public inspection April 11, 1997, 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 below for the following contract:

**Contract No. 96-005-RP88.** Bituminous overlay between M.P. A-11.15 and M.P. A-18.96 on the PA Turnpike System in Montgomery and Bucks Counties, PA.

*Bid Opening Date:* May 14, 1997, 11 a.m.

*Bid Surety:* 5%.

Plans, Specifications and Contract Documents will be available and open to the public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per set by check or P. O. Money Order (no cash) to the 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 Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-580. Filed for public inspection April 11, 1997, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

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

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

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

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

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

### Reader's Guide

#### 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)

#### REQUIRED DATA DESCRIPTIONS

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

**GET THAT COMPETITIVE EDGE—FOR FREE!**

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

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

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

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

BARBARA HAFER,  
State Treasurer

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

**Commodities**

**1970206** Clothing and individual equipment—158 each hat, vent, Milan straw.

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

**1971206** Clothing and individual equipment—1110 dozen of socks, black, various sizes.

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

**1974206** Clothing and individual equipment—4701 each shirts, long and short sleeve (men and women).

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

**1729726** Computer equipment and accessories—1 lot; equipment and supporting supplies to upgrade the ACD of a NEC NEAX 2400 IMG ICS. Provide an additional port for connectivity to an IVR and existing A16-52E mainframe system.

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

**1786226** Construction and building materials—3100 square feet furnish and deliver one (1) lot of interlocking concrete components which are to be used as an erosion control system.

**Department:** Fish and Boat Commission  
**Location:** Goldsboro, York County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8141280** Construction and building materials—34395 gallon, crack filling and sealing, complete in place.

**Department:** Transportation  
**Location:** Waterford, Erie County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1811116** Laboratory instruments and equipment—1 each the Boss, 2000 series automatic guard tour system or approved equal.

**Department:** Corrections  
**Location:** Bellefonte, Centre County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1948206** Laboratory instruments and equipment—20 cases, extraction tubes, Microcon 100, 500 per case, Amicon No. 42414, no substitute.

**Department:** State Police  
**Location:** Greensburg, Westmoreland County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1906386** Motor vehicles, trailers and cycles—1 each latest model multi-terrain, self-propelled track vehicle and tow behind snow grooming equipment.

**Department:** Conservation and Natural Resources  
**Location:** Pennfield, Bucks County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1925186** Paper and printing—200M envelopes, No. 9, double window, 24 lbs. recycles, 3-7/8 x 8-7/8—white wove—return address window.

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

**7313830** Paper and printing—29M emblems, vehicle, consecutively numbered.

**Department:** Liquor Control Board  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1705116** Prefab structures and scaffolding—1 each pole shed, 60' X 120' X 10'.

**Department:** Correctional Industries  
**Location:** Mercer, Mercer County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1863076** Promotional items—200000 each furnish and deliver "Youth Against Tobacco" luggage tags with identification card insert. Each tag shall be 2-1/4 inch wide x 4 inch long constructed from .035 gauge vinyl.

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

**1880126** Recreational and athletic equipment and supplies—1 each Thera-Plex (or equal) passive exercise unit.

**Department:** Labor and Industry  
**Location:** Johnstown, Cambria County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1949156** Textiles (draperies)—1 lot, furnish and install stage drapery systems (fire, front and rear curtain, valance, side legs, ceiling border, skydrop, tracks, battens and counterweight sets).

**Department:** University of Pittsburgh  
**Location:** Greensburg, Westmoreland County, PA  
**Duration:** FY 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8503820** Vehicular accessories—1000 each revolving warning lights, 360 degree, 12V.

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

**1988206** Weapons—450 each shotguns, semi-automatic, 12 gauge, with Tritium sights, magazine extension, 18" barrel, synthetic stock and cylinder choke, Remington Model no. 11-87. No substitute.

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

**1973206** Weapons and accessories—1000 each pouch, double magazine, plain black, Gould & Goodrich Model E2C. No substitute. 125 each cases, handcuff, color black, Gould & Goodrich Model No. B-140. No substitute and 175 each holsters, plain black, right hand, Gould & Goodrich Model HHR. No substitute.

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

# SERVICES

## Computer Related Services—08

**ME 631319-R1** The Office of Administration, Office for Information Technology is requesting vendors to submit a response to ITQ-681319-R1 to provide a wide variety of Year 2000 services/tools. These services will include, but are not limited to, Assessment, Computer Programming/Analysis Support, Software Tools/Services, Testing, and Other Year 2000 related topics. These services/tools are for the Commonwealth's Year 2000 computer initiatives. This is the identical ITQ that was released in November 1996. Vendors will be pre-qualified through an Invitation to Qualify (ITQ) format to continue to provide requesting Commonwealth agencies with Year 2000 support.

**Department:** Office of Administration  
**Location:** Office for Information Technology, Statewide, Agencies will secure services/tools from pre-qualified vendors identified through the ITQ format.  
**Duration:** 2 years with 3 one year renewals  
**Contact:** Matthew F. Carey, (717) 772-8199

## Construction and Construction Maintenance—09

**080956** Northampton County Group 5-97-POC5A; Montgomery County Group 6-97-ST39.

**Department:** Transportation  
**Location:** Districts 5-0, 6-0  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

**DGS A 251-211 Rebid** Project title: New Fuel Facility. Brief description: removal and construction of underground/above ground storage tanks and dispenser island as part of a fuel facility upgrade. Installation of a storage system for waste oils. Construction of a fuel truck containment pit. Plans deposit: \$49.00 per set. Payable to: Meucci Engineering, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Meucci Engineering, Inc., 409 Elk Avenue, Carnegie, PA 15106, telephone (412) 276-8844. Bid date: Wednesday, May 7, 1997 at 11:30 a.m. Pre-bid conference has been scheduled for Monday, April 21, 1997 at 9:30 a.m. in Conference Room, Waynesburg County Maintenance Building, 195 and Jefferson Road, Waynesburg, PA. Contact person: Lonnie Mangué, telephone (412) 439-7236. All contractors who have secured contract documents are invited and urged to attend this pre-bid conference.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Waynesburg, Greene County, PA  
**Duration:** 115 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-341** Project title: Roof Replacement. Brief description: remove approximately 15,565 square feet of existing built-up materials and replace with new single ply membrane roofing and insulation. Clean and repair all roof drains and drainage systems. Repoint brick around building perimeter, replace four (4) drains and lower chimney. General construction. Plans deposit: \$25.00 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 request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, April 30, 1997 at 2:00 p.m.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Coudersport, Potter County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 251-352** Project title: Roof Replacement. Brief description: remove existing built-up roofing system and install new insulation and single-ply membrane roofing system and make masonry repair on east end of garage. General construction. Plans deposit: \$25.00 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 request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Telephone: (717) 787-3923. Bid date: Wednesday, April 30, 1997 at 2:00 p.m.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Lock Haven, Clinton County, PA  
**Duration:** 100 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 513-80** Project title: Roof Replacement. Brief description: remove existing roof gravel, B.U.R. and insulation at areas of wet insulation. Remove existing B.U.R. flashing and install new urethane foam/stone roofing system. General construction. Plans deposit: \$25.00 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 request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, April 30, 1997 at 11:00 a.m.

**Department:** General Services  
**Location:** Torrance State Hospital, Torrance, Westmoreland County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 973-9 Revised Rebid** Project title: Repairs to Sewage Disposal System. Brief description: "Slipline" existing sanitary sewers. Make miscellaneous repairs to existing sewage treatment plant and related equipment. Plumbing construction. Plans deposit: \$25.00 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 request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, April 30, 1997 at 11:00 a.m.

**Department:** General Services  
**Location:** Daniel Boone Homestead, Birdsboro, Berks County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 1578-24** Project title: Repair Roads. Brief description: reconstruct and repair approximately 2,400 square yards of flexible pavement. Miscellaneous construction. Plans deposit: \$25.00 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 request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, April 30, 1997 at 11:00 a.m.

**Department:** General Services  
**Location:** State Correctional Institution, Cambridge Springs, Crawford County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**MU410-98101** Open-ended paving contract for various projects to be completed throughout the year. Work to include the repair and replacement of existing asphalt paving throughout the campus. A bid package deposit of \$15.00 is required, non-refundable. Checks should be made out to: Mansfield University and should be mailed to the attention of Mrs. Peg Chapel, Purchasing Department, Mansfield University, Mansfield, PA 16933. Prevailing wage and bonding are required for this project. Late bids will not be considered. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Mansfield University, Mansfield, PA 16933  
**Duration:** 12 months from award of contract  
**Contact:** Peg Chapel, Purchasing Agent II, (717) 662-4148

**Service Purchase Contract No. 331443** Supply all labor, materials, and equipment to remove the silt and debris now under the Delaware Canal's aqueduct in Yardley, PA. The area to be cleaned is approximately 40 feet wide by 40 feet long and is in Brock Creek under the aqueduct.

**Department:** Conservation and Natural Resources  
**Location:** State Parks, Delaware Canal State Park, 11 Losi Hill Road, Upper Black Eddy, Bucks County, PA 18972-9540  
**Duration:** June 30, 1997  
**Contact:** Regional Park Office, (215) 453-5016

**SPC 321152** Contractor shall perform welding services at the Bensalem Youth Development Center on an as-needed basis. Services may include fabrication of special materials, repairs to piping, equipment and pressurized vessels. Contractor shall have a certified A.S.M.E. welder available, capable of welding pressurized fired and unfired vessels as required by Pennsylvania Labor and Industry.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020  
**Duration:** July 1, 1997 through June 30, 2000  
**Contact:** Mary Jo Scanlon, (215) 953-6405

**Court Reporting—10**

**SP No. 270574** Professional court reporting/stenographic service to take notes of testimony at and/or provide verbatim transcripts of administrative hearings and depositions. Services are required throughout the Commonwealth for the period beginning 7/1/97 and ending 6/30/98, with the possibility of a two year renewal upon mutual consent.

**Department:** Education  
**Location:** Statewide (mostly Harrisburg)  
**Duration:** 7/1/97—6/30/98  
**Contact:** Carol Hrobak, (717) 787-5500

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**Demolition—11**

**02C414** Contractor will demolish and remove from the site a 2 story frame dwelling. Work will include capping well and removal of septic tank in accordance with Department specifications.

**Department:** Transportation  
**Location:** District 2-0, Borough of Brisbin, Clearfield County, PA  
**Duration:** Thirty days  
**Contact:** PennDOT District 2-0, (814) 765-0447

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**Elevator Maintenance—13**

**304-07392** Through Invitation to Bid, the Department of General Services is seeking proposals for elevator preventive maintenance, service and repair at the Capitol Complex and outlying buildings, Harrisburg, PA; 15 buildings with equipment consisting of passenger, freight, dumbwaiter, chair lift and handicapped lift. Manufacturers include Westinghouse, Dover, Haughton, Otis, and General. This is a Full Service Contract which does include all materials, parts, (replacement and repair); labor, tools and equipment. This contract will also encompass requests for emergency repairs as well as repairs for acts of vandalism and abuse.

**Department:** General Services  
**Location:** Buildings and grounds, Capitol Complex and outlying buildings, Harrisburg, PA  
**Duration:** July 1, 1997 through June 30, 1999  
**Contact:** Marc Waxman, (717) 787-2155

**Engineering Services and Consultation—14**

**OE-289** Slippery Rock University of the State System of Higher Education, will select a firm for the purpose of providing Open-Ended Mechanical Engineering Services to the University. Interested professionals may obtain the Request for Interest and submission guidelines from J. F. Revesz, Contracts Manager, at (412) 738-2026. Proposals from professionals are due on April 30, 1997 at 2:00 p.m. in the Business Services Office, Old Main. The System encourages responses from small firms, minority firms, women owned firms and firms which have not previously worked for the System, and will consider joint ventures which will enable these firms to participate in System professional services contracts. Non-discrimination and Equal Opportunity are policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Slippery Rock University of PA, Slippery Rock, Butler County, PA 16057  
**Duration:** One year with renewal option  
**Contact:** J. F. Revesz, Contracts Manager, (412) 738-2255

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**11097005** One service purchase contract is necessary to comply with the minimum soils testing requirements as delineated in Form 408, dated 1996. The contract will provide the labor, equipment and materials necessary to conduct proctor tests, compaction tests (either sand cone or nuclear gage methods), gradation analysis tests and wash tests. The contractor must be able to respond to a test within 24 hours of notification. All tests are to be in accordance with Pub. 19, Field Test Manual.

**Department:** Transportation  
**Location:** Engineering District 11-0; Various Locations with Maintenance District 11-1, Allegheny County, PA  
**Duration:** 06/09/97 through 06/08/98 with renewal options  
**Contact:** Bill Arnold, (412) 429-5061

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**Firefighting Services—18**

**No. 30196** Maintenance and repair fire alarm system. Contractor to provide maintenance and repair of facility fire alarm system which includes components of Fenwell, Inc. Net 400, Faraday Firewatch XVI, Control Instrument, Inc. 72 Series.

**Department:** Public Welfare  
**Location:** Western Center, 333 Curry Hill Road, Canonsburg, PA 15317  
**Duration:** 8/1/97—7/31/99  
**Contact:** Ken Wilson, Purchasing Agent III, (412) 873-3256

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**Food—19**

**97-004** Dairy products and drinks as follows: 36,000 each fruit drink, 16 oz. container (assorted flavors); 12,000 each lemonade, 16 oz. container; and 12,000 iced tea, 16 oz. container. Bids will be awarded to the lowest bidder on an aggregate total. Bids will be open at this facility on April 24, 1997 at 2:30 p.m.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoe Road, Bensalem, PA 19020  
**Duration:** July 1997 through June 1998  
**Contact:** Dorthia Claud-Williams, Purchasing Agent, (215) 953-6412

**Inquiry No. 7465** Miscellaneous foods—for a 3 month period beginning July 1, 1997 through September 30, 1997. Delivery schedule may be obtained from the institution. Bids will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** July, August and September 1997  
**Contact:** Pamela Bauman, Purchasing Agent, (717) 275-7412

**Inquiry No. 7468** Miscellaneous meats—for a 3 month period beginning July 1, 1997 through September 30, 1997. Delivery schedule may be obtained from the institution. Bids will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** July, August and September 1997  
**Contact:** Pamela Bauman, Purchasing Agent, (717) 275-7412

**Inquiry No. 7469** Poultry—for a 3 month period beginning July 1, 1997 through September 30, 1997. Delivery schedule may be obtained from the institution. Bids will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** July, August and September 1997  
**Contact:** Pamela Bauman, Purchasing Agent, (717) 275-7412

**BP-7800-97** Beef and pork products, as specified: beef liver; ground beef; ground beef patties; frankfurters, all beef; Swiss steaks; stewing beef; boneless top beef round; pork sausage patty; pork chops; pork ham; cooked salami; chopped ham Pullman style; Lebanon bologna. To include any other beef or pork product that may be required for this period. Quantities and deliveries to be determined by the institution. Bids will be on a monthly basis. Award to be made on an item-per-item basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**CF-7800-97** Convenience foods as specified: cauliflower, frozen; broccoli, style: chopped, frozen; beef patties Salisbury, seasoned with peppers and onions; sandwich steak, wafer sliced, all beef; veal and beef patties, breaded cooked or blanched. To include any other frozen vegetables and frozen meat that may be required. Quantities and deliveries to be determined by the institution. Bids will be on a monthly basis. Awards will be made on an item-per-item basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**CHS-7800-97** Cheese, American, Type: white, sliced, unsliced, 5 lb. loaf. Cheddar, natural, rindless Grade A, Class A, Class II, medium cured, mild cheddar flavor, wrapped and cartoned in 10 lb. loaves. To include any other type cheese that may be required by the institution. Quantities and deliveries to be determined by the Institution. Bids will be on a monthly basis. Award to be made on an item-per-item basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**DO-7800-97** Doughnuts—various glazed, sugar coated, etc. Approximately 1-1/2 to 2 oz. each, 3 to 4 inches in diameter. Packaged in 1 or 2 dozen per box. Bid quarterly. Quantities and deliveries to be determined by the Institution.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**EG-7800-97** Eggs, fresh, white. Consumer Grade A, Medium, Class I, natural shell protected. Minimum net weight per case (30 dozen)—39 1/2 pounds. Eggs to be graded and stamped at point of shipment. Certificate to be furnished with each delivery. Quantities and deliveries to be determined by the Institution. Bids will be on a quarterly basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**FSH-7800-97** Fish and sea food, breaded, pre-cooked, frozen, haddock or whiting, Fish sticks, pre-cooked oven ready frozen haddock or whiting fish in batter. Clams, minced. To include any other fish products that may be required during this period. Quantities and deliveries to be determined by the Institution. Bids will be on a monthly basis. Award to be made on an item-per-item basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**FA-197** Raw milk; Grade A; to conform with the chemical bacteriological and temperature standards and the sanitation requirements of the Bureau of Food Safety and Lab Services, Pennsylvania Department of Agriculture. Milk must be supplied and delivered at buyer's request with a minimum of two (2) days notice. Milk samples must also be made available with each shipment. Estimated weekly requirements—130,000 lbs.

**Department:** Corrections  
**Location:** Correctional Industries Dairy Farm, State Correctional Institution-Huntingdon, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** July 1, 1997 to and including June 30, 1998  
**Contact:** Jim Miller, Purchasing Agent II, (814) 643-2400, ext. 261

**FV-7800-97** Produce—vegetables to be supplied in accordance with PA Spec. V-14, fruits to be supplied in accordance with PA Spec. F-46. To include cabbage, carrots, celery, cucumbers, lettuce, onions, peppers, potatoes, radishes, tomatoes, apples, bananas, grapefruit, pears and any other related items as required by Agency. Bid will be on a monthly basis. Deliver weekly. U.S.D.A. Certificate required.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**IC-7800-97** Ice cream: no pork or pork by-products. Quantities, types and deliveries to be determined by the Institution. Bids will be offered on a quarterly basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

**PP-7800-97** Poultry and poultry products, as specified: turkey roasts; poultry patties; poultry bologna; ground turkey; turkey ham; chicken fryers. To include any other poultry products that may be required for this period. Quantities and deliveries to be determined by the Institution. Bids will be on a monthly basis. Award to be made on an item-per-item basis.

**Department:** Corrections  
**Location:** State Correctional Institution, Route 6, P. O. Box 256, Waymart, Wayne County, PA 18472-0256  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Andrew J. Booths, Purchasing Agent, (717) 488-2516

## Heating, Ventilation, Air Conditioning—22

**124-006** Maintenance of electrical systems for overhead lighting and signs in Washington County. Hourly wage and equipment rates for on call service to maintain electrical systems for overhead lighting and illumination of overhead signs in accordance with specifications in the bid proposal. The bid price shall include per hour one foreman, one journey electrician, one journey lineman, one common laborer, one hydraulic bucket truck, and one line truck w/hydraulic boom and digging equipment. Overhead and profit.

**Department:** Transportation  
**Location:** Maintenance District 12-4, Washington County, Overhead Lighting 170-179  
**Duration:** Indeterminate 1996-97  
**Contact:** Donald Vega, (412) 223-4480

**6308-01-14** Mansfield University is seeking interested contractors for the demolition of existing lighting fixtures. Installation of new lighting fixtures and accessories and installation of theatrical rigging. Bid packages can be obtained from Quad Three Group, 37 North Washington Street, Wilkes-Barre, PA 18701, at (717) 829-4200. Bid package cost of fifty dollars (\$50.00) non-refundable deposit. Bonding and prevailing wage is required for this project. All responsible bidders are invited to participate including NBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Mansfield University, Mansfield, PA 16933  
**Duration:** 90 calendar days from notice to proceed  
**Contact:** Quad Three Group, Michael Fort, (717) 829-4200

**8890-1** Boiler Maintenance and repair of heating system.

**Department:** Transportation  
**Location:** 1445 Cumberland Street, Lebanon, Lebanon County, PA 17042  
**Duration:** One year with renewals  
**Contact:** Dennis Hartman, Equipment Manager, (717) 272-6636

**JC-13-97** Furnish heating, ventilating and air conditioning services as needed on premises occupied by the Pittston Job Center located at 300 Kennedy Boulevard, Pittston, PA. Service to be available on a twenty-four (24) hour basis.

**Department:** Labor and Industry  
**Location:** 300 Kennedy Boulevard, Pittston, Luzerne County, PA  
**Duration:** 10/1/97 to 09/30/99  
**Contact:** Jerry Burgess, (717) 654-4631

**X109234** Provide electrical services on an as-needed basis for the Department of Environmental Protection's Vehicle Maintenance Facility, consisting of, but not limited to, installation of lines, power poles, etc.

**Department:** Environmental Protection  
**Location:** Harrisburg, PA  
**Duration:** Through June, 2001, with option to renew  
**Contact:** Ally Castaneira, (717) 787-2471

**Janitorial Services—23**

**4610** To provide and maintain a standard of sanitation in the classrooms, offices adjoining hallways and restroom facilities at the training site.

**Department:** Transportation  
**Location:** Equipment Division, Eastern PA Training Academy (EPTA), Fort Indiantown Gap, 17th Street, Annville, PA 17033  
**Duration:** May 1, 1997 through April 30, 2002  
**Contact:** Carla Crist, (717) 787-2335

**Laboratory Services—24**

**SP-574** Dental laboratory services as required for residents at this facility as follows: make/reline dentures, denture repair work.

**Department:** Military Affairs  
**Location:** Hollidaysburg Veterans Home, P. O. Box 319, Route 220 at Meadows Intersection, Hollidaysburg, PA 16648  
**Duration:** 01 July 97 through 30 June 98  
**Contact:** Becky J. Clapper, Purchasing Agent, (814) 696-5210

**10-97-10** Provide a standard urinalysis drug screening for the most commonly abused controlled substances on approximately 250 applicants the first year and 500 the second and third years. The initial screen will consist of Enzyme Multiplied Immunoassay (EMIT). In the event the initial test is positive, then a second confirmatory test, Gas Chromatography/Mass Spectrum (GC/MS) will be performed to confirm the previous results. Provide chain of custody handling for all phases of the testing procedures.

**Department:** State Police  
**Location:** Training Academy, Hershey, PA  
**Duration:** 7/1/97 through 6/30/00  
**Contact:** Margaret Chapman, P&S Division, (717) 783-5485

**Mailing Services—28**

**28-4700** This contract provides a mailing service to include: (1) storage of approximately 100 skids of newsletters and other public education materials; (2) taking orders via FAX, an "800" number, or upon request by PennDOT; (3) packing and shipping the requested materials; and (4) maintaining and monitoring an inventory of these materials.

**Department:** Transportation  
**Location:** PennDOT/BHS and TE, vendor's location  
**Duration:** 2 years with 2 year renewal  
**Contact:** Dianna Reed, (717) 787-6853

**Medical Services—29**

**No. 139** Provide mental health services to the youth at Southeast Secure Treatment Unit.

**Department:** Public Welfare  
**Location:** Loysville Youth Development Center, Southeast Secure Treatment Unit, 1824 West Strasburg Road, West Chester, PA 19382  
**Duration:** 7/1/97 to 6/30/98  
**Contact:** Mary Lou Auman, Purchasing Agent, (717) 789-5508

**140** Provide psychiatric services for the students of Loysville Youth Development Center and Loysville Secure Treatment Unit.

**Department:** Public Welfare  
**Location:** Loysville Youth Development Center, R. D. 2, Box 365B, Loysville, PA 17047  
**Duration:** 7/1/97 to 6/30/98  
**Contact:** Mary Lou Auman, Purchasing Agent, (717) 789-5508

**Photography Services—32**

**SP 299881** Film developing service.

**Department:** Fish and Boat Commission  
**Location:** Harrisburg Area  
**Duration:** 7/1/97—6/30/98 with two (2) options to extend  
**Contact:** Dennis Grove, (717) 657-4533

**SP322381** Photographic finishing services.

**Department:** General Services  
**Location:** 333 Market Street, 2nd Floor, Harrisburg, PA 17126-0333  
**Duration:** July 1, 1997—June 30, 1998  
**Contact:** Sandra Geesey, (717) 783-1051

**Property Maintenance—33**

**043090** Flail mowing of State Highways in Luzerne County—6 foot width. Three (3) cycles of approximately 521 acres each. Third cycle optional.

**Department:** Transportation  
**Location:** District 4-3, Luzerne County (0430)  
**Duration:** June 1, 1997 to May 30, 1998  
**Contact:** Edward Shamus, (717) 826-2386

**Service Purchase Contract No. 331442** Furnish all accessories and install an authentic roof, slate imitation shingles, to approximately 3000 square feet of the roof surface at a residence located in Ridley Creek State Park, Media, Delaware County, PA.

**Department:** Conservation and Natural Resources  
**Location:** Ridley Creek State Park, Sycamore Mills Road, Media, Delaware County, PA 19063-4398  
**Duration:** June 30, 1997  
**Contact:** Regional Park Office, (215) 453-5016

**MR 0800-67** Mowing and landscape maintenance at Rest Area Site J, located along Interstate 83 Northbound, two miles north of the Pennsylvania-Maryland State Line within York County, Shrewsbury Township. Specifications for this work available on request.

**Department:** Transportation  
**Location:** Rest Area Site J, I-83 Northbound, Shrewsbury Township, York County, PA  
**Duration:** August 1, 1997 to July 31, 1998  
**Contact:** Ed Myers, (717) 787-7600

**MU97501** The project consists of: demolition and installation of new windows in Straughn and Simon B. Elliott Hall. Approximately 140 windows. Plans and specifications are available from Burkavage Design Associates for a twenty-five (\$25.00) nonrefundable deposit for a complete set of plans and specifications payable to Burkavage Design Associates, Abington Executive Park, Clarks Summit, PA 18411, (717) 586-0719, Fax (717) 586-6549. Prevailing wage and bonding required for this project. Late bids will not be considered. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Mansfield University, Mansfield, PA 16933  
**Duration:** Completion date August 20, 1997  
**Contact:** Burkavage Design Associates, (717) 586-0719

### Real Estate Services—35

**975A** Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 2,975 useable square feet of new or existing office space, parking for ten vehicles in Lancaster, Lancaster County, PA within the Corporate City Limits of Lancaster, Lancaster Township, or Manheim Township, Lancaster County, PA. Proposals due: May 5, 1997. Solicitation No.: 99981.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Building, Harrisburg, PA 17125  
**Duration:** Indeterminate 1996-97  
**Contact:** Doris Deckman or Edward P. Meyer, (717) 787-4394

### Sanitation—36

**Project No. 300** Pump septic tank, 13,500 gallon.

**Department:** Military and Veterans Affairs  
**Location:** AASF, P. O. Box D, Washington, Washington County, PA  
**Duration:** 1 July 97—30 June 98  
**Contact:** Emma Schroff, (717) 861-8518

**Trash Removal 0620-002** Placement of two (2) 4 cubic yard dumpsters, pickup of said dumpsters two (2) times per week (52 weeks per year) and one (1) 20 cubic yard dumpster pickup on demand (52 times per year) for a total of 260 pickups in contract period.

**Department:** Transportation  
**Location:** Maintenance District 6-2, 401 Montgomery Avenue, West Chester, PA 19380  
**Duration:** One (1) year, renewable for four (4) years thereafter  
**Contact:** Sandy Szupowal or John B. Wade, (610) 436-2091

**LH-SER041** Garbage/Refuse Removal—contractor to remove garbage and refuse from grounds of State Correctional Institution at Laurel Highlands. A site visit is required. Bid on file at Institution.

**Department:** Corrections  
**Location:** State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631  
**Duration:** 07/01/97 to 06/30/00  
**Contact:** Carole Kolesko, Purchasing Agent I, (814) 443-0366

**RECY-0001** Contractor to provide containers and hauling services of all recyclables at the State Correctional Institution at Albion.

**Department:** Corrections  
**Location:** State Correctional Institution at Albion, 10745 Route 18, Albion, PA 16475-0001  
**Duration:** July 1, 1997 through June 30, 2000  
**Contact:** Lesley S. Hill, Purchasing Agent II, (814) 756-5778

### Vehicle, Heavy Equipment and Powered Machinery Services—38

**0600-1** Pavement profilers; 400 AMP welders; compressors; conveyor stackers; road patchers truck mounted; cranes—25 and 50 ton plus cable; vacuum street sweeper and catch basin cleaner; trucks (tri-axle dumps); sweepers; bull dozer; brush cutter (tractor); asphalt curb machine; wreckers; fork lift; concrete saw; walk behind trencher; pipe flushers; concrete; and other miscellaneous equipment for rental purposes.

**Department:** Transportation  
**Location:** District 0600: Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA  
**Duration:** 07/01/1997 to 06/30/2000  
**Contact:** John K. Mullen, District Equipment Manager, (610) 964-6507

**2-0-00337** The Department of Transportation Maintenance District 0220, Clearfield County will be renting the following equipment. Three tandem trucks, minimum 58,400 G.V.W.; one crawler loader 3.5 cubic yard minimum bucket capacity; one rubber-tired loader backhoe minimum 82 horse power and 15 foot digging depth capability. All equipment will be bid with operators.

**Department:** Transportation  
**Location:** Various locations within Clearfield County  
**Duration:** July 1, 1997 to June 30, 2000  
**Contact:** Grover C. Beightol, (814) 765-0492

### Miscellaneous—39

**031** Specialized weather forecasting both Meteorological and Hydrological prior to 8 a.m. daily for the State of Pennsylvania with selected locations through the State as required.

**Department:** PA Emergency Management Agency  
**Location:** 2605 Interstate Drive, Harrisburg, PA 17110  
**Duration:** 7-1-97 through 6-30-98 with options to renew  
**Contact:** Larry Eslinger, (717) 651-2191

**141** To provide religious service for the students of Loysville Youth Development Center and Loysville Secure Treatment Unit.

**Department:** Public Welfare  
**Location:** Loysville Youth Development Center, R. D. 2, Box 365B, Loysville, PA 17047  
**Duration:** 7/1/97 to 6/30/98  
**Contact:** Mary Lou Auman, Purchasing Agent, (717) 789-5508

**8000-C** Correction—to run the contract period through June 30, 2000 making it a three year contract instead of a two year, like originally stated. Date of Original Publication—March 15, 1997. Provide Chaplaincy services for inmates of the Protestant faith at the State Correctional Institution at Waynesburg. Approximately twenty hours per week.

**Department:** Corrections  
**Location:** State Correctional Institution at Waynesburg, R. D. 1, Box 67, Waynesburg, PA 15370  
**Duration:** 07/01/97 through 06/30/2000  
**Contact:** Judith Cook, Purchasing Agent, (412) 852-5609

**Inquiry No. 8905** Service Kodak copier.

**Department:** Public Welfare  
**Location:** Laurelton Center, Route 45, Laurelton, PA 17835-0300  
**Duration:** June 7, 1997—June 30, 1998  
**Contact:** Arletta K. Ney, Purchasing Agent, (717) 372-5070

**BOWC-3-96** Maintenance: maintenance on thirty-three (33) Model F-72 and six (6) Model F-73 Murata facsimile machines. Service to be provided between 8:30 a.m. and 5:00 p.m. Monday through Friday. Maintenance charge to include all labor and parts. Must be an authorized Murata dealer.

**Department:** Labor and Industry  
**Location:** Bureau of Workers' Compensation, Statewide  
**Duration:** July 1, 1997 through June 30, 1999  
**Contact:** Jane C. Williams, Fiscal Control Officer, (717) 783-5421

**SP 299879** Routine maintenance and repair of Patrol Boats, engines and trailers for the Bureaus of Law Enforcement and Boating and Education.

**Department:** Fish and Boat Commission  
**Location:** Seven (7) County area in Southcentral PA  
**Duration:** 7/1/97—6/30/98 with two (2) options to extend  
**Contact:** Tom Kamerzel, (717) 657-4542

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**SP 299880** Provide washing, cleaning and waxing of approximately twenty (20) vehicles for the PA Fish and Boat Commission, Harrisburg office.

**Department:** Fish and Boat Commission  
**Location:** Walnut Street Area, Harrisburg, PA  
**Duration:** 7/1/97 to 6/30/99  
**Contact:** Dennis Grove, (717) 657-4533

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**SP 323346** Provide cleaning and television inspection of the sewage collection system at Shawnee State Park. Work is also to include manhole inspection and characterization. The system is comprised of approximately 545 LF of 6", 10,280 LF of 8" and 3,670 LF of 10" diameter gravity sewer line and 85 manholes.

**Department:** Conservation and Natural Resources  
**Location:** State Parks Region No. 3, Shawnee State Park, R. R. 2, Box 142B, Schellsburg, PA 15559  
**Duration:** Work must be completed by 10/1/97  
**Contact:** James L. Ross, (814) 733-9123

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**RFP97001** Consultant to design, develop and evaluate an audit guide for the conduct of specific contract audits under the Commonwealth's HealthChoices program, a mandatory managed care program for Medicaid recipients.

**Department:** Office of the Budget  
**Location:** Finance Building, Harrisburg, PA  
**Duration:** July 1, 1997—October 31, 1999  
**Contact:** Harvey C. Eckert, (717) 787-6496

[Pa.B. Doc. No. 97-581. Filed for public inspection April 11, 1997, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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

## STATE CONTRACTS INFORMATION

1907

Contract Awards				Requisition or Contract #	Awarded On	To	In the Amount Of
The following awards have been made by the Department of General Services, Bureau of Purchases:				5610-49	04/04/97	J. Miller Eshleman & Son, Inc.	5,000.00
Requisition or Contract #	Awarded On	To	In the Amount Of	5610-49	04/04/97	Pocono Transcrete, Inc.	5,000.00
0061-11	04/04/97	Nittany Valley Offset	22,020.00	5610-49	04/04/97	Juniata Concrete Co.	5,000.00
1292156-01	03/28/97	Presenters Supply Co.	3,236.45	5610-49	04/04/97	J.D.M. Materials Co.	5,000.00
1292156-02	03/28/97	Video Services of America	2,724.50	5610-49	04/04/97	James W. Quandel & Sons	5,000.00
1292156-03	03/28/97	Materials Unlimited, Inc.	520.00	5610-49	04/04/97	Judson Wiley & Sons, Inc.	5,000.00
1339126-01	03/28/97	Murphy Family, Inc.	12,435.00	5610-49	04/04/97	Zeigler Walter W. Sons, Inc.	5,000.00
1386126-01	03/28/97	Beach's Dental Equipment Service	14,699.00	5610-49	04/04/97	Union Quarries, Inc.	5,000.00
1386126-02	03/28/97	Sullivan Dental Products, Inc.	1,065.00	5610-49	04/04/97	Thompson & Montgomery, Inc.	5,000.00
1494156-01	03/28/97	Ace Plumbing and Heating Co.	21,010.00	5610-49	04/04/97	T. C. Redi Mix, Inc.	5,000.00
1523216-01	03/28/97	Pacifico Ford, Inc.	25,876.00	5610-49	04/04/97	Valley Transit Quarries	5,000.00
1526116-01	03/28/97	Longacre Electrical Service, Inc.	23,281.05	5610-49	04/04/97	Wayne County Ready Mix Concrete Co.	5,000.00
1621236-01	03/28/97	Manheim Chrysler Plymouth GMC Truck	52,790.00	5610-49	04/04/97	Hunlock Sand and Gravel	5,000.00
1700216-01	03/28/97	Tyson Fence Co., Inc.	38,200.00	5610-49	04/04/97	Rock Hill Materials Co.	5,000.00
1860116-01	03/28/97	J. Weinstein & Sons, Inc.	276,553.52	5610-49	04/04/97	Sheesley Supply Co., Inc.	5,000.00
5610-49	04/04/97	McDermitt, Inc.	5,000.00	5610-49	04/04/97	Masters Ready Mixed Concrete Co.	5,000.00
5610-49	04/04/97	Meadville Redi Mix Concrete Co.	5,000.00	5610-49	04/04/97	Susquehanna Supply Co.	5,000.00
5610-49	04/04/97	Marion Center Supply	5,000.00	5610-49	04/04/97	Sloan Supply Co.	5,000.00
5610-49	04/04/97	Pennsy Supply, Inc.	5,000.00	5610-49	04/04/97	State Aggregates, Inc.	5,000.00
5610-49	04/04/97	Means Concrete Company	5,000.00	5610-49	04/04/97	Stone & Company	5,000.00
5610-49	04/04/97	New Enterprise Stone/Lime Co., Inc.	5,000.00	5610-49	04/04/97	Beaver Concrete and Gravel	5,000.00
5610-49	04/04/97	J & F Ready Mix Concrete	5,000.00	5610-49	04/04/97	Coon Industries, Inc.	5,000.00
5610-49	04/04/97	J & F Ready Mix Concrete	5,000.00	5610-49	04/04/97	Centre Concrete Co./ State College	5,000.00

## STATE CONTRACTS INFORMATION

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
5610-49	04/04/97	Centre Concrete Co./ Montoursville	5,000.00	5710-01	04/01/97	Suit-Kote Corp.	432,350.00
5610-49	04/04/97	Darlington Concrete, Inc.	5,000.00	5710-01	04/01/97	Koch Material Co.	5,066,540.00
5610-49	04/04/97	DePaul Concrete Co.	5,000.00	5710-01	04/01/97	Vestal Asphalt, Inc.	70,000.00
5610-49	04/04/97	Berks Products Corp.	5,000.00	5710-01	04/01/97	JMG Enterprises, Inc.	375,975.00
5610-49	04/04/97	Carbondale Concrete Co., Inc.	5,000.00	5710-01	04/01/97	Valley Emulsion Co. Div. Ashland	2,014,900.00
5610-49	04/04/97	DuBrook, Inc./ Butler	5,000.00	5710-01	04/01/97	T.D.P.S. Materials	10,000.00
5610-49	04/04/97	Centre Concrete Co./ Lock Haven	5,000.00	5710-01	04/01/97	Eastern Industries, Inc.	10,000.00
5610-49	04/04/97	Castle Builders Supply	5,000.00	5710-01	04/01/97	Daniel B. Krieg, Inc.	10,000.00
5610-49	04/04/97	Central Builders Supply Co.	5,000.00	5710-01	04/01/97	Highway Materials, Inc.	10,000.00
5610-49	04/04/97	Grannas Bros. Stone and Asphalt	5,000.00	5710-01	04/01/97	Warden Asphalt Co.	723,680.00
5610-49	04/04/97	DuBrook, Inc./ DuBois	5,000.00	5710-01	04/01/97	Neville Chemicals Co.	76,579.00
5610-49	04/04/97	H. B. Mellott Estate, Inc.	5,000.00	5710-01	04/01/97	Pennsy Supply, Inc.	10,000.00
5610-49	04/04/97	Hoy's Construction Co., Inc.	5,000.00	5710-01	04/01/97	Central Oil Asphalt Corp.	169,350.00
5610-49	04/04/97	Glenn Sand and Gravel, Inc.	5,000.00	5710-01	04/01/97	Russell Standard Corp.	3,498,109.00
5610-49	04/04/97	Hanover Concrete Co.	5,000.00	5710-01	04/01/97	IA Construction Corporation	1,318,236.00
5610-49	04/04/97	Hempt Brothers, Inc.	5,000.00	6505-06 (Supplement No. 2)	04/01/97	Roche Diagnostic Systems	60,687.00
5610-49	04/04/97	Frank Casilio & Sons, Inc.	5,000.00	7490-03 Supplement No. 2	04/04/97	Opex Corporation	5,000.00
5610-49	04/04/97	Fi Hoff Concrete Prod., Inc.	5,000.00	8048490-01	03/28/97	Potters Industries, Inc.	15,488.00
5610-49	04/04/97	Eastern Industries, Inc.- West	5,000.00	9905-04	04/01/97	Stimsonite Corp.	24,008.00
5610-49	04/04/97	Earl M. Brown, Inc.	5,000.00	9905-04	04/01/97	3M Co.—TCM Division	18,817.53
5610-49	04/04/97	Glenn Redi Mix	5,000.00			GARY E. CROWELL, Secretary	
5610-49	04/04/97	Franklin Concrete Products	5,000.00				

[Pa.B. Doc. No. 97-582. Filed for public inspection April 11, 1997, 9:00 a.m.]